

GHANA / JUDGMENT

Dadeboe And 3 Others Vrs Nartey-Tokoli And 3 Others (C8/22/2023) [2024] GHACC 303 (15 November 2024)

COURT
ghaccDECIDED
15 November 2024

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IN THE CIRCUIT COURT HELD IN ACCRA, 28TH FEBRUARY ROAD, ON
FRIDAY THE 15TH DAY OF NOVEMBER 2024 BEFORE JUSTICE ELLEN OFEI-
AYEH (MRS.)(JUSTICE OF THE HIGH COURT) SITTING AS AN ADDITIONAL
CIRCUIT

COURT JUDGE

SUIT NUMBER C8/22/2023

1. RICHARD OFOTSU DADEBOE PLAINTIFFS/APPLICANT

2. REJOICE DADABOE

3. REGINA DADEBOE

4. MAVIS DADEBOE (BENEFICIARIES OF THE ESTATE OF
R.T DADEBOE, DECEASED)

V

1. THEODORE BUERTEYE NARTEY-TOKOLI DEFENDANTS/RESPONDENTS
(ADMINISTRATORS OF THE ESTATE OF THE LATE R.T DADEBOE)

2. KOFI BENTSI BENTSIL ESQ.

3. CECILIA RABINA BENTIL

LAWYERS :

ROBERT ALLOTEY FOR THE PLAINTIFFS/ APPLICANT

NII TETTEH DJANE ABBEY (ESQ.) FOR THE 1ST DEFENDANT AND 3RD
DEFENDANT/RESPONDENT

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2ND DEFENDANT/ RESPONDENT SELF-REPRESENTED

RULING

The plaintiffs/applicants whom I refer to as the applicants, have founded the application on paragraphs 10, 11 12, and 14 of his affidavit in support. The import of these paragraphs is that they have to proceed to the High Court because the value of their father's estate exceeds 2 million Ghana Cedis which is above the jurisdiction of the Circuit Court. The Defendants/ Respondents referred to as the Respondents in this ruling, have opposed the instant application on the grounds that the actual value of the estate is not known and it is an abuse of the court's process. In effect, the court cannot ask him to elect and choose where to continue his case. Sadly, none of the exhibits attached to the respective affidavits have been certified by any of the Courts. Neither has the valuation of the estate of their father been filed by the applicant. Now briefly, the plaintiff filed a Writ of Summons seeking the following reliefs

- a. An order revoking the letters of administration granted to the first defendant in respect of the estate of Robert Tetteh Dadeboe and dated 5th June 2022
- b. An Order directing the first defendant to render detailed accounts of his stewardship to the plaintiffs and other beneficiaries.
- c. An Order directing 1st defendant to refund to the estate/beneficiaries all funds appropriated by him.
- d. An Order declaring the purported sale of the house in Dansoman Akokorfoto to the 2nd and 3rd defendants null and void and a reversal of the property to the estate of R.T Dadeboe.
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- e. An Order declaring the grant of the parcels of land located at Budumburam in favour of the 2nd defendant by the 1st defendant to return all three vehicles, 1 Mercedes Benz and 2 Toyota Pickups to the Estate.
- f. Perpetual injunction against the defendants in person, their assignees agents workmen, and or person(s) claiming any interest through them relative to the estate of the deceased. The plaintiffs discontinued their case on 11th April 2024 with liberty to come back. The 2nd and 3rd defendants' counter-claim remained pending on the docket, being a separate action of its own. Witness statements have been filed as ordered by the court by one party. The reliefs on the counterclaim by the 2nd and 3rd defendants are for an Order declaring that; "a. Title in the property in question passed after the deceased valued the property agreed to sell them executed documents to that effect and the buyers accepted the terms and proceeded to develop the property as agreed.
- a. By allowing the buyers to remain on the land for thirty years and agreeing to them developing the property into a school during his Lifetime and adding three additional buildings, title in the Land passed and it cannot be revoked but he re- negotiated purchase price shall be paid when agreed.

