

Judgment  
19. 1957

In the Privy Council.

ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL  
(GOLD COAST SESSION)

CONSOLIDATED SUITS AND APPEALS.

1. Transferred Suit No. 32/1947 (from the Ga Native Court "B").

BETWEEN

**JOSIAH KORKWEI QUARMINA ARYEH, DANIEL SACKEY QUARCOOPOME, J. AMOS LAMPTEY, CHARLES AMOO ANKRAH**, claiming as Head and Representative of Mantse Ankrah Family, **J. R. ANKRAH, A. DINNAH ANKRAH and AFLAH QUARCOOPOME** (Defendants) . . . . . *Appellants*

AND

**NAA QUARDUAH ANKRAH and ROBERT ADJABENG ANKRAH** (otherwise known and called Arday Ankrah substituted for Mark David Adjabeng Ankrah otherwise Kwaku Nyame Ankrah) claiming for and on behalf of Mantse Ankrah Family and ~~**JOSEPH GOMMEY ANKRAH**~~ (Plaintiffs) . . . . . *Respondents.*

2. Suit 112/1947.

BETWEEN

**CHARLES AMOO ANKRAH** claiming as Head and Representative of Mantse Ankrah Family (Defendant) . . . . . *Appellant*

AND

**ROBERT ADJABENG ANKRAH** (substituted for Mark David Adjabeng Ankrah otherwise Kwaku Nyame Ankrah) claiming for and on behalf of Mantse Ankrah Family and ~~**JOSEPH GOMMEY ANKRAH**~~ (Plaintiffs) . . . . . *Respondents.*

RECORD OF PROCEEDINGS

PART I  
PROCEEDINGS IN THE SUIT AND APPEAL  
(exclusive of Exhibits which are in Part II)

A. L. BRYDEN & WILLIAMS,  
53 Victoria Street,  
London, S.W.1,  
*Appellants' Solicitors.*

SYDNEY REDFERN & CO.,  
1 Gray's Inn Square,  
London, W.C.1,  
*Solicitors for Respondent R. A. Ankrah.*

**ON APPEAL**  
 FROM THE WEST AFRICAN COURT OF APPEAL (GOLD COAST SESSION).

CONSOLIDATED SUITS AND APPEALS.

1. Transferred Suit No. 32/1947 (from the Ga Native Court " B ").

BETWEEN

JOSIAH KORKWEI QUARMINA ARYEH, DANIEL SACKEY QUARCOOPOME, J. AMOS LAMPTEY, CHARLES AMOO ANKRAH, claiming as Head and Representative of MANTSE ANKRAH Family, J. R. ANKRAH, A. DINNAH ANKRAH and AFLAH QUARCOOPOME (Defendants) . . . . . *Appellants*

AND

NAA QUARDUAH ANKRAH and ROBERT ADJABENG ANKRAH (otherwise known and called ARDAY ANKRAH substituted for MARK DAVID ADJABENG ANKRAH otherwise KWAKU NYAME ANKRAH) claiming for and on behalf of MANTSE ANKRAH Family and ~~JOSEPH COMMEY ANKRAH~~ (Plaintiffs) . . . . . *Respondents*

2. Suit 112/1947.

BETWEEN

CHARLES AMOO ANKRAH claiming as Head and Representative of MANTSE ANKRAH Family (Defendant) . . . . . *Appellant*

AND

ROBERT ADJABENG ANKRAH (substituted for MARK DAVID ADJABENG ANKRAH otherwise KWAKU NYAME ANKRAH) claiming for and on behalf of MANTSE ANKRAH Family and ~~JOSEPH COMMEY ANKRAH~~ (Plaintiffs) . . . . . *Respondents.*

# RECORD OF PROCEEDINGS

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# In the Privy Council.

## ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL (GOLD COAST SESSION).

### CONSOLIDATED SUITS AND APPEALS.

1. Transferred Suit No. 32/1947 (from the Ga Native Court "B").

BETWEEN

10 JOSIAH KORKWEI QUARMINA ARYEH,  
DANIEL SACKEY QUARCOOPOME, J. AMOS  
LAMPTEY, CHARLES AMOO ANKRAH,  
claiming as Head and Representative of MANTSE  
ANKRAH Family, J. R. ANKRAH, A. DINNAH  
ANKRAH and AFLAH QUARCOOPOME  
(Defendants) . . . . . *Appellants*

AND

20 NAA QUARDUAH ANKRAH and ROBERT  
ADJABENG ANKRAH (otherwise known and  
called ARDAY ANKRAH substituted for MARK  
DAVID ADJABENG ANKRAH otherwise KWAKU  
NYAME ANKRAH) claiming for and on behalf of  
MANTSE ANKRAH Family and JOSEPH COMMEY  
ANKRAH (Plaintiffs) . . . . . *Respondents.*

2. Suit 112/1947.

BETWEEN

CHARLES AMOO ANKRAH claiming as Head and  
Representative of MANTSE ANKRAH Family  
(Defendant) . . . . . *Appellant*

AND

30 ROBERT ADJABENG ANKRAH (substituted for  
MARK DAVID ADJABENG ANKRAH otherwise  
KWAKU NYAME ANKRAH) claiming for and on  
behalf of MANTSE ANKRAH Family and JOSEPH  
COMMEY ANKRAH (Plaintiffs) . . . . . *Respondents.*

# RECORD OF PROCEEDINGS

## PART I. PROCEEDINGS IN THE SUIT AND APPEAL (exclusive of Exhibits which are in Part II)

*In the  
Ga Native  
Court "B."*

No. 1.

**CIVIL SUMMONS. Suit No. 1077/47.**

No. 1.  
Civil  
Summons  
(Suit No.  
1077/47),  
20th July  
1947.

Civil Summons No. 1077/47.  
Ga Native Authority.

IN THE GA NATIVE COURT "B."  
Eastern Province.  
Gold Coast Colony.

