

IN THE DISTRICT COURT, NGLHSHIE AMAFRO HELD ON WEDNESDAY THE
19TH DAY OF APRIL, 2023 BEFORE HER WORSHIP EMELIA K. ABRUQUAH ESQ.,

(MRS.)

SUIT NO. A2/04/2023

TIME: 10:09AM

YUSSIF ATTOH
OF AMANFRO-AMUZU

PLAINTIFF

VRS:

TANKO
OF AMANFRO-ASABAHA

DEFENDANT

PLAINTIFF

PRESENT

DEFENDANT

ABSENT

JUDGMENT

The Plaintiff instituted the instant action against the Defendant by a writ of summons claiming an amount of GHC30,000.00 being an outstanding debt as a result of plot of land already sold to another person.

Service of the writ could not be served on the Defendant personally as he could not be found to be served. Defendant was therefore served through substituted service which posting of the writ had been effected since 10th February, 2023.

It is worth indicating that the Defendant chose to waive his right to be heard by failing to show up in Court despite being aware of the matter pending.

Plaintiff filed his witness statement in which he stated that somewhere in 2021, he opted to buy a plot of land from the Defendant who told him it was GHC30,000.00. Plaintiff indicated that he initially deposited GHC20,000.00 and later paid the balance of GHC10,000.00. That there was a single room on the land which the Defendant claimed he put it up, but when he was ready to go and start putting up a building on the land, he got there and the land was walled up. Plaintiff said he demanded his money but the Defendant promised to replace the land for him and all four different plots that the Defendant gave him were claimed by different people as the owners.

Pw1 was the person who introduced the Plaintiff to the Defendant. He stated in his witness statement that the Plaintiff paid GHC30,000.00 in total to the Defendant. He said he went with them to the land and there was a single room on the land which Defendant said he put it up but this later turned up to be untrue and he promised to replace it. He indicated that every plot of land replaced belong to someone else and so the Plaintiff demanded a refund of his money which the Defendant failed to give him.

The Defendant was once again served with the witness statements through substituted service and proof of posting filed indicating posting was done on the 8th March, 2023.

Once again, the Defendant has been notified of the evidence of the Plaintiff but has once more waived his right to cross examine the Plaintiff and his witness. The right to be heard is one of the two main principles of natural justice. It does not only give an opportunity to the parties to present their case but also inculcates the confidence of deliverance of justice. It is trite law that the rules of natural justice cannot be waved but the principle of the audi altering parties can not avail a party who has notice of a trial but failed or refused to avail himself for hearing.

It is a substantial requirement of justice and law that a party is given an opportunity of being heard but when a party decides to waive it, the matter will be determined ex-parte. See the following cases that espoused that a party can waive the right to be heard but cannot turn round to seek protection under this principle;

Bilson V. Apaloo (1981) GLR24 Sc, Republic V. Court of Appeal; ex-parte Eastern Alloy Co. Ltd (2007-2008) 1SCGLR 371; Ex-parte Ayikai (2015-2016) 1SCGLR 289.

From the above, the evidence of the Plaintiff and his sole witness stood uncontroverted as the evidence were not tested by cross examination or challenged by contrary evidence by the Defendant. From the above, I make a positive finding of fact that from the evidence adduced before me, the Plaintiff paid to the Defendant an amount of GHC30,000.00 for a plot of land.

I therefore find the Defendant liable to the claims of the Plaintiff. Judgment is hereby entered in favour of the Plaintiff to recover an amount of GHC30,000.00, costs of GHc700.00 is awarded against the Defendant and in favour of the Plaintiff.

(SDG)

**H/W EMELIA K. ABRUQUAH (MRS)
(MAGISTRATE)**

