IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA - A.D. 2022

CORAM: BAFFOE-BONNIE JSC (PRESIDING)

PROF. KOTEY JSC

LOVELACE-JOHNSON JSC

AMADU JSC

PROF. MENSA-BONSU (MRS.) JSC

CIVIL APPEAL

NO. J4/46/2021

13TH JULY, 2022

GLADYS OBENEWAA AFARI ..... PLAINTIFF/APPELLANT/RESPONDENT

VRS

1. NANA DONKOR MANIANOR II
2. DANIEL K. OHENE } **DEFENDANTS/RESPONDENTS/APPELLANTS**
3. KWEKU NYAMEKYE

JUDGMENT

AMADU JSC:-

INTRODUCTION:

(1) The main issue for our determination in the instant appeal is, which of the two lower courts properly appreciated and evaluated the evidence on record and ascribed to it the proper probative value before arriving at their respective conclusions. This is because while the trial court from its evaluation of the evidence, findings and conclusions held that the Plaintiff/Appellant/Respondent *(hereinafter referred to as the "Respondent")* was entitled to only thirty (30) acres of the land in dispute and entered judgment in her favour, the Learned Justices of the Court of Appeal from their own reevaluation of the evidence held otherwise by granting to the Respondent all the reliefs endorsed on her writ of summons and statement of claim including her claim to the whole of the 441.98 acres of the disputed land.

(2) In its judgment, the Court of Appeal found that, on the evidence on record, the Respondent had sufficiently discharged her statutory burden with respect to her claim against the 1st to 3rd Defendant/Respondents/Appellants *(hereinafter referred to as the "Appellants")* for declaration of title to the parcel of land measuring 441.98 acres as well as the other consequential reliefs indorsed in her writ of summons.

(3) Our determination of this appeal will therefore depend on the narrow issue of whether or not on the evidence on record, the Respondent is entitled to the whole parcel of 441.98 acres described in the schedule to her statement of claim, or that the trial court's decision to limit the Respondent's entitlement to only thirty (30) acres was founded on the evidence adduced at the trial.

(4) In discharging our duty, we shall in the exercise of our power of rehearing embark on our own examination and evaluation of the evidence on record and upon the application of the relevant law determine the correctness or otherwise of the conflicting positions arrived at by the two lower courts in determining the claim of the Respondent to the total acreage of 441.98 of the lands in dispute.

(5) **THE RESPONDENT'S CASE**

By an amended statement of claim filed on 24th February, 2014, the Respondent averred that she is the owner of the land, the subject matter of this dispute which contains an approximate area of 441.98 acres. The Respondent further averred that the parcel of land was originally granted to her father, the late James Winfred Afari, in 1953 for valuable consideration of the sum of Eighty British Pounds (£80.00) he gave to the land owners at the time. The Respondent further asserted that her father acquired the property because sometime in 1940, the elders of Ahwerase and Obosomase, both in the Akuapem North District of the Eastern Region the oowners of the land, were engaged in a land dispute along their boundaries. The elders then approached the Respondent's father, a rich cocoa merchant for financial assistance to contest the case at the Koforidua High Court. The Respondent's father provided the financial assistance and in return, the then Mankrado of Obosomase, Nana Kwesi Danso gave the parcel of land to him as a sign of appreciation for his financial support.

(6) The Respondent further averred that her father gifted the said parcel of land to her in 1986 which she acknowledged by presenting customary drinks and ram to her father in the presence of elders of the family as ***"aseda."***Subsequently, she

went into occupation without any let or hindrance and had exercised acts of ownership of the land by granting portions of same to other persons for farming purposes who at one tenant to her as custom demands. It is the case of the Respondent that the 1st, 2nd and 3rd Appellants have recently encroached on portions of the land and have made several attempts to sell portions of same to third parties without her consent. She further alleged that the Appellants instituted an action against her to determine the ownership of the property which they abandoned and was struck out for want of prosecution. When the Appellants continued their acts of encroachment, she sued for the reliefs endorsed in her writ of summons and statement of claim.

