

It does not appear to the court, that the Writ of Summons and the Statement of Claim filed on 5th May 2016 have been amended. The Applicants in paragraphs 8, 9, 10, 11, 12 and 13 of their Statement of Claim stated, that they made an outright sale of the attached property to the Respondent of which part of the purchase price was paid remaining the balance the Applicants claimed in their Writ of Summons.

The Applicants did not ask for any alternative relief from the court for cancellation of the agreement between the parties and recovery of the property upon refund of money the Respondent paid to the Applicants.

The court has been informed by the Applicants representative, that the Applicants have put somebody in possession of the property. I am of the opinion, that once the Applicants sold the property to the Respondent, the Applicants forfeited every interest they had in the property to the Respondent.

Therefore, upon default of any part of the purchase price, the remedy available to the Applicants are to sue for the outstanding balance as they did in this case, but not to go back and take possession of the property either directly or indirectly.

The court does not know how long the Applicants have been in constructive possession of the property. The court does not know how much the Respondent could have earned from the property if the Applicants were not in constructive possession.

Therefore, granting this application will lead to unjust enrichment on the part of the Applicants which the law frowns upon. The Black's Law Dictionary, 9th Edition at page 1678 defines unjust enrichment as **“a benefit obtained from another, not intended as a gift and not legally justifiable, for which the beneficiary must make restitution or compensation”**

See: ANKRAH v OFORI [1963] 2 GLR 405

QUAGRAINE v ADAMS [1981] GLR 599 CA

MENSAH v BERKOE [1975] 2 GLR 347

Even though there is no affidavit in opposition to the Applicants application for an order for the reserved price. However, the law is settled, that even one-sided application should not be granted hook, line and sinker. The court in every application must ask itself whether its jurisdiction have been properly invoked to grant the application.

See: AMIDU (NO.1) v ATTORNEY-GENERAL, WATERVILLE (BVI) CO. LTD. & WOYOME (NO.1) [2013-2014] 1 SCGLR 112

If a party's application has not properly invoked the jurisdiction of the court, then the court cannot proceed to grant it even if the party has a cast-iron case.

See: YORKWA v DUAH [1992-93] GBR 278 CA

For the above reasons, I am unable to grant the application and same is dismissed.

SGD.

FRANCIS OBIRI

(JUSTICE OF THE HIGH COURT)

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AUTHORITIES

1. ANKRAH v OFORI [1963] 2 GLR 405

2. **QUAGRAINE v ADAMS [1981] GLR 599 CA**
3. **MENSAH v BERKOE [1975] 2 GLR 347**
4. **AMIDU (NO.1) v ATTORNEY-GENERAL, WATERVILLE (BVI) CO. LTD. & WOYOME (NO.1) [2013-2014] 1 SCGLR 112**
5. **YORKWA v DUAH [1992-93] GBR 278 CA**