

**IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE (FAST TRACK DIVISION)
HELD IN ACCRA ON FRIDAY THE 27TH DAY OF JANUARY, 2012 BEFORE
HIS LORDSHIP JUSTICE UUTER PAUL DERY**

SUIT NO. AP 173/2011

ROSE AMELE SAKA

... ..

PLAINTIFF

VS.

1. AKUTEY AZU

2. KORYOO AZU

... ..

DEFENDANTS

R U L I N G

This ruling is in respect of an application by Rose Amele Saka for an order to commit the Respondents namely Akutey Azu and Koryoo Azu to prison for not respecting this court, that is for contempt of court.

The grounds for the application are that this court on 8th September, 2011 restrained both the Applicant and Respondents from undertaking any development on the land which is subject of dispute between them pending the hearing of an application for interlocutory injunction. Despite the order of the court the Respondents went onto the land and continued with developments. To buttress the developments the

Respondents were carrying out the Applicant exhibited some pictures of people carrying out developments on a land. The Applicant also exhibited the restraining order.

In response the Respondents state that no formal order had been filed and served on them restraining them and the Applicant to the suit from developing the land pending the final determination of the suit. To them by the rules and practice of this court, a formal order ought to have been issued and filed to give effect to the Orders of the court and that since that was not done the Applicant cannot cite them for contempt.

The Respondents furthermore deny going to the site to develop the land in dispute and stated that even if the 2nd Respondent; Regina Azu visited the land in dispute, she only went there to collect broken blocks that had fallen off the building as a result of heavy rain storm and floods that had hit Accra. The Respondents thus deny that they willfully disobeyed or disrespected the orders of the court.

The order which is subject to the instant application was given by this court on 8th September, 2011. It states thus:

"Both parties herein are hereby restrained from doing any work on the disputed land..."

The above order was given in the presence of both parties and their Counsel. Contempt of court is any act or conduct that tended to bring the authority and administration of the law into disrespect or disregard or interfere with, or prejudice parties, litigants, or their witnesses in respect of pending proceedings – See In Re Effiduase Stool Affairs (No.2); REPUBLIC V. Numapau, President of the National House of Chiefs and Others; Ex parte Ameyaw II (No.2) [1998 – 99] SC GLR 639.

In the instant case therefore any of the parties would be bringing the authority and administration of the law into disrespect or disregard if that party went onto the land in dispute and did any work. And this would amount to contempt of court.

Both parties and their Counsel were in court when the order was given as such none of them is entitled to be served the said order after it is issued and filed before he would comply.

So the only factual issue is whether the Respondents did go onto the land in dispute to work. Contempt of court as held in Re Effiduase Stool Affairs supra is quasi – criminal as such the standard of proof is beyond reasonable doubt. The Applicant must thus make out a prima facie case of contempt before the court could consider the Respondents defence. The only evidence the Applicant has given to prove the charge of contempt is some pictures of people building on a land. Those pictures do not identify the Respondents as the people who were building. There is also no evidence

that the Respondents sent any person to work on the disputed land. So the Applicant has failed to prove that indeed the Respondents disobeyed the court's order of 8th September, 2011 restraining them from doing any work on the disputed land.

The application is therefore dismissed.

COUNSEL:

1. **MR. NATHANIEL MYERS FOR APPLICANT**

2. **MR. GEORGE ADDO-YOBO FOR RESPONDENTS**

(SGD.) UUTER PAUL DERY
JUSTICE OF THE HIGH COURT

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