

IN THE CIRCUIT COURT OF JUSTICE HELD AT DENU ON THURSDAY THE 20TH DAY OF OCTOBER, 2022 BEFORE HIS HONOUR JOSEPH OFOSU
BEHOME ESQUIRE -CIRCUIT COURT JUDGE

COURT CASE NO. VR/CT/DE/CC.256/2022

THE REPUBLIC

VRS:

MAWULI TSANI

ACCUSED PERSON PRESENT.
SGT. AIKINS KAKLAKU FOR PROSECUTION		... ABSENT.
COMPLAINANTS PRESENT.

J U D G M E N T

The Accused person herein was arraigned before this Court charged with possession of Stolen Property: Contrary to Section 148(1) of the Criminal Offences Act, 1960 (Act 29). He pleaded not guilty after the charge had been read out and explained to him.

BRIEF FACTS OF THE CASE

The Complainants in the case Stephen Konda and Kondo are Unit Committee Members at Second Low-Cost, a suburb of Aflao whilst the Accused Mawuli Tsani who claims to be a trader also lives at lives at Second Low-Cost. Prior to this case, complainant and his colleague's unit committee members had information that, the accused has been bringing animals to his house at dawn and sell same to people at cheaper prices which are highly suspected to be stolen animals. Upon the information received by the

complainant and his colleagues, they held a meeting and placed surveillance on the accused. On 25/03/2022 at about 6.00am, the accused bought two life ram valued GH¢800.00 and one life billy goat valued GH¢600.00 both totaling GH¢1,400.00 to his house. He then sent one of his friends to look for someone to come and buy the said animals. The said friend went to the workplace of a witness in the case Tahiru Ibrahim who is a kebab seller at Aflao border and told him that his brother has some animals for sale. The witness who was interested in the animals was taken to Second Low-Cost, Aflao by the accused person's friends to see the animals. When they got to Second Law-Cost, the accused was met in front of a certain house and he was introduced to the witness as the owner of the animals. As the accused led the witness into his house to show him the animals, the complainant and his colleagues emerged and arrested them. They were brought to the police station together with the above-mentioned animals and a case was reported. During investigation, the accused alleged in his investigation caution statement that the animals belong to him and that, he gave the said animals to his step-mother Akorsiwa who lives at Gakli, a suburb of Aflao to rear them. He further alleged that on 25/03/2022 in the morning, he went to the step-mother's place and brought the said animals to his house to sell. The accused was taken to the house of his step-mother by police and the step-mother told police that, the accused did not bring any animals to her to rear. She also told police that, the accused did not come for the animals from her house and she knows nothing about the stolen animals. After investigation, the accused was charged with the offence as stated in the charge sheet and now before this Honourable Court.

Section 11(2) of the Evidence Act, 1975 (NRCD 323) states:

“In a criminal action the burden of producing evidence when it is on the prosecution as to any fact which is essential to guilt requires the prosecution to produce sufficient evidence so that on all the evidence a reasonable mind will find the existence of the facts beyond reasonable doubt”

See Republic vrs: Adu-Boahen and Another [1993-94] 2 GLR 324-342 per Kpegah JSC.

The prosecution in discharging this burden placed on it called (4) four witnesses including the investigator.

PW2, (Nicholas Kondo) and **PW1**, (Stephen Kondo) confirmed the facts as presented by the prosecution.

PW3, (Tahiru Ibrahim) avers he is a Kebab seller and was arrested by the accused person's friend on 25/03/2022 that accused herein had animals on sale and should accompany him for one if he is interested. PW3, says he followed this gentleman to where accused was and the latter was pinpointed to him. PW3, contends whilst with accused on the mission after accused has confirmed his ownership of same, the former avers he was arrested together with accused and were taken to the police station whilst the gentleman who connected he PW3 saw accused with the police he bolted away.

PW4, (D/PW/SGT. Dora Owusu Otemah) relied on her witness statement and attached exhibits. She avers investigation was extended to the accused person's house and the step-mother's village Gakli, where accused person alleges the mother rears the said 2 rams and the billy goat at the centre of this issue but accused was exposed by the step9mothyer saying no said animals were reared for accused over there and more so accused person was not there as he alleges on the 25/03/2022.