(7) THE APPELLANTS' CASE

In their amended statement of defence, the Appellants substantially denied the Respondent's averments. They however admitted that the Respondent's father was given a portion of land by the Aduana-Abrade Family of which the 1st Appellant is now the head. They also contended that the size of land that was given to the Respondent was only 17 acres and not the 441.98 acres being claimed after her father had provided financial assistance to the Appellants to deal with a heritage management challenge. They further alleged that their two (2) powerful deities are situate on the extent of land being claimed by the Respondent and that, it is not possible for his ancestors to have given it out to the Respondent's father as alleged. They therefore, counterclaimed that the Respondent was entitled to a declaration of title to only 20,321.21 acres. With respect to the 4th Defendant, they claimed that the Commission has no interest in the outcome of the suit and further that they would abide by the judgment of the court

(8) ISSUES SET DOWN FOR DETERMINATION AT THE TRIAL COURT

At the close of pleadings, the following issues were set down for trial:

"a. Whether or not the land situate at Obosomase which is the subject matter, originally acquired by the Plaintiff's father covers an area of 441.98 acres.

b. Whether or not the 441.98 acres of land had two of the powerful deities of the Aduana-Abrade family located there.

c. Whether or not persons named in the said paragraph did farm on the Plaintiff's land (sic).

d. Whether or not the head of the Aduana-Abrade Family of the Mankrado Stool of Obosomase, sold any portions of Plaintiff's land to third parties.

e. Whether or not the Defendants dealt with Comet Properties Ltd in respect of the Plaintiff's land.

f. Whether or not Plaintiff is entitled to her claim.

g. Whether or not the Defendants are entitled to their counterclaim.

h. Any further or other issues raised by the pleadings in the suit."

(9) SUMMARY OF THE EVIDENCE

The Respondent testified through her son, Samuel Boateng Asare. In his evidence in chief, he testified that his late grandfather was a cocoa merchant who agreed to assist the Appellants' ancestors financially in a suit in the Koforidua High Court. That Respondent's father did this by engaging the services of a lawyer and an interpreter from Accra to Koforidua and footed their bills on each court attendance. In appreciation for this assistance, the Appellants' predecessors granted the land to the Respondent's father. He tendered Exhibit"A", which is the conveyance made in favour of the Respondent's father. He further testified that it was the father of the 3rd Appellant who went to demarcate the land for the Respondent's father. The witness identified Respondent's boundary owners and

further testified that upon acquisition of the land, the Respondent's father allowed some persons to farm thereon including his younger brother, Kwame Armah, Laryea and Mr. Mensah, the Apledoku family from Nungua, Mr. Ametepe etc. He further testified that those who farmed on the land paid customary tolls to the Respondent's father. Further that, the Respondent's father gifted the said land to the Respondent because she was the only one among his children who married from his hometown. He testified further that, the Respondent performed the customary ***"aseda"*** by presenting a ram and drinks in the presence of the elders of the family and siblings of the Respondent. As aforesaid, the Appellants denied the Respondent's claim to the 441.98 acres of land and counterclaimed that whereas they do not dispute the transactions between the Respondent's father and their predecessors, the Respondent was entitled to only 20.321.21 acres, far less than she claimed.

(10) **JUDGEMENT AT THE HIGH COURT**

In its judgment, the High Court made an award in favour of the Appellants in part and entered judgment by granting to the Respondent only 30 acres out of the total area of 441.98 acres claimed by the Respondent. The trial court held that the Respondent was unable to prove the boundaries of her land. It further held that while Exhibit "1" stated that the boundary owners to the disputed land is the grantor himself, the Respondent had testified that the disputed land was bounded by lands belonging to the Abrade family. Therefore, the land contemplated in Exhibit "1" could not have extended to the 441.98 acres claimed by the Respondent. The trial court also found that the site plan prepared in 2011 bore names of neighbours who were not named in the deed of conveyance, Exhibit "1".Further,the trial court held that no evidence was led to explain the reason for the disparity in the names of the boundary owners.

