

**IN THE SUPERIOR COURT OF JUDICATURE,
IN THE HIGH COURT OF JUSTICE, LAW COURT COMPLEX,
(LAND DIVISION ONE) HELD IN ACCRA ON THURSDAY THE 16TH
DAY OF NOVEMBER 2023 BEFORE JUSTICE ABENA A. OPPONG**

SUIT NO. LD/0721/2021

SINO AFRICA DEVELOPMENT CO. LTD

V.

ROYAL BELL INVESTMENTS LTD & 6 ORS

PLAINTIFF IS REPRESENTED BY GABRIEL FORCEBY

1ST DEFENDANT IS REPRESENTED BY RAYMOND DEY

2ND DEFENDANT IS REPRESENTED BY KWAME BLAY

3RD AND 5TH DEFENDANTS PRESENT

4TH DEFENDANT IS REPRESENTED BY ROBERT OFFEI

6TH DEFENDANT IS REPRESENTED BY EMMANUEL BORTEI BORTIER

7TH DEFENDANT IS REPRESENTED BY ELVIS BORKETEY BORTEI

KWAKU ASARE BARFFOUR HOLDING THE BRIEF OF O.K. OSAFO BUABENG
FOR THE PLAINTIFF PRESENT

KWAME FOSU GYEABOUR WITH ADWOA AYIWA-MANU FOR THE
DEFENDANTS PRESENT

J U D G M E N T

1. Both sides to this case trace their roots of title to the Nungua stool. The fact that the land in dispute was originally acquired by the government of Ghana for livestock farming is not in dispute. Both sides agree that by a Certificate of Title dated the 7th day of March, 1940 and more particularly registered in the Deeds Registry as Number 214/1940, the then colonial government of the Gold Coast compulsorily acquired a large tract of land including the land being occupied by the Plaintiff and the Defendants, measuring a total area of 2,570.05 acres more or less from the Nungua Stool for use as Animal Husbandry and related purposes - commonly referred to as "Nungua Farms". The fact also that on 12th August 2010, the government executed a formal lease transferring 974.53 acres of the acquired land to the Nungua Stool and its subjects is also not in dispute.
2. It is the case of the Plaintiff per its amended writ of summons that on or about the 16th of August 2010, it acquired from the Nungua stool two separate leases covering a total area of 328.877 acres (34.357 and 294.520 acre) of the land leased to the Nungua Stool by the government for purposes of putting up affordable housing for public and civil servants. It went into possession of the land it acquired by erecting corner pillars and in the year 2012, it put up ten (10) single room structures to demarcate the boundaries of the tracts of land. In the year 2013, it constructed a wall around the tracts of land and continued to exercise acts of ownership without let or hinderance from any quarter. It also put up its head office on a portion of the land. However, without its consent or just cause and in flagrant disregard of its rights, the 1st Defendant unlawfully entered the land and demolished a substantial portion of the wall it had constructed. The 1st Defendant relied on a judgment in the case of Royal Bell Investment Ltd v. Nii Abotsi Borlabi Borketey Nkpa as justification for its action. However, the Plaintiff was not served with any notice of the pendency of the said suit or the judgment. The Plaintiff describes the land in dispute as all that piece of land known as site for Sino Africa Development Ltd, Borteyman in the Tema

