

**IN THE CIRCUIT COURT, HELD IN NSUTA, ON FRIDAY,  
THE 31<sup>ST</sup> DAY OF MAY 2024 BEFORE HER HONOUR  
WINNIE AMOATEY-OWUSU, CIRCUIT COURT JUDGE**

**CASE NO: 46/22**

**THE REPUBLIC**

**VRS.**

**ISAAC DANQUAH**

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**JUDGMENT**

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1.The accused was arraigned before this Court on 23<sup>rd</sup> November 2021 on a charge of defrauding by false pretences contrary to Section 131 of the Criminal Offences Act, 1960 (Act 29). He pleaded not guilty.

2.A summary of the facts as contained in the accompanying Charge Sheet and read by the prosecution at the commencement of the case is that, the complainant is a teacher at the St. Monica's College of Education, Mampong-Ashanti whilst the accused is a toll collector and native of Besease-Mampong-Ashanti. Sometime in 2019, the accused sold a plot

of land to the complainant at Awayeso-Mampong-Ashanti for GH¢9,000 and issued him fake documents. When the complainant went to develop the land, it was revealed it had been sold to a different person. All attempts to get his money back proved futile and the accused went into hiding and all efforts to get him also proved futile. He was arrested in Kumasi and transferred to the Mampong Police. The accused denied the offence in his cautioned statement and after the investigation, he was arraigned before this Court.

3. Article 19(2)(c) of the 1992 Constitution states that an accused is presumed innocent until he is proved guilty or he pleads guilty. In a criminal trial, the burden rests with the prosecution to prove the charge against the accused.

4. The burden of proof in criminal cases is codified in the Evidence Act, 1975 (NRCD 323) as follows:

“Burden of Proof

10. Burden of persuasion defined

(1) For the purposes of this Act, the burden of persuasion means the obligation of a party to establish a requisite degree of belief concerning a fact in the mind of the tribunal of fact or the Court.

(2) The burden of persuasion may require a party

(a) to raise a reasonable doubt concerning the existence or non-existence of a fact, or

(b) to establish the existence or non-existence of a fact by a preponderance of the probabilities or by proof beyond a reasonable doubt.

#### 11. Burden of producing evidence defined

(1) For the purposes of this Act, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling on the issue against that party.

(2) In a criminal action, the burden of producing evidence, when it is on the prosecution as to a fact which is

essential to guilt, requires the prosecution to produce sufficient evidence so that on the totality of the evidence a reasonable mind could find the existence of the fact beyond a reasonable doubt.

- (3) In a criminal action, the burden of producing evidence, when it is on the accused as to a fact the converse of which is essential to guilt, requires the accused to produce sufficient evidence so that on the totality of the evidence a reasonable mind could have a reasonable doubt as to guilt.

### 13. Proof of crime

- (1) In a civil or criminal action, the burden of persuasion as to the commission by a party of a crime which is directly in issue requires proof beyond a reasonable doubt.
- (2) Except as provided in section 15 (c), in a criminal action, the burden of persuasion, when it is on the accused as to a fact the converse of which is essential to guilt, requires only that the accused raise a reasonable doubt as to guilt."

Also, Section 22 of NRCD 323 provides:

“22. Effect of certain presumptions in criminal actions

In a criminal action, a presumption operates against the accused as to a fact which is essential to guilt only if the existence of the basic facts that give rise to the presumption are found or otherwise established beyond a reasonable doubt, and, in the case of a rebuttable presumption, the accused need only raise a reasonable doubt as to the existence of the presumed fact.”

