

**IN THE SUPERIOR COURT OF JUDICATURE IN THE HIGH COURT OF JUSTICE
AMASAMAN IN THE GREATER ACCRA REGION SITTING ON WEDNESDAY
THE 14TH DAY OF JUNE, 2023 PRESIDED OVER BY HER LADYSHIP JUSTICE
PRISCILLA DAPAAH MIREKU**

SUIT NO: E1/AHC/160/2023

1. NII OFFEI III

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PLAINTIFFS

CHIEF OF KOKROBITE

THE PALACE, ACCRA

2. NII MENSAH

UNNUMBERED HOUSE, KOKROBITE

(SUING PER THEMSELVES AND ON
BEHALF OF THE KOKROBITE STOOL FAMILY)

VS

1. INUSSA ADOTEY

.....

DEFENDANTS

2. ERIC ADOTEY

BOTH OF UNNUMBERED HOUSE

KOKROBITE, ACCRA

RULING

The instant application before this honourable court is an application on notice for interlocutory injunction against the 1st and 2nd Defendants pursuant to Order 25 of C.I. 47.

The applicants aver that the respondents have encroached upon their property and will continue to erect structures on same and also convert a portion thereof into a parking lot hence the instant application. That if the defendants are left off the hook, the entire land or a greater portion thereof would be dissipated before the final determination of the matter. According to the applicant, the respondents are encroachers and will not suffer irreparable injury if they are restrained. The applicant annexed a site plan to demonstrate the ancient registered deed of their interest. The said exhibit marked as Exhibit No. 1 is not however stamped as required by the Stamps Act.

The defendants/respondents are opposed to the instant application and aver that, the applicants have not demonstrated that they have a legal interest in the subject matter

which is threatened by the defendants. That Exhibit No. 1 is self-serving and does not satisfy the requirement of a legal interest. According to the defendants/respondents, the exhibit aforementioned rather confirms their title which is traceable to Nii Ardey Nkpa family who made grant to Reinhold Denich and Nicola Klower. The defendants further aver that the Exhibit No. 2 of the applicants rather show pictures of the applicants' agents gone onto the defendant's land to interfere by cutting down some of the coconut trees on the land. That if the applicant admits that the respondents use the land as parking lot, then the status quo ought to be maintained by the refusal of the application which discloses no exceptional circumstances to warrant an injunction against the defendants/respondents. That no developments are being carried out by the defendants and rather it is the plaintiffs who ought to be restrained from coming into the defendants' yard to harass and interfere with the quiet enjoyment.

For the applicant to succeed in a grant of interlocutory injunction against the respondents, there are certain elements that they ought to prove. In the case of **American Cyanamid Company v. Ethicon Ltd (1975) 1 ALLRE 504** it was stated among others that,

- a. There must be a serious question to be tried.
- b. If the plaintiff were to succeed at trial, would he be adequately compensated by an award of damages? If not, then
- c. If the defendant were to succeed at the trial would he be adequately compensated in damages for injury he suffered by the award of the injunction? If not, then
- d. Where does the balance of convenience lie? And
- e. The interest of the court must be to preserve the status quo.

Also in the case of **OWUSU V. OWUSU ANSAH [2007-08] 2 SCGLR 870**, the Supreme Court held that,

"The fundamental principle in applications for interim injunction is whether the applicant has a legal right at law or equity, which the court ought to protect by maintaining the status quo until the final determination of the action on its merits."

The applicant merely stating that the respondent has encroached on their land is not enough to warrant an order of interlocutory injunction. They also failed to show that they had a legal or equitable right the court ought to protect and that if the court fails to do so, they will suffer irreparable injury or damages that cannot be compensated with cost.

The instant application of the applicants is hereby dismissed as it is without merit.

(SGD)
H/L JUSTICE PRISCILLA DAPAAH MIREKU (MRS.)
(JUSTICE OF THE HIGH COURT)

PARTIES: PLAINTIFFS – PRESENT

2ND DEFENDANT PRESENT REPRESENTING 1ST DEFENDANT

COUNSEL: DOREEN EKUA QUANSAH HOLDING BRIEF OF

Y. ANOKYE FRIMPONG FOR PLAINTIFFS – PRESENT

FELIX QUARTEY FOR DEFENDANTS - PRESENT