Municipal Assembly in the Greater Accra Region of the Republic of Ghana, boundary whereof commencing at a pillar marked GCGEP .11/38/4 which same pillar serves as a point of departure and runs on a bearing of 074'28" for 2655.3 feet to which same pillar forms part of the boundary of the afore mentioned site whereof commencing at a pillar marked GCG EP1138 FIS 1 and thence on a bearing of 270'00" for 588.9 feet to a pillar GCG EP11 38 FIS2 and thence on a bearing 000'00" for 2206.9 feet to a pillar marked GCG EP11 38 FIS 3 and thence on a bearing 090'00" for 125.0 feet to a pillar marked GCG EP11 38 SACL 1A and thence on a bearing of 000°00' for 627.7 feet to a pillar marked GCG EP11 38 SACL 1 and thence on a bearing of 000'00" for 1174.5 feet to a pillar marked GCG EP11 38 SACL 2 and thence on a bearing of 092'55" for 172.6 feet to a pillar marked GCSEP 11/54/3 and thence on a bearing of 76'40" for 1044.1 feet to a pillar marked GCSEP 11/38/A5/2 and thence on a bearing of 75'54" for 765.2 feet to a pillar marked GCGEP 11/38/A5/3 and thence on a bearing of 173'53" for 789.0 feet to a pillar marked GCGEP 11/38/A5/4 and thence on a bearing of 189'56" for 824.3 feet to a pillar marked GCGEP 11/38/A5/5 and thence on a bearing of 106°21' for 982.5 feet to a pillar marked GCGEP 11/38/A6/1 and thence on a bearing of 108'13" for 1538.3 feet to a pillar marked GCGEP 11/38/A6/9 and thence on a bearing of 107'22" for 1074.5 feet to a pillar marked GCGEP 11/38/A1/14B and thence on a bearing of 184'20" for 129.7 feet to a pillar marked GEEP 11/38/A1/13A and thence on a bearing of 249'17" for 415.6 feet to a pillar marked GCEP 11/38/A1/13 and thence on a bearing of 247'18" for 451.2 feet to a pillar marked GCEP 11/38/A1/12 and thence on a bearing of 247°46' for 540.0 feet to a pillar marked GCGEP 11/38/A1/11 and thence on a bearing of 248'09" for 591.0 feet to a pillar marked GCDEP 11/A1/9 and thence on a bearing of 248'18" for 642.1 feet to a pillar marked GCGEP 11/38/A1/8 and thence on a bearing of 248'18" for 1178.0 feet to a pillar marked GG EP 11/38/FIS/1 and thence on a bearing of 270'00" for 779.63 feet to a pillar marked GCG EP/11/38/FIS/1

which marks the point of commencement and thus containing an area of 294.520 acres or 119.192 Hectares.

3. It is the further case of the Plaintiff that the 1st and 2nd Defendants are now attempting to take unlawful possession of an area of about 30 acres within the 294.520 acres. The Defendants would not desist from their unlawful attempts to deprive the Plaintiff of its land unless restrained by the court. Based on these averments, the Plaintiff claims the following reliefs:

- a. A declaration of title to the land more particularly described in the statement of claim;
- b. Recovery of possession;
- c. Perpetual injunction restraining the Defendants, their agents, privies, servants, assigns and any person deriving any interest through them, from entering or dealing with any portion of the said land in any manner that interferes with the lawful possession and occupation of the Plaintiff;
- d. Damages for trespass;
- e. Costs, inclusive of legal fees; and
- f. Any other reliefs which this Honourable Court deems fit or considers just.

4. The Defendants version of the story is that before the acquisition of the land by the Colonial Government, subjects of the Nungua Stool, particularly members of the Bortey We Clan, were in occupation, with their Borteyman village and cemetery on the land and were carrying on their farming activities on the land. They continued to be in occupation after the acquisition. The government after the acquisition, embarked on livestock farming on a portion of the land, allocated portions to the University of Ghana for experimental and research farm, the new race course, Borteyman Affordable Housing among other public projects. As a result of the occupation, possession and developments on

portions of the acquired land by subjects of the Nungua stool, the stool granted the following leases to the Defendants:

- a) Lease dated the 28th of May, 1996 containing an approximate area of 31.37 acres to the late Nii Abotsi Borlabi (deceased) for the use of the Nii Abotsi Borlabi family of Bortey We, Nungua.
 - b) Lease dated the 25th day of February, 2000 containing an approximate area of 117.89 acres to the 3rd to 5th defendants' families of Adzemanu We, Nungua.
 - c) Lease dated the 1st day of May, 2000 containing an approximate area of 151.15 acres to the 6th defendant's family of Bortey We, Nungua.
 - d) Lease dated the 1st day of June, 2000 containing an approximate area of 35.04 acres to the 7th defendant's family of Bortey We, Nungua.
5. It is the case of the Defendants that although the 3rd to the 7th Defendants and their families were in occupation of portions of their respective lands, in the latter part of the year 2021, the Plaintiff forcibly fenced a portion of the land and was about to fix gates to deny them access to their lands and buildings. They deny that the structures mentioned by the Plaintiff are on the disputed land and state that it is only the fence wall which the Plaintiff has constructed that is on the disputed land. It is also the case of the Defendants that as a result of the continuous occupation, possession, grants, development, litigations and petitions by the Nungua stool and its subjects, the government of Ghana entered into an agreement with the Nungua stool and its subjects dated 25th September 2008 to release 1,016 acres of portions of the acquired land to them. The release of the 976.44 acres of the acquired land by the government was to the Nungua stool and its subjects including the Nii Abotsi Borlabi family and the 3rd to 7th Defendants families. They state further that subsequent to the release of the land to the Nungua stool and its subjects, the Nungua stool acting per the Gborbu Wulomo in a letter dated 28th December 2010, confirmed the