Between NAA QUARDUAH ANKRAH and M. D. A.  
ANKRAH alias KWAKU NYAME both of Accra Plaintiffs

and

10

J. K. Q. ARYEH, D. S. QUARCOOPOME,  
J. AMOS LAMPTEY, CHARLES AMOO  
ANKRAH, J. R. ANKRAH, A. DINNAH  
ANKRAH and AFLAH QUARCOOMPE all  
of Accra . . . . . Defendants.

To : J. K. Q. ARYEH and others of Accra.

YOU ARE HEREBY COMMANDED to attend this Native Court at  
Azumah at 8.30 a.m. o'clock on the 21st day of August, 1947, to answer  
a suit by Plaintiffs against you :

The Plaintiff's claim against the above-named Defendants jointly 20  
and severally is for the sum of £50 being damages for trespass committed  
by the said Defendants in entering upon the first Plaintiff's plot of land  
No. 23 in Block " E " bounded on the North by Mantse Ankrah's family  
stool land which is Nii Otoo Ahiakwa stool measuring 89 feet 9 inches  
on the South by Mantse Ankrah Family stool land which is Nii Otoo  
Ahiakwa stool measuring 89' 9" on the East by Mantse Ankrah Family  
stool land which is Nii Otoo Ahiakwa stool measuring 74' and on the  
west by Mantse Ankrah Family stool land which is Nii Otoo Ahiakwa  
stool measuring 74' situate lying and being at Awudome in fer-Oyor in the  
Accra District and breaking the pillars thereon on or about the 9th day of 30  
February, 1946, the said plot of land being assigned to 1st Plaintiff by  
second Plaintiff.

(B) Further for an injunction restraining the said Defendants their  
agents servants and workmen from entering upon the said premises and  
interfering with the said plot of land pending the hearing and determination  
of this suit.

Dated at Accra the 20th day of July, 1947.

Claim £50 0 0  
Fees 2 0 0  
Service 7 0  

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£52 7 0

(Sgd.) F. KOTEI-ROBERTSON,  
President.

40

TAKE NOTICE that if you do not attend the Native Court may give  
judgment in your absence.

No. 2.

WRIT OF SUMMONS. Suit No. 112/47.

*In the  
Supreme  
Court.*

Suit No. 112/1947.

No. 2.  
Writ of  
Summons  
(Suit No.  
112/47),  
2nd August  
1947.

WRIT OF SUMMONS.

IN THE SUPREME COURT OF THE GOLD COAST.

Eastern Judicial Division,  
Land Court holden at Accra.

Between : M. D. ADJABENG ANKRAH alias KWAKU  
 NYAME ANKRAH for and on behalf of  
 10 MANTSE ANKRAH FAMILY of Otublohum  
 Dadebanna, Accra . . . . Plaintiff  
 \*J. C. ANKRAH . . . . Co-Plaintiff  
 and  
 M. CAPTAN of Accra . . . . Defendant  
 \*CHARLES AMOO ANKRAH . . . . Co-Defendant.

\*Joined by  
Order of  
Court dated  
22.6.48.

To : M. CAPTAN of Accra.

You are HEREBY COMMANDED in His Majesty's name to attend  
before this Court at Accra on Friday the 22nd day of August, 1947, at  
8.30 o'clock in the forenoon then and there to answer a Suit by the  
20 Plaintiff herein of Otublohum Dadebanna, Accra, against you.

The Plaintiffs are the owners of a large tract of land situate lying  
and being at Awudome Accra and bounded on the North by Gold Coast  
Police Depot on the South by Junction of Accra Kumasi Railway Line  
and the Old Wedshan Railway Line on the East by Accra-Kumasi  
Railway Line and on the West by Asere Stool land which said land is  
commonly known and called Awudome land and belongs to the Mantse  
Ankrah Family Stool known as Nii Otoo Ahiakwa Stool of Otublohum  
Dadebanna Accra.

The Defendant has trespassed on portion of the said Plaintiff's  
30 Family land which said portion is more particularly described as follows :—

“ On the north by the Ring Road and Plaintiff's family land  
and measuring 2688 feet more or less on the South by Plaintiffs'  
family land and measuring 1618 feet more or less on the East by  
the Accra-Kumasi Railway line and measuring 2202 feet more or  
less and on the west by Asere Stool land and measuring 1198 feet  
more or less.”

by entering the said land and fixing pillars and name plates thereon.

*In the  
Supreme  
Court.*

No. 2.  
Writ of  
Summons  
(Suit No.  
112/47),  
2nd August  
1947,  
*continued.*

The Plaintiff therefore claims :—

- (1) Two hundred pounds (£200) damages for the said trespass.
- (2) Perpetual Injunction restraining the said defendant his agents and/or workmen from the further entering and committing acts of trespass on the said land.

Issued at Accra the 2nd day of August, 1947.

Sum claimed	£200 0 0	Damages & Injunction.
Court fees .	5 10 0	
Bailiff's fees	1 0	
	<hr/>	
	£205 11 0	
	<hr/> <hr/>	

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(Sgd.) K. O. QUANSAH,  
Registrar,  
Divisional Court, Accra.

No. 3.  
Order for  
Joinder of  
Charles  
Amoo  
Ankrah  
as Co-  
Defendant  
in Suit No.  
112/47,  
29th  
August  
1947.

No. 3.

**ORDER FOR JOINDER of Charles Amoo Ankrah as Co-Defendant in Suit No. 112/47.**

IN THE SUPREME COURT OF THE GOLD COAST,  
Eastern Judicial Division,  
Land Court—Accra.

Suit No. 112/1947.

L.S.

(Sgd.) S. O. QUASHIE-IDUN,  
Acting Judge.

