

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE
ACCRA (HUMAN RIGHTS DIVISION ONE) HELD ON 8th DECEMBER 2022 BEFORE HER
LADYSHIP JUSTICE BARBARA TETTEH-CHARWAY (MRS)

SUIT NO. HR/0065/2022

ALHASSAN IDDRISU ALHASSAN - PLAINTIFF
NO. 9 ALPHA ROAD, NORTH LEGON

VRS:

1. REGIONAL LANDS OFFICER
LANDS COMMISSION
GREATER ACCRA REGION

2. REVEREND STEPHEN KOFI ANTWI
NO. 9 ALPHA ROAD, NORTH LEGON

3. DR EDWARD ANTWI
NO. 9 ALPHA ROAD NORTH LEGON - DEFENDANTS

RULING

This is a Ruling on an application for extension of time to file an application for judicial review. In the affidavit in support deposed to by Alhassan Iddrisu Alhassan, the Applicant stated that he is the *bona fide* owner in possession of a parcel of land known as plot no. 97, North Legon Residential Area. According to the Applicant, he acquired a sublease of the said parcel of land

from the late David Kwabena Ahenkora who obtained his head lease from the Government of Ghana on 1st September, 1986.

The Applicant further stated that he applied to the 1st Respondent to be enabled to plot and register his interest in the said land. However, according to the Applicant, the 1st Respondent, in a letter dated 11th July, 2017, but which he received on 23rd January, 2018, informed him that the late David Kwabena Ahenkora Antwi had written to inform them that the Applicant's sublease was obtained by fraud.

The Applicant claims that the 1st Respondent unilaterally declined to give its consent for the registration of his sublease without giving him a hearing. The applicant further claims that the failure of 1st Respondent to give him a hearing, entitles him to seek legal redress by way of judicial review. However, his application has been delayed because he initially engaged the 2nd and 3rd respondents who are administrators of the estate of the late David Kwabena Ahenkora in the hope of arriving at an amicable settlement. He therefore prays for extension of time to file an application for judicial review.

In the 2nd and 3rd Respondent's affidavit in opposition to the application which was deposed to by 3rd Respondent, he stated that he had been advised by counsel that the 1st Respondent has no power to determine an allegation of fraud and therefore it could not have given the applicant a hearing. He further stated that he had been advised by counsel that this is not a proper case for judicial review and therefore the application for extension of time is also improper.

LEGAL ANALYSIS AND OPINION OF COURT

Order 55 Rule 3 (1) and (2) of the High Court (Civil Procedure) Rules, 2004, C.I 47 which governs applications for judicial review provides that:

- (1) An application for judicial review shall be made **not later than six months** from the date of occurrence of the event giving grounds for making the application.*
- (2) Where an order of certiorari is sought in respect of any judgment, order or conviction or proceeding, the date of the occurrence of the event giving grounds for the making of the application shall be taken to be the date of that judgment, order, conviction or proceeding.*

In the case of the *Republic v Wassa Fiase Traditional Council, Ex parte Abusuapanyin Kofi Nyamekye & Others, Supreme Court unreported Civil Appeal No. J4/55/2014 of 28th May 2015,* the Supreme Court held that the six months specified in Order 55 sub rule 3(1) is generally not subject to extension, *except in special circumstances such as in cases where it can be established that the applicant did not have notice of the proceedings that culminated in the judgment, order, or conviction subject matter of the application for judicial review.*

Applying the law to the facts of the instant case, the court notes that the Applicant allegedly became aware of the 1st respondent's letter dated 11th July 2017 on 23rd January 2018. It would further appear from the facts deposed to by the Applicant that when he became aware of the impugned decision of the 1st Respondent as communicated by its letter dated 11th July 2017 which he allegedly received on 23rd January 2018, he was already out of time to file an application for judicial review and yet he did not take immediate steps to apply for extension of time. He rather, chose to deal with the 1st and 2nd Respondents and appears to have come by the decision to seek legal redress as a last resort.

In the court's view, the applicant did not act timeously upon receipt of the 1st Respondent's letter to warrant a favourable consideration of his application for extension of time. In other words, had the applicant demonstrated that upon receipt of the impugned letter, he took immediate steps to apply for extension of time to bring an application for judicial review, the defence of lack of notice might have availed him.

On the facts before the court, this court is not satisfied that the applicant has established special circumstances warranting the grant of an application for extension of time to file an application for judicial review. The application is therefore dismissed.

Costs of GHC1,000 awarded against Applicant in favour of 1st and 2nd Respondents.

(SGD)

BARBARA TETTEH-CHARWAY (MRS)

JUSTICE OF THE HIGH COURT

COUNSEL

1. OPHILIUS NAKAR FOR MARCEL KOFI AGBEDZINU FOR APPLICANT – PRESENT.
2. ANITA NYAMEKYE FOR THE 1ST RESPONDENT – PRESENT.
3. BELLAH DJIBRILLA FOR ROBERT YARTEY FOR THE 2ND & 3RD RESPONDENTS – PRESENT.