lease granted to the Nii Abotsi Borlabi family in May 1996. The Nii Abotsi Borlabi family then obtained a land certificate over the land granted to them. The stool again granted consent through the Gborbu Wulomo in a letter dated 12th October 2015 for the Nii Abotsi Borlabi family to assign the unexpired residue of the lease to the 1st Defendant. The assignment between the Nii Abotsi Borlabi family and the 1st Defendant was registered with land certificate number T.D. 0558 dated 10th June 2016.

6. The Defendants assert further that they and their grantees have been on the land for over twelve years and therefore any claim to the land by the Plaintiff is statute barred. The 2nd Defendant also asserts that it conducted a search at the Lands Commission and physically visited the land to satisfy itself that the land belonged to the Nii Abotsi Borlabi family before it acquired same. The Defendants per their pleadings claim the following reliefs:

- a. A declaration of title in favour of the 2nd Defendant Company over all that piece or parcel of land with the structures thereon situate lying and being at Borteyman, covered by Land Certificate No. T.D 0558, Volume 019, Folio 58, dated 10th day of June, 2016 covering 29.791 acres which was duly assigned to it by the 1st defendant.
- b. A Declaration of title in favour of the 3rd, 4th and 5th defendants' families to all that piece or parcel of land with the structures thereon situate, lying and being at Borteyman, Nungua, Accra; on the North measuring 2,488.2 feet more or less, bounded by Ashaley Botwe - Nungua Farm Road, on the East measuring 2,079.5 feet more or less, bounded by Lessor's land, on the South measuring 1,614.8 feet more or less, bounded by the Accra - Tema Motorway, and on the West measuring 3,651.0 feet more or less,

bounded by Lessor's land/stream containing an approximate area of 117.89 Acres or 47.71 Hectares.

- c. A Declaration of title in favour of the 6th defendants' family to all that piece or parcel of land with the structures thereon situate, lying and being at Borteyman, Nungua Farms, Nungua, Accra; on the North - West measuring 1,105.9 feet more or less, North-East measuring 802.1 feet more or less, bounded by Nungua Farm Road/Nii Abotsi Borlabi Family/Lessor's land, on the East - measuring 1,245.6 and 2384.8 feet more or less bounded by Lessor's land/Nii Adjogah Annang & Other families, on the South measuring 1,206.4 feet more or less, bounded by Lessor's land and on the West measuring 892.0, 611.8 and 1,098.9 feet more or less bounded by Lessor's land/Fio Borteye & Boye Tawiah Families/Lessor's land containing an approximate area of 151.15 Acres or 61.17 Hectares.
- d. A Declaration of title in favour of the 7th defendant's family to all that piece or parcel of land with the structures thereon situate, lying and being at Borteyman, Nungua Farms, Nungua, Accra in the Tema Metropolitan District of the Greater Accra Region; on the North measuring 450.5 and 805.1 feet more or less, bounded by Nungua Farm Road, on the East measuring 801.9 and 820.7 feet more or less bounded by Lessor's land, on the South measuring 1,269.1 feet more or less bounded by the Accra - Tema Motorway, and on the West measuring 2,081.1 feet more or less bounded by Nii Adzogah Annan & Other Families containing an approximate area of 35.04 Acres or 14.18 Hectares.
- e. A Declaration that the purported grants of the land in dispute to the plaintiff company by the Nungua Stool after the earlier grants of same to the defendants, is void ab initio.

- f. An order annulling all the purported leases granted by the Nungua Stool to the plaintiff company.
 - g. An order directed at the Lands Commission to expunge from its records any purported registration of the land in dispute in favour of plaintiff company forthwith.
 - h. Perpetual Injunction restraining the plaintiff herein, its agents, assigns, servants, privies, workers, independent contractors or any other persons claiming through it or authorized by it from entering, developing, occupying or interfering in any manner with the land in dispute.
 - i. Substantial damages.
 - j. Punitive, exemplary and aggravated damages,
 - k. Special Damages:
 - cost of 2nd defendant's demolished fence wall of GH¢220,000.00
 - Expenditure incurred due to the order of injunction at the instance of the plaintiff company.
 - i. cost inclusive of legal fees.
 - j. Any other reliefs that may be just in the circumstance.
7. At the application for direction stage, the issues set down for consideration are:
- i. Whether or not the grant of the land in dispute to the Defendants by the Nungua stool is valid.
 - ii. Whether or not the subsequent grant of the land in dispute to the Plaintiff company by the Nungua stool is void ab initio.
 - iii. Whether or not the Plaintiff or the 2nd Defendant is a bonafide purchaser for value without notice.
 - iv. Any other relevant issues arising from the pleadings.
8. Both sides to this case make claims to the land in dispute. They thus each bear the burden of proving their respective claims as required by law. This being a

