

IN THE DISTRICT COURT HELD AT WAMFIE ON THURSDAY THE 23<sup>RD</sup> DAY OF JUNE, 2023. BEFORE HER WORSHIP DZIFA AZUMAH ESQ. DISTRICT MAGISTRATE.

Suit No. A1/06/2021

KWAME NTI

VRS

1. OPPONG KWASI A.K.A KWASI ANANGO
2. ATAA ADWOA

Parties

Plaintiff - present

Defendants - absent

The defendants have failed to file their statement of defence after the case had been adjourned several times in their favour and also to give them an opportunity to file their defence. In the absence of the defence, I have no other option than to enter judgment in favour of the plaintiff.

#### JUDGMENT IN DEFAULT OF APPEARANCE

Having perused the whole evidence on record which was started during the period of my predecessor, the plea of the defendants was even deferred as both parties kept missing court and were represented at certain periods. The plaintiff's case is, he is unemployed due to old age and lives at Kyeremasu and the defendants are farmers who live at Kramo Krom and Akontanim respectively. It is the case of the plaintiff that the land in dispute in its virgin state was broken by plaintiff and share boundary with the defendants' late husband and father respectively, by name Kofi Yeboah.

When the said Kofi Yeboah died about 10 years ago, the defendants have trespassed onto his land and all efforts made to restrain their trespassory act has proved futile, hence the action. The court is of the view that the plaintiff's case is more probable than that of the defendants. The plaintiff's case stands sufficiently consistent. The parties along the course of time were referred to ADR for mediation and the report was that mediation broke down, because the defendants refused to cooperate. During the period that the case was before this court, the case was struck out based on order 8 r 1 of CI59, that the plaintiff failed to attend court. To see to the interest of justice, plaintiff re-enlisted the suit and served a number of hearing notices on the defendants and there was proof of service on all the hearing notices, but defendants refused to comply with the court's order. When the parties were able to assemble once again, the court gave an order to the parties to file their statement of claim and statement of defence respectively. The plaintiff complied, but the defendant refused to comply. Due to the recalcitrant behavior of defendants, the case was adjourned severally to give defendants the opportunity to file their statement of defence, all to no avail. For these reasons, the court has no other option than to grant judgment in favour of plaintiff who has been consistent in court inspite of old age. Judgment is hereby entered in favour of the plaintiff. Title on this boundary of land, the issue in question, is accordingly declared in favour of the plaintiff. Plaintiff is to recover possession of the land in question. Although prayer for perpetual injunction against the defendants is an equitable remedy or relief and the grant of which is at the discretion of the court, as the title in the land has been declared in favour of the plaintiff the court hereby exercises its discretion and restrains the defendants and all those claiming through them from interfering with this land. Cost of GH¢500.00 is awarded in favour of the plaintiff.

SGD.

H/W DZIFA AZUMAH ESQ.

(MAGISTRATE)

