

**IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT**

ACCRA -AD 2015

**CORAM: ATUGUBA, JSC (PRESIDING)
ANSAH, JSC
DOTSE, JSC
YEBOAH, JSC
BAMFO, JSC**

**CIVIL APPEAL
NO. J4/49/2015**

19TH NOVEMBER, 2015

**1. THE ASSEMBLIES OF GOD
CHURCH OF GHANA (PER REV.
PETER ATTA) DROBO**

2. DROBO TRADITIONAL COUNCIL

**... PLAINTIFF
& CO-PLAINTIFF/
/RESPONDENT
/APPELLANTS**

VRS

**KWADWO OSEI OF KWASI
BUORKROM NANA AMPOA
ABENG KYEREMEH**

**... DEFENDANT/
CO-DEFENDANT/
APPELLANT
/RESPONDENT**

J U D G M E N T

ATUGUBA, JSC:-

The central issue in this appeal is whether it is the Drobohene or Japekromhene who has allodial title to the land in dispute. The trial court held that though the Drobohene might have some residual interest in the disputed land he failed to prove its nature and extent and therefore dismissed his claim thereto.

The crux of counsel for the appellants' submission is that as allodial title to the land in dispute formerly vested in the Bono or Gyaman Paramount chief who fell on the French Ivory Coast side of a partition of the territory of the Bono Kingdom between the French and the English, that title devolved on the Drobohene who was made Paramount Chief over the English side of the Bono Kingdom consequent upon the said partition.

It is however clear from the record of proceedings that the claim of overlordship of Japekrom and other villages after the partition of the Bono or Gyaman Kingdom is based on British administrative elevation and not customary elevation by the Bono or Jaman customary overlord of the contesting parties.

The evidence of DW4, the Bonohene or Gyamanhene at P.222 of the record of appeal is as follows:

"I did not appoint him (Drobohene) as a paramount chief. He was Adontewaa. At the time of the demarcation of the boundary between the French and the British, the Drobohene was not an Omanhene. I testified in a land dispute between Drobo and Dwenem. I also elected somebody

to testify in another land dispute between Drobo and Japekrom. *I had nothing to do with the status of Drobohene.*” (e.s)

Thus at p.229 of the record of appeal the Court of Appeal unanimously per Irene Danquah J.A poignantly stated thus:

“It must be stressed that it is the Co-Plaintiff’s case that he derived his allodial interest in the lands he is claiming *because he was made the Omanhene by Gyamanhene after the demarcation of the boundary between the French and the English colonist.* He claimed further that *by that status acquired from Gyamanhene he automatically became the allodial owner of all lands including Japekrom and specifically Faago which were under Gyamanhene.* In our view these assertions fell flat considering the evidence of the Gyamanhene before the Special Committee as well as his evidence in this action. As we stated earlier, *the Drobohene did not challenge the Gyamanhene when he stated in no uncertain terms that he did not make the Drobohene the Omanhene. Not only that but he confirmed the history narrated by Japekrom that Japekrom is the original occupant of the area before Drobo people came to that area.*” (e.s)

Again Irene Danquah J.A stated clearly at p.228 of the record of appeal thus:

“In the instant case there are categorical statements made by the two separate committees set up by the Government to investigate dispute between the Drobo Stool and Japekrom Stool. As can be discerned from those pieces of evidence, it is clear that *not only did Japekrom attempt to gain its administrative independence from Drobo as soon as the country gained its independence from the British Colonialist but*

asserted its rights in respects to land of Japekrom and its environ including some villages within the area. From the reports of the two Commissions referred to supra, it is clear that Drobo on these occasions admitted Japekrom rights to the lands in contention. Further it is clear that Drobo did not dispute the history as narrated by Japekrom especially the fact that they were first to settle in the area. Concerning recent acts, Drobo conceded the fact that they were first to settle in the area. Concerning recent acts, Drobo conceded the fact that Japekrom exercised rights as owner of the land when the Court house and the Secondary School were being built at New Drobo.” (e.s)

The administrative conferment of overlordship status over villages not hitherto under him by the colonial British administration did not operate to confer any customary rights of *inter alia*, allodial title thereto on the Drobohene. Even under modern post independence administration, the need for the recognition by the government of a chief, when such recognition was required or even the entry of a person’s name as chief in the National Register of Chiefs, do not derogate from the true customary position of things – see *Republic v National House of Chiefs, Kumasi; Ex-parte Kusi-Appea*(1984-86)2 GLR 90 C.A. Indeed this is very trite chieftaincy law.

The chiefs know that this is the legal position. Thus as pp.232-233 Irene Danquah J.A stated thus:

“The creation of Drobo as an independent Omanhene was obviously made by the British Government. The above fact is buttressed by the evidence of the Omanhene of Berekum Traditional Area during the One hundred and Thirty-Fifth sitting – Wednesday 23rd July, 1975 before the

Committee of Inquiry (Brong-Ahafo) at page 197 (Exhibit Vol.2) at page 15 of the report when Nana Yiadom Boakye II the Omanhene in his evidence stated that;

“When several Ahafo and Brong Chiefs were placed under Berekum, we never took any part of their revenue accruing from their Stool lands.”

From all the foregoing it is quite clear that the concurrent findings of the High Court and the Court of Appeal are solidly based both in fact and law.

The appeal is therefore dismissed.

(SGD) W. A. ATUGUBA

JUSTICE OF THE SUPREME COURT

(SGD) J. ANSAH

JUSTICE OF THE SUPREME COURT

(SGD) V. J. M. DOTSE

JUSTICE OF THE SUPREME COURT

(SGD) ANIN YEBOAH

JUSTICE OF THE SUPREME COURT

(SGD) V. AKOTO BAMFO (MRS)

JUSTICE OF THE SUPREME COURT

COUNSEL

JAMES AHENKORAH ESQ. FOR THE PLAINTIFF/RESPONDENT/APPELLANT.

OBENG MANU JNR. ESQ. (WITH HIM BRIDGET AKATTAH) FOR THE
DEFENDANT/APPELLANT/ RESPONDENT.