land litigation the burden the Plaintiff bears has been explained in the case of **YEHANS INTERNATIONAL LTD V. MARTEY TSURU FAMILY & ANOTHER**¹; a person claiming title has to prove: i) his root of title, ii) mode of acquisition and iii) various acts of possession exercised over the disputed land. See **MONDIAL VENEER (GH) LTD V AMUAH GYEBU XV**². This can be proved either by traditional evidence or by overt acts of ownership in respect of the land in dispute. A party who relies on a derivatory title must prove the title of his grantor, **AWUKU V. TETTEH**³. Further, to prove ownership through possession, the possession must be **long, peaceful and uninterrupted** (see the case of **AKOTO V. KAVEGE**⁴). Also, in **BIRIMPONG V. BAWUAH**⁵ the Supreme Court held that it is a well settled principle of law that a counterclaiming defendant is in the same position as a plaintiff with respect to his counterclaim and undertakes the same burden with respect thereto (see also **FIADZORGBE V. KPOGO**⁶).

9. The Plaintiff's representative tendered exhibits "A" and "B" as the subleases they obtained from the Nungua Stool. Both documents are dated 16th August 2010 but there are no site plans in the two documents even though both documents have clauses indicating that the lands sub-leased to the Plaintiff are more particularly described and edged pink on the site plan attached. In **BUILDAF LTD & ORS V. CATHOLIC CHURCH**⁷, the Supreme Court held that a deed of assignment cannot be complete without the site plan and is legally invalid without due execution.

¹ [2018] DLSC 2488

² [2011] 1SCGLR 466

³ [2011] 1 SCGLR 366

⁴ [1984-86] 2GLR 365

⁵ [1994 - 95] 2 G B R 837

⁶ [2015-2016] 2 SCGLR 1287 AT 1301

⁷ [2017-2020] 1 SCGLR 1143 at 1164

10. None of the two documents ie exhibits “A” and “B” is also stamped. **Section 32(6) of the Stamp Duty Act, 2005, Act 689** states that Except as expressly provided in this section, an instrument:

1. (a) executed in Ghana; or
- (b) executed outside Ghana but relating to property situate or to any matter or thing done or to be done in Ghana

shall except in criminal proceedings, not be given in evidence or be available for any purpose unless it is stamped in accordance with the law in force at the time when it was first executed.

11. Per the wording of the section, the instrument is to be stamped in accordance with the law which was operational at the time the instrument was executed before it is admitted into evidence. The case of **LIZORI LTD V. BOYE & SCHOOL OF DOMESTIC SCIENCE AND CATERING**⁸ confirmed the fact that an instrument affecting land should have been stamped and the appropriate duty paid in accordance with the law in force at the time the document was executed for it to be admitted into evidence. Not having stamped their documents, exhibits “A” and “B” were therefore inadmissible and could not be the foundation for a claim to any land in court. Those exhibits should have been rejected when they were offered in evidence.

12. The 1st and 2nd Defendants trace their root of title to exhibit “3” which is dated 28th May 1996 between Numo Borketey Laweh, Gborbu Wulomo, Nii Bortrabi Obroni II, Mankralo and acting Mantse of Nungua and Nii Abotsi Borlabi. After the government released portions of the acquired land to the Nungua

⁸ [2013-2014] 2 SCGLR 889

Stool and interested parties, Nuumo Borketey Laweh Tsuru; the Gborbu Wulomo, Shitse by a letter dated 11th December 2010 confirmed the grant made to the Nii Abotsi Borlabi family (exhibit “11”). The Nii Abotsi Borlabi family on the 7th of October 2015 obtained a land certificate over its land and subsequently transferred its interest to the 1st Defendant on 20th October 2015 (exhibit 12). The 1st Defendant holds a land certificate dated 10th June 2016 over this land (exhibit “13A”). The 1st Defendant has also transferred its interest to the 2nd Defendant by a deed of assignment dated 25th June 2021 (exhibit 15).