20

M. D. ADJABENG ANKRAH alias KWAKU NYAME  
ANKRAH for and on behalf of MANTSE ANKRAH  
FAMILY of Otublohum Dadebanna, Accra . Plaintiff

*versus*

M. CAPTAN of Accra . . . . . Defendant.

**ORDER FOR JOINDER.**

UPON HEARING Mr. Akufo Addo of Counsel for and on behalf of Charles Amoo Ankrah as Head and Representative of Mantse Ankrah 30 Family of Otublohum Dadebanna, Accra, Applicant herein and UPON READING the affidavit of the said Charles Amoo Ankrah filed on the 19th day of August, 1947, in support of an Order for Joinder in the above case :

IT IS HEREBY ORDERED that the said Charles Amoo Ankrah as Head and Representative of Mantse Ankrah Family of Otublohum, Accra, who claims title to the land subject matter of dispute be and is hereby joined as Co-Defendant in the above Cause.

*In the  
Supreme  
Court.*

Given under my hand and seal of the said court at Victoriaborg, Accra, this 29th day of August, 1947.

(Sgd.) K. O. QUANSAH,  
Registrar, Land Court.

No. 3.  
Order for  
Joinder of  
Charles  
Amoo  
Ankrah  
as Co-  
Defendant  
in Suit No.  
112/47,  
29th  
August  
1947,  
*continued.*

No. 4.

10

ORDER OF TRANSFER of Suit No. 1077/47.

IN THE SUPREME COURT OF THE GOLD COAST.  
Eastern Judicial Division.  
Land Court—Accra.

NAA QUARDUAH ANKRAH and M. D. A. ANKRAH  
alias KWAKU NYAME ANKRAH both of Accra . Plaintiffs

*versus*

20

J. K. Q. ARYEH, D. S. QUARCOOPOME, J. AMOS  
LAMPTEY, CHARLES AMOO ANKRAH,  
J. K. ANKRAH, A. DINNA ANKRAH and  
AFLAH QUARCOOPOME . . . Defendants.

No 4.  
Order of  
Transfer of  
Suit No  
1077/47  
from the  
Native  
Court " B,"  
22nd  
September  
1947.

WHEREAS by Order dated 17th day of September, 1947, the Magistrate's Court, Accra, under the provisions of Section 54 (c) of the Native Courts (Colony) Ordinance 1944 reported to the Land Judge the pendency and circumstances of the above cause now pending before the Ga Native Court " B " at Accra :

IT IS HEREBY ORDERED that the said cause be heard and determined by a Judge of the Lands Division at Accra.

IT IS FURTHER ORDERED that the said cause be set down for mention at the said Land Court at Accra on Monday the 13th October, 1947, at 8.30 o'clock in the forenoon.

Dated at Victoriaborg, Accra, this 22nd September, 1947.

(Sgd.) J. HENLEY COUSSEY,  
Judge.

*In the  
Supreme  
Court.*

No. 5.

Plaintiff M. D. A. Ankrah's STATEMENT OF CLAIM. Suit No. 112/47.

No. 5.  
Plaintiff  
M. D. A.  
Ankrah's  
Statement  
of Claim  
(Suit No.  
112/47),  
22nd  
September  
1947.

IN THE SUPREME COURT OF THE GOLD COAST.  
Eastern Judicial Division,  
Land Court—Accra.

Suit No. 112/1947.

M. D. ADJABENG ANKRAH alias KWAKU NYAME  
ANKRAH for and on behalf of MANTSE ANKRAH  
Family of Otublohum, Dadebanna, Accra . . . Plaintiff

*versus*

M. CAPTAN a Syrian Trader . . . Defendant  
CHARLES AMOO ANKRAH . . . Co-defendant.

10

STATEMENT OF M. D. ADJABENG ANKRAH ALIAS KWAKU NYAME ANKRAH  
THE PLAINTIFF HEREIN FILED THIS 22ND DAY OF SEPTEMBER, 1947.

My name is Mark David Adjabeng Ankrah sometimes called Kwaku Nyame Ankrah. I live in Accra and am a Carpenter and Customary Acting Head and Lawful Representative of Mantse Ankrah Family of Otublohum Dadebanna, Accra.

1. That the property in dispute is a stool property belonging to Mantse Ankrah Family and known as Royal Stool of Nii Otu Ahiakwa founder of Otublohum Quarter of Dadebanna—Accra comprising of the following families which sprang from the following Chiefs who sat on the said Royal Stool :— 20

- (1) Nii Otu Ahiakwa the founder of Otublohum—Accra.
- (2) Nii Amu Nakawa.
- (3) Nii Darku Panyin.
- (4) Nii Amponsah.
- (5) Nii Mantse Ankrah.
- (6) Nii Okanta Ankrah.
- (7) Nii Antonio Ankrah.
- (8) Nii Kpakpo Odehe Ankrah.
- (9) Nii Ankrah Quansah alias W. A. Solomon.

30

2. The foregoing from the said Royal Stool Families whose Families have lawfully empowered me the Plaintiff herein to apply for the issue of the Writ of Summons in the abovenamed case namely Awudome Land dispute now pending herein.

3. The Plaintiff herein for himself and on behalf of the Family of Manche Ankrah of Otublohum is the customary Acting Head and Lawful representative of Manche Ankrah Family and caretaker of Manche Ankrah's Stool and lands thereto attached namely—Awudome Mayera Akoto and Afiaman Lands. 40

4. That by reason and virtue of my such position mentioned in paragraphs 2 and 3 herein, the family Stool together with its paraphernalia and the lands attached to the said Stool are looked after by me and as

such can lease or sell any plot or plots to any person or persons with the consent and approval of the principal and accredited members who appointed me to such a position ; that such position was conferred on me as far back as 1926 and confirmed it in 1942.

*In the  
Supreme  
Court.*

5. That I represent the family in all cases in which the family is involved both at the State Council the Native Tribunals and the Supreme Court, particularly, in a case where the question of ownership to Awudome is in question.