(11) The trial court found that one of the boundary neighbours named in the site plan took the Respondent to court over a dispute as to the actual size of the Respondent's land. Further, in Exhibit "1", the vendor stated that the land was bounded on three sides by his personal property. However, the Respondent's Exhibit"D", her site plan, indicated that the land was bounded by stool lands. By reason of the above, the trial court held that the land described in the site plan could not have been the same as the parcel of land which was granted to the Respondent's father in 1953.Thetrial court also held that the witnesses who were called by the Respondent had no knowledge of the actual size of the Respondent's land. The trial court therefore held that the Respondent failed to discharge her burden of proof as she did not provide the identity and extent of the land she claimed. The trial court consequently limited the Respondent's award to only 30 acres out of the total acreage of 441.98.

(12) On the part of the Appellants, the trial court held that it was not convinced that they had adduced sufficient evidence to prove the identity of the land they claimed as it was also not convinced that the Appellants had been candid with the court when they asserted that the Respondent's father was given only 30 acres of land. The trial court nonetheless, entered judgment in favour of the Respondent for the 30 acres of land only. This is because, although the Appellants were inconsistent with the size of land the Respondent was entitled to, under cross examination, when the 1st Appellant was questioned on the inconsistency, he testified that:***"the land was not measured at that time, we just said it out of mind".*** The trial court thus concluded that the Appellants had no scientific basis for alleging that the Respondent was only entitled to less than she had claimed, but nevertheless granted the Respondent only 30 acres on the basis of the Appellants' own admission.

(13) **APPEAL TO THE COURT OF APPEAL**

Dissatisfied with the decision of the trial court, the Respondent appealed to the Court of Appeal. In its judgment, subject matter of the instant appeal, the Court of Appeal allowed the appeal and set aside the decision of the trial court. The Court of Appeal held that the tendering of the site plan which was prepared in 2011 satisfied the first requirement for proof of identity of land, the same being a *prima facie* proof of identity of land in a land dispute. The Court of Appeal further held that the testimony of the farmers who were put on the land by the Respondent to the effect that they did not know the actual size of the land was immaterial. The Court of Appeal took the view that, as long as the Respondent identified her land, her licencees were not obliged to know her boundaries. Those licencees were only required to know the extent of land made available to them by their licensor, the Respondent herein. The Court of Appeal also found the Respondent's failure to call her grantors when she went with the Surveyor to take the measurements of the land although generally desirable and expedient, was not fatal since the Respondent already knew the boundaries of her land.

(14) The Court of Appeal further found that the trial court erred when it held that the boundary neighbours in Exhibit "1" ought to have been consistent with the boundary neighbours in Exhibit "D". The Court of Appeal further held that the Respondent adduced sufficient evidence which on the balance of the probabilities, clearly demonstrated the existence of her boundary neighbours and the common boundaries as that this piece of evidence by the Respondent was not controverted by the Appellants. The Court of Appeal therefore held that the Respondent sufficiently discharged her burden of proof regarding the identity of the land being claimed by the introduction of the site plan, Exhibit "D" which identified her boundary owners. The Court of Appeal further held that the

Appellants carried the burden of proof to prove that the Respondent was entitled to only 17 acres and not 441.98, acres as claimed. However, they failed to discharge that evidential burden. The Court of Appeal found that from the evidence, the Appellants had not, at the time of the trial clearly demarcated the 17 acres they asserted the Respondent was entitled to, except by word of mouth.

(15) Finally, the Court of Appeal found that the Appellants also failed to lead evidence to prove that portions of the 441.98 acres of their land being claimed by the Respondent their deities were located. The Court of Appeal therefore held that the trial court erred when it entered judgment in favour of the Respondent for 30 acres without accurately identifying and describing the said 30 acres in a language consistent with scale and site plan. On the totality of the evidence therefore, the judgment of the trial court was set aside and judgment was entered in favour of the Respondent for all the reliefs endorsed in her writ of summons.

