

**IN THE CIRCUIT COURT OF GHANA HELD IN ACCRA ON WEDNESDAY
THE 19TH DAY OF OCTOBER, 2022 BEFORE HER HONOUR ROSEMARY BAAH
TOSU (MRS) – CIRCUIT COURT JUDGE**

COURT CASE NO: D5/03/2022

THE REPUBLIC

VS

KOFI BUAH

JUDGMENT

The Prosecution has charged Accused with the offences of Uttering Forged Document, contrary to section 169 of the Criminal Offences Act 1960 (Act 29) and Attempt to Commit Crime, to Wit Stealing contrary to section 18(1) and 124(1) of the Criminal Offences Act, 1960, Act 29.

PROSECUTION'S CASE

Complainant works at Vodafone Ghana Limited, whilst Accused is unemployed and resides at Ashongman. On the 9th December, 2021, Accused visited the Vodafone shop at Osu with a Ghana Electoral Commission, voter's ID card number 2451013573. This card had the photograph of Accused and bore the name of one George Osei Kuffour. Accused interacted with staff and told them that he had misplaced his Vodafone sim number 0208111697 about four months prior and he wanted a replacement.

Upon entering this information in their system, the staff noticed that the ID which was used to register the sim had the name Kuffour George and ID number 6839011324. This was obviously different from the information presented by Accused. The staff got suspicious and placed a call to the number which was allegedly missing. The one who responded confirmed that he was Kuffour George. When Accused heard the conversation between the staff and the customer, he tried to leave but was prevented by the security man at the premises.

During the investigations, the owner of the Vodafone number was invited and he presented the active sim card in his phone as well as the voter identity card he used to register the sim, which had the name Kuffour George. Upon Accused person's residence being searched, other identity cards and a Ghanaian passport with Accused person's name, Kofi Buah were found.

THE DEFENCE

Accused was called upon to open his defence after the Court ruled that Prosecution had made out a prima facie case against him. Accused person's defence was more or less a plea in mitigation. Accused admitted to his wrongdoing in allowing himself to be used by a stranger to commit the said offences. A judicial confession I must say! Accused prayed for the Court to deal mercifully with him.

THE CHARGES

Accused is charged with one count of Uttering Forged Document contrary to section 169 of the Criminal Offences Act, 1960 (Act 29).

169. 'A person who with an intent mentioned in this chapter, utters or deals with or uses, a document or a stamp mentioned in this chapter, knowing it is forged, counterfeited or falsified, or knowing it is not genuine, commits a criminal offence and is liable to the like punishment as if that person had with intent, forged, counterfeited, or falsified like document or stamp.'

The ingredients of this offence are

- a. That accused uttered or in any manner dealt with or used a forged document or stamp
- b. That he knew it to have been forged, counterfeited or falsified or not genuine
- c. That he had intent to defraud or to injure or to facilitate the commission of a crime.

Accused is also charged with attempt to commit crime namely stealing contrary to section 18(1) and 124(1) of Act 29. Section 18(1) provides

1. *'A person who attempts to commit a criminal offence shall not be acquitted on the ground that the criminal offence could not be committed according to the intent, by reason of the imperfection or other condition of the means, or by reason of the circumstances under which they are used, or by reason of any circumstances affecting the person against whom, or the thing in respect of which the criminal offence is intended to be committed or by reason of the absence of that person or thing.'*

ANALYSIS OF THE EVIDENCE LED

The burden on the prosecution remains the same as provided for in section 13(1) of the Evidence Act, NRCD 323, and that is to prove the guilt of the Accused persons beyond a reasonable doubt.

Prosecution called George Kuffour as PW1, Detective /Corporal/Inspector Ben Punalar as PW2 and Cynthia Tawiah as PW3.1

PW1 testified that he got to know Accused after the incident at the Vodafone office at Osu. He says that he received a call on the 9th December 2021 from Vodafone, Osu Branch. He was informed by the Manageress that Accused was in their office ostensibly to replace his sim card with number 0208111697. The manageress wanted to find out if he had authorized Accused. PW1 denied having authorized Accused person to replace his sim.

Accused was then arrested. PW1 says before this incident he has never met Accused anywhere. PW1 suspects that Accused attempted to replace his sim card for fraudulent purposes.

PW2, the investigator testified that he took statements from all the parties involved. PW2 evidence is that upon interrogation, Accused admitted the offences and stated that he was home when he received a call from an unknown man that he should meet him at Lapaz for a job. He met this man who drove him to the Vodafone office, handed over the voter identity card in question to him and asked Accused to go and replace the sim. Promising to reward Accused if he was successful. Accused confirmed that the name George Osei Kuffour was not his name neither was the sim his that he was going to replace it for the unknown man.

PW2 tendered the following documents in evidence

- Cautioned statement of Accused- exhibit A
- Charge statement of accused- Exhibit E
- Forged voter ID card umber 2451013573- Exhibit B
- Copy of Accused person's passport- Exhibit C
- Copy of PW1's voter identity card- Exhibit D

PW3 is the head of Retail at Vodafone Ghana. She testified that Accused visited their branch at Osu to replace a missing sim card. Upon keying Accused person's phone number into the system, the customer's information popped up. However, Accused person's details were different from the information in their system so they became suspicious.

In response to all the evidence against him, Accused just admitted his wrongdoing and refused to challenge the evidence of the Republic against him.

The case of *Lutterodt vs. COP (1963) GLR 429 SC*, sets out the three stages that a court must go through when considering the defence of an accused person

'Where the determination of a case depends upon facts and the Court forms an opinion that a prima facie case has been made the Court should proceed to examine the case of the defence in 3 stages.

- i. Firstly, it should consider whether the explanation of the defendant is acceptable, if it is, that provides complete answer and the Court should then acquit the defendant*
- ii. If the Court should find itself unable to accept or if it should consider the explanation to be not true, it should proceed to consider whether the explanation is nonetheless reasonably probable; if it should find it to be, the court should acquit the defendant, and*
- iii. Finally, quite apart from Defendant's explanation or the defence taken by itself, the Court should consider the defence such as it is together with the whole case i.e. the prosecution and defence together and be satisfied of the guilt of the defendant beyond reasonable doubt before it should convict, if not, it should acquit'*

In considering the whole case that is of the Prosecution and the case of the Defence, I am satisfied that Prosecution has proved the guilt of the Accused person beyond reasonable doubt and this means conversely that Accused has failed to raise a reasonable doubt in his defence.

Accused is hereby convicted on both counts of Uttering of Forged Document and Attempt to Commit Crime to wit Stealing.

I have considered Accused person's plea in mitigation, and also considered the fact that

- He is a first time offender and advanced in age
- That the offences are not aggravated in nature
- That he has shown great remorse
- And most importantly he has been in custody since he was arrested on 9th December, 2021.

I hereby sentence Accused on both Counts of Uttering Forged Documents contrary to section 169 of Act 29 and Attempt to Commit Crime to Wit, contrary to sections 18(1) and 124(1) Stealing of Act 29 to a day's imprisonment each.

Accused is further ordered to sign a bond to be of good behaviour for 12 months in default of which he would spend 6 months in prison custody.

(SGD)
H/H ROSEMARY BAAH TOSU (MRS)
CIRCUIT COURT JUDGE

REPRESENTATION

Accused present

Inspector Josephine Lamptey for Republic