5. In **Abdul Raman Watara Benjamin v. The Republic, Criminal Appeal No. H2/17/2019 dated 9th July, 2020 (unreported)**, the court stated, “It is trite that in criminal trials it is the duty of the prosecution to prove the case against the accused person beyond reasonable doubt. This has been codified in sections 11(2), 13(1) and 22 of the Evidence Act, 1975 (NRCD 323). At the end of the trial the prosecution must prove every element of the offence and show that the defence is not reasonable. The prosecution assumes the burden of persuasion or the legal burden as well as the evidential burden or the burden to

produce evidence. The legal burden or the burden of persuasion is to prove every element of the charge. The evidential burden is to adduce evidence that will suffice to establish every element of the offence. This burden remains on the prosecution throughout the case. Proof beyond reasonable doubt also implies that it is beyond dispute that the accused person was the one who committed the offence." Also, in **Asare v. The Republic [1978] GLR 193 @ 197**, Anin JA held, "As a general rule there is no burden on the accused; that he is presumed innocent until his guilt is established beyond reasonable doubt; that the burden is rather on the prosecution to prove the charge against him beyond reasonable doubt".

6. In **Brobby & Ors v. The Republic [1982-83] GLR 608**, Twumasi J explained the expression "proof beyond reasonable doubt" as follows: "Proof beyond reasonable doubt in a criminal trial implies that the prosecution's case derives its essential strength from its own evidence. Therefore, where part of the evidence adduced by the prosecution favors the accused, the strength of the prosecution's case is diminished

proportionately and it would be wrong for a court to ground a conviction on the basis of the diminished evidence.” Lord Denning MR in **Miller v. Minister of Pensions [1947] ALL ER 372** also explained the principle when he stated that: “The degree of cogency need not reach certainty but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to affect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favor which can be dismissed with a sentence “of course it is possible but not in the least probable” the case is proved beyond reasonable doubt but nothing short of that will suffice”.

7. When the prosecution makes out a prima facie case against the accused and the Court calls on the accused to open his defence, the accused’s only duty is to raise a reasonable doubt about his guilt. See Section 11(3) and 13(2) of NRCD 323. In **Commissioner of Police v. Antwi [1961] GLR 408**, the court held, “The fundamental principles underlying the rule of law

are that the burden of proof remains throughout on the prosecution and the evidential burden shifts to the accused only if at the end of the case for the prosecution an explanation of circumstances peculiarly within the knowledge of the accused is called for. The accused is not required to prove anything. If he can merely raise a reasonable doubt as to his guilt he must be acquitted.”

8. In considering the accused’s defence, the Court is bound to consider any evidence which favors his case as well as the cautioned statements obtained from him by the Police and tendered during the trial. See **Kwame Atta & Anor v. Commissioner of Police** [1963] 2 GLR 460; **Annoh v. Commissioner of Police** [1963] 2 GLR 306. Further, questions asked and answers given during cross-examination form part of a party’s evidence and must be considered by the court in evaluating the evidence as a whole. See **Ladi v. Giwah** [2013-2015] 1 GLR 54.



9. In **Lutterodt v. Commissioner of Police [1963] 2 GLR 429**, the Supreme Court per Ollennu JSC set out how the court should approach the defence of the accused as follows: “In all criminal cases where the determination of a case depends upon facts and the court forms the opinion that a prima facie case has been made, the court should proceed to examine the case for the defence in three stages:

- a. if the explanation of the defence is acceptable, then the accused should be acquitted;
- b. if the explanation is not acceptable, but is reasonably probable, the accused should be acquitted;
- c. if quite apart from the defence's explanation, the court is satisfied on a consideration of the whole evidence that the accused is guilty, it must convict.”

10. Also, in **Republic v. Francis Ike Uyanwune [2013] 58 GMJ 162, CA**, it was held per Dennis Adjei, JA that: “The law is that the prosecution must prove all the ingredients of the offence charged in accordance with the standard burden of proof; that is to say the prosecution must establish a prima facie case and

the burden of proof would be shifted to the accused person to open his defence and in so doing, he may run the risk of non-production of evidence and/ or non-persuasion to the required degree of belief else he may be convicted of the offence. The accused must give evidence if a prima facie case is established else he may be convicted and, if he opens his defence, the court is required to satisfy itself that the explanation of the accused is either acceptable or not. If it is acceptable, the accused should be acquitted and if it is not acceptable, the court should probe further to see if it is reasonably probable. If it is reasonably probable, the accused should be acquitted, but if it is not, and the court is satisfied that in considering the entire evidence on record the accused is guilty of the offence, the court must convict him. This test is usually referred to as the three-tier test.”