(16) **APPEAL TO THE SUPREME COURT**

Dissatisfied with the judgment of the Court of Appeal, the Appellants have appealed to this court on grounds set out in their notice of appeal as follows:-

"a. The judgment given was against the weight of the evidence adduced.

b. The court erred by upholding the claim of the Plaintiff/Appellant for 441.98 acres of the family's land evidenced by a Statutory Declaration made by herself in 2011 on the blind side of the owner/grantor/family contrary to the family's acknowledged area of 15 or 17 or 20 poles of land granted which currently translates to 30 acres of land granted to the father of the

Plaintiff/Appellant/Respondent for £80.00 per the receipt executed on the grant in 1953."

(17) THE APPELLANTS' ARGUMENTS

In their statement of case, the Appellants have argued that by virtue of the time the transaction between the Respondent's father and the grantors took place, in 1953, it is probable that the parties had either not been born or they were too young to have appreciated the nature of the transaction. This meant that they depended on traditional history and as such, honest mistakes may occur in the course of transmission of the tradition and events to subsequent generations. They contended that, this situation could have accounted for the disparity in the size of the acreage which the Appellants testified to in court. The Appellants further contended that the 441.98 acres being claimed by the Respondent was not contained in the 1953 deed of conveyance and as such, the Respondent is barred from claiming in excess of what was granted to her father. The Appellants concluded by contending that the Respondent failed to prove the identity of the land as she failed to testify on her boundaries which failure must result in a finding against her. On the second ground of appeal, the Appellants argued that the Court of Appeal erred by accepting the Respondent's statutory declaration since a statutory declaration is a self-serving document to which no probative value ought to have been attached. They argued further that the statutory declaration was not registered in accordance with the Land Registry Act, 1962 (Act 122).

(18) THE RESPONDENT'S ARGUMENTS

In the Respondent's statement of case, it has been argued that the appeal has not raised any specific ground or error in the process of the first appellate court's re-

evaluation of the totality of the evidence Therefore, reliance on the acceptance of statutory declaration to impugn the judgment of the Court of Appeal is not only preposterous and untenable but misleading. The Respondent further argued that the documents relied upon by the Respondent in proving her case were the conveyance, (Exhibit "A"), oral evidence of her witnesses, the site plan (Exhibit "D"), and the statutory declaration published in the Ghanaian Times Newspaper. The Respondent submitted further that she was able to positively identify her land. This she did by tendering Exhibit "D" which contained a site plan and a schedule to the land which showed the identity of her land. This fact, the Respondent contended, was uncontroverted by the Appellants, even under cross examination. Therefore it should be conclusively presumed against the Appellants as an admission of the evidence on identification of the parcel claimed by the Respondent.

(19) The Respondent further argued that she sufficiently proved her boundaries by calling four witnesses to testify on her behalf. These four witnesses according to her corroborated her account of entitlement to 441.98 acres of land. On ground two, the Respondent argued that the ground of appeal is vague and therefore invited this Court to strike it out. She further submitted that the inconsistencies in the account of the Appellants with regard to the actual size of land they claim was given to the Respondent's father should result in a finding against them. The Respondent further maintained that the Appellant's argument that the statutory declaration was done on the blind side of the Appellants is absurd since the statutory declaration was published in the Ghanaian Times Newspaper which served as notice to the whole world. From the above arguments, the Respondent submitted that the judgment of the Court of Appeal is sound in law and ought not to be disturbed.

(20) **ANALYSIS OF ARGUMENTS**

Ground One

"The judgment was against the weight of evidence adduced".

The settled law is that where an Appellant alleges that a judgment is against the weight of evidence, it imposes a duty on the appellate court to among other things, rehear the appeal and embark on a re-evaluation of the evidence to determine whether or not as alleged by the Appellant there has been an improper evaluation of the evidence on record such that no court or tribunal properly instructing itself will arrive at the same findings of the court below, or that some irrelevant matters or erroneous application of the relevant law has been occasioned resulting in a conclusion which is inconsistent with the drift of the evidence on record.

