

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT
OF JUSTICE (LAND DIVISION) ACCRA HELD ON TUESDAY THE
13TH DAY OF DECEMBER, 2022 BEFORE HER LADYSHIP JUSTICE
JENNIFER MYERS AHMED (MRS), JUSTICE OF THE HIGH COURT.

SUIT NO: LD/0446/2022

GILBERT BOADU MILLS : PLAINTIFF

VRS

ERIC KWAKU BONSU : DEFENDANT

JUDGMENT

The plaintiff on the 30th May 2022 issued out from the registry of this court a writ of summons accompanied by a statement of claim, seeking the following reliefs from the defendant:

- (a) A declaration of title in the name of plaintiff to “ALL THAT PIECE OR PARCEL OF LAND situate lying and being at APLAKU-ACCRA and covering an approximate area of 0.32 acres more or less and bounded on the North by Proposed Road measuring 140.0 feet more or less on the South by the Lessor’s Land measuring 140.0 feet more or less on the East by Proposed Road measuring 100.0 feet and on the West by Lessor’s land measuring 100.0 feet more or less on which

piece or parcel is more particularly delineated on the Site plan attached hereto and thereon shewn edged pink.

- (b) An order for the recovery of Plaintiff's land from the Defendant.
- (c) An order for perpetual injunction restraining the Defendant, his assigns, agents or any person/body claiming under him from dealing with the land.
- (d) An order made to the Lands Commission to expunge any record of registration on the subject matter land in the name of the Defendant.
- (e) Damages against the Defendant for trespass.
- (f) Costs including legal fees.

The defendant could however not be found by the court bailiffs for personal service of the writ of summons and statement of claim to be served personally on him and thus pursuant to an application for substituted service filed by the plaintiff on the 16th of June 2022 and granted on the 27th June 2022, he was deemed to have been served. The mode of service was by posting on a conspicuous place on the land in dispute. Subsequent processes filed were also served on the defendant in this manner.

To date, the defendant has neither entered appearance nor filed any statement of defence or even personally appeared before the court.

The plaintiff on the 25th of August 2022 filed an application to set the matter down for trial which was accordingly granted on the 19th of September 2022. Again the order to set the matter down for trial was served on the defendant by substituted service on the 21st of November 2022 together with the

witness statement and exhibits attached filed by the plaintiff. Again there has been no response by the defendant.

The plaintiff's evidence as presented in court in support of his claims by his lawful attorney is that the land was acquired by the plaintiff in 1999 from Nii Okoso Aplaku I, the Aplaku Mantse and representative of the Aplaku stool, the owners of the land. According to the plaintiff's lawful attorney, the acquisition was made through him and one Emmanuel Bortey as the plaintiff was then in the United Kingdom. The plaintiff acquired 2 plots of land and one Barbara Opoku who was also in the United Kingdom acquired 2 plots contiguous to the plaintiff's own. Documents were executed by the grantor in the separate names of the plaintiff and this Barbara Opoku and copies of the conveyance were tendered into evidence as exhibits A and B.

The plaintiff subsequent to the acquisition took immediate possession of the land and placed a wooden structure on same whilst Barbara Opoku commenced the construction of a 2 storey house on her property which has been completed and roofed.

The gravamen of the plaintiff's case is that the defendant in the year 2018 unlawfully entered the land and commenced construction thereon. Pictures of the construction were tendered into evidence as Exhibit E series. A formal complaint was thus lodged by the plaintiff at the CID Head Quarters in Accra for unlawful entry. The defendant when invited by the police stated that he had acquired the land from one Nii Tettey Nartey in 2018 and that

he had commenced registration of the land into his name at the Lands Commission. The plaintiff thus had his lawyers write to the Lands Commission to estop any intended registration of the land in the name of the defendant. A copy of this letter was tendered into evidence as Exhibit G.

These events were what had precipitated the plaintiff instituting the instant action.

As stated previously the defendant has chosen not to defend himself in this action.

This court will thus on the unchallenged evidence of the plaintiff's lawful attorney, grant judgment for the reliefs endorsed on the writ of summons.