No. 5.  
Plaintiff  
M. D. A.  
Ankrah's  
Statement  
of Claim  
(Suit No.  
112/47),  
22nd  
September  
1947,  
*continued.*

6. Being a son to the late Adjabeng Ankrah the son of Nee Aryee Ankrah alias Kokosachie the younger brother of Manche Ankrah and Nee Okanta Ankrah the sons of Naa Amanuah Kwafu, one of the Royal Family of Nee Otu Ahiakwa the founder of Otublohum in Accra, I have an interest in all lands and other properties connected with the stool, hence my appointment as the Family's representative.

7. By reason and virtue of my such position as the Family's representative, custodian of the said Stool and all lands thereto attached including Awudome which such position has not yet been revoked by the said Family it is improper and illegal for any person or persons of any member or members of the said Mantse Ankrah Families to arrogate unto themselves the power to commit or trespass by entering upon and lease or sell or breaking or fixing a pillar or pillars on Awudome land without first consulting me in accordance with Native Custom, or in accordance with the universal law of Justice.

8. That by reason and virtue of my position as the representative of the said Mantse Ankrah Ancestral Royal Stool Family which position I still hold hence I institute action against the Defendant M. Captan for trespass on Awudome land and which now forms the bone of contention in the suit herein.

9. The Plaintiff's claim :—

(A) A declaration that they are in possession as Owners of all that piece or parcel of land commonly called and known as Awudome or Ahodome, situate lying and being at Accra in which a portion of said land is this suit herein.

(B) £200 (Two Hundred Pounds) Damages for trespass.

(C) An Injunction restraining the Defendant and Co-Defendant, their Agents, Servants, or representatives from entering upon, or in any interfering with said land.

[sic]

Dated at Accra this 22nd day of September, 1947.

(Sgd.) M. D. ADJABENG ANKRAH  
Plaintiff,

For and on behalf of MANTSE ANKRAH Ancestral Royal  
Stool Family of Otublohum—Dadebanna, Accra.

To the Registrar,  
Land Court, Accra  
and

To the above-named Defendants their Representatives or Agents,  
Accra.



*In the  
Supreme  
Court.*

No. 6.

Defendant Captan's DEFENCE. Suit No. 112/47.

No. 6.  
Defendant  
Captan's  
Defence  
(Suit No.  
112/47),  
9th October  
1947.

IN THE SUPREME COURT OF THE GOLD COAST,  
Eastern Judicial Division,  
Land Court, Accra.  
A.D. 1947.

Suit No. 112/47.

M. D. A. ANKRAH Etc. . . . . Plaintiff

*versus*

M. CAPTAN . . . . . Defendant 10  
CHARLES AMOO ANKRAH Etc. . . . . Co-Defendant.

STATEMENT OF DEFENCE FILED ON BEHALF OF THE DEFENDANT HEREIN  
BY AKUFO ADDO (HOLDING MR. A. M. AKIWUMI'S BRIEF).

The Defendant says that he is not in a position to deny or admit the allegations contained in the Plaintiff's Statement of Claim, but says that he bought the land in question from the Co-Defendant and the Principal members of the Mantse Ankrah Family by Deed of Conveyance dated—

Dated at Kwakwaduam Chambers, Accra, this 9th day of October, 1947. 20

(Sgd.) AKUFO ADDO,  
for A. M. AKIWUMI, Esq.,  
Solicitor for Defendant.

The Registrar,  
Land Court, Accra,  
and  
To M. D. A. Ankrah,  
The Plaintiff, Accra.





No. 7.

Co-Defendant C. A. Ankrah's DEFENCE. Suit No. 112/47.

In the  
Supreme  
Court.

IN THE SUPREME COURT OF THE GOLD COAST.  
Eastern Judicial Division.  
Land Court, Accra.  
A.D. 1947.

No. 7.  
Co-  
Defendant  
Charles  
Amoo  
Ankrah's  
Defence  
(Suit No.  
112/47),  
9th October  
1947.

Suit No. 112/1947.

M. D. A. ANKRAH Etc. . . . . Plaintiff

*versus*

10 M. CAPTAN . . . . . Defendant  
CHARLES AMOO ANKRAH Etc. . . . . Co-Defendant.

STATEMENT OF DEFENCE FILED ON BEHALF OF THE  
CO-DEFENDANT BY AKUFO ADDO, ESQ.

1. The Co-Defendant admits as alleged in paragraph 1 of the Plaintiff's Statement of Claim that the property in dispute is the property of the Mantse Ankrah Family, but says that the said Mantse had a family stool of his own, distinct from the Otublohum Stool, of which he was the founder and that the said Stool has never been known as the "Royal Stool of Nii Otu Ahiakwa the founder of the Otublohum Quarter of Dadebanna-  
20 Accra," and further the Co-Defendant denies that the said Nii Otu Ahiakwa, Nii Amu Nakwa, Nii Darku Panyin and Nii Amponsah had anything to do with the Mantse Ankrah Family Stool of which the founder was Mantse Ankrah himself who was succeeded by his son Nii Antonio Ankrah and thereafter by his nephew Nii Kpakpo Odehe Ankrah, and the Co-Defendant further says that the said Ankrah Quansah (alias Quansah Solomon) never occupied the Mantse Ankrah Family Stool, but that in his (Ankrah Quansah's) lifetime he was empowered by the Principal members of the said Mantse Ankrah Family to be a caretaker of the Stool and properties attached thereto.

30 2. The Co-Defendant denies the allegations contained in paragraphs 2, 3, 4, 5, 6, 7, and 8 of the Plaintiff's Statement of Claim.

3. As to paragraph 2 of the Statement of Claim the Co-Defendant says that the "Royal Stool Families" mentioned therein are strictly speaking not members of the Mantse Ankrah Family and they have—except Antonio Ankrah and Kpakpo Odehe Ankrah who were direct descendants of the said Mantse Ankrah, no say at all in Mantse Ankrah Family affairs.