13. The position of the Plaintiff is that until the government released the land back to the Nungua Stool, the Stool had no interest in it to have given out any interest to the 3rd to the 7th Defendants. That position is right in law and to the extent that the land continues to remain government land, the Nungua stool has no interest in the same land to divest to anyone. However, in this instant case, while the land was still vested in the government, the stool went ahead and granted portions of it to the 3rd to 7th Defendants. Subsequent to these grants, the land reverted to the stool. It would be very unfair for the stool to grant the same land to persons other than the ones it had granted the land to, prior to the land reverting to them. **Section 26 of the Evidence Act, NRCD 323** states:

“Estoppel by Own Statement or Conduct.

Except as otherwise provided by law, including a rule of equity, when a party has, by that party’s own statement, act or omission, intentionally and deliberately caused or permitted another person to believe a thing to be true and to act upon that belief, the truth of the thing shall be conclusively presumed against that party or his successors in interest in any proceedings between that party or the successors in interest of that party in proceedings and such relying person or his successors in interest of that party in proceedings between:

(a) That party or the successors in interest of that party, and

(b) The relying person or successors in interest of that person.

14. In **GEN. EMMANUEL ERSKINE & ANOR V. VICTORIA OKPOTI & ANOR**⁹, it was held that a grantor who has previously granted land to one person is not permitted by law to derogate from that grant and give the same plot of land to another person except where the first grantee is in breach of a covenant entitling the grantor to re-enter and he has actually re-entered the land.
15. The Defendants exhibits “3” “25”, “29”, “30”, “32” and “32A” were all executed by Numo Borketey Laweh, Gborbu Wulomo and Nii Bortrabi Obron II, the Mankralo and acting Nungua Mantse at the time. The Supreme Court in the case of the **REPUBLIC V. COMMITTEE OF INQUIRY INTO NUNGUA TRADITIONAL AFFAIRS, EX PARTE ODAI IV & ORS**¹⁰ succinctly declared that it was the Nungua Mantse and the Gborbu Wulomo who were signatories to the alienation of Nungua Stool lands. The grants to the Defendants were therefore in compliance with the custom and tradition of the Nungua stool lands.
16. It is the case that at the time the Nungua stool granted the land to the 3rd to 7th Defendants families the stool did not have the capacity to do so because the land was government land. However, under the principle of feeding the estoppel, the grant was validated as soon as the government released the land back to the Nungua Stool. The agreement to release the land acquired by the government back to the Nungua stool and the interested parties (exhibit “7”) acknowledged that the land had been massively encroached and the stool had

⁹ [2018] DLSC 189

¹⁰ [1996-97] SCGLR 401

made grants prior to the release. In the case of **SERWAH V. ADJEN II, ALIAS NKRUMAH**¹¹ the doctrine of feeding the estoppel was explained thus:

“Where a man conveys or demises land in which he has not the legal estate or any interest whatsoever, he estops himself from thereafter disputing the validity of such grant or demise. In other words, there can be no reason for him to turn round later and argue that he passed no valid title. More importantly, when he subsequently acquires the estate or interest which he lacked at the time of the grant, there becomes vested in the grantee that estate or interest which he formerly enjoyed by estoppel only. In other words, the subsequent acquisition of the interest by the grantor enures not to his benefit, but to the benefit of the grantee”.

17. The principle was further explained in the case of **NANA BAFFOUR GYAWU V. YAW ADU GYAMFI**¹² thus:

“What the doctrine of feeding the grant by estoppel says is that where a person, not being the owner of property, has fraudulently or erroneously represented himself as the owner of the property or as having authority to transfer an interest in the property and has purportedly made the transfer to a transferee who has purchased in good faith and for consideration, the rights of the transferee do not diminish. In this situation, the transferee has the option of rescinding the contract or keeping it alive. If he opts to keep the contract alive and subsequently the transferor acquires the interest he purported to transfer but which he did not have at the time of the sale, the interest

¹¹ [1992] 1 GLR 296

¹² [2018] DLCA 5560

will automatically go to the transferee. The bases of this are the law of estoppel, and the equitable principle that if a person promises more than he can perform, he must fulfil the promise when he gets the ability to do so”.

