

IN THE CIRCUIT COURT HELD AT DANSOMAN, ACCRA ON
WEDNESDAY THE 30TH DAY OF MAY, 2023 BEFORE HER HONOUR
HALIMAH EL-ALAWA ABDUL-BAASIT

SUIT NO.: CCD/C1/01/23

BLESSEDFIELD PROPERTIES LTD

PLAINTIFF

VRS

1. ISAAC TAGOE

2. NII SAKA III

3. DANIEL

S

4. THE DEVELOPERS

1. NII AYI OKUFUOUBOUR

2. NANA OHENE MENSAH

3. RICHARD ADARKWAH

4. MR ABASS

ARMAH
DEFENDANT

JOINDEES

RULING

**MOTION ON NOTICE FOR JOINDER PURSUANT TO ORDER 4 RULE 5(2)
OF THE HIGH COURT CIVIL PROCEDURE RULES; C. I. 47.**

Background:

The Plaintiff/Applicant (hereinafter referred to as Plaintiff) on the 3rd of April 2023 issued a Writ of Summons and a Statement of Claim against the Defendants herein praying for the following reliefs;

- a) Recovering of possession;
- b) General damages for trespass;
- c) Perpetual injunction against Defendants and their agents, assigns, representatives, and all persons claiming through and/or under Defendants from coming onto the land, interfering in the title, use and possession of the land by Plaintiff; and
- d) Cost including legal fees of Plaintiff.

Subsequently, Plaintiff filed an Application for Joinder of the aforementioned Joindees on the 21st of April 2023 and per the Affidavit in Support of the Application by Richard Kpakpo Allotey, a Director of the Plaintiff Company and the deponent herein, the Plaintiff is the legal and equitable owner of the subject matter land and also owns another parcel of land adjoining the subject matter, which land is all that piece or parcel of land situate lying and being at Dansoman Otodjor in the Ablekuma North Municipal Assembly of the Greater Accra Region of the Republic of Ghana.

He deposed further that the Plaintiff acquired the lands from the Gbawe Kwatei family of Accra in 2019 to be developed as commercial estate and have been issued land certificate numbers by the Lands Commission, Accra. The Plaintiff sued the 1st, 2nd, 3rd and 4th Defendants because they are said to be persons responsible for the grants and/or development of portions of Plaintiff's land and following service of the Writ and other processes on the Defendants, it came to the attention of Plaintiff that the Joindees are persons who purport to have interest in the land in dispute. He deposed further that to ensure that all parties

who have an interest in this matter before Court, it is important that the Joindees herein are joined and made parties to the suit since an action against the 1st, 2nd, 3rd and 4th defendants per se will not bring closure to the dispute over the land in question.

Issue(s) for Determination

In view of the above, the main issue is the determination of **whether or not the aforementioned Joindees are necessary parties before the court and therefore ought to be joined as Defendants to the instant suit**. Generally speaking, the court will make all such changes in respect of parties as may be necessary to enable an effectual adjudication to be made concerning all matters in dispute. Thus, the court may exercise its discretion by adding all persons whose presence before the court is necessary in order to enable it effectually and completely to adjudicate upon as well as settle all the questions involved in the cause or matter before it. The purpose of the joinder therefore is to enable all matters in controversy to be completely and effectually determined once and for all. But this would depend upon the issue before the court, that is, the nature of the claim. See Sam vs. Attorney-General [1999-2000] 2 GLR 327.

Analysis

This instant Application is per Order 4 r 5 of the High Court Civil Procedure Rules, 2004, C. I. 47 and Order 4 r 5(2) (b) specifically provides that *“At any stage of proceedings the court may on such terms (a) order any person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in dispute in the proceedings are effectively and completely determined and*

adjudicated upon to be added as a party.” This Rule vests the court with that power at any stage of the proceedings to order any person/party who ought to have been joined as a party or whose presence before the court is necessary to ensure that all matters in dispute in the proceedings are effectively and completely determined and adjudicated upon to be added as a party.

In the case of **Ussher vs Darko** [1977] 1 GLR 476, Apaloo JA (as he then was) stated that “...*the jurisdiction of a court to join a party to an action to avoid multiplicity of suits ... might be exercised at any stage of the proceeding... Whether the application should be acceded to or denied, was a matter for the exercise of the trial judge’s discretion and save that such discretion must be exercised judicially and, in a manner, conformable with justice, no fixed rules existed as to when and how it should be exercised.*”

In the instant case, Counsel for the Plaintiff submitted that the Joindees herein are persons who have by their deeds exhibited interest in land, the subject matter of this case for which reason they are the necessary parties and their presence in this matter is necessary for the effective and final determination of the dispute before the honourable court. It is important to state that no Affidavit in Opposition was filed in respect of the Application by either or all of the Joindees even though there is a Notice of Conditional Appearance filed by Benjamin Sevor Esq., for and on behalf of the 1st Joindee. It must however be emphasized that the said Notice of Conditional Appearance was filed when the instant Application was yet to be determined by the court.

The Court, however, is of the considered opinion that joining the aforementioned parties will ensure that the whole case is before the Court for a complete and final determination and avoid multiplicity of suits which is likely to be the result if this instant Application is refused. Order 1 Rule (2) of C.I. 47 provides that;

*'These Rules shall be interpreted and applied so as to achieve speedy and effective justice, avoid delays and unnecessary expense, and ensure that as far as possible, all matters in dispute between parties may be completely, effectively and finally determined and multiplicity of proceedings concerning any of such matters avoided'. In the case of **Comet Construction Co., Ltd. vs Ghana Commercial Bank, Tema** (Garnishee) [1976] 2 GLR 220, the court held that '... a court charged with the primary function of dispensing justice and with the duty of ensuring a reduction in the number if not the elimination of a multiplicity of suits is unworthy of its name ...'*

Conclusion

In light of the above discourse, it is the Court's considered opinion that it is necessary at present to have Joindees before the court for the determination of the matter now before it. The Application for Joinder is hereby granted and the Joindees herein shall be joined to the instant Suit as the Suit shall take its normal course.

SGD.
HALIMAH EL-ALAWA ABDUL-
BAASIT
CIRCUIT COURT JUDGE