

IN THE SUPREME COURT OF JUDICATURE IN THE COURT OF JUSTICE,
AMASAMAN HELD BEFORE HER LADYSHIP JUSTICE PRISCILLA DAPAAH
MIREKU (MRS.) SITTING ON FRIDAY 21ST APRIL, 2023

SUIT NO: EI/AHC/38/22

GEORGE OCQUAYE MENSAH PLAINTIFF

VS.

FAFA AWUSHIE KLUE & 2 ORS DEFENDANTS

RULING

The Applicant is praying this Honorable Court to strike out plaintiffs suit under the inherent jurisdiction of this court. The summary of the applicant's prayer is that the applicant has earlier instituted an action against the plaintiff at Land Court Accra. That the suit is one and same thus, this case to be struck out. The plaintiff/respondent is opposed to this instant application and avers that the cases are different. That the parties are not the same. Counsel further avers that the defendants in the instant case are two. The title of this instant case is Ocquaye Mensah vs Fafa Awushie Klue and Mr Amoako whiles the title of the case pending before the Land Court, Accra is Fafa Awushie Klue vs William Ocquaye & George Ocquaye Narh.

The subject matter described in the instant case is '**All the piece or parcel of land situate, lying and being at Norman, in the Ga East District of Accra in the Greater Accra Region of the Republic of Ghana bounded on the North by proposed Road measuring 75.95 feet more or less on the East by lessers land measuring 206.55 feet**

more or less on the South by proposed road measuring 77.85 feet more or less on the West by lessor's land measuring 203.99 feet more or less and containing an approximate area of 0.36 Acre or 0.15 hectore more or less'.

The subject matter of the Land Court Accra is described as '**All that parcel of land being at Ashongman Accra containing an approximate area of 0.39 acre bounded at the North by proposed road measuring 100feet above or less and on, the East by Nii Ayi Odonkor's land measuring 170 feet more or less and on the West by Nii Ayaaa Odonkor's land measuring 170 feet more or less on the South by a proposed road measuring 100 feet more or less and on the West by Nii Ayaa Odonkor's land measuring 170 feet more or less'.**

There are some slight differences in the description of the land but the Plaintiff in his affidavit of opposition does not aver that the subject matter are different but rather contends that the parties are different. In both cases, there are one other party who is not a party to the other case.

This Honourable Court is of the view that stating that the applicant had gone to sleep in the other case and only filed intention to proceed after this case has been filed will not hold. It is clear that the parties are contesting for the same subject matter and the parties are the same. The Plaintiff/Respondnt at best file a counterclaim and prove his claim or get the earlier case struck out if the applicant was not prosecuting the earlier case. It is an abuse of the Court process to file another case on the ground that the other side was delaying the case and had gone to sleep and does not require the filing of another case when the old has not been disposed off. This is clearly an abuse of the court processes. Thus this honourable court hereby uphold the application before it and struck out the instant case.

Costs of GHC2,000.00 is awarded against the plaintiff.

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**H/L PRISCILLA DAPPAH MIREKU (MRS.)
(JUSTICE OF THE HIGH COURT)**