18. I agree with counsel for the Defendants that, under the principle of feeding the estoppel, the defendants families’ grants from the Nungua Stool in exhibits 3, 25, 29 and 30 before the Government formally released the land to the Nungua Stool and its subjects created estoppel against the Nungua Stool from subsequently granting the same land to any person including the Plaintiff. The benefit of the release went automatically to the earlier grantees. There was therefore no need for the Gborbu Wulomo to subsequently even write letters confirming the earlier grant which had been made by both the Gborbu Wulomo and the Acting Nungua Mantse.
19. The Plaintiff relies on the fact that it is in possession of the disputed land. Exhibit “C” series are pictures of the Plaintiff’s head office and other structures as well as a wall which the Plaintiff’s representative told the court are on the two separate plots contained in both exhibits “A” and “B”. What is a fact is that the land on which exhibits “C” and “C1” (ie the head office of the Plaintiff) is situate is not in dispute. The Defendants do not lay any claim to that portion of land. Although the Plaintiff’s representative told the court that the Plaintiff has 10 single room structures on the disputed land to demarcate the boundaries of its land, his exhibit “C” series show only three single rooms. I doubt that three single rooms can clearly demarcate the boundaries of land measuring 294.520 acres and 34.357 acres.
20. The presence of the Defendants on portions of the disputed land can be seen in exhibits “2 series”. The representative of the 1st and 2nd Defendants told the court that he personally farmed on a portion of the land in dispute between the

year 2003 and 2012. The 4th Defendant who testified for the 3rd and 5th Defendants as well, also tendered photographs (exhibit “28 series”) of their families occupation of portions of the disputed land before it was released back to the Nungua stool and its subjects. The Defendants told the court that it was when the Plaintiff erected a wall around the disputed land that they rose to challenge the Plaintiff. The Plaintiff cannot therefore claim undisturbed possession of the disputed land.

21. From the evidence on record, I am unable to accept the Plaintiff’s version of the story that the Plaintiff has structures scattered on the disputed land. The evidence rather supports the Defendants predominance on the disputed land. The 2nd Defendant per exhibit 17 which is a search report makes the case that before it acquired the land it conducted a search at the Lands Commission and also physically inspected the land and no interest of the Plaintiff was realised. Exhibit “11” shows that Nii Abotsi Borlabi has registered his interest in the land granted to him by the Nungua Stool based on which the 1st Defendant has also been issued with a land certificate both from the Lands Commission. Once the Lands Commission has issued a land certificate to the 1st Defendant and its grantor, it is presumed that the Commission undertook the necessary checks to authenticate the request for registration. By **section 37 of the Evidence Act**, official duty is presumed to have been regularly performed.
22. I now consider the issue of whether or not the Plaintiff or the 2nd Defendant is a bona fide purchaser for value without notice. In **HYDRAFOAM ESTATES (GH) LTD V. OWUSU (PER LAWFUL ATTORNEY) OKINE & OTHERS**¹³ the Supreme Court held that where a party had put up the plea of bona fide purchaser for value without notice of any adverse title, the onus would

¹³ [2013-2014] 2 SCGLR 1117

squarely be on that party who had pleaded the same. Since the plea was to be considered as an absolute, unqualified and unanswerable defence, if upheld by a court of law, the law would require that evidence in support of the plea must satisfy the court.

23. Considering the conclusion I have come to that the Nungua Stool could not have made a valid grant of the disputed land to the Plaintiff, the Plaintiff's claim of being a bona fide purchaser falls flat. Besides, in the agreement on the revision of State Acquired lands in the Greater Accra Region which was signed between the then Minister for Lands, Forestry & Mines and Nii Odaifio Welentsi III (exhibit "7"), Mr, Kwame Gyan signed as a witness for the Minister. In the said agreement, it is stated:

"This agreement is made this 25th Day of September, 2005 BETWEEN the government of the Republic of Ghana represented by the Minister of Lands, Forestry and Mines of the one Part [Hereinafter referred to as "First Party"] and the Nungua stool and **All Interested Families** represented by king Odaifio Welentsi III, Numo Borketey Larweh Tsuru, Gborgbu Wulomo, of the Other Part [hereinafter referred to as "Second Party"].

WHEREAS the Stool has granted portions of the said land to developers with the result that there has been a massive encroachment upon the said land....".

