

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE,
COMMERCIAL DIVISION, HELD IN ACCRA ON WEDNESDAY, THE 16TH DAY
OF AUGUST, 2023 BEFORE HIS LORDSHIP FRANCIS OBIRI 'J'.

SUIT NO. CM/RPC/0580/2022

REPUBLIC BANK (GH) LTD.-

PLAINTIFF/RESPONDENT

VS

1. GLOBAL MOTORS TRADING CO. LTD. ----- DEFENDANTS/ APPLICANTS
 2. NARESWAR MOIRANTHEM SINGH
 3. WANGKHEIRAKPAM SANDHYARANI
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RULING

I have listened to the submissions for and against the Defendants/Applicants (hereinafter called the Applicants) application for Stay of Proceedings pending an interlocutory appeal against the ruling of this court dated 13th March, 2023.

I have gone through all the documents filed in this application in support and in opposition to the application.

I have observed, that the Plaintiff/Respondent (hereinafter called the Respondent) did not attach certificate of identification to its affidavit in opposition even though it attached an exhibit to the affidavit. This is against Order 20 Rule 14 of C. I 47.

However, I am of the view that the court should waive such non-compliance under Order 81 rule 1 (2) (b) of C. I. 47. After all, the courts have been admonished to treat the rules of procedure as a handmaid rather than a mistress to ensure, that substantial justice is done in all cases.

See: HALLE & SONNS SA v BANK OF GHANA AND ANOTHER [2011] 1 SCGLR 378

Again, nobody has vested right in procedure. Therefore, the application of the rules of court should be flexible to ensure that substantial justice is than in all cases.

See: AWUNI v WAEC [2003-2004] 1 SCGLR 471

LUKE MENSAH v ATTORNEY-GENERAL [2003-2004] 1 SCGLR 122

In respect of the substantive application, it is trite law, that Stay of Proceedings is derived from three sources. These are:

- a) the Court inherent jurisdiction,
- b) the rules of Court if any, and
- c) statute, like an arbitral statute.

Stay of proceedings arises where under an Order of a Court, the proceedings in a case are brought to a halt in the interim. So that while the stay is in operation, the parties are prevented from taking any further step in the proceedings. This makes Stay of Proceedings serious and a grave step because, it can have a far-reaching implication on the parties.

It is trite law, that parties are to have their cases heard on merits. Therefore, a case should only be halted under exceptional or special circumstances.

See: ERIC TEI AKWETEY & OTHERS v TETTEH SIAW SAPPORE & OTHERS [2012] 109 GMJ 153 SC

**TSATSU TSIKATA v JUBILEE GHANA MV21 INC. & ANOTHER [2018] 116 GMJ
235 CA**

In cases of Stay of Proceedings, the Applicant has a burden to prove that there exist special circumstances for it to be granted.

See **FENU & OTHERS v DREDGING INTERNATIONAL LIMITED [2017-2020] 2
SCGLR 125**

**AMIDU (NO. 8) v ATTORNEY GENERAL, WATERVILLE HOLDINGS (BVI)
LIMITED AND WOYOME (NO. 6) [2017-2020] 2 SCGLR 421**

It is trite law, that bare assertion that an appeal will succeed or likely to succeed is not a ground to warrant Stay of Proceedings. It is the law, that Stay of proceedings will be granted where the proceedings are oppressive or vexatious.

See **SANDAH v ASANTE AND ANOTHER [1971] 1 GLR 14**

A Court will not grant Stay of Proceedings based on series of misdirection in proceedings which an Applicant may consider to be erroneous.

In this case, even if the Applicants wins the interlocutory appeal, I do not think their appeal will be rendered nugatory.

It does not appear to me, that the Applicants have demonstrated any special circumstances to warrant the Court to grant the application for stay of proceedings. It is not the duty of the Court to stay proceedings anytime an interlocutory appeal is lodged against a decision of a Court. If the Court does that; it would lead to a chaotic situation arising.

See: **AMEYAW v ELECTORAL COMMISSION OF GHANA & ANOTHER [2010] 28
MLRG 172 CA**

I do not find any merit in the application and same is dismissed. No order as to cost.

SGD.

**FRANCIS OBIRI
(JUSTICE OF THE HIGH COURT)**

COUNSEL

**TEI MENSAH ADDICO LED BY ALFRED BANNERMAN-WILLIAMS JNR. FOR
THE PLAINTIFF/RESPONDENT**

ANNIS MOGHTAR MOHAYIDEEN FOR THE DEFENDANTS/APPLICANTS

AUTHORITIES

- 1. HALLE & SONNS SA v BANK OF GHANA AND ANOTHER [2011] 1 SCGLR 378**
- 2. AWUNI v WAEC [2003-2004] 1 SCGLR 471**
- 3. LUKE MENSAH v ATTORNEY-GENERAL [2003-2004] 1 SCGLR 122**
- 4. ERIC TEI AKWETEY & OTHERS v TETTEH SIAW SAPPORE & OTHERS [2012]
109 GMJ 153 SC**
- 5. TSATSU TSIKATA v JUBILEE GHANA MV21 INC & ANOTHER [2018] 116 GMJ
235 CA**
- 6. FENU & OTHERS v DREDGING INTERNATIONAL LIMITED [2017-2020] 2
SCGLR 125**

7. **AMIDU (NO. 8) v ATTORNEY GENERAL, WATERVILLE HOLDINGS (BVI) LIMITED AND WOYOME (NO. 6) [2017-2020] 2 SCGLR 421**
8. **SANDAH v ASANTE AND ANOTHER [1971] 1 GLR 14**
9. **AMEYAW v ELECTORAL COMMISSION OF GHANA & ANOTHER [2010] 28 MLRG 172 CA**