11. Upon the direction of the Court, the prosecution filed its Witness Statements and other disclosures on 26<sup>th</sup> July 2022. Case Management Conference was held and the case proceeded to trial with the prosecution’s case. The prosecution

called three witnesses who relied on their Witness Statements and the other disclosures filed as their evidence in the case.

They are:

- i. Duut Kwame Billah –PW1: The complainant and a tutor at the St. Monica’s College of Education;
- ii. Bayuo Kofi Wilfred –PW2: A pensioner, formerly of the St. Monica’s College of Education; and
- iii. C/Insp. Peter Kantorgorje – PW3: The investigator of the case stationed at the Divisional Criminal Investigation Department, Mampong.

12.The following were tendered by the prosecution through PW1 and PW3:

- i. Exhibit A: Allocation Note and attached site plan of Plot No. 121 Block AD Awayeso, Mampong-Ashanti;
- ii. Exhibit B: Allocation Note and attached site plan of Plot No. 23 Block AD Awayeso, Mampong-Ashanti;
- iii. Exhibit C: Receipts for ground rent and sanitation fee payment in respect of Plot No. 23 Block AD Awayeso, Mampong-Ashanti;

- iv. Exhibit D: Investigation Cautioned Statement of the accused; and
- v. Exhibit E: Charge Cautioned Statement of the accused.

13. By the Court's Ruling delivered on 25<sup>th</sup> August 2023, the Court held that the prosecution had made out a prima facie case against the accused and called on him to answer the charge. The accused testified personally and called no witness. He relied on his Witness Statement filed on 24<sup>th</sup> October 2023 and tendered the following:

- i. Exhibit 1: Allocation Note for Plot No. 23 Block AD Awayeso, Mampong-Ashanti;
- ii. Exhibit 2: Site plan of Plot No. 23 Block AD Awayeso, Mampong-Ashanti;
- iii. Exhibit 3: Allocation Note for Plot No. 121 Block AD Awayeso, Mampong-Ashanti;
- iv. Exhibit 4: Site plan of Plot No. 121 Block AD Awayeso, Mampong-Ashanti;

- v. Exhibit 5: Receipt for sanitation fee payment in respect of Plot No. 23 Block AD Awayeso, Mampong-Ashanti; and
- vi. Exhibit 6: Receipt for ground rent payment in respect of Plot. No. 23 Block AD Awayeso, Mampong-Ashanti.

14.I shall now evaluate the evidence against the accused and the accused's defence to determine whether the prosecution has proved its case beyond reasonable doubt or the accused has raised reasonable doubt about his guilt.

15.The Charge reads:

**"STATEMENT OF OFFENCE**

**DEFRAUDING BY FALSE PRETENCES: CONTRARY TO  
SECTION 131 OF THE CRIMINAL OFFENCES ACT, 1960  
(ACT 29)**

## PARTICULARS OF OFFENCE

**ISAAC DANQUAH: TOLL COLLECTOR: AGED 29:-** For that you on the 5<sup>th</sup> day of November, 2019 at Mampong/Ashanti in the Ashanti Circuit and within the jurisdiction of this court, with intent to defraud did obtain the consent of Duut Kwame Biilah to part with an amount of GH 9,000.00 with the pretext of securing her with a land near Awayeso-Mampong/Ash and upon such false representation, you succeeded in obtaining the said amount of money from Duut Kwame Biilah, a statement you knew to be false at the time of making same." [sic]

16. Section 131(1) of Act 29 states that a person who defrauds another person by a false pretence commits a second degree felony. Per Section 132, a person defrauds by false pretences if, by means of a false pretence that person obtains the consent of another person to part with or transfer the ownership of a thing. Section 133(1) defines false pretence as a representation of the existence of a state of facts made by a person, with the knowledge that the representation is false or without the belief

that it is true, and made with an intent to defraud. To successfully prove the charge, the prosecution must lead sufficient evidence to prove that:

- i. The accused made a representation of the existence of a state of facts to the complainant;
- ii. The accused knew the representation was false or made the representation without belief that it was true; and
- iii. The representation was made with the intent to defraud, that is, by means of the false pretence, the accused obtained the consent of the complainant to part with or transfer the ownership of a thing.

