

IN THE CIRCUIT COURT HELD AT AMASAMAN – ACCRA ON
MONDAY THE 17TH DAY OF OCTOBER, 2022 BEFORE HER HONOUR
ENID MARFUL-SAU, CIRCUIT COURT JUDGE

SUIT NO:C1/61/2021

LENNOX BAISSIE FIIFI
OF DANCHIRA AMUMAN ...
PLAINTIFF/RESPONDENT

VRS.

MICHAEL ETSIWAH ...
DEFENDANT/APPLICANT

*PARTIES: PLAINTIFF/RESPONDENT PRESENT
DEFENDANT/APPLICANT ABSENT*

*COUNSEL: KOFI BOATENG GYASIE ESQ. FOR DEFENDANT/APPLICANT
PRESENT*

RULING

This is an application by the Defendant/Applicant (hereinafter referred to as Applicant) for an order of interlocutory injunction restraining the Plaintiff/Respondent (hereinafter referred to as Respondent), his agents, assigns, privies or workmen from having any dealing with Applicant's land.

By a Writ of Summons and Statement of Claim filed on 8th June, 2021, Respondent claims against Applicant the following reliefs:

- a) "A declaration of title to all that piece or parcel of land measuring 400ftx400ft situated, lying and being at Danchira Amuman near Amasaman Accra on the Ga South Municipality and bounded as follows on the south east by Kwame Afadi, on the west by Alfred and on the north by Thomas Quaye.
- b) Recovery of possession of the disputed land.
- c) An order for perpetual injunction restraining defendant herein, his agents, assigns, workmen, representatives etc. from interfering with plaintiff's rights of title to the land which is the subject matter of this suit.
- d) Substantial cost."

By a Statement of Defence and Counterclaim filed on 1st July, 2021, Applicant claims against Respondent the following reliefs:

- a) "An order for Plaintiff to pay the outstanding amount of GH¢32,200.00 being balance of 14 plots of land the Plaintiff purchased from Defendant but did not complete payment.
- b) An order for payment of interest on the outstanding amount of GH¢32,200.00 at the prevailing commercial bank rates till final payment
- c) An order for perpetual injunction restraining Plaintiff, his agents, assigns, workmen, privies or anyone deriving his/her authority from plaintiff from interfering with Defendant's lands and operations at Amuman
- d) Costs"

It is the case of Applicant that he owns the land in dispute. According to him, he has been in undisturbed possession since purchase and has his demarcation pillars on the land. He says that the Respondent has trespassed on his land and removed his pillars and erected his with the assistance of land guards thereby depriving him of a peaceful enjoyment to his land. According to him, the Respondent has destroyed buildings of clients he has already sold

portions of the land to. He says that Respondent has been warned to desist from these trespassory acts but he persists. According to him, if the Respondent is not stopped, he would succeed in changing the character of the land and dislodge him from his land and no monetary compensation could undo the harm Respondent caused him.

Respondent filed an affidavit in opposition on 24th June, 2022 which he titled 'Reply to Motion on Notice for an order of interlocutory injunction'. According to him, the photographs attached to Applicants affidavit are not of the subject matter of this case. He says that he only visits the land he owns and that from Exhibit E, the building could have been destroyed from rains or acts of God. He prays that the instant application is dismissed.

The factors to be considered in dealing with an Application for injunction were set out in the case of **FRIMPONG V. NANA ASARE OBENG II [1974] 1 GLR 16** by Edward Wiredu J (as he then was) as follows:

"It is the duty of a court in dealing with applications for interim order of injunction to consider among other matters the following:

(a) the hardship that would be caused if the application is granted or refused; in other words the relative convenience or inconvenience which might result to the parties from granting or withholding an interlocutory injunction,

(b) whether on the facts before the court it is just and convenient for the preservation of the status quo;

(c) whether damages will afford an adequate compensation for the loss if the application be refused."

In the case of **OWUSU V. OWUSU ANSAH AND ANOTHER [2007-2008] 2 SCGLR 870 at 876**, it was held by Adinyira JSC as follows:

"The fundamental rule therefore is that a trial court should consider whether the applicant has a legal right at law or in equity, which the court ought to protect by

granting an interim injunction. This could only be determined by considering the pleadings and affidavit”

Though Applicant claims that the land in dispute his, he has failed to produce to the court any document evidencing this fact. What he attached to his affidavit in support are photographs of pillars and portions of land with people thereon; these on their own do not prove ownership. At this stage of the proceedings therefore, I am not satisfied that the Applicant has put anything before the court to show that he has a legal interest in the land in dispute that needs protection from the court.

In the case of **CENTRACOR RESOURCES LTD V. BOOHENE AND OTHERS [1992 – 93] 4 GBR 1512** it was held as follows:

“Where a plaintiff in an application for interlocutory injunction could not show that the legal right sought to be protected really existed or where either party would suffer great disadvantage, which could not be adequately compensated in damages, it would be permissible in such case to consider the relative strength of the parties’ cases.”

By his affidavit in opposition, the Respondent also failed to show any legal right to the land in dispute. Therefore, considering the pleadings, affidavits and evidence before me thus far, I hold that the equities favour dismissing the application. Accordingly, the Application is hereby dismissed.

**H/H ENID MARFUL-SAU
CIRCUIT JUDGE
AMASAMAN**