

GHANA / JUDGMENT

THE BOARD OF GOVERNORS OF EBENEZER SENIOR HIGH SCHOOL VRS ATTORNEY GENERAL & ANOR. (LD/0046/2024) [2024] GHAHC 200 (27 March 2024)

COURT
ghahcDECIDED
27 March 2024

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IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE GHANA (LAND COURT 7) HELD IN ACCRA ON WEDNESDAY, THE 27TH DAY OF MARCH, 2024 BEFORE HIS LORDSHIP ALEXANDER OSEI TUTU (J.) SUIT NO. LD/0046/2024 THE BOARD OF GOVERNORS OF EBENEZER SENIOR HIGH SCHOOL H/NO. 128, BOTOI SHIENYO STREET, DIGITAL ADDRESS, GA-588-1702, DANSOMAN – ACCRA :: PLAINTIFF/APPLICANT VRS

1. ATORNEY GENERAL :: DEFENDANT/RESPONDENTS

2. THE MUNICIPAL CHIEF EXECUTIVE OF ABLEKUMA WEST MUNICIPAL ASSEMBLY
DANSOMAN – ACCRA ===== PARTIES:
PLAINTIFF REPRESENTED BY SAMUEL ARYEE PRESENT DEFENDANTS ABSENT LEGAL
REPRESENTATION: NAA DJAMAH AYIKOI-OTOO ESQ., H/B FOR AYIKOI-OTOO ESQ., FOR
PLAINTIFF/APPLICANT PRESENT NANA BAAFI YEBOAH ESQ., WITH DZIDZOR AMI
LOGOH ESQ., H/B FOR GARY NIMAKO MARFO ESQ., FOR 2ND DEFENDANT/RESPONDENT
PRESENT ===== R U L I N G RULING
DELIVERED BY JUSTICE ALEXANDER OSEI TUTU IN SUIT. NO. LD/0046/2024 AT LAND
COURT ‘7’ ON 27 TH DAY OF MARCH, 2024 “r.a.a” 1 The Plaintiff in this Application is
praying for an Order of Interlocutory Injunction restraining the Defendants and their
Officers, agents, assigns, workmen and Contractors etc., from interfering with any portion
of its forty- five acre land pending the determination of the suit. According to the Plaintiff, it
has been in possession of the subject matter land for over twelve years and that confers
possession title on it by virtue of Section 10 of the Limitation Act, 1972. The Application was
opposed by the 2nd Defendant, arguing that the subject matter land is a State Land acquired
under an Executive Instrument (Exhibit ‘MC’) which was subsequently leased to the State
Housing Company, a State entity, since 1996. The Company has exercised rights of
ownership over the land together with the other adjoining lands owned by the State. The
Respondent denies the ownership of the Plaintiff and contends that adverse possession
cannot be exercised over a State Land by virtue of the law. (See Section 236 of Act 1036) After

carefully considering the Application and the submission of both Counsel, I regret to say that I am unable to accede to the request and prayer of the Applicant. As a matter of fact the Courts have hesitated to grant Interlocutory Injunctions against statutory entities. (See WELFORD QUARCOO VR A.G. AND ANOR) [2012], SCGLR 259 AT 260, YAW OSAFO MARFO VRS EOCO [2012] 45 GMJ 85 AT 92–93, REPUBLIC BRS HIGH COURT (FAST TRACK DIVISION) ACCRA, EXPARTE; GHANA LOTTO OPERATIONS ASSOCIATION (NATIONAL LOTTERY AUTHORITY – INTERESTED PARTY) [2009] SCGLR 372 AT 400 AND RANSFORD FRANCE (NO. 1) VRS E.C. AND A.G. [2012] 1 SCGLR 689 AT HOLDING 1. The Applicant could not demonstrate that on the balance of convenience, it stands to suffer greater hardship. RULING DELIVERED BY JUSTICE ALEXANDER OSEI TUTU IN SUIT. NO. LD/0046/2024 AT LAND COURT ‘7’ ON 27 TH DAY OF MARCH, 2024 “r.a.a” 2 The Respondent claims the Government requires the land, which it owns, for an Ultra-modern Hospital Project for the benefit of the people in the Municipality. To injunct the Government at this stage on its own land does not seem to me to be right, without prejudice to the Applicant to ventilate its possessory claim in the substantive matter. In light of the above, I decline to grant the Plaintiff’s Application for Interlocutory Injunction. (SGD.) H/L ALEXANDER OSEI TUTU JUSTICE OF THE HIGH COURT REFERENCES CASES CITED:

1. WELFORD QUARCOO VR A.G. AND ANOR) [2012], SCGLR 259
2. YAW OSAFO MARFO VRS EOCO [2012] 45 GM J85
3. REPUBLIC BRS HIGH COURT (FAST TRACK DIVISION) ACCRA, EXPARTE; GHANA LOTTO OPERATIONS ASSOCIATION NATIONAL LOTTERY AUTHORITY INTERESTED PARTY) [2009] SCGLR 372
4. AND RANSFORD FRANCE (NO. 1) VRS E.C. AND A.G. [2012] 1 SCGLR 689. RULING DELIVERED BY JUSTICE ALEXANDER OSEI TUTU IN SUIT. NO. LD/0046/2024 AT LAND COURT ‘7’ ON 27 TH DAY OF MARCH, 2024 “r.a.a” 3 ENACTMENT: SECTION 236 OF ACT 1036 RULING DELIVERED BY JUSTICE ALEXANDER OSEI TUTU IN SUIT. NO. LD/0046/2024 AT LAND COURT ‘7’ ON 27 TH DAY OF MARCH, 2024 “r.a.a” 4

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