

IN THE SUPERIOR COURT OF JUDICATURE  
IN THE COURT OF APPEAL  
ACCRA-GHANA

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**CORAM:**    *Sowah, J.A. (PRESIDING)*

*Oppong, J.A*

*Ackaah-Boafo, J.A.*

SUIT NO: *H3/807/2022*

8<sup>th</sup> February, 2023

*S. K. Larkpleku*

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*Plaintiffs/Respondent*

*Vrs.*

*Tetteh Agbenyeke & 2 Ors.*

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*Defendants/Appellants*

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RULING

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*SOWAH, J.A.:*

We have reviewed and carefully considered the various affidavits and supplementary affidavits with their accompanying exhibits filed by the 1<sup>st</sup> defendant/appellant/applicant and the plaintiff/respondent/ respondent and have listened to the submissions of counsel both for and in opposition to the 1<sup>st</sup> defendant/appellant's motion for relistment of his appeal which was struck out by this court on 30<sup>th</sup> March, 2022 for non-compliance under *Rule 18 (4) of C. I. 19*.

We have also had the opportunity of looking at the Report furnished us by the Registrar as requested and the facts gleaned from all of the above is the three defendants/appellants filed separate appeals on various dates by different lawyers. The 2<sup>nd</sup> and 3<sup>rd</sup> defendants/appellants have no issues at this time with their appeals and the record shows that they have received their Record of Appeals.

The 1<sup>st</sup> defendant/appellant is said to be the grantor of 2<sup>nd</sup> defendant/appellant in respect of the disputed land. A search report exhibit AKL 1 explains that Mr. Amarteifio, lawyer for 2<sup>nd</sup> defendant/appellant paid the condition meant for 1<sup>st</sup> defendant/appellalnt on 18<sup>th</sup> March, 2020. This fact was however not placed on the record. Thus, a search conducted by the plaintiff/respondent on 12<sup>th</sup> December, 2022 indicates that the 1<sup>st</sup> defendant/appellant has not fulfilled conditions of appeal.

We find the explanation of 1<sup>st</sup> defendant reasonable, namely, that 2<sup>nd</sup> defendant who is his grantee paid on his behalf. The fact that Exhibit "AKL1" states that there are no outstanding payments in respect of appeal conditions as well as 1<sup>st</sup> defendant's name on the receipt for payment for ₦10,849.00 and the uncontested fact that the 1<sup>st</sup> defendant has also received his copy of the Record of Appeal buttresses our conclusion that the

Registrar summons to the 1<sup>st</sup> defendant/appellant for non-compliance under Rule 18 (4) was issued in error.

It is obvious to us that all the confusion emanates from the Registry of the High Court.

Accordingly, the Appeal of the 1<sup>st</sup> defendant/appellant which was filed on 26<sup>th</sup> November, 2019 but struck out on 30<sup>th</sup> March, 2022 is hereby restored to the list.

Appeal will take its normal course.

The 1<sup>st</sup> defendant/appellant has twenty-one (21) days within which to file his written submission.

*(Sgd.)*

**CECILIA H. SOWAH**  
***[JUSTICE OF APPEAL]***

*(Sgd.)*

***Oppong, (J.A.)***

*I agree*

**ANTHONY OPPONG**  
***[JUSTICE OF APPEAL]***

(Sgd.)

**Ackaah-Boafo, (J.A.)**

*I also agree* **KWEKU TAWIAH ACKAAH-BOAFO**

**[JUSTICE OF APPEAL]**

**COUNSEL:**

- Foster Owusu with Yvonne Yaa Yalley for 1<sup>st</sup> Defendant/Appellant
- Kwasi Austin for 2<sup>nd</sup> Defendant/Appellant
- Savior Q. Kudze for Plaintiff/Respondent