

Fight rages for control of Nkwe

Kabelo Khumalo khumalok@businesslive.co.za

The battle for control of large mineral deposits in northeast SA between Chinese-owned Nkwe Platinum and its long-time empowerment partner, Genorah Resources, is not showing any signs of relenting, with each party sticking to its guns.

The deposits at play are said to be in the region of 23-million ounces of platinum, palladium, rhodium and gold.

The pieces of land on which Nkwe has a mining right are next to the Modikwa mine operated by Anglo American Platinum and African Rainbow Minerals.

Nkwe is run by Gary Fan. The contested mine is called Garatau and is in the Eastern Limb of the platinum-rich Bushveld Complex. The land comprises De Kom, Hoepakrantz, part of Eerstegeluk and Garatouw farms.

At the heart of the dispute is the amalgamation by Chinese mining house Zijin of wholly owned subsidiary Gold Mountains and the “original” Nkwe in 2018 under Bermudan company law to create what is termed the “new” Nkwe.

Genorah, which has Sharif Pandor among its shareholders, is adamant that the creation of new Nkwe needed ministerial permission for

the transfer of the mining right. The essence of Genorah’s argument is that it became the sole owner of the mineral right after its Chinese partners did not inform and seek permission from the department of mineral resources & energy when it amalgamated the business.

Zijin, which is majority owned by the Chinese government, holds 74% of the mining right and Genorah holds the remaining 26%.

Zijin went into a business partnership with Genorah after buying 74% of Genorah’s mining right for about R300m in 2015.

The multiyear battle took a new twist two weeks ago when the Chinese tried unsuccessfully to get SA authorities to enforce a judgment by a Bermuda court interdicting Genorah from engaging the department.

Acting judge Dingenus van den Bogert ruled that the department cannot be dictated to by overseas courts as to how it conducts its business. He said the interdict sought to be enforced has far-reaching consequences.

“It prohibits the first respondent [Genorah] from representing to the department of mineral resources & energy or any other third party that the effect of the amalgamation is that there was a transfer of the disposal of the mining right, or to otherwise make representations to any party which are contrary to the effect of the amalgamation as expressed by the supreme court of Bermuda.

“The interdict interferes with SA’s sovereignty in that it interferes with a dispute that has as its basis an interpretation of section 11 of the [Mineral & Petroleum Resources Development Act] ... to prevent