**See Raymond Ajuwa v. The Republic, High Court (Criminal Division, 5) Accra, Case No. CR/571/2017 dated 8<sup>th</sup> July, 2019 (unreported); Republic v. Selormey [2001-2002] 2 GLR 424; Asiedu v. The Republic [1968] GLR 1**

17. In **Arthur v. The State [1961] GLR 316 @ 317**, Van Lare JSC stated, "The law as we understand it is that if a false statement or representation to the knowledge of the person making it, is made, and by this means money is obtained and the person who gives that money does so in reliance on the false statement or representation, then that would be sufficient to support a charge of obtaining money by false pretences."

18. PW1 testified that on 5<sup>th</sup> November 2019, he paid GH¢7,000 to the accused in the presence of PW2 and Isaac Opoku whom the accused claimed to be his family pastor, for a plot of land known as Plot No. 121 Block AD Awayeso. On 8<sup>th</sup> November 2019, the said plot was found to have been sold to another person so he arranged a meeting with the accused, Isaac Opoku and PW2 to demand refund of his money. At the meeting, the accused and Isaac Opoku decided to offer him a replacement plot, Plot No. 23 Block AD which they said was their own land and had not been allocated to anyone. Guided by the previous disappointment, he accepted the replacement land on condition they all went to the Mampong Municipal Assembly to check if the plot had been registered by someone



or not. After verifying that the replacement land had not been sold nor registered, he went on to register it with the Municipal Assembly and Stool Lands on 3<sup>rd</sup> and 6<sup>th</sup> April 2020 respectively. He was also asked to pay additional GH¢3,000 for the replacement land since it was bigger than the former one, making a total payment of GH¢10,000. On 3<sup>rd</sup> April 2020, when he went to register the replacement land, he paid GH¢400 to the accused and subsequently paid GH¢500 to Isaac Opoku on 6<sup>th</sup> June 2020, which he shared with the accused. On 15<sup>th</sup> July 2020, he again paid GH¢1,000 to the accused. He said PW2 was witness to all the payments. On 4<sup>th</sup> January 2021, he went to the plot to clear the bush and prepare the land for building only to be told by a passer-by that the land belonged to another person. Thereafter, he asked the accused and Isaac Opoku to refund his money and on 3<sup>rd</sup> March 2021, Isaac Opoku came to his house and promised to sell his house located at Hwidiem Junction to him at a cost of GH¢50,000 to set off against the GH¢9,000 and pay him the difference but he declined. Isaac Opoku also sent him pictures of the house to share with others who may be interested in buying the house

so he could refund his money to him. All efforts to get his money or plot of land proved futile.

19. There is undisputable evidence from PW2 that he was the one who introduced the complainant to the accused for the purpose of buying the land. PW2 testified that on 3<sup>rd</sup> November, 2019, the accused informed him he had for sale, Plot No. 121 Block AD located at Awayeso, Mampong close to his plot of land, Plot No. 116 AD and that he should alert any interested persons. As a result, he informed the complainant, who is his colleague and friend who went to see the plot and expressed interest in it. He corroborates the complainant's testimony in all material particulars and testified further that on 4<sup>th</sup> January 2021, the complainant informed him that he went to Plot No. 23, Block AD to clear the bush and prepare the land for building only to be told by a passer-by that the land belonged to another person. He said the complainant asked the accused and Isaac Opoku to refund his money and on 3<sup>rd</sup> March 2021, Isaac Opoku went to the complainant's house and promised to sell to him his house located at

Hwidiem Junction at a cost of GH¢50,000 to set off against the GH¢9,000 and pay him the difference but the complainant declined. Isaac Opoku also informed him, PW2, on phone to tell others who may be interested in buying his house so he could refund the complainant's money. All attempts to get the complainant's money or plot of land have proved futile.

