

**THE SUPERIOR COURT OF JUDICATURE**  
**IN THE SUPREME COURT**  
**ACCRA-AD 2019**

**CORAM: ANSAH, JSC (PRESIDING)**  
**DOTSE, JSC**  
**YEBOAH, JSC**  
**PWAMANG, JSC**  
**MARFUL-SAU, JSC**  
**DORDZIE (MRS), JSC**  
**KOTEY, JSC**

**WRIT NO**  
**J1/07/2019**

**19<sup>TH</sup> JUNE, 2019**

BISMARCK ABORBI ARYEETAY ..... PLAINTIFF

VRS

## 1. ATTORNEY-GENERAL

2. ELECTORAL COMMISSION ..... DEFENDANTS

## JUDGMENT

**PWAMANG, JSC:-**

The thrust of the plaintiff's complaint in this suit which he filed on 14<sup>th</sup> January, 2019, is that the 2<sup>nd</sup> defendant, by fixing the Ayawaso West

Wogun by-election to be held on 31<sup>st</sup> January, 2019, violated Article 112(5) of the Constitution, 1992 as amended. However, he did not seek an interim order to restrain the defendant from conducting the by-election so same was held on the due date and as at the date of hearing of this case, the elected Member of Parliament for the constituency had been sworn in and taken her seat in Parliament.

In the reliefs plaintiff endorsed on his writ of summons, there is no prayer for a nullification of the by-election in the event the court holds that the conduct of the election violated the Constitution. When this was pointed out to the plaintiff at the hearing, he confirmed that he does not pray the court to nullify the by-election. This led the court to raise the issue of mootness of the case, but the plaintiff argued that the court ought nonetheless, to proceed with the case and determine the constitutionality of the by-election, claiming that the conduct of the defendant he has complained of is likely to recur.

We have examined the record before us and there is no basis for the claim by plaintiff that the conduct complained of is likely to recur. In the circumstances, it is pointless to determine the constitutionality of the by-election so we hereby dismiss the case as moot.

**G. PWAMANG**  
**(JUSTICE OF THE SUPREME COURT)**

**ANSAH, JSC:-**

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

**J. ANSAH**

**(JUSTICE OF THE SUPREME COURT)**

**DOTSE, JSC:-**

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

**V. J. M. DOTSE**

**(JUSTICE OF THE SUPREME COURT)**

**YEBOAH, JSC:-**

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

**ANIN YEBOAH**

**(JUSTICE OF THE SUPREME COURT)**

**MARFUL-SAU, JSC:-**

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

**S. K. MARFUL-SAU**

**(JUSTICE OF THE SUPREME COURT)**

**DORDZIE (MRS), JSC:-**

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

**A. M. A. DORDZIE (MRS)**  
**(JUSTICE OF THE SUPREME COURT)**

**KOTEY, JSC:-**

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

**PROF. N. A. KOTEY**  
**(JUSTICE OF THE SUPREME COURT)**

**COUNSEL**

DR. DOMINIC A. AYINE WITH HIM GODWIN TAMAKLOE FOR THE PLAINTIFF.

GODFRED DAME YEBOAH, DEPUTY ATTORNEY-GENERAL FOR THE 1<sup>ST</sup> DEFENDANT.

JUSTIN AMENUVOR FOR THE 2<sup>ND</sup> DEFENDANT.