

IN THE DISTRICT MAGISTRATE COURT HELD AT AKROPONG ASHANTI ON  
FRIDAY THE 19<sup>TH</sup> DAY OF OCTOBER, 2023. BEFORE HIS WORSHIP ROCKSON  
A. K. KPODO ESQ. DISTRICT COURT MAGISTRATE.

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SUIT NO. A2/92/2023

1. EMMANUEL KUSI  
2. ALEX OKYERE DARKO  
H/NO. UNKNOWN  
BOTH OF OFFINSO-ASHANTI

\*\*\*\* PLAINTIFFS

VRS.

JUSTICE COBBINA  
H/NO. UNKNOWN  
ABUAKWA-ASHANTI

\*\*\*\* DEFENDANT

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**JUDGMENT:**

Plaintiffs claim an order from the Honourable Court to compel defendant to provide their unregistered Haojin motor cycle or pay its current market value of GH¢9,500.00 which was left at the mercy of the defendant but defendant intimated to plaintiffs that same was stolen by unknown persons upon persistent demands.

Plaintiffs' case in support of their claim as testified by P2 is that, on the day in question, he and P1 went to the GNAT Office to collect a cheque which was issued in the name of P2 and that when they called the GNAT Secretary for the cheque, they were told that

they should go to defendant for the cheque. He added that when they Called defendant for the cheque, he asked them to come to his house for the cheque and that when they met, defendant and he gave them the cheque, they realized that they have to pay the cheque into P1's account so that it can mature for P2 to clear same and that before they left for the bank, defendant insisted that they leave their motor bike with him so that after the cheque is cleared, they bring him an amount of GH¢100.00 before they come for their motor bike.

P2 added that they succumb to defendant's demand so that they locked the motor bike and left it in the care of defendant but when they came back, their motor bike was not at the place where they left same and when they asked defendant about the whereabouts of the bike, he told them that he has not seen it.

P2 concluded that they believe that defendant knew the whereabouts of the motor bike hence they pleaded with the court to compel defendant to produce their motor bike as it belongs to a friend.

In his defence, defendant says that he is aware that plaintiffs left the bike in his house before going to the bank but he doesn't know anything about its whereabouts since they did not leave it in his care and that he did not ask them to give him any money as they alleged. Defendant concluded that he lives on the second floor of a storey building so they wouldn't know who came for the motor bike.

From the above, the court hereby identifies the following issues for settlement:

1. Whether or not plaintiffs left the bike with defendant before leaving for the bank.
2. Whether or not the defendant stole the bike.

Plaintiffs alleged that they left the bike in the care of defendant but failed to prove that he indeed left same with him, especially when defendant is denying the allegation.

In fact, plaintiff himself told this court that he did not give the key of the bike to defendant before leaving for the bank.

The court is of the view that, leaving a vehicle in the care of someone should include giving the key of the vehicle to the person so he can take care of it properly considering the fact that defendant's house is not a compound house.

In fact, defendant has made his stand clear that the motor bike has not been left in his care and the court is of the view that defendant has been able to prove that the bike has not been left in his care.

Thus, plaintiffs have not been able to adduce sufficient evidence to avoid a ruling against him as expected of him by the law of evidence, outlined in **section 11 (1) of the evidence decree, NRCD 323 of 1975** which says:

*'For the purposes of this Decree, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling against him on the issue'.*

Thus, defendant has been able to prove on the balance of probabilities that plaintiffs did not live their motor bike in his care before going to the bank to cash their cheque on the day in question.

Judgment is hereby entered for defendant against plaintiffs.

Cost of GH¢1,000.00 is hereby awarded for defendant against each plaintiff.

SGNED

ROCKSON A. K. KPODO

(MAGISTRATE)