20.PW3 testified that on 30<sup>th</sup> October 2021 at about 9:00 p.m., a case of defrauding by false pretences involving the complainant and the accused was referred to him for investigation. He obtained a statement from the complainant and the accused was arrested in Kumasi and transferred to the Mampong Police. He obtained Investigation and Charge Cautioned Statements from the accused in which he denied the offence. He narrated what his investigation revealed which was merely a rehash of the complainant and PW2's testimony.

21.PW2 testified under cross-examination that he bought a plot of land at Awayeso from Opanin Kwabena Asamoah @ Agya Asamoah (now deceased) through the accused who was the deceased's errand boy and received the documentation

covering the land through the accused. There is further evidence that PW2 was aware the lands in the Awayeso area belonged to Opanin Kwabena Asamoah and his family. There is also evidence that Madam Chrstiana Adoma succeeded the late Opanin Kwabena Asamoah as head of family. The complainant testified under cross-examination that he never met Madam Christina Adoma and that the accused was the one who sold the land to him, received payment for it and brought him Exhibit A and B.

22. Exhibit A is the Allocation Note and attached site plan pertaining to Plot No. 121 Block AD Awayeso. The Allocation Note dated 5<sup>th</sup> November 2019 is on the letterhead of 'KWABENA ASAMOAH AND FAMILY ANCESTRAL LANDS' and bears the signature of the allottee (the complainant herein), a thumbprint at the portion with the name, Christiana Adoma and the accused's name and signature as witness. Likewise, Exhibit B is the Allocation Note and attached site plan pertaining to Plot No. 23 Block AD Awayeso. The Allocation Note dated 3<sup>rd</sup> April 2020 is on the letterhead of 'KWABENA ASAMOAH AND FAMILY

ANCESTRAL LANDS' and bears the signature of the allottee (the complainant herein), certain ineligible marks at the portion with the name, Christiana Adoma and the portion for the witness which has the name, Opoku Isaac written there.

23. By way of defence, the accused testified he knows the complainant and Christiana Adoma whom he described as the complainant's grantor for whom he used to run errands. He said Christiana Adoma owns land at Mampong around the Methodist Junior High School and because he runs errands for her, she could send him to prepare documents for the people who bought land from her. He recalled that the complainant approached him to take him to Christiana Adoma to buy land, which he did. He said the complainant had his documentation and allocation paper which clearly showed his grantor was Christiana Adoma. See Exhibit 1, 2, 3 and 4. He said the complainant subsequently registered his plot with the Mampong Municipal Assembly. See Exhibit 5 and 6. According to him, the complainant's documents show clearly that he did not have anything to do with the lands the complainant duly acquired from Madam Christiana Adoma

and the complainant led no evidence to prove that he took money from him under the pretext of selling land to him. He said Christiana Adoma was alive and resident at Mampong and the complainant could sue her for his money. He denied he took any money from the complainant and said he only took him to Christiana Adoma from whom he acquired his lands. He said he was innocent of the offence charged.

24. In his Investigation Cautioned Statement given to the Police on 12<sup>th</sup> November 2021, Exhibit D, the accused denied the offence. He stated that he was once an errand boy for Christiana Adoma whose spiritual father was Rev. Isaac Opoku. He said Christiana Adoma gave the plot of land to Rev. Isaac Opoku who sold same to the complainant and he was only a witness. He said he was home when Rev. Isaac Opoku brought the documents to him to witness for him and he did not even know the purchaser when he signed as a witness. He said he knew the land belonged to Rev. Isaac Opoku. The same day, he gave a Charge Cautioned Statement, Exhibit E, in which he relied on his former statement, Exhibit D.

25.It is important to point out that Exhibit 1 and 2 together is the same as Exhibit B; Exhibit 3 and 4 together is the same as Exhibit A and Exhibit 5 and 6 together is the same as Exhibit C.

26.In his evidence-in-chief, the accused claimed the complainant approached him to take him to Christiana Adoma to buy land, which he did. Under cross-examination, the accused explained that it was not the complainant who approached him but PW2. This is what ensued:

Q: In paragraph 9 of your witness statement, you stated that the complainant approached you to take her to Madam Christiana Adoma to buy land.