THE CASE OF THE ACCUSED

The accused person herein avers he rears animals at Gakli under the supervision of his step-mother and it was some of the said animals that he brought for sale on the 25/03/2022 which the Unit Committee Members afire said teamed up with the police to effect his arrest.

At the close of the case of the case of the prosecution and the defence the issue that arose for determination of the Court was whether or not the accused dishonestly received the two (2) rams and the billy goat retrieved from his house.

Section 1 & 8(1) provides: 148(1) where a person is charged with dishonest receiving and is proved to have had in his possession or under his control, anything which is reasonably suspected of having been stolen or unlawfully obtained and he does not give an account, to the satisfaction of the Court, as to how he came by it the property may be presumed to have been stolen or unlawfully obtained and the accused may be presumed guilty of dishonest receiving in the absence of evidence to the contrary.

Throughout the trial, the accused person has vehemently denied the charge of having obtained the two rams and the billy goat dishonestly.

However, the accused person in his cautioned statement to the police on 25/03/2022 stated the following:

I am a trader and live at Aflao Low Cost. It is true that the two sheep and the goat belongs to me. I live at low cost Aflao and my step mother Akorshiewa also live at Aflao Gakli. I gave the three animals to her to keep same for me during the month of February, 2022. I went to bring the animals to sell today 25/03/2022 and the area people at low cost where I sent the animals, saw me together with the witness Tahiru Ibrahim and they arrested us and brought us to the police station and accused us of stealing the animals. When the Police interrogated me, I told them that the animals belongs to me. I further stated that; I gave same to my step-mother one Akorshiewa who lives at Gakli to keep same safe for me during the month of February 2022 and I went for the animals today to sell and in the process; the area people arrested us and brought us to the Police station. After narrating the story to Police, they took me to my step-mother's house at Gakli. The Police officer interviewed Akorshiewa and she told them that, it is not true that I brought the animals to her. She does not know anything about what I am alleging. The Police again shown the picture of the two sheep and the goat they arrested me with to Akorshiewa and again she told Police that, she has not seen those animals before, so I am not telling them the truth. After the Police brought me back to the Police station.

The Cautioned Statement (Exhibit "C") was taken in compliance with Section 120 of NRCD 323. Exhibit "C" was tendered in evidence without any objection by the Accused person. Akamba JSC in Ekow Ressel vrs. The Republic [2016] 102 GMJ 124 SC stated and I quote: ".....A confession is on acknowledgement in express words, by the accused in a criminal charge of the truth of the main fact charged or of same essential part of it. *By its nature, such statement if voluntarily given by the accused person himself, offers the most reliable piece of evidence upon which to convict the accused.* It is for this reason that safeguards have been put in place to ensure that what is given as a confession is voluntary and of the accused person's own free will without fear, intimidation, coercion, promises or favours....." (Emphasis mine)

The accused person herein **MAWULI TSANI** has not been able to lead any credible evidence to Court to create a doubt in the case of the prosecution neither has he been able to prove his ownership of the animals in issue.

I shall therefore on the total evidence make a finding that the two (2) rams and the billy goat found with accused person were stolen animals.

To this end, I find the accused person herein guilty of having in his possession stolen property (Animals) Contrary to Section 148(1) of Act 29/60 and convict him on same. Accused person is sentenced to three (3) years imprisonment.

ORDER: The animals: two (2) rams and a billy goat are to be sold by the Court Registrar in conjunction with the Prosecution and the amount realized deposited in the consolidated fund.

(SGD)

**H/H JOSEPH OFOSU BEHOME
CIRCUIT COURT JUDGE**

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COMPLAINANTS PRESENT.

Accused person present. `

Complainants present.

C/Inspector Seth Appau holding brief for Sgt. Aikins Kaklaku.

X

X

X

X

BY COURT: Accused is hereby sentenced to serve a three year prison sentence.

ORDER: The animals two (2) rams and a billy goat are to be sold by the Court Registrar in conjunction with the Prosecution and the amount realized deposited in the consolidated fund.

(SGD)

H/H JOSEPH OFOSU BEHOME

CIRCUIT COURT JUDGE