(21) In **INTERNATIONAL ROM LIMITED VS. VODAFONE GHANA LIMITED & ANOR. SUIT NO. J4/2/2016**, dated **6th June, 2016** this court per Akamba JSC, made a statement on the omnibus ground of appeal as follows:- ***"This appeal being premised upon the contention that the judgment is against the weight of evidence, among others, is a call on us to rehear this appeal by analyzing the record of appeal before us, taking into account the testimonies and documentary as well as any other evidence adduced at the trial and arriving at a conclusion one way or the other. This is the import of the numerous decisions of this court on the point. Notable among these are Tuakwa Vs. Bosom(2001-2002) SCGLR 61; Djin Vs. Musah (2007-2008) 1 SCGLR 686. In the Djin case (above), this court per Aninakwa JSC at page 691 of the report held that when an appellant complains that the judgment is against the weight of evidence, "he is***

implying that there were certain pieces of evidence on the record which, if applied in his favour, could have changed the decision in his favour, or certain pieces of evidence have been wrongly applied against him. The onus is on such an Appellant to clearly and properly demonstrate to the appellate court the lapses in the judgment being appealed against."

It is trite that in evidence, the position is that the "semper necessitas probandi incumbitei qui agit" which translates to mean "the necessity of proof always lies with the person who lays the charges".

(22) Under the Evidence Act, 1975 (NRCD 323), a person who alleges a fact will assume both the evidentiary burden and the burden of persuasion.

Section 11(1) and (4) as: ***"…the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling against him on the issue."***

and "…the burden of producing evidence requires a party to produce sufficient evidence so that on all the evidence a reasonable mind could conclude that the existence of the fact was more probable than its non-existence" respectively.

(23) Therefore, in order to discharge their respective statutory burdens, the parties in a suit have a duty to prove their respective positions on the preponderance of probabilities to satisfy the court, that they are entitled to the claim as or defence they are asserting. In **TAKORADI FLOUR MILLS VS. SAMIR FARIS (2005-2006] SCGLR 882 at 900**,this Court restated the position of the law relating to the burden of proof as follows:***"To sum up this point, it is sufficient to state that this being a civil suit, the rules of evidence require that the Plaintiff produces sufficient evidence to make out his claim on a preponderance of probabilities, as defined in Section 12(2) of the Evidence***

Decree, 1975 (NRCD 323). Our understanding of the rules in Evidence Decree, 1975 on the burden of proof is that in assessing the balance of probabilities, all the evidence, be it that of the Plaintiff or the Defendant, must be considered and the party in whose favour the balance tilts is the person whose case is more probable of the rival versions and is deserving of a favorable verdict."

(24) Similarly, in **GIHOC REFRIGERATION & HOUSEHOLD VS. JEAN HANNA ASSI (2005-2006) SCGLR 458**, this Court again held that:

"since the enactment therefore, except otherwise specified by statute, the standard of proof (the burden of persuasion) in all civil matters is by a preponderance of the probabilities based on a determination of whether or not the party with the burden of producing evidence on the issue has, on all the evidence, satisfied the judge of the probable existence of the fact in issue... Hence, by virtue of the provisions of NRCD 323, in all civil cases, judgement might be given in favour of a party on the preponderance of the probabilities..." It has also been held in the case of **SUMAILA BIELBIEL (NO. 3) VS. ADAMU DRAMANI & ATTORNEY-GENERAL (2005-2006) SCGLR 458**that:***"The distinction between the two burdens of proof, namely the "burden of producing" as defined in Section 10(1) and the "burden of producing evidence" as defined in Section 11(1) of the same Act, is important because the incidence of the burden of producing evidence can lead to a defendant acquiring the right to begin leading evidence in a trial, even though the burden of persuasion remains on the Plaintiff. Ordinarily the burden of persuasion lies on the same party as bears the burden of producing evidence."***In the instant case the Appellant have invited us to re-examine the evidence adduced at the trial and identify the pieces of evidence which according to the Appellant, were not taken into consideration or

that were taken into consideration which the court ought not to have, which if the court did, it would have come to a different conclusion.