40 4. The Co-Defendant says that the Plaintiff has never been appointed Acting Head of the Mantse Ankrah by those entitled by Native Custom to appoint such a head, but says that he the Co-Defendant is the Head of the said Family and that he was so appointed in November, 1945, in

*In the  
Supreme  
Court.*

accordance with all customary rites, and that his appointment has been published to the Ga Mantsemei by the Otublohum Mantse in accordance with Customary practice.

No. 7.

Co-  
Defendant  
Charles  
Amoo  
Ankrah's  
Defence  
(Suit No.  
112/47),  
9th October  
1947,  
*continued.*

5. The Co-Defendant therefore says that he is the rightful person to alienate any property of the Mantse Ankrah Family, and that the property in dispute was sold to the Defendant by him with the consent and concurrence of the Principal members of the said Mantse Ankrah Family.

6. The Co-Defendant admits that the Plaintiff is in possession of the Mantse Ankrah Family Stool and some of its paraphernalia, but he says the Plaintiff's possession is wrongful and that there is an action 10 (instituted by oath) by the family against the Plaintiff pending for the recovery of the said Stool and its paraphernalia.

7. The Co-Defendant therefore says the Plaintiff is not entitled to any of the several reliefs sought by him.

Dated at Kwakwaduum Chambers, Accra, this 9th day of October, 1947.

(Sgd.) AKUFO ADDO,  
Co-Defendant's Solicitor.

The Registrar,  
Land Court, Accra,  
M. D. A. Ankrah, the above Plaintiff,  
Accra,  
and  
M. Captan, the Defendant,  
Accra.

20

No. 8.

PLAINTIFF'S REPLY to Defendant Captan's Defence. Suit No. 112/47.

*In the  
Supreme  
Court.*

IN THE SUPREME COURT OF THE GOLD COAST.  
Eastern Judicial Division.  
Land Court, Accra.  
A.D. 1947.

No. 8.  
Plaintiff's  
Reply to  
Defendant  
Captan's  
Defence  
(Suit No.  
112/47),  
14th  
October  
1947.

Suit No. 112/47.

M. D. A. ANKRAH Etc. . . . . Plaintiff

*versus*

10 M. CAPTAN . . . . . Defendant

CHARLES AMOO ANKRAH . . . . . Co-Defendant.

PLAINTIFF'S REPLY TO DEFENDANT'S STATEMENT OF DEFENCE  
FILED HEREIN ON 10TH OCTOBER, 1947.

The Plaintiff says that all material evidence that may be adduced at the hearing and determination of the above case will bring to light the actual fact as to whether or not the Defendant bought the land from the right person.

Dated at Accra this 14th day of October, 1947.

20 (Sgd.) M. D. ADJABENG ANKRAH,  
for and on behalf of MANTSE ANKRAH Family,  
Plaintiff.

The Registrar, Land Court, Accra,  
and

To M. Captan the Defendant herein, his Solicitor or Agent of Accra.  
Also to Charles Amoo Ankrah, Co-Defendant herein, his Solicitor or  
Agent, of Accra.



*In the  
Supreme  
Court.*

**PLAINTIFF'S REPLY to Co-Defendant C. A. Ankrah's Defence. Suit No. 112/47.**

No. 9.  
Plaintiff's  
Reply to  
Co-  
Defendant  
Charles  
Amoo  
Ankrah's  
Defence  
(Suit No.  
112/47),  
14th  
October  
1947.

**IN THE SUPREME COURT OF THE GOLD COAST.**  
Eastern Judicial Division.  
Land Court, Accra.  
A.D. 1947.

Suit No. 112/47.

M. D. A. ANKRAH Etc.	. . . . .	Plaintiff	
	<i>versus</i>		
M. CAPTAN	. . . . .	Defendant	10
CHARLES AMOO ANKRAH	. . . . .	Co-Defendant.	

**PLAINTIFF'S REPLY TO THE CO-DEFENDANT'S STATEMENT OF  
DEFENCE DATED 9TH OCTOBER, 1947, AND FILED HEREIN ON  
THE 10TH DAY OF OCTOBER, 1947.**

1. That the Plaintiff denies in *toto* the allegations made by the Co-Defendant in his statement of defence herein, in that the whole of his statements are untrue and misleading. They are nothing but mere fabrication to achieve his desired end.

2. The Plaintiff still maintains the points raised in his Statement dated 22nd day of September, 1947, filed herein, and say that the same 20 will be substantiated with tangible proofs at the hearing of the suit.

Dated at Accra this 14th day of October, 1947.

(Sgd.) M. D. ADJABENG ANKRAH,  
For and on behalf of MANTSE ANKRAH  
Family,  
Plaintiff herein.

The Registrar, Land Court, Accra,  
and  
To Charles Amoo Ankrah, Co-Defendant herein, his Solicitor or Agent,  
of Accra.  
Also M. Captan, Defendant herein, his Solicitor or Agent of Accra.

PLAINTIFFS' STATEMENT OF CLAIM. Suit No. 32/47.

In the  
Supreme  
Court.

IN THE SUPREME COURT OF THE GOLD COAST.  
Eastern Judicial Division.  
Land Court, Accra.

No. 10.  
Plaintiffs'  
Statement  
of Claim  
(Suit  
No. 32/47),  
3rd  
December  
1947.

1. NAA QUARDUAH ANKRAH and  
2. M. D. A. ANKRAH alias KWAKU NYAME as the  
lawfully appointed Attorney and Representative  
of the MANCHE ANKRAH Family . . . . Plaintiffs

10

versus

J. K. Q. ARYEH, D. S. QUARCOOPOME, J. AMOS  
LAMPTEY, CHARLES AMOO ANKRAH,  
J. R. ANKRAH, A. DINA ANKRAH and  
AFLAH QUARCOOPOME . . . . Defendants.

STATEMENT OF CLAIM FILED ON BEHALF OF THE PLAINTIFFS  
HEREIN.

