

**IN THE HIGH COURT OF JUSTICE, WESTERN REGION, HELD AT SEKONDI ON
THE 3RD DAY OF NOVEMBER, 2023, BEFORE HER LADYSHIP AFIA N. ADU-
AMANKWA (MRS.) J.**

SUIT NO. E2/73/21

SOLOMON SASU

PLAINTIFF

VRS.

ACCURATE AFRICA CO. LTD

DEFENDANT

RICHARD AMOAKO

CLAIMANT

JUDGMENT

In this interpleader suit, the claimant contends that the defendant/judgment debtor has no attachable interest in the house and car, which the plaintiff/judgment creditor has attached in the execution of a decree of the court against the defendant/judgment debtor. His case is that the property belongs to him and not the defendant/ judgment debtor. For ease of reference, the plaintiff/judgment creditor and defendant/judgment debtor would be known as the plaintiff and defendant, respectively.

The facts culminating in this trial are that the plaintiff sued the defendant and the claimant for the recovery of three hundred and seventy-five thousand Ghana cedis (GHc375,000.00) and interest on the said sum for the supply of sump or tailings containing gold. The 2nd defendant therein (claimant) was unsuited, and final judgment was entered for the plaintiff against the 1st defendant (now defendant). Subsequently, the plaintiff filed an entry of judgment for six hundred and fourteen thousand five hundred

Ghana cedis (GHc614,500.00.00). The judgment was compromised by the parties, leading to the filing of the compromised judgment on 8th December 2020 for four hundred and ten thousand Ghana cedis (GHc410,000.00). This interpleader action results from the plaintiff's attempt to attach properties in satisfaction of the judgment debt.

The claimant, Richard Amoako, testified that the plaintiff sued him and the defendant, for which the court entered judgment in the plaintiff's favour against the 1st defendant, Accurate Africa Company Ltd, for the recovery of the sum of GHc614,500.00 on 11th November 2020. Based on the 1st defendant's inability to pay the compromised and the original judgment sum, the plaintiff attached his properties, a plot of land numbered Plot No. F77 situate at Fiaji Village, Cocoa Products Industrial Area and a Honda Pilot S/Wagon vehicle with registration No. GR 7910-15. The claimant contended that judgment was entered against the defendant and not him and that the properties belonged to him and not the defendant, Accurate Africa Company Ltd.

The plaintiff, Solomon Sasu, testified that in June 2016, the claimant, Richard Amoako, purchased tailings or sump containing gold valued at four hundred and fifty thousand Ghana cedis (GHc 450,000.00) from him. The claimant issued him two cheques valued at four hundred thousand Ghana cedis (GHc400,000.00) to settle the debt, but they were dishonoured on presentation. As a result, he reported the claimant to the police at Sekondi Police Post. The claimant was arrested and pleaded with the police for time to pay the debt. The claimant only paid twenty-five thousand Ghana cedis (GHc 25,000.000) of the debt at the police station, Sekondi, but refused to pay the remaining debt upon repeated demands, hence the current action. The judgment debt, cost and interest amounted to six hundred and fourteen thousand, five hundred Ghana cedis (GHc 614,500.00). The claimant pleaded with him to have the judgment debt compromised by the payment of a lesser amount, to which he agreed. As a result, he agreed with the claimant to have the cumulative judgment debt compromised to a lesser sum of four

hundred and ten thousand Ghana cedis (GH¢ 410.00.00) only. The plaintiff contended that the claimant had refused to pay the debt and was using the defendant's company to escape and avoid liability. He prayed the court to hold the claimant accountable for his conduct.

In support of his claim to the attached properties, the claimant tendered his title documents to the car and the land. The car documents were admitted in evidence as exhibit "B" whilst that of the land was rejected as an unstamped document and labelled as exhibit "R". It has been submitted on his behalf by his counsel that the rejected document ought to be considered by the court as it was stamped. According to counsel, there was a faint stamp at the bottom right of the document evidencing stamping. It is trite that a document that has been rejected by the court cannot be retendered. Thus, even if the court inadvertently rejected the document, the court is disabled from considering it. A perusal of exhibit "R" does not, on its face, show that the document was stamped. Parties must ensure that exact copies of documents sought to be tendered are made available to the court. Parties may take advantage of the provisions of section 174 of the Evidence Act, 1975, NRCD 323, where a copy is treated as an original by producing both the original and a copy of the document for inspection and comparison by the court and the adverse parties. I cannot fathom by what rules of procedure counsel for the claimant expected the court to admit a rejected document by exhibiting it to his written address. The claimant could have remedied the situation by promptly applying to the court during the course of proceedings to have the document admitted in evidence rather than exhibiting it to his counsel's address.

That notwithstanding, I am quite satisfied by the evidence on record that the properties in question do not belong to the defendant. The plaintiff did not challenge the claimant's claim that the properties belonged to him. Additionally, under cross-examination, he

admitted that the properties belonged to the claimant and not the defendant. This is what ensued under cross-examination:

Q: Per exhibit "3", the judgment was entered against Accurate Africa and not Richard Amoako.

A: I have not looked at the document.

Q: So you attached the building and vehicle because you believed it was the property of Richard Amoako.

A: Yes

Q: So you know that these properties do not belong to Accurate Africa.

A: Yes I know.

Judging from his testimony, the plaintiff had taken the view that at all material times, he dealt with the claimant in his personal capacity and not with the company and so could attach the claimant's property in satisfaction of the judgment debt. However, judgment was entered against the defendant only, the claimant having been unsuited when the plaintiff sued him as the 2nd defendant. It is a basic principle of law that a company is a distinct legal entity separate from the persons behind it or who may control it. Until the corporate veil is lifted to ascribe liability to various individuals, the company which can sue and be sued is responsible for her actions and not the persons who may be behind it. See **Salomon vrs. Salomon**[1895-9] All ER Rep 33 and **Morkor vrs. Kuma (East Coast Fisheries Case [1998-1999] SCGLR 620 at 632.**

The evidence shows that the defendant has no interest in the properties attached in execution to satisfy the judgment debt.

The claim is allowed. The registrar is ordered to release properties, i.e., a Plot of land numbered Plot No. F77 situate at Fiaji Village, Cocoa Products Industrial Area and a

Honda Pilot S/Wagon vehicle with registration No. GR 7910-15 to the claimant, Richard Amoako, forthwith.

(SGD.)

H/L AFIA N. ADU-AMANKWA (MRS.)

JUSTICE OF THE HIGH COURT.

COUNSELS

Edmund Acquaaah-Arhin appears for the Claimant.

Emmanuel Beckley appears for the Plaintiff/Judgment Creditor.