(25) **EVALUATION OF EVIDENCE**

As has been clearly identified in both the trial court and the Court of Appeal, the critical issue that ought to be determined by this court is whether the Respondent's father was granted the land measuring 441.98 acres or 17 acres as claimed by the Respondent. In resolving this issue, this Court will examine all the pieces of evidence adduced by the Respondent to prove her assertion on the one hand and on the other land, the evidence led by the Appellants to contest the case of the Respondent.

(26) In the case of **KWABENA VS. ATUAHENE [1981] GLR 136-144**it was held that:*"The onus of proof required by law as regards the identity of land would be discharged by meeting these conditions:*

(a) The Plaintiff had to establish positively the identity of the land to which he claimed title with the land the subject-matter of the suit.

(b) The Plaintiff also had to establish all his boundaries.

(c) Where there was no properly orientated plan drawn to scale, which made compass bearings vague and uncertain, the court would hold that the Plaintiff had not discharged the onus of proof of his title.

(27) The first situation which should engage the mind of this court in determining whether or not there has been sufficient identification of the disputed land as espoused in the above case is whether or not the party has been able to positively identify her land. This position was restated in **NORTEY (NO.2) VS. AFRICAN INSTITUE OF JOURNALISM AND**

COMMUNICATION & ORS (NO.2) (2013-2014) SCGLR 703wherein the Supreme Court held that: ***"Since the Plaintiff had sought at the trial High Court, a declaration of title to the disputed land, he must establish the identity and the limits of the land. The onus of proof required by law regarding the identity of the land would be discharged by meeting the following conditions: The Plaintiff must establish the identity of the land and all his boundaries; and where there was no properly oriented plan drawn to scale, which made compass bearings vague and uncertain, the court would hold that the Plaintiff had not discharged the onus of proof of his title.***

(28) The Respondent in adducing evidence at the trial tendered Exhibit "A" which was the deed of conveyance made in favour of her father by the Appellant's predecessors in the title. This document was neither discredited nor challenged by the Appellants. It therefore means that, at least, the transaction which evidenced the grant of the land to the Respondent's father is unchallenged. In the said Exhibit "A", the boundaries of the land were identified and stated. The contention herein is the extent of the description of the land in contemporary times. In proof of this, the Respondent tendered "Exhibit D" which contains the site plan of the land as well as the schedule thereto which described the size of the land.

(29) In her testimony, the Respondent further tendered the statutory declaration which was published in the Ghanaian Times Newspaper as evidence of her interest in the land. At the trial, the Respondent called four witness who were her licencees as well as her boundary owners. Although the licencees did not know the extent of the land of their licensor, they all confirmed that they

were placed on the land at the sufferance of the Respondent. The tendering of Exhibits "A" and "D" by the Respondent confirms that at least, the Respondent was able to identify her land. She described her land as follows:-***"all that piece or parcel of land containing an approximate area of 441.98 acres or (178.87 hectares) and situate at Obosomase in the Akuapem South District in the Eastern Region of the Republic of Ghana and bounded on the North-West by Samuel Obiri Korang Danquah's property and measuring on that side a distance of 1959.5 feet more or less on the North-East by Obosomase Stool Land and measuring on that side a distance of 1980.5 feet more or less and on the South-West by Ahwease/Adambrobe Land measuring on that side a total distance of 8749.0 feet more or less which piece or parcel of land is more particularly delineated on the site plan attached"***. With respect to the boundaries, she called four witnesses to testify in the identification of the boundaries. These included her licencees and one of her boundary owners. Further, the Respondent and her witnesses testified to the effect that there were *ntoma trees* planted on the boundaries of her land which clearly identified the measurements of her land.