1. The 1st Plaintiff sues in her personal capacity and the 2nd Plaintiff  
in a Representative capacity as the duly appointed Representative of  
the Manche Ankrah Family of Accra both the said Plaintiffs being members  
20 of the said Manche Ankrah Family.

2. The Defendants are also members of the Manche Ankrah Family  
and are sued jointly and severally herein.

3. The 2nd Plaintiff was duly appointed with the necessary Rites  
and ceremonies in accordance with Native Customary Law thereto  
appertaining, as the Representative of the Manche Ankrah Family and  
his said appointment was subsequently confirmed by a formal Power of  
Attorney dated the 16th day of February, 1942, executed by the Principal  
Elders and members of the said Family for the said 2nd Plaintiff.

4. The said 2nd Plaintiff upon his said appointment was given charge  
30 control and management of all the properties of the said Manche Ankrah  
Family—and in particular All that piece or parcel of Family land situate  
West of the Railway Line near the Government Public Cemetery Accra—  
commonly called "Awudome," and the said 2nd Plaintiff became the only  
member of the Family duly authorised entitled and empowered according  
to Native Customary Law to deal with the said land subject to the  
concurrence and consent of the principal elders and members of the said  
Family.

5. After his said appointment the said 2nd Plaintiff with the con-  
currence and consent of the principal elders and members of the Family,  
40 allotted to the 1st Plaintiff one of the elderly female members of the Family,  
a portion of the said "Awudome" Family land for building purposes,  
the title of which plot however remained in the Family.

*In the  
Supreme  
Court.*  
No. 10.  
Plaintiffs'  
Statement  
of Claim  
(Suit  
No. 32/47),  
3rd  
December  
1947,  
*continued.*

6. The 2nd Plaintiff's appointment as such Representative of the said Family and his authority and Right to deal with the said Awudome land, was the subject matter of Suit No. 3/1943, *J. K. Q. Aryeh and Ors. (Plaintiffs) v. Malam Dawuda and M. D. A. Ankrah*—in which suit the 2nd Plaintiff's appointment and authority were upheld by the Divisional Court, Accra, in the Judgment given in the said suit on the 13th day of November, 1943, and subsequently confirmed on Appeal by the West African Court of Appeal on the 23rd day of May, 1944.

7. The Plaintiffs in that suit are the Defendants herein, and they are claiming in the same right as against the 2nd Plaintiff in this suit and in 10 respect of the same Land, and the Plaintiffs plead that the Defendants are Estopped and precluded by the judgment in that suit from denying the 2nd Plaintiff's appointment and authority aforesaid.

8. The Defendants have broken the pillars of the 1st Plaintiff which were erected by the said 1st Plaintiff to mark the boundaries of her building plot and Claim ownership of the said Plot.

9. The 2nd Plaintiff therefore claims as the duly appointed and lawful representative of the Manche Ankrah Family, as against the Defendants jointly and severally.

(A) Declaration of the title of the Manche Ankrah Family to 20 the piece or parcel of land aforesaid.

(B) And the 1st Plaintiff claims as against all the Defendants jointly and severally, Fifty Pounds (£50) Damages for their trespass aforesaid.

Dated at Azinyo Chambers, Accra, this 3rd day of December, 1947.

(Sgd.) K. ADUMUA-BOSSMAN,  
Solicitor for Plaintiffs.

To the Registrar,  
Land Court, Accra,  
and  
To the abovenamed Defendants,  
Their Solicitor or Agent,  
Accra.

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No. 11.

COURT NOTES Consolidating Suits Nos. 112/47 and 32/47.

4th December, 1947.

IN THE SUPREME COURT OF THE GOLD COAST, Eastern Judicial Division (Land Division), held at Victoriaborg, Accra, on Thursday the 4th day of December, 1947, before QUASHIE-IDUN, Ag. J.

M. D. A. ANKRAH

v.

M. CAPTAN

10 CHARLES AMOO ANKRAH Etc. Co-Defendant.

Mr. Bossman for Plaintiff.

Mr. Akufo Addo for Defendants.

*By Court—*

Case consolidated with case of Naa Quarduah Ankrah & Anor. v. J. K. Q. Aryeh & Ors.

Both adjourned to 12.2.48.

(Sgd.) S. O. QUASHIE-IDUN,  
Ag. Judge.

*In the  
Supreme  
Court.*

No. 11.  
Court  
Notes  
consoli-  
dating  
Suits  
Nos. 112/47  
and 32/47,  
4th  
December  
1947.

No. 12.

DEFENDANTS' STATEMENT OF DEFENCE. Suit No. 32/47.

20

IN THE SUPREME COURT OF THE GOLD COAST.

Eastern Judicial Division,  
Land Court, Accra.  
A.D. 1948.

Tr. 32/1947.

NAA QUARDUAH ANKRAH and M. D. A.  
ANKRAH alias KWAKU NYAME ANKRAH Etc. . Plaintiffs

*versus*

J. K. Q. ARYEH & Others . . . . . Defendants.

No. 12.  
Defen-  
dants'  
Statement  
of Defence  
(Suit  
No. 32/47),  
11th  
February  
1948.

30 STATEMENT OF DEFENCE FILED ON BEHALF OF THE DEFENDANTS HEREIN  
BY AKUFO ADDO, Esquire.

1. Except the allegations contained in paragraph one (1) of the Statement of Claim that the Plaintiffs are members of the Mantse Ankrah Family the Defendants deny the allegations contained in paragraphs 1, 3 and 8.

