

IN THE SUPERIOR COURT OF JUDICATURE IN THE HIGH COURT OF JUSTICE HELD IN TEMA ON WEDNESDAY THE 14TH DAY OF DECEMBER 2022 BEFORE HER LADYSHIP JUSTICE RITA AGYEMAN-BUDU (MRS)

Time: 11:40 am

SUIT NO. E2/31/2019

A.P. OIL & GAS GHANA LTD. - PLAINTIFF

VRS:

MRS. JULIANA FYNN - DEFENDANT

PARTIES

Plaintiff represented by Enoch Arkesseh Nti

Defendant - Present

LEGAL REPRESENTATION

Mrs. Mildred Acheampong with Ms. Maame Aba Cobbinah holding brief for Mrs. Olusola Ogundimu for the Plaintiff - Present.

Mr. Edward Mettle Nunoo for the Defendant - Present

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CONSENT JUDGMENT

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Parties herein through their respective Counsel sought leave of the Court to settle this matter and file Terms of Settlement if successful.

They have duly filed the said Terms of Settlement. Counsel for Plaintiff has moved that the Terms of Settlement which has been executed by parties be adopted by this Court as Consent Judgment.

Counsel for Defendant submits that he agrees with the granting of the instant Application and also prays that the Terms of Settlement be adopted by this Court.

The Court hereby adopts the following Terms of Settlement as Consent Judgment.

TERMS OF SETTLEMENT

A. WHEREAS, by a Writ of Summons dated 12th September, 2018, the Plaintiff claimed the following reliefs against the Defendant:

i. Recovery of the sum of GHS 483,137.28 (Four Hundred and Eighty-Three Thousand, One Hundred and Thirty-Seven Ghana Cedis, Twenty-Eight Pesewas) expended on redeveloping the Defendant's fuel station.

ii. Recovery of the sum of GHS 310,437.94 (Three Hundred and Ten Thousand, Four Hundred and Thirty-Seven Ghana Cedis, Ninety-Four Pesewas) being the outstanding sum owed the Plaintiff for petroleum products supplied to the Defendant net of all delivery shortages accrued commission for the supply of the said products.

iii. Interest on the sum of GHS 310, 437.94 (Three Hundred and Ten Thousand, Four Hundred and Thirty-Seven Ghana Cedis, Ninety-Four Pesewas) from June 2015 to the date of final payment at the prevailing Bank of Ghana rate.

iv. An order of this Honourable Court directing the Plaintiff to take over the management of and operation of the service station for the remainder of the 25-year lease term as stipulated in the Build and Operate/Dealership Agreement or until the full payment of all monies due the Plaintiff as sought in relief (a) above.

v. An order of this Honourable court directing the Plaintiff to take over the management and operation of the service station until the full payment all monies due to the Plaintiff as sought in reliefs (ii) and (iii) above.

vi. Costs incidental to this suit.

vi. Any further relief(s) that this Honourable court may deem just and fair in the circumstances.

B. WHEREAS the Defendant also counter claimed against the Plaintiff as follows:

i. An order for the recovery of all commission earned from the sale of petroleum products at the Mateheko Station.

ii. Interest on commission due Defendant from the sale of petroleum products at the commercial bank rate from September, 2012 to date of payment.

C. WHEREAS, the parties, together with their lawyers have reached full and final settlement of all claims and issues between the parties,

IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. That interest in the subject matter fuel station situated at Afiinya, close to Michel Camp Barrier shall pass to the Defendant, as landlord and dealer, on condition that the Plaintiff operates the referenced fuel station as tenant.

2. That the Plaintiff shall then acquire a ten (10) year lease on a date to be mutually agreed by both parties, in respect of the fuel station.

3. That the ten (10) year lease shall commence within six (6) months from the date this Terms of Settlement is entered as the Judgment of the Honourable Court.
4. That Defendant undertakes to afford the Plaintiff the right of first refusal to negotiate the renewal of the lease for an additional five (5) year period, upon terms to be agreed upon after the end of the initial period.
5. That upon the expiration of the period referred to in paragraph 2 above or any extension thereof, the terms hereto agreed shall continue to be in full force and effect for an indefinite period until terminated by three (3) months written notice given by either party to the other.
6. The Plaintiff shall appoint the Defendant as Station Manager and sole dealer to the fuel station for the duration of the lease, until terminated by the Plaintiff.
7. That Plaintiff shall bear the cost of refurbishment of the fuel station in accordance with the bill of quantities annexed hereto.
8. That the Plaintiff shall pay to the Defendant Twelve Pesewas (Gh12p) per liter, in line with the prevailing industry dealer margin.
9. The Plaintiff shall be the sole supplier of diesel, unleaded petrol, kerosene and lubricants (hereinafter referred to as "fuel") at the subject matter fuel station.

10. That upon the termination of the ten (10) or fifteen (15) year lease period granted the Plaintiff, interest in the fuel station shall revert to the Defendant.
11. That the Plaintiff by this Agreement, shall withdraw entirely, its claims against the Defendant as contained in (A) above.
12. The Defendant by this Agreement shall withdraw entirely her counterclaim against the Plaintiff as contained in (B) above.
13. That parties shall bear their own costs incurred in respect of prosecuting this suit.
14. That where either Party defaults in the performance of any of the terms aforementioned, the other party shall be entitled to specific performance or repudiation of this Settlement and resumption of proceedings.
15. That these Terms of Settlement shall be filed in this Honourable Court and entered as Consent Judgment between the parties herein, their principals, agents, successors in title and all persons claiming through them in respect of the subject matter of this suit.
16. That these Terms of Settlement shall be the final judgment of this Honourable Court.

(SGD)

H/L: RITA AGYEMAN-BUDU (MRS)
(JUSTICE OF THE HIGH COURT).

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