

IN THE SUPERIOR COURT OF JUDICATURE IN THE HIGH COURT OF  
JUSTICE AMASAMAN ACCRA REGION HELD BEFORE HER LADYSHIP  
JUSTICE PRISCILLA DAPAAH MIREKU (MRS.) SITTING ON WENESDAY THE  
12<sup>TH</sup> DAY OF JULY, 2023

SUIT NO. E12/AHC/81/2023

**AFI NYALETASHI**

.....

**PLAINTIFF**

(SUING PER HER LAWFUL  
ATTORNEY VICTOR MENSAH)

**VRS:**

**BLESSING DOSOO**

.....

**DEFENDANT**

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**RULING ON APPLICATION FOR AN ORDER OF COMMITAL AGAINST  
RESPONDENT**

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The Applicant depose that this Honourable Court granted an order of interlocutory injunction against the respondent on the 19<sup>th</sup> day of December, 2022 to maintain the status quo. That the said order was served on the respondent on the 20<sup>th</sup> day of December, 2022. According to the applicant, even though the respondent is aware of the court's order continues to build on the land with disregard to the court's order. Thus prays this honourable court commit the respondent for contempt of court.

The respondent is vehemently opposed to this instant application as he has not done any of the acts attributed to him. According to the respondent, the deponent of the application avers that he is the lawful attorney of the plaintiff but has not attached any

power of attorney to his application. The deponent however filed a supplementary affidavit with leave of the court and attached the aforementioned power of attorney.

According to the applicant, he did indeed acquired the subject matter sometime back in 2015 from the Nii Amponsah Harley family of Afiaman through one Mr. Amegatcher (deceased) who he later realized was the husband of the plaintiff in the substantive case. That in or about the year 2022, he sold out the land to one Seth Adjei Atuahene who has put up a structure on the land to the best of his knowledge. That ever since he sold his interest in the land to the said purchaser, he has never had anything to do with the land and has never visited same since it is not in his hands anymore. The respondent further alleges that even though it is not his duty all attempt to bring this action to the notice to the said Seth has been to no avail and the said Seth is not a party to this suit. That he has full respect for this Honourable Court that is why he responded by way of defence when the writ of summons was served on him although the land subject matter in dispute is not in his hands anymore.

That the instant application is just a wild guess, unmeritorious and ought to be dismissed.

The applicant needs to prove certain elements to the court that indeed the respondent ought to be committed for contempt of this court's order. These elements include;

- a. That there must be a judgment or order requiring the contemnor to do or abstain from doing something;
- b. That the said order was served on the contemnor after same was made and the contemnor had notice of same;
- c. That the contemnor knows what precisely he is expected to do or abstain from doing;
- d. That the contemnor after notice of the said order or judgment has gone against it and the disobedience is willful.

A person commits contempt and may be committed to prison for willfully disobeying an order of court requiring him to do any act other than the payment of money or to abstain from doing some act; and the order sought to be enforced should be unambiguous and must be clearly understood by the parties concerned. In the case of **REPUBLIC V. BOATENG & ODURO; EX-PARTE AGYENIM-BOATENG & OTHERS [2009] SCGLR 154 @ 155**, the Supreme Court unanimously held that, *“a person could not be punished for the offence of contempt of court in the absence of willful breach of an order to do or refrain from doing some act. And the standard of proof required is proof beyond reasonable doubt.”*

Contempt is a quasi-criminal relief, thus the onus on the applicant is proof beyond reasonable doubt. Section 13(1) of the Evidence Act, 1975 (NRCD 323) states;

*“in any civil or criminal action the burden of persuasion as to the commission by a party of a crime which is directly in issue requires proof beyond reasonable doubt.”*

The respondent denies all the allegations against him and expressly states that he has not constructed any structure on the subject matter in dispute neither has he disobeyed any order of the court.

The onus is therefore on the applicant to prove their claim beyond reasonable doubt. There is no doubt that an individual is building on the subject matter even though there is an injunction order restraining the defendants, his assigns, workmen and any other person claiming through him.

The various affidavits and exhibits before the court shows that the respondent transferred his interest in the subject matter to the Seth aforementioned sometime in August 2022 while the applicant instituted this action in December, 2022. The respondent has clearly stated this in his defence and the said Seth even though in possession and building on the subject matter has not been joined to the suit.

The applicant has failed to prove beyond reasonable doubt that it is the respondent who is going contrary to the orders of the court.

The instant application for committal is hereby by dismissed.

**(SGD)**

**H/L PRISCILLA DAPAAH MIREKU (MRS.)**

**JISTICE OF THE HIGH COURT, AMASAMAN**