

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE,
COMMERCIAL DIVISION HELD IN ACCRA ON TUESDAY, THE 22ND DAY OF
AUGUST, 2023 BEFORE HIS LORDSHIP FRANCIS OBIRI, J

SUIT NO. CM/RPC/0453/18

VOLVO CONSTRUCTION EQUIPMENT ----- PLAINTIFF/APPLICANT

VS

1. PRECIOUS RESOURCES GHANA LTD..... DEFENDANTS/RESPS.
2. CLINT JOJO DINES

RULING

I have listened to the submission for the grant of the application for the examination of the Judgment Debtor by the Plaintiff pursuant to Order 46 of C.I.47.

I have examined the documents filed in this application. In paragraph 15 of the affidavit in support of the application, the Applicant gave the judgment debt as Euros 1,108,6481.41 and GH¢50,000.00. However, the Applicant attached as exhibit PM2, a copy of Entry of Judgment filed in this case on 4th March, 2021.

The figure quoted in paragraph 15 of the affidavit in support of this application as the judgment debt is not stated in the Entry of Judgment filed on 4th March 2021.

The figure stated in the Entry of Judgment filed on 4th March 2021 which is exhibit PM2, is at variance with the figure the Applicant has stated in paragraph 15 of the affidavit in support of this application as the judgment debt.

Under Order 41 rule 7 of C.I.47, any party who is seeking to enforce a judgment must draw up and file Entry of Judgment. Therefore, Entry of Judgment is a notice to the Judgment Debtor and the whole world that the figure or the amount stated therein is what the Judgment Creditor intends to enforce against the Judgment Debtor.

However, if for some reasons the figure or the amount stated in the Entry of Judgment has changed, then the Judgment Creditor has to file a motion on notice to amend the entry of judgment.

See: AKOWUAH & ANOR v AMOO & ANOR [2012] 1 SCGLR 261

In this case, that has not been done by the Judgment Creditor/Applicant. It is settled law, that a judgment becomes effective for execution upon entry or filing of Entry of Judgment by the judgment creditor.

See: REPUBLIC v COURT OF APPEAL, EX PARTE GHANA COMMERCIAL BANK PENSIONERS ASSOCIATION [2001-2002] 1 SCGLR 883

Even though this is a one-sided application. However, a court is not to grant an application hook, line and sinker because it is one sided. The court must scrutinise the application to see whether its jurisdiction has been properly invoked.

See: AMIDU (NO. 1) v ATTORNEY-GENERAL, WATERVILLE HOLDINGS (BVI) LTD & WOYOME (NO.1) [2013-2014] 1 SCGLR 112

It is therefore my view, that once there is a variation between the Entry of Judgment filed on 4th March 2021 and the figure stated in paragraph 15 of the affidavit in support of this

application, the court is not able to tell the exact amount the Applicant is claiming as a judgment debt upon which the application can be granted. The Application therefore fails and same is dismissed.

SGD.

FRANCIS OBIRI

(JUSTICE OF THE HIGH COURT)

COUNSEL

**BENJAMIN BENTSI-ENCHIL WITH EARL EYRAM FOSU FOR
PLAINTIFF/JUDGEMENT CREDITOR/APPLICANT**

AUTHORITIES

- 1. AKOWUAH & ANOR v AMOO & ANOR [2012] 1 SCGLR 261**
- 2. REPUBLIC v COURT OF APPEAL, EX PARTE GHANA COMMERCIAL BANK
PENSIONERS ASSOCIATION [2001-2002] SCGLR 883**
- 3. See: AMIDU (NO. 1) v ATTORNEY GENERAL, WATERVILLE HOLDINGS
(BVI) LTD & WOYOME (NO.1) [2013-2014] 1 SCGLR 112**