

IN THE HIGH COURT OF JUSTICE, GHANA LAND DIVISION (COURT 11),  
LAW COURT COMPLEX HELD IN ACCRA ON MONDAY, THE 3<sup>RD</sup> DAY OF  
JULY, 2023 BEFORE HIS LORDSHIP JUSTICE AMOS WUNTAH WUNI

SUIT NO. LD/0049/2021

1. NUMO BORKETEY LARWEH TSURU

(GBORBU WULOMO AND SHITSE OF  
NUNGUA TRADITIONAL AREA) NUNGUA, ACCRA

2. NII OBOADE NOTSE KING PROF.

ODAIPIO WELENTSI III  
(PARAMOUNT CHIEF OF NUNGUA)  
NUNGUA, ACCRA

PLAINTIFFS/APPLICANTS

[BOTH SUIING ON BEHALF OF THE NUNGUA STOOL]

VRS

1. LANDS COMMISSION

2. ATTORNEY GENERAL

ACCRA

DEFENDANTS/RESPONDENTS

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SUMMARY JUDGMENT

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The Plaintiffs/Applicants (hereinafter referred to as “the Applicants”) filed the instant motion on notice on 25<sup>th</sup> November 2022 for and on behalf of the Nungua Stool praying this Honorable Court to grant Summary Judgment against the Defendants/Respondents (hereinafter referred to as “the Respondents”) in the compensation claim arising out of the acquisition of Nungua Stool land by Executive Instrument No. 17 of 1999 captioned:

***“STATE LANDS (NUNGUA – SITE FOR NATIONAL SPORTS COMPLEX) INSTRUMENT, 1999”***

Following the publication of the said E.I. 17, the 1<sup>st</sup> Plaintiff filed a writ of summons and an accompanying statement of claim against the Defendants on 16<sup>th</sup> October 2020 and same was amended pursuant to the Court’s Order of 14<sup>th</sup> November 2022 for the following reliefs:

- “1. A declaration that the Government of Ghana acquired 554.46 acres of land belonging to the Plaintiffs by way of Executive Instrument No. E.I. 17 of 1999.***
- 2. An order directed at the Defendants through the Ministry of Finance to pay to the Plaintiffs the sum of GH¢1,494,270.00 (¢14,942,700,000.00 old cedis) being the value of compensation payable as at April, 2000 as a result of the compulsory acquisition by the State of 554.46 acres of land belonging to the Plaintiffs.***
- 3. Interest on the sum of GH¢1,494,270.00 at the prevailing Commercial Bank rate from April 2000 to date of final payment.***
- 4. Cost”.***

Ultimately, the Plaintiffs filed the instant application for summary judgment pursuant to Order 14 rule 1 of C.I. 47, which provides:

*“1. Where in an action a defendant has been served with a statement of claim and has filed appearance, the plaintiff may on notice apply to the Court for judgment against the defendant on the ground that the defendant has no defence to a claim included in the writ, or to a particular part of such a claim, or that the defendant has no defence to such a claim or part of a claim, except as to the amount of any damages claimed.”*

Counsel for the Plaintiffs moved the application in terms of the motion paper and the supporting affidavit and relied heavily on all the averments contained in the affidavit as well as the Exhibits attached.

In response to the application for Summary Judgment, the 1<sup>st</sup> Defendant filed an Affidavit in Opposition on 1<sup>st</sup> December, 2022 essentially stating that the Lands Commission is not opposed to the claim of the Plaintiffs, save that the Commission is not the Government Agency that pays compensation claims for land acquired by the Government.

The 2<sup>nd</sup> Defendant also filed an Affidavit in Opposition on 10<sup>th</sup> February, 2023 wherein it is not disputed that the Plaintiffs have a compensation claim; but it is proposed that there should be a cut-off date for the claim having regard to an earlier Judgment in a similar suit delivered in 2017 in favour of Regimanuel Ltd which *“had a cut-off date of July, 2017 as stated on Plaintiff/Applicant’s Ex KA3.”*

The parties have agreed that 31<sup>st</sup> December, 2022 be adopted as the “cut-off date” for calculating the interest payable on the compensation sum offered by the Land Valuation Board to the Solicitors for the Nungua Stool (JUSTKING & ASSOCIATES) on 12<sup>th</sup> April, 2000. The Solicitors were instructed by their client, the Nungua Stool, to accept on its behalf the sum of ***GH¢1,494,270.00 (¢14,942,700,000.00 old cedis)*** *“as compensation in full and final satisfaction for all needs of claim (including Legal and*

*Valuer fees) against Government”* on 19<sup>th</sup> April 2000 per the Solicitors letter to the Executive Secretary of the Land Valuation Board.

It is trite learning that in determining an application for summary judgment, the Court ought to consider whether, per the pleadings before the Court or the affidavit(s) in opposition to the said motion, triable issues have been raised for which a full trial will be necessary and appropriate.

Her Ladyship Sophia Akuffo JSC (as she then was) stated the law succinctly in **SAM JONAH v LORD KUMI DUODU** [2003-2004] SCGLR 50 in holding (1) as follows:

*“The objective of Order 14 ... is to facilitate the early conclusion of actions where it is clear from the pleadings that the Defendant has no cogent defence. It is intended to prevent a Plaintiff being delayed when there is no fairly arguable defence to be brought forward.”*

Similarly, Acquah J (as he then was) in **AFODOFE v CENTRAL INSURANCE CO.** [1992] 2 GLR 207 at 213 also postulated that if the totality of the pleadings and in particular the statement of defence discloses no defence in law, then notwithstanding the existence of a defence on the docket, the Applicant is entitled to Summary Judgment.

Upon careful scrutiny of the totality of the pleadings and the affidavits in opposition to the instant motion, this Court is of the considered view that the Defendants have no defence to the action for compensation mounted by the Plaintiffs to consummate the acquisition of the land under EI 17. Again, from the affidavits in opposition filed by the Respondents, it appears the Respondents have no qualms about the application being granted. It is therefore the respectful view of the Court that, if the Plaintiffs’ application is not granted, a gargantuan travesty of justice would have been visited

on them. Accordingly, the instant application is granted as prayed and Summary Judgment is entered in favour of the Plaintiffs.

It is hereby declared that the Government of Ghana acquired 554.46 acres of land belonging to the Nungua Stool by Executive Instrument No. E.I. 17 of 1999; and it is accordingly ordered that the Government of Ghana to pay the Plaintiffs, through the Ministry of Finance:

1. *The sum of GH¢1,494,270.00 (¢14,942,700,000.00) being the duly approved compensation sum accepted by the Plaintiffs as a result of the compulsory acquisition by the State of 554.46 acres of land belonging to the Nungua Stool.*
2. *Interest on the sum of GH¢1,494,270.00 at the prevailing Commercial Bank rate from 12<sup>th</sup> April, 2000 to 31<sup>st</sup> December 2022 as agreed by the parties.*
3. *Costs of GH¢30,000.00*

(SGD.)

AMOS WUNTAH WUNI (J)

JUSTICE OF THE HIGH COURT

**COUNSEL:**

JUSTINA TETE-DONKOR WITH KWABENA ASANTE FOR THE PLAINTIFFS

IVY VANDERPUIJE, PRINCIPAL STATE ATTORNEY FOR 2<sup>ND</sup> DEFENDANT

ANITA NYAMEKYE FOR 1<sup>ST</sup> DEFENDANT