A. It is true that I said that but the complainant was not the one who approached me but rather PW2. It was PW2 who approached me and told me that his friend wanted to buy land at where he already had land.

27.The accused's admission and explanation above finds support in PW2's testimony that he was the one who introduced the complainant to the accused. No time during PW2's cross-

examination did the accused deny PW3 testimony that he was the one who phoned him to ask him to inform interested persons that he was offering Plot No. 121 Block AD Awayeso, Mampong for sale. There is also evidence from the complainant that he got to know the accused through PW2 because of the land transaction.

28. There is evidence from the complainant and PW2 which is uncontroverted that the land dealings or transaction culminating in the case started in November 2019. There is further evidence that the accused gave Exhibit D on 12<sup>th</sup> November 2021 in which he stated that he did not know the purchaser of the land at the time he signed the document that he claims Isaac Opoku brought him to sign as witness. But, this transpired when he was cross-examined on 16<sup>th</sup> April 2024:

Q. Do you know the complainant, Duut Kwame Billa?

A. Yes, I do.

Q. How did you get to know the complainant?



A. I got to know the complainant through one Mr. Bayuo Kofi (PW2).

29. The accused's admission above that he got to know the complainant through PW2 and his earlier admission that he got to know the complainant because PW2 approached him that the complainant wanted to buy a piece of land at the place he, PW2, already had his land, shows the accused's claim in Exhibit D that he did not know the complainant at the time he signed the land document(s) is not worthy of believe.

30. In his evidence-in-chief, the accused claimed the complainant bought the land from Christiana Adoma and made payment of the purchase price to her and she in turn issued Exhibit 1, 2, 3 and 4 to the complainant indicating clearly that she was his grantor. Yet, under cross-examination, he claims in one breadth that Plot No. 121 AD Awayeso belonged to Christiana Adoma and in another, that same belongs to Isaac Opoku having been given to him as a gift by Christiana Adoma and that Isaac Opoku sold it to the complainant.

31. In Exhibit D in which the accused claimed the land belonged to Isaac Opoku and that he sold same to the complainant, the accused gave no description of it. According to the accused, he only signed as a witness as Isaac Opoku was the seller. There is incontrovertible evidence before this Court that two parcels of land were involved in the transaction, Plot No. 121 Block AD and Plot No. 23 Block AD, both at Awayeso, Mampong. A careful look at Exhibit 1, 3, A and B show that Isaac Opoku is not named as the seller or transferor but Christiana Adoma. Whereas Isaac Opoku is named as a witness in Exhibit 1 and B, the accused is named as a witness in Exhibit 3 and A. The accused's claim that Isaac Opoku was the seller of the land is thus not supported by the evidence. It is important to state that once something has been given as a gift, it ceases to belong to the donor and therefore if indeed Christiana Adoma gave Plot 121 Block AD Awayeso to Isaac Opoku, then the said land ceased to belong to her from when the gift was made.

32. Explaining how his name got onto Exhibit 3 and A, this is what the accused said under cross-examination:

Q. Who collected the payment for the land from the complainant?

A. Isaac Opoku did. Some time ago, I was there when Isaac Opoku came to tell me that he wanted to sell Plot No. 121 AD which was given to him as a gift by Christiana Adoma. He told me he had gone to collect an allocation paper from Christiana Adoma so I should sign my portion as a witness. I told him that I would not sign until we had both gone to see Christiana Adoma. Together, we went to see Christiana Adoma who told us that indeed she gave the allocation paper to Isaac Opoku so I could go ahead to sign it. At that time, I intimated to Christiana Adoma that she should write Isaac Opoku's name as the allottee but Isaac Opoku said we should rather use the name of the person whom he was selling the land to. So, the complainant's name was used as allottee.