24. The same Kwame Gyan who signed to witness the signature of the Minister for Lands, Forestry & Mines has signed the purported leases between the Nungua Stool and the Plaintiff company as secretary to the Plaintiff company. The Plaintiff company is therefore fixed with notice of the clause in exhibit "7" that the stool had made prior grants of the land to developers and there was massive encroachment on the land the government was releasing to the stool.

The Plaintiff company cannot therefore rely on the claim of being bona fide purchasers of the land without notice of the 3rd to 7th Defendants interest or presence on the land. Besides, per the photographs tendered at the trial, the 3rd to 5th Defendants can physically be seen on the land. Any prudent purchaser who visits the land would find their structures on the land.

25. Having come to this conclusion, there is no need discussing whether or not the 2nd Defendant is a bonafide purchaser for value without notice. From the foregoing, I dismiss the Plaintiff's claims in their entirety and enter judgment for the Defendants as follows:
- a. The purported grants of the land in dispute to the Plaintiff company by the Nungua Stool after the earlier grants of same to the 3rd to the 7th Defendants is void ab initio.
 - b. The said leases to the Plaintiff by the Nungua Stool are therefore nullified. The Lands Commission is ordered to expunge from its records any entries it has made of the land in dispute in favour of the plaintiff company from its records forthwith.
 - c. The 2nd Defendant Company is declared the assignee over all that piece or parcel of land with the structures thereon situate lying and being at Borteyman, covered by Land Title Certificate No. T.D 0558, Volume 019, Folio 58, dated 10th day of June, 2016 covering 29.791 acres which was duly assigned to it by the 1st defendant.
 - d. The 3rd, 4th and 5th defendants' families are declared the lessees of all that piece or parcel of land with the structures thereon situate, lying and being at Borteyman, Nungua, Accra; on the North measuring 2,488.2 feet more or less, bounded by Ashaley Botwe - Nungua Farm Road, on the East measuring 2,079.5 feet more or less, bounded by Lessor's land, on the South measuring 1,614.8 feet more or less, bounded by the Accra - Tema Motorway and on the West measuring 3,651.0 feet more or less

bounded by Lessor's land/stream containing an approximate area of 117.89 Acres or 47.71 Hectares.

- e. The 6th defendants' family is declared the lessee of all that piece or parcel of land with the structures thereon situate, lying and being at Borteyman, Nungua Farms, Nungua, Accra; on the North - West measuring 1,105.9 feet more or less, North- East measuring 802.1 feet more or less, bounded by Nungua Farm Road/ Nii Abotsi Borlabi Family/ Lessor's land, on the East - measuring 1,245.6 and 2384.8 feet more or less, bounded by Lessor's land/ Nii Adjogah Annang & Other families, on the South measuring 1,206.4 feet more or less, bounded by Lessor's land and on the West measuring 892.0, 611.8 and 1,098.9 feet more or less, bounded by Lessor's land/Fio Borteye & Boye Tawiah Families/Lessor's land containing an approximate area of 151.15 Acres or 61.17 Hectares.
- f. The 7th defendants' family is declared the lessee of all that piece or parcel of land with the structures thereon situate, lying and being at Borteyman, Nungua Farms, Nungua, Accra in the Tema Metropolitan District of the Greater Accra Region; on the North measuring 450.5 and 805.1 feet more or less, bounded by Nungua Farm Road, on the East measuring 801.9 and 820.7 feet more or less bounded by Lessor's land, on the South measuring 1,269.1 feet more or less, bounded by the Accra - Tema Motorway, and on the West measuring 2,081.1 feet more or less, bounded by Nii Adzogah Annan & Other Families containing an approximate area of 35.04 Acres or 14.18 Hectares.
- g. The Plaintiff, its agents, assigns, servants, privies, workers, independent contractors or any other persons claiming through it or authorized by it are restrained from entering, developing, occupying or interfering in any manner with the land in dispute.

26. In assessing damages which the Defendants pray to be substantial, punitive, exemplary and aggravated, I take into consideration the fact of the struggle over the land, the damages caused on the land and the injunction the Plaintiff caused to be placed on the Defendants from developing the disputed land although it knew or ought to have known that the Plaintiff did not have any legitimate claim to the land and award the Defendants substantial damages, punitive, exemplary and aggravated damages of one hundred thousand cedis (GH¢100,000.00).

27. Cost is assessed at fifty thousand cedis GH¢50,000.00 to the Defendants against the Plaintiff.

(SGD) ABENA A. OPPONG
(JUSTICE OF THE HIGH COURT)