

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT
ACCRA-AD 2020

CORAM: YEBOAH, CJ (PRESIDING)
DOTSE, JSC
BAFFOE-BONNIE, JSC
APPAU, JSC
PWAMANG, JSC
AMEGATCHER, JSC
KOTEY, JSC

WRIT NO.

J1/27/2017

5TH FEBRUARY, 2020

RICHARD PAA KWESI KORSAH PLAINTIFF

VRS

1. THE EXECUTIVE DIRECTOR
ECONOMIC AND ORGANISED
CRIME OFFICE 1ST DEFENDANT
2. THE ATTORNEY-GENERAL
AND MINISTER OF JUSTICE 2ND DEFENDANT

JUDGEMENT

KOTEY, JSC:-

On 5th February, 2020, this Court dismissed the Plaintiff's action in this matter on the grounds that its original jurisdiction has not been properly invoked and that the case lacked any merit, with reasons to be given later. We proceed to give our reasons.

On 4th October, 2017, Plaintiff instituted this action pursuant to articles 2 and 130 of the 1992 Constitution, invoking the original jurisdiction of this court for an interpretation and enforcement of articles 18 and 19 (2)(c) of the 1992 Constitution.

The reliefs sought were a declaration that:

- i. Section 23(2) of the Economic and Organised Crime Act, 2010 Act 804, is inconsistent with articles 18 and 19 (2)(c) of the 1992 Constitution.
- ii. On a true and proper interpretation of articles 18 and 19(2) (c), citizen's property cannot be confiscated or forfeited to the state unless the citizen has been convicted of a serious offence that has a direct nexus with the affected property.
- iii. Forfeiture of the funds to the state by the 1st Defendant pursuant to section 23(3) of the Economic and Organised Crime Office, 2010 (Act 804) contravenes articles 18 and 19(2) (c) of the 1992 Constitution to the extent that such application for forfeiture was made ex parte.
- iv. The said funds forfeited to the state be released to their respective owners; Tweneboah Koduah, Nana Frimpong, Nii Nueh Odonkor, Jesse Amisah Turkson and Florence Kotey, forthwith as same were inconsistent with the 1992 Constitution.

- v. All funds forfeited to the state pursuant to section 23(2) Act 804 and so procured through ex parte applications be released to its original owners as same is inconsistent with Articles 18 and 19 (2)(c).

The plaintiff is therefore seeking to invoke the original jurisdiction of this court to interpret and enforce the 1992 Constitution pursuant to articles 2(1) and 130(1) of the Constitution.

The gravamen of the Plaintiff's complaint is that section 23 of the Economic and Organised Crime Act, 2010 Act (804) is inconsistent with articles 18 and 19(2)(c).

MEMORANDUM OF ISSUES

We dismissed this action because we were of the considered view that original jurisdiction to interpret or enforce the Constitution has not been properly invoked in this case.

This matter has already been determined by this court in **Jesse Amisshah, Florence Kotey & Hon. Mavis Hawa Koomson v. The Executive Director, Economic and Organised Crime Office and Attorney-General**, writ No. J1/10/2016, Judgment dated 5th December 2016. In that case, this court held that the issues that the Plaintiffs in that case sought to litigate in the Supreme Court were in reality an allegation of violation of their fundamental human rights conferred by articles 18 and 19 of the Constitution.

The court held that its original jurisdiction to interpret and enforce the Constitution has not been properly invoked and declined to assume jurisdiction. The court stated, per Akamba JSC at page 19 of the judgment:

“The initiative in this court, by counsel invoking our interpretative and enforcement jurisdiction appears desperate and conceived. Unfortunately, this court does not assume

jurisdiction out of compassion or sympathy. As long as there is a proper forum other than this court for the Plaintiffs to ventilate their rights this court will decline jurisdiction which hereby do"

The plaintiff is seeking to relitigate the very matter that was determined in **Jesse Amissah Turkson & others v. The Executive Director, Economic and Organised Crime Office and Attorney-General** (supra), as relief 4 indorsed on the Writ of Summons makes abundantly obvious. We are bound by our decision in that case. We find no reason why we should depart from our earlier decision in that case and none has been urged on us. It is for this reason that we dismissed the Plaintiff's writ.

PROF. N. A. KOTEY
(JUSTICE OF THE SUPREME COURT)

ANIN YEBOAH
(CHIEF JUSTICE)

V. J. M. DOTSE
(JUSTICE OF THE SUPREME COURT)

P. BAFFOE-BONNIE
(JUSTICE OF THE SUPREME COURT)

Y. APPAU
(JUSTICE OF THE SUPREME COURT)

**G. PWAMANG
(JUSTICE OF THE SUPREME COURT)**

**N. A. AMEGATCHER
(JUSTICE OF THE SUPREME COURT)**

COUNSEL

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PLAINTIFF.

GRACE OPPONG, PRINCIPAL STATE ATTORNEY FOR THE DEFENDANTS.