*In the  
Supreme  
Court.*

No. 12.  
Defen-  
dants'  
Statement  
of Defence  
(Suit  
No. 32/47),  
11th  
February  
1948,  
*continued.*

2. In answer to paragraphs 4 and 5 of the Statement of Claim the Defendants say that the alleged appointment of the Second Plaintiff as representative has been annulled by the accredited principal members of the family and that the Defendant Charles Amoo Ankrah was appointed Head of the Family in November, 1945, in accordance with due customary rites, and that his appointment has been duly published to the Ga Mantse by the Otublohm Mantse in accordance with customary practice. And the Defendants further say that the first Plaintiff is estopped from claiming any individual proprietary interest in the land in dispute by reason of a judgment of the Ga Native Court dated 28th July, 1947, in a Suit intituled "Naa Quarduah Ankrah (the first plaintiff herein) vs. J. K. Aryeh and others (the Defendants herein)." 10

3. The Defendants say in answer to the allegations contained in paragraphs 6 and 7 of the Statement of Claim that they are not estopped by the judgment cited therein from disputing the second Plaintiff's claim still to be the representative of the Family in-as-much as the said judgment did not pronounce him the Head of the family nor did the said judgment preclude the members of the Family from electing a proper Head of the Family which they did in November, 1945, as aforesaid.

4. The Defendants therefore say that the Plaintiffs are not entitled to any of the several reliefs sought in the Statement of Claim. 20

Dated at Kwakwaduam Chambers, Accra, this 11th day of February, 1948.

(Sgd.) AKUFO ADDO,  
Solicitor for Defendants.

The Registrar,  
Land Court,  
Accra,  
and

K. Adumua-Bossman, Esq.,  
Solicitor for the Plaintiffs.

30



No. 13.

PLAINTIFF'S REPLY. Suit No. 32/47.

*In the  
Supreme  
Court.*

IN THE SUPREME COURT OF THE GOLD COAST.

Eastern Judicial Division,  
Land Court,  
Accra.No. 13.  
Plaintiffs'  
Reply  
(Suit  
No. 32/47),  
25th  
February  
1948.

Transferred Suit No. 32/1947.

NAA QUARDUAH ANKRAH & M. D. A.  
ANKRAH alias KWAKU NYAME ANKRAH of Accra Plaintiffs

10

*versus*J. K. Q. ARYEH, D. S. QUARCOOPOME, J. AMOS  
LAMPTEY, CHARLES AMOO ANKRAH,  
J. K. ANKRAH, A. DINA ANKRAH & AFLAH  
QUARCOOPOME all of Accra . . . Defendants.REPLY FILED ON BEHALF OF THE PLAINTIFFS TO THE DEFENDANTS'  
STATEMENT OF DEFENCE.

1. The Plaintiffs join issue with the Defendants on paragraphs 1 to 4 inclusive of their Statement of Defence.

2. In further reply to paragraph 2, the Plaintiffs say the 2nd Defendant's appointment as the Representative of the Family has never at any time been annulled by the members of the Family who appointed him and who are the duly accredited members entitled according to Native Customary Law to annul his appointment—nor have the said duly accredited members of the Family at any time appointed the Defendant Charles Amoo Ankrah as Head of the Family. And the Plaintiffs say that if any member of the Mantse Ankrah Family purport to have elected the Defendant Charles Amoo Ankrah Head of the Family, then such appointment is void and of no effect by reason of the fact that it is not by the 2nd Plaintiff and other principal and accredited members who alone have the power to elect the Head of the Family.

3. The Plaintiffs in further reply to the allegation in paragraph 2 of the Statement of Defence that first Plaintiff is estopped by Judgment dated 28th July, 1947, in suit *Naa Quarduah Ankrah vs. J. K. Q. Aryeh & Ors.* say that there was no Judgment which in law could operate as estoppel.

4. The Plaintiffs in further reply to paragraph 3 of the Statement of Defence say that the Judgment pleaded as estopping the Defendants,

*In the  
Supreme  
Court.*

declares the said Defendants acting without the 2nd Plaintiff's and others who appointed him as the Representative of the Family as having appointed a Head of the Family—and the declaration is of full force and effect against the Defendants herein.

No. 13.  
Plaintiffs'  
Reply  
(Suit  
No. 32/47),  
25th  
February  
1948,  
*continued.*

5. The Plaintiffs join issue on all other allegations of fact in the Defendants' Statement of Defence.

Dated at Azinyo Chambers, Accra, this 25th day of February, 1948.

(Sgd.) K. ADUMUA-BOSSMAN,  
Solicitor for Plaintiffs.

To the Registrar,  
Land Court,  
Accra,

10

and

To the above-named Defendants, J. K. Q. Aryeh, D. S. Quarcoopome, J. Amos Lamptey, Charles Amoo Ankrah, J. K. Ankrah, A. Dina Ankrah and Aflah Quarcoopome, all of Accra.



No. 14.

**ORDER FOR JOINDER of J. C. Ankrah as Co-Plaintiff. Suit Nos. 112/47 and 32/47.**

*In the  
Supreme  
Court.*

IN THE SUPREME COURT OF THE GOLD COAST,  
Eastern Judicial Division.  
Land Court, Accra.

Suit No. 112/1947.

No. 14.  
Order for  
Joinder  
of J. C.  
Ankrah  
as a Co-  
Plaintiff  
(in Suits  
No. 112/47  
and 32/47)  
22nd June  
1948.

(L.S.)

10 (Sgd.) T. A. Dennison,  
Acting Judge.

M. D. ADJABENG ANKRAH alias KWAKU NYAME  
ANKRAH for and on behalf of MANTSE ANKRAH  
FAMILY of Otublohum Dadebanna, Accra . . . Plaintiff  
JOSEPH COMMEY ANKRAH . . . . . Co-plaintiff  
*versus*  
M. CAPTAN of Accra . . . . . Defendant  
CHARLES AMOO ANKRAH as Head and Repre-  
sentative of MANTSE ANKRAH Family of  
Otublohum, Accra . . . . . Co-defendant

20

and

Tr. Suit No. 32/1947.

