

IN THE HIGH COURT OF JUSTICE, GHANA LAND DIVISION (COURT ELEVEN (11)), LAW COURT COMPLEX HELD IN ACCRA ON MONDAY, THE 26TH DAY OF JUNE, 2023 BEFORE HIS LORDSHIP JUSTICE AMOS WUNTAH WUNI

SUIT NO. LD/0229/2023

O'SULLIVAN ESTATES LTD. ... PLAINTIFF/APPLICANT

East Airport, Accra.

VRS

1. YAKUBO ABRAHAM	}	DEFENDANTS/RESPONDENTS
2. TECHNOLIGHTS LIMITED		
3. CONSOLIDATED BANK GHANA LIMITED		

1st Floor, Manet Tower 3
Airport City, Accra

RULING

This is a ruling on an application for interlocutory injunction praying this Honourable Court to restrain the Defendants/Respondents (hereinafter referred to as “the Respondents”), their privies, agents and assigns from entering or dealing with the land in dispute until the final determination of this suit.

The Plaintiff/Applicant (hereinafter referred to as “the Applicant”) had the application moved by its lawyer in terms of the motion paper, the affidavit in support and the exhibits attached thereto as well as the Applicant’s statement of case.

It bears stating peremptorily that gross indiscipline and unbridled lawlessness are fast becoming part and parcel of the Metropolitan Land Market of Accra. For those despicable reasons, it is becoming the norm and practice, for land owners and legitimate land users to seek the intervention of our Courts to protect and/or preserve the nature and character of their pieces or parcels of land in dispute, pending the determination of such disputes by our Courts. The instant application for interlocutory injunction filed by the Applicant on 13th February 2023 is one such application.

Happily, by Order 25 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47) our Courts have power to grant Interlocutory Injunctions; and the Ghanaian legal landscape is literally inundated with a plethora of authoritative pronouncements on **when, why, how** and **who** may be granted an Order of Interlocutory Injunction. Some notable Supreme Court decisions on 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 A/G & Another [2012] 1 SCGLR 259 and
- KOJACH LTD v MULTICHOICE GHANA LTD [2013-2014] 2 SCGLR 1494.

From the authorities, it 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 declare and maintain that, in considering an application for interlocutory injunction, the Court is not called upon to embark upon a voyage of discovery 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.

By Order 25 Rule 1(1), the Court may grant an injunction by an interlocutory order in all cases in which it appears to the Court to be *“just or convenient”* so to do. Indeed, in clarifying the “litmus test” for determining whether or not to grant an interlocutory injunction, the Supreme Court per Osei-Hwere JSC stated in REPUBLIC v HIGH COURT, HO; EX PARTE EVANGELICAL PRESBYTERIAN CHURCH OF GHANA and Another [1991] 1 GLR 323 at 343 that:

“It has been explained that the words ‘just or convenient’; must be read as – ‘just as well as convenient’: ... they do not mean that the court can grant an injunction simply for the protection of rights simply because the court thinks it convenient, but mean that the court should do so according to legal principles. They confer no arbitrary or unregulated discretion on the court.”

Therefore, in determining the instant application for interlocutory injunction, this Court is mindful and cognizant of admonishments proffered in several decided cases to stay away from making any prejudicial comments. Nonetheless, the court is acutely aware that, it can only form an opinion on an application for interlocutory injunction based on the processes filed by the parties and submissions made by their Counsel.

With the instant application for interlocutory injunction, although there is an Affidavit of Service of a Hearing Notice on Counsel for the 3rd Defendant as well as an Affidavit of Posting deposed to by the Court’s Bailiffs, the Respondents filed no affidavit(s) in opposition to the instant application.

On 4th May 2023, when Counsel for the Applicant eventually sought to move the application for interlocutory injunction, the Court stood down the case from 9:34 am

to 10:35 am, *ex abundanti cautela*, to confirm proof of service of processes on the Respondents by the Bailiffs. The learned Counsel for the Applicants eventually moved the application when it became absolutely clear that the Respondents and Counsel for the 3rd Respondent had notice of the day's business but chose not to be in Court.

Clearly, upon reading the motion paper, the affidavit in support of the application as well as the accompanying statement of case and upon hearing Counsel for the Applicant, this Court has no doubts whatsoever, not even a scintilla, that the instant application is meritorious.

Accordingly, it is hereby ordered that the Defendants/Respondents, whether by themselves, their privies, agents or assigns and/or howsoever described be and are hereby restrained from entering or dealing with the land in dispute until the final determination of this suit.

(SGD.)

AMOS WUNTAH WUNI (J)

JUSTICE OF THE HIGH COURT

COUNSEL:

NII KPAKPO SAMOA ADDO FOR THE PLAINTIFF/APPLICANT PRESENT

CHARLES OKYERE FOR THE 3RD DEFENDANT ABSENT