

CA. NO. 10/2000
12TH MARCH, 2004

FARKYE, JA
ADDO, JA
QUAYE, JA

Versus

1. AMASSEY COMMEY]
2. ENOCK OKPOTI ODAI] ... DEFENDANTS/APPELLANTS
3. AHIEY COMMEY]

ADDO, JA:-

My Lords, this is an appeal against the decision against B.O. Tetteh J. Chairman of the Regional Tribunal sitting as additional Circuit Judge. The plaintiff in this case, Comfort Banor has brought this action against the defendants jointly and severally for general damages for trespass ₵1,000,000.00 {One Million Cedis} being cost of materials damaged and perpetual injunction. The plaintiff by her statement of claim states that she is the incumbent head of the Lartey-Cudjoe family Osu. She says the land the subject-matter was acquired by her maternal grandfather, Lartey-Cudjoe in 1938. According to her the transaction was covered by a written memorandum dated 21st March, 1938 by which the original owner transferred title to the said Lartey-Cudjoe. She went on to state that the house thereon was at the time of the said transaction numbered E5/12, Osu Accra and subsequently changed to read F5/1 Animansah Osu – Accra. Plaintiff's case is that her said grandfather, Lartey-Cudjoe continued to

remain in uninterrupted possession till his demise. Further, as successor to Larthey-Cudjor they have remain in uninterrupted possession. That with the consent of the said Larthey-Cudjor family she in or about December 1990 commenced a building project on the part of the land the subject-matter of this dispute and which project had advanced to lintel level. She says in the first quarter of 1992 the defendants purporting to be either members or supporters of an Odoi Quao family without any justification destroyed her building project extensively. She said the damage done was at the time destroyed her building project extensively. She said the damage done was at the time ₦850,000.00 {Eight Hundred and Fifty Cedis } in value. She currently require Hundred and Fifty Cedis } in value. She currently requires about ₦1,000,000.00 {One Million Cedis} to make good the required damage. She says upon her complaint to the Police the Police arrested the defendants and arraigned them before the Circuit Court on 1st day of September 1993, convicted them and caution and discharged them. The gravamen of the defendant defence is that they had justification for destroying the plaintiff structure on the grounds that same was being unlawfully put upon their – Odoi Quao family land; defendant further counter claimed for declaration of title.

On the totality of the evidence adduced before the trial court, the trial court found that the land subject-matter of this dispute belongs to Larthey-Cudjoe and not the Odoi Quao family and therefore this finding destroy the basis of the defendants counterclaims.

From this, the defendants have appealed to this court asking us to reverse the decision and find for them. The Appellant filed only one ground of appeal namely that “the judgment is grossly and profoundly unreasonable and it is legally unwarrantable at all having regard to the evidence.”

I must say that I have gone through the evidence and I find the conclusion arrived at by the trial court very sound and opposite and cannot in any way impeach the conclusion arrive at by the court. I find this appeal without merit and I consequently dismiss it.

**E.A. ADDO
JUSTICE OF APPEAL**

I agree.

**S.T. FARKEY
JUSTICE OF APPEAL**

I also agree.

**G.M. QUAYE
JUSTICE OF APPEAL**

COUNSEL -

**R.A. OKARTEI-AKKO FOR APPELLANTS
SAMMY AGBODO FOR RESPONDENTS.**