

GHANA / JUDGMENT

REPUBLIC VRS SOSOO (B4/15/2022) [2023] GHADC 1158 (31 January 2023)

COURT
ghadcDECIDED
31 January 2023

Source: ghalii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE DISTRICT MAGISTRATE COURT, HELD AT AGBOZUME ON TUESDAY THE 31ST DAY OF JANUARY, 2023 BEFORE HIS WORSHIP IDDRISU ISSAH ESQUIRE, THE DISTRICT MAGISTRATE COURT CASE NO. B4/15/2022 THE REPUBLIC VERSUS: GEORGINA SOSOO

J U D G M E N T: This is a case in which the accused person was charged with the offence of trespass contrary to section 157 of the criminal and other offences Act, 1960, Act 29. The accused person pleaded not guilty to the charge. Brief facts to the case are that the complainant Kwadzo Tekali aged 72 is a farmer resident at Dodorkope a suburb of Klikor. The accused person Georgina Sosoo aged 45 is a food vendor, and a famer resident at Atsiaklobor, a suburb of Klikor. The complainant is a member of Tremedzo and Kunorvi families at Ehi and Dordokope respectively whilst the accused person is a member of Korkuvi Tornu family. The two families have litigated over a land situated at Atsiaklodor. On the 2nd of November, 2021 1 | P a g e the complainant saw that a portion of the land had been ploughed and cassava planted on it. The police were informed on the development. The accused person was invited for questioning and upon investigation she was subsequently charged. The prosecution invited four witnesses: Kwadzo Tekali Hiатеpe (PW1); Sampson Tremedzro (PW2) Elo Evadzi (PW3) and the investigator (PW4). The PW1 stated that their family litigated over this land that he accused person's family for a long time now. That currently the case between them is pending at the court of Appeal on the 2nmd of November, 2021 he paid a visit to the land and found out that the accused person had ploughed portions of this land and planted cassava. The portion the accused person went into is their part of the land. The PW2 stated that the accused person and her family have a family land at the place. They litigated over the portion of land and the trial court asked each party to remain on their portion. However the accused person went into their portion of the land. The PW3 narrated the same line of ownership as the PW1 and PW2. The PW4 the investigator stated that the case was reported to him for investigation. He took the statements of investigation. He took the statements of the PW1, PW2 and PW3. He tended them in evidence as exhibits A, B and C. He also took the statement of the accused person. It was marked as exhibit D. A copy of a judgment and the charge statement were tendered and marked as exhibits E and F. 2 | P a g e The accused person on the other hand stated that on the 26th day of December, 2021 at around 8: 00 a.m she was with her workers on

this land. The complainant came to stop the workers from the work but she objected on the basis that she inherited the land from her father over twelve (120 years ago. Her father also inherited it from Amuzu Tornu Avulekpor of Atsiaklorbo-Tornukope. Accused person tendered a judgment marked as exhibit 1 to support her claim of ownership of the land. The accused person invited Kormla Doku Sosu (AW1) as her witness. The witness testified that the land at the Centre of this case is a part of a large track of land inherited by the accused person's father. That there had been judicial pronouncement in the matter in their favour since 1962. The findings of facts from the evidence before this court are as follows:

- (1) Both the complainant and the accused person have lands in the area in dispute.
- (2) The parties are in court to determine the ownership of the area.
- (3) The accused person made a farm in the area in dispute at the time of the institution of this case in December, 2021. Given the facts of this case the relevant question for determination is whether or not the charge of trespass against the accused person, would stand. The fundamental rule in criminal prosecution is the presumption of innocence which is stated in article 19 (2) (c) of the constitution of Ghana 1992 as follows: "A person charged with a criminal offence shall.....(c) be presumed innocent until he is proved or has pleaded guilty" 3 | Page The burden is on the prosecution to prove the guilt of the accused person beyond reasonable doubt unless it is shifted. Where the burden is shifted the accused person is only required to raise reasonable doubt on the particular fact as to guilt. These are the requirements of the law under section 11 (2) and 13 (2) of the Evidence Act, 1975 NRCR 323. On the question of trespass, section 157 of the criminal offence Act 1960, Act 29 provides as follows: "A person who
 - (a) Unlawfully enters in an insulting, annoying, or threatening manner on land belonging to or in the possession of any other person or;
 - (b) Unlawfully enters on land after having been forbidden so to do or
 - (c) Unlawfully enters and remains on land after having been required to depart from that land or;
 - (d) Having lawfully entered on a land, acts in a manner that is insulting, annoying or threatening or'
 - (e) Having lawfully entered on a land, remains on that and after having been lawfully required to depart from that land, commits a criminal offence and is liable, on the complaint of the owner or occupier of the land, to a fine not exceeding twenty-five penalty units and the court may order the removal from the and by force if necessary, of a person an animal a structure or a thing." The complainants reported the accused person for trespass to the land in dispute. However the accused person maintained that she has the right to be in possession of the land. The accused person therefore argued her position on section 39 of the Act 29 on the use of force for the defence of property or possession. Section 39 of Act 29 states as follows: 4 | Page "A person may justify the use of force for the defence of property or

possession or for overcoming an obstruction to the exercise of a legal right, where;

- (a) A person in actual possession of a house, land or vessel or goods or the servant of that person or any other person authorized by that person may use force that is reasonably necessary for repelling a person who attempts forcibly and unlawfully to enter the house, land or vessel or to take possession of the goods.
- (b) A person in actual possession of a house, land or vessel or the servant of that person or any other person authorized by that person may use force that is reasonably necessary for removing a person who being in or on the house, land or vessel and having been lawfully required to depart from that place refuses to depart. Thus in the case of *Abeka & anor. Vrs. The Republic* [1980] GLR 438 where the counts states as follows” “Where persons are in actual possession of land, they are entitled to use reasonable force to remove a person who being in or on land has been lawfully requested to depart but refuses to do so”. In the instant case the accused person resisted the complainant demands on her and her workers to leave the land on the basis of right to be there. Since supporting documents on the right to the place indicates that the matter is still contested at the court of Appeal level, then the right to ownership of the place and the right of action has not crystalized against the accused person. The parties can apply for injunction or sight any other for contempt of court at the appropriate forum. The accused person is accordingly acquitted and discharged. 5 | P a g e H/W IDDIRSU ISSAH ESQ., DISTRICT MAGISTRATE 31/01/2023 Boa./ 6 | P a g e

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ghalii.org/akn/gh/judgment/ghadc/2023/1158/eng@2023-01-31/source.pdf>

CASE PAGE <https://chat.esheria.ai/case-law/ghana/trespass-ghadc-2023--6a3ea5233b1caa9129818e93>

Prepared on 29 October 2026 · Esheria