

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF
JUSTICE, HELD IN TEMA, ON MONDAY THE 17TH DAY OF JULY 2023
BEFORE HER LADYSHIP JUSTICE RITA AGYEMAN-BUDU (MRS.)

Time: 10:35 am

SUIT NO: E1/046/2023

GRACE OTABIL

... PLAINTIFF

VRS

TEMA DEVELOPMENT CORPORATION ... DEFENDANT

PARTIES

Plaintiff/Applicant - Absent

Defendant/Respondent- Absent

LEGAL REPRESENTATION

Cap. Nkrabea Effah-Dartey for the Plaintiff/Applicant– Absent

Mr. Victor Owusu Asante for the Defendant/Respondent - Present

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RULING

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Plaintiff/Applicant herein filed this Motion on Notice for Interlocutory Injunction on the 3rd of March, 2023 praying for an Order to restrain the Defendant from interfering with the Plaintiff's parcel of land by way of demolishing Plaintiff's building on the disputed land.

In an Affidavit in Support deposed to by Francis Ankomah Sey on behalf of Plaintiff, it is averred that Plaintiff bought a parcel of land from Chief of Santeo and exhibit an Indenture as Exhibit A. Plaintiff further contends that the Defendant herein TDC is challenging the title of the Plaintiff, claiming the land belongs to TDC.

Paragraphs 9 and 10 of the Affidavit in Support state:

Paragraph 9

It is contended that under the existing law the power of TDC over land in Tema ended in 1969 with the promulgation of NLCD 355 which limited the boundaries of TDC.

Paragraph 10

That it is prayed that pending the determination of those issues in controversy the Defendant should be restrained from sending bulldozers to enter the land to forcibly take over the land.

In a Supplementary Affidavit filed on his behalf, Plaintiff/Applicant is contending that TDC is relying on a Judgment at the High Court in which Plaintiff/Applicant lost and there is an Appeal pending. Plaintiff/Applicant again contends that she concedes that the Tema Port Acquisition Ordinance covered 63 square miles which Plaintiff's land falls within but that law was repealed in 1969 per NLCD355.

In opposing this Application, Defendant/Respondent contends that the Judgment referred to by Plaintiff/Applicant i.e Nii Blabetey Borketey Nkpa vrs. Tema Development Corporation (Exhibit NAA02), the Court stated clearly that Plaintiff's Grantor do not own any land in Santeo area.

Also the land which is the subject matter of the dispute falls within the Tema Acquisition Area and it is only the Defendant/Respondent that can alienate same.

The Principle governing the grant or otherwise is laid down in the case of **18th July Limited vrs Yehans International Limited (2012) 1 SCGLR 167**, the Supreme Court speaking through **Anin Yeboah JSC (as he then was)** outlined the conditions for the grant of Interlocutory Injunction as follows:

"Even though it is discretionary, we are of the view that a Trial in determining Interlocutory Application must consider whether the case of an Applicant is not frivolous and had demonstrated that he had legal or equitable rights which a Court should protect. The Court is also enjoined to ensure that the status quo is maintained so as to avoid any irreparable damage to the Applicant pending the hearing of the matter. Thirdly, the Trial Court ought to consider the balance of convenience and should refuse the Application if its grant will cause serious hardship to the other party".

The issue to be determined is whether or not in applying the laid down principle in respect of granting or otherwise of an ¹Interlocutory Injunction;

- a) Whether or not the Plaintiff/Applicant has demonstrated to this Court that indeed he has legal or equitable right in the said land.*
- b) Whether or not the balance of convenience will tilt against him if this Application is not granted.*
- c) Whether or not he can be compensated should this Application fail and he ends up obtaining Judgment in his favour after the trial.*

After analyzing all the evidence adduced in this Application, it is my considered opinion that it will be just and equitable to restrain both parties in this suit from

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interfering with the subject land by way of demolishing or embarking on any construction work, or alienating it or part thereon pending the determination of the suit.

I make no order as to cost.

H/L: RITA AGYEMAN-BUDU(MRS).

(JUSTICE OF THE HIGH COURT).

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