NAA QUARDUAH ANKRAH and M. D. A.  
ANKRAH alias KWAKU NYAME ANKRAH both  
of Accra . . . . . Plaintiffs  
*versus*

J. K. Q. ARYEH, D. S. QUARCOOPOME, J. AMOS  
LAMPTEY, CHARLES AMOO ANKRAH, J. R.  
ANKRAH, A. DINNAH ANKRAH and AFLAH  
QUARCOOPOME . . . . . Defendants

30

(Consolidated)

**ORDER FOR JOINDER HEREIN.**

UPON HEARING Mr. Joseph Commey Ankrah the Applicant herein and UPON READING the Affidavit of the said Applicant filed herein on the 11th day of June, 1948, in support of application on Notice for an Order for Joinder herein :

IT IS HEREBY ORDERED that the said Joseph Commey Ankrah, Automobile Engineer of Accra who is likely to be affected by the result of the above action, BE AND IS HEREBY joined as Co-Plaintiff in the above cause :

40

AND IT IS HEREBY FURTHER ORDERED that the said Joseph Commey Ankrah Co-Plaintiff be served with the pleadings filed herein to date ; and that the said Co-Plaintiff shall file his Statement of Claim

*In the  
Supreme  
Court.*

No. 14.  
Order for  
Joinder  
of J. C.  
Ankrah  
as a Co-  
Plaintiff  
(in Suits  
No. 112/47  
and 32/47),  
22nd June  
1948,  
*continued.*

within 21 (Twenty-one) days from the date of service ; and the Defendants herein shall file their Statement of Defence within 14 (Fourteen) days from the date of service of the said Statement of Claim upon them. The said Co-Plaintiff to file his Reply (if any) within 7 (Seven) days from the date of service of the Statement of Claim upon him.

Given under my hand and the seal of the said Court at Victoriaborg, Accra, this 22nd day of June, 1948.

(Sgd.) DUGBARTEY NARNOR,  
Registrar, Land Court.

No. 15.  
Co-  
Plaintiff  
J. C.  
Ankrah's  
Statement  
of Claim,  
20th July  
1948.

No. 15.

10

Co-Plaintiff J. C. Ankrah's STATEMENT OF CLAIM.

IN THE SUPREME COURT OF THE GOLD COAST.  
Eastern Judicial Division.  
Land Court, Accra.

*(Title as No. 14. Consolidated Suits.)*

STATEMENT OF CLAIM OF JOSEPH COMMEY ANKRAH, CO-PLAINTIFF.

1. My name is Joseph Commey Ankrah, Automobile Engineer, living in Accra. I am one of the accredited members of Mantse Ankrah Royal Stool Family. My father's name was Aboe Ankrah the eldest son of Nii Antonio Ankrah the eldest son of Mantse Ankrah therefore I am a great-grand-son of Mantse Ankrah. 20

[sic]

2. The land with the cement Block buildings thereon described in the Affidavit dated the 11th June, 1948, and filed herein, belongs to me and that the said land was granted to me by the Plaintiff M. D. A. Ankrah alias Kwaku Nyame Ankrah since the year 1938 in his capacity as the duly and customary appointed Acting Mantse Ankrah and attends all State Council Meetings and functions of the Ga State according to custom and Acting Head of the Royal Stool Families and who is also the caretaker of Mantse Ankrah ancestral Royal Stool known as Nii Otu Ahiakwa Royal Stool of Otublohum-Dadebanna-Accra together with all the paraphernalia connected with the said stool and all other properties including Awudome land. 30

3. That I, Joseph Commey Ankrah with my brothers and sisters namely, Apponsah Ankrah, Darku Ankrah, Commey Tetteh Ankrah, Amoo Ankrah, Otu Quamina Ankrah, Amanuah Ankrah, Aryeekailey Ankrah, late Aku Ankrah approached the late Amanuah Ankrah we wanted plots to build houses thereon. She directed us to see Plaintiff M. D. A. Ankrah alias Kwaku Nyame Ankrah. He being in charge of the Stool and its properties in order to get what we wanted. We accordingly saw the Plaintiff who went with us to Awudome and gave us the plots 40

of land for which we performed the usual customary rites attendant upon such customary grants. This custom was performed in the presence of four principal members of the Mantse Ankrah's Family.

*In the  
Supreme  
Court.*

4. The Plaintiff M. D. A. Ankrah alias Kwaku Nyame Ankrah has been representing the family as far back as from 1926 by native custom supported by Power of Attorney subsequently given by the members of the said Stool family in 1930 to 1942 and which later on, was duly confirmed by the execution of a new Power of Attorney dated the 16th day of February, 1942, by the said family and amongst the signatories thereof, I, the said Co-Plaintiff, Joseph Commey Ankrah subscribed my name thereto.

No. 15.  
Co-  
Plaintiff  
J. C.  
Ankrah's  
Statement  
of Claim,  
20th July  
1948,  
*continued.*

5. For the Court's information, the Co-Defendant Charles Amoo Ankrah was also amongst the signatories who empowered the Plaintiff herein by the Power of Attorney herein referred to *supra* and further for the Court's information, I say that the said Power of Attorney has not been revoked, consequently the Plaintiff herein is in possession of the Stool's and all its paraphernalia and all other properties connected with the Stool, including Awudome land.

6. The Plaintiff herein the Representative of the Mantse Ankrah Family known as the Nii Otu Ahiakwa Royal Stool Family of Otublohum is transferred Suit No. 22/1930 from the Ga State Council to this Court held before Mr. Justice Hall in the case of *Nii Ankrah Quansah* versus *Mantse Amponsah* substituted by J. S. Bruce-Vanderpuye about this same Awudome and also in transferred Suit No. 3/1943 which said Suit was heard before Mr. Justice Quashie-Idun, in the case of *J. K. Q. Aryeh & Ors.* versus *Malam Dawuda*, M. D. A. Ankrah the Plaintiff herein, being Co-Defendant for and on behalf of the Mantse Ankrah family in connection with this same