33. Exhibit 3 and A have a signature at the portion earmarked for the allottee (complainant); a signature at the portion earmarked for Christiana Adoma and the accused's name and signature

at the portion earmarked for the witness. There is neither Isaac Opoku's name nor mark on Exhibit 3 and A. If indeed Isaac Opoku was the seller of the land as the accused wants this Court to believe, why did Isaac Opoku not sign at least as a witness? There is no indication on Exhibit 3 and A that Isaac Opoku had anything to do with the sale of Plot No. 121 Block AD to the complainant. Again, if the accused and Isaac Opoku went to see Christiana Adoma purposely for the documentation the accused claimed Isaac Opoku was preparing for the person he wanted to sell Plot No. 121 Block AD to, then why did the accused want Christiana Adoma to write Isaac Opoku's name on the allocation paper as the allottee when the allocation paper was being prepared for the benefit of the person to whom the land was being sold, who rightfully should be the allottee? I find the accused's explanation an afterthought, which is incoherent and not worthy of believe.

34. I have pointed out several material inconsistencies in the accused's testimony which show his testimony is not worthy of belief. I have equally pointed out inconsistencies between his testimony and Exhibit D which he gave no reasonable explanations for. In **Gyabaah v. Republic [1984-86] 2 GLR 461 @ 471**, the Court of Appeal per Osei-Hwere JA held that, "For the law was that a witness whose evidence on oath was contradictory of a previous statement made by him, whether sworn or unsworn, was not worthy of credit and his evidence could not be regarded as being of any importance in the light of his previous contradictory statement unless he was able to give a reasonable explanation for the contradiction." See also **Odupong v. Republic [1992-93] GBR 1038**

35. Despite the incontrovertible evidence that the complainant took steps to pay statutory fees on the replacement land, Plot No. 23 Block AD, Awayeso to the Mampong Municipal Assembly and the Office of the Administrator of Stool Lands, Mampong (See Exhibit C, 5 and 6), those payments, in my

view, do not constitute land registration capable of conferring title in the land in him.

36. Throughout this trial, the complainant denied he had any dealings with Christiana Adoma or Isaac Opoku. He maintained he never met Christiana Adoma, and that the accused personally received money totaling GH¢8,400 from him in connection with the sale of the land and handed him Exhibit A and B. The complainant's testimony is corroborated by PW2 and remained unimpeached. According to PW2, he got to know Isaac Opoku through the accused who on their first meeting on 5<sup>th</sup> November 2019 in connection with the land transaction, accompanied the accused as a witness to the transaction. He said he asked the accused to come with a witness and Isaac Opoku was the person he came with. Since the accused claimed that Christiana Adoma and or Isaac Opoku sold the land to the complainant, it was expected that he would call them as witnesses to testify in his defence but he failed to do so. The prosecution owed the accused no obligation to call Christiana Adoma as a witness. Rather, in the

light of the compelling evidence against the accused, it was incumbent on him to call Christiana Adoma whom he said was alive and resident in Mampong which is within the jurisdiction of the Court. His defence pivots on material allegations which only the evidence of Christiana Adoma and Isaac Opoku could help resolve in his favor. In **Mallam Ali Yusuf Issah v. The Republic [2003] DLSC2390**, the Supreme Court stated, "The burden of producing evidence and the burden of persuasion are the components of 'the burden of proof'. Thus, although an accused person is not required to prove his innocence, during the course of his trial, he may run a risk of non-production of evidence and/or non-persuasion to the required degree of belief, particularly when he is called upon to mount a defence."

37. The burden on the accused to raise reasonable doubt about his guilt when a prima facie case has been made out against him transcends mere fanciful allegations. I do not find his defence acceptable or reasonably probable.

**38. Upon consideration of the whole evidence, I find that the accused has failed to raise reasonable doubt about his guilt. Accordingly, I find him guilty and convict him.**

39. In passing sentence, I am mindful of the offence proven against the accused, his mitigation plea, the amount involved and the fact that he took advantage of his relationship with Christiana Adoma to perpetrate this crime on the unsuspecting complainant. I sentence him to 9 months' imprisonment and a fine of 500 penalty units, in default 15 months' imprisonment.

**SGD.**

**HH WINNIE AMOATEY-OWUSU  
CIRCUIT COURT JUDGE**

**PARTIES AND REPRESENTATION:**

- 1. ACCUSED PRESENT AND SELF-REPRESENTED**
- 2. INSP. CHRISTOPHER KWAME GYESI FOR PROSECUTION PRESENT**