- b. The lawful Administrator of the Estate having regard to all the facts and documentation in his possession confirming the sale of the property to the buyers is bound in law to convey the property as intended by the deceased and conclude conveyance of same to the buyers.
 - c. Having re-negotiated the terms and purchase price and raised it further beyond the original value and agreed terms, and the buyers having agreed to the Page 3 of 7 renegotiated terms, the Administrator is legally bound to complete the conveyance to the buyers to enable them perfect their title.
 - d. Having renegotiated the purchase price and the buyers having accepted the reviewed price and the parties having executed an indenture to that effect, the indenture executed is valid and effective.
42.” It is necessary to state that regarding the jurisdiction of the Circuit Court in Civil matters, Section 42(1) a of Courts Act 459 provides that; The civil jurisdiction of the Circuit Court consists of;
- (a) an original jurisdiction in civil matters
 - (i) in personal actions arising under a contract or a tort, or for the recovery of a liquidated sum of money, where the amount claimed is not more than one hundred million cedis; (ii) in actions between a landlord and a tenant for the possession of land claimed under a lease and refused to be delivered up; (iii) in [causes and matters] involving the ownership, possession, occupation of or title to land; (iv) to appoint guardians of infants and to make orders for the custody of infants;
 - (v) to grant in an action instituted in the Court, injunctions or orders to stay waste, or alienation or for the detention and preservation of property Page 4 of 7 which is the subject matter of that action, or to restrain breaches of contract, or the commission of a tort; (vi) in claims of relief by way of interpleader in respect of land or any other property attached in execution of an order made by a Circuit Court; (vii) in applications for the grant of probate or letters of administration in respect of the estate of a deceased person, and in [causes and matters] relating to succession to property of a deceased person, who had, at the time of death, a fixed place of abode within the area of jurisdiction of the Circuit Court, and the value of the estate or property in question does not exceed one hundred million cedis; and
 - (b) any other jurisdiction conferred by this Act or any other enactment. The Courts Regulation 2020, also provides at Regulation 2 that,
2. The Courts Act, 1993 (Act 459) referred to in these Regulations as the "principal enactment" is amended in subsection (1) of section 42 by the substitution for
- (a) subparagraph (i) of paragraph (a), of "(i) in a personal action arising under a contract or a tort, or for the recovery of a liquidated sum of money, where the amount claimed does not exceed two million Ghana Cedis;" and

- (b) subparagraph (vii) of paragraph (a), of "(vii) in an application for the grant of probate or letters of administration in respect of the estate of a deceased person, and in causes and matters relating to succession to property of a deceased person, who had, at the time of death a fixed place of abode within the area of jurisdiction of the Circuit Court and the Page 5 of 7 value of the estate or property in question does not exceed two million Ghana Cedis;". It is my humble view that the subject counterclaim contained in paragraph 41 (c), (d), and 44 falls under Causes and Matters relating to succession to the property of a deceased person. The applicant has claimed that their late Father; R.T Dadeboe 's Estate, it consists of properties that exceed two million Cedis. (See paragraph 14 of the affidavit in support.) At paragraph 2 of the affidavit in support of the motion, the applicant relied on all processes filed in the matter. Paragraph 11 of the statement of claim filed by the plaintiffs on 21/7/2023 is an averment that the Circuit Court, Accra granted Letters of Administration to the 1st defendant in respect of R.T Dadeboe's Estate. Certainly, the Circuit Court's jurisdiction was not challenged nor has the Order for the grant of Letters of Administration been set aside or revoked on grounds of Jurisdiction, as there is no proof of such revocation or setting aside before me. Therefore, there is a presumption that the Letters of Administration granted by Circuit Court 11, Accra on 5/6/2022 which relied on the inventory remains valid. If jurisdiction is being raised on grounds of the value of the estate, why did the applicant fail to take steps to set aside the order for the grant of letters of Administration at the Circuit Court, 11 Accra, based on the absence of jurisdiction of the circuit court, as Jurisdiction could be raised at any time? In their response, the Respondent has deposed that the applicant has abused the court process. It is deposed that the plaintiff filed several writs in respect of related issues. Respondent has attached as Exhibit 1, Exhibit 1B, and Exhibit 1C, suit numbers CCD/C8/06/24, Dansoman Circuit Court, Suit number C8/11/2023, Circuit Court, Accra and suit number PA/0563/2024, High Court, which are writs involving the said estate. This has not been refuted by the applicant. Page 6 of 7 From the affidavit evidence before me, and having failed to challenge the grant of Letters of Administration, and submit proof of an enhanced value of the estate, it is my humble view that the applicants have been forum shopping as claimed by the Respondent. I do not find any basis to grant a stay of proceedings and an Order referring the case to the honourable Chief Justice for transfer to an appropriate forum. Order 1 Rule 1(1) (2) of the High Court Rules provides against the multiplicity of suits. Plaintiffs undisputedly filed these writs and in my humble view have abused the court process. Based on the above, the Application is refused. It is further ordered that the applicant takes positive legal steps in respect of the several writs filed on similar matters and parties. Costs is set at GHC2000.00 against the applicant. SGD..... Ellen Ofei-Ayeh (Justice of the High Court) Page 7 of 7

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