

**IN THE HIGH COURT OF JUSTICE, GHANA LAND DIVISION (COURT 11),
LAW COURT COMPLEX HELD IN ACCRA ON TUESDAY, THE 2ND DAY OF
MAY, 2023 BEFORE HIS LORDSHIP JUSTICE AMOS WUNTAH WUNI**

SUIT NO. LD/0563/2022

ABDULAI MOHAMMED PLAINTIFF/APPLICANT

VRS

EMMANUEL TETTEH a.k.a. PAPA ... DEFENDANT/RESPONDENT

RULING

This Ruling is in respect of an application for interlocutory injunction filed on 18th August, 2022 by the Plaintiff/Applicant (hereafter referred to as the "Applicant"). Counsel for the Applicant moved the application in terms of the motion paper, the supporting affidavit as well as a supplementary affidavit filed on 22nd September, 2022.

The Applicant contends that he is the owner of the land in dispute described in paragraph 3A of his affidavit in support. In proof of his contention, the Applicant attached a Deed of Assignment (dated 8th November 2009 and registered under the Land Registry Act, 1962 (Act 122) as Deed No. 581/2012) to his affidavit in support (as Exhibit A).

It is the case of the Applicant that while preparing to commence construction of a house on the land, he detected that someone had encroached on the land. A Search

conducted indicated that it was the Defendant who had started construction of some structure on the land as indicated in Exhibit D of the Applicant's supplementary affidavit in support.

It is the Applicant's prayer that the Court protects the *status quo* by restraining the Defendant and all persons working through him from dealing with the land until the final determination of the suit.

The Respondent filed an affidavit in opposition on 6th September 2022, stating essentially in paragraphs 7 to 12 that, the Applicant is not being truthful to the Court. However, in saying so and having laid adverse claim to the property, the Respondent failed to demonstrate any evidence of ownership in the nature of an Indenture, a Site Plan or even a Receipt. The Applicant therefore prays that the *status quo* be maintained until the final determination of the case.

On the contrary, the Respondent asseverates that the grantor of the Applicant was in a similar suit with the Respondent before the High Court, Land Division 3, Accra where the Respondent's name was struck out from the said suit on the grounds that, there was no cause of action against the Respondent. Respondent attached **Exhibit ET** (copy of the record of proceedings) to his affidavit in opposition to confirm the averment.

It is the Respondent's position that, the instant suit and the application before this Honorable Court are an abuse of the Court process as same are frivolous and vexatious; and therefore, prays that the instant application be dismissed.

The Court's power to grant Interlocutory Injunctions is circumscribed and regulated by Order 25 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47) and the Ghanaian legal landscape is awash with authoritative pronouncements by the Apex Court on **when, how, why** and **who** may be granted an Order of Interlocutory Injunction. Some

notable Supreme Court decisions on the law relating to Injunctions (listed chronologically as decided) include:

- **OWUSU v OWUSU-ANSAH and Another** [2007-08] 2 SCGLR 870;
- **18TH JULY LTD v YEHANS INTERNATIONAL LTD** [2012] 1 SCGLR 167;
- **WELFORD QUARCOO v ATTORNEY GENERAL & Another** [2012] 1 SCGLR 259
- **KOJACH LTD v MULTICHOICE GHANA LTD** [2013-2014] 2 SCGLR 1494

The Law is crystal clear and settled that, the grant of an application for interlocutory injunction, although discretionary, must be carefully considered in the light of the Pleadings and affidavit evidence before the Court. The authorities also declare and maintain that, in considering an application for Interlocutory Injunction, the Court is not called upon to embark upon a voyage of discovery, at that stage, to establish who has better title to the land in dispute. The fundamental requirement is that, the Applicant must demonstrate that he or she has a legal or equitable interest worthy of protection by the Court; that, damages will not suffice to placate the supplicant and that, on the balance of convenience, the Applicant will suffer greater hardship and inconvenience should the application be refused.

Upon very close and careful reading of the pleadings, the affidavits in support and against the instant application (together with the annexed exhibits) as well as the respective statements of case; and upon hearing oral arguments of both Counsel and guided by the settled principles and authorities relative to applications for injunctions, it is my respectful opinion that, in order to maintain the *status quo ante*, both parties who are poised to commence or continue construction on the disputed land must be restrained by this Honourable Court.

Accordingly, it is hereby ordered that both parties, whether by themselves, their privies, assigns, agents, workmen and all persons working through them be and are hereby restrained from dealing or interfering with the land in dispute in any way until the final determination of the suit.

(SGD.)

AMOS WUNTAH WUNI (J)

JUSTICE OF THE HIGH COURT

COUNSEL:

THOMAS GBLORVU FOR PLAINTIFF/APPLICANT

SAMUELLA ASAREWAA KWARTENG WITH ABIGAIL DUFIE AGYEMANG,

NANA KODWO ADENTWI AND GEORGIETTE TORSHIE OBODAI FOR

SYLVESTER NYAMEKYE FOR DEFENDANT/RESPONDENT