(30) In their response, and in an attempt to controvert the claims made by the Respondent, the Appellants only denied her averments and stated that the land, per the description in Exhibit "A" was only 17 acres and not 441.98 acres. However, during their evidence in chief and under the cross examination, they changed from17 acres, to 20 acres, and finally settled at 30 acres. When questioned under cross examination, the disparity in the acreages testified to, the 1st Appellant stated that ***"the land was not measured at that time. We just said it out of mind".***

(31) The interrogatory then is should the evidence of such a witness be allowed to prevail over the evidence of a party who has adequately described the

land she claims? We do not think so. The Respondent having proved the identity of her land, the onus shifted on the Appellants to adduce evidence to controvert the evidence of the Respondent. This, they failed to do in all respects. In any event, any defect in the non-description (if any) of the land was cured by the Respondent's Exhibit "D" (site plan) which was admitted without objection and on which the Appellants failed to raise the necessary doubt as to the credibility or probative value.

(32) We are therefore in agreement with the position of the Court of Appeal when it held that the trial court had no basis in awarding in favour of the Respondent only 30 acres of the total acreage she claimed when no good reason was given for the said award. Consequently, there was no justification from the evidence adduced for the award of the 30 acres of the land to the Respondent. Assuming without admitting that there was a basis for such an award, what are the dimensions of the land which the Respondent was going to take, especially when the Appellants could not lead any evidence to indicate such dimensions given the several contradictions in their evidence with respect to the size of land the Respondent was entitled to.

(33) From the foregoing, we find that the Respondent had discharged her burden of proof by adducing admissible and credible to establish the dimensions of her land as well as the boundaries. The Appellants in their attempt to discredit her testimony failed. This ground of appeal is consequently dismissed.

(34) **Ground 2**

We shall now turn our attention to ground 2 which is formulated as follows:- ***"The court erred by upholding the claim of the Plaintiff/Appellant for 441.98 acres of the family's land evidenced by a Statutory Declaration made by herself in 2011 on the blind side of the owner/grantor/family contrary to the family's acknowledged area of 15 or 17 or 20 poles of land granted which currently translates to 30 acres of land granted to the father of the Plaintiff/Appellant/Respondent for £80.00 per the receipt executed on the grant in 1953".***Without a doubt, the resolution of ground 1 should put this appeal to rest but we shall determine this second ground in order to determine the legal issue arising there from.

(35) On this ground of appeal, the Appellants have argued that the Court of Appeal erred when it upheld the validity of the statutory declaration contrary to judicial decisions that statutory declaration are self-serving documents and no probative value as a conveyance. The Appellants have contended the reliance on the statutory declaration by the Court of Appeal has occasioned a grave miscarriage of justice to them. We are aware of the decision of this court in the case of **IN RE ASHALLEY BOTWE LANDS ADJETEY AGBOSO VS. KOTEY [2003-2004] SCGLR 420**on the self-serving nature of a statutory declaration and we agree with the Appellants that, statutory declarations are not to be construed as a conveyance as it is merely a self-serving document. However, we do not agree with the Appellants' contention that the Court of Appeal relied on the statutory declaration exclusively in arriving at its decision. A careful reading of the judgment of the Court of Appeal would reveal that, the court did not place any serious evidential value on the statutory declaration and therefore its decision did not turn on it. The Court of Appeal was convinced that the Respondent had adequately proved her case with the adduction of other

admissible and credible evidence, and had therefore discharged her evidential statutory burden. We find that even in the absence of the statutory declaration, the Respondent had sufficiently proved her case and is entitled to judgment as awarded by the Court of Appeal. The statutory declaration is therefore a mere surplus age to the mass of credible evidence already adduced by the Respondent in proof of her claim to the land described in her statement of claim. Ground 2 therefore fails and it is dismissed.

(36) For all the reasons hereinbefore set out, this appeal having wholly failed, is accordingly dismissed.

I. O. TANKO AMADU

(JUSTICE OF THE SUPREME COURT)

P. BAFFOE-BONNIE

(JUSTICE OF THE SUPREME COURT)

PROF. N. A. KOTEY

(JUSTICE OF THE SUPREME COURT)

A. LOVELACE-JOHNSON (MS.)

(JUSTICE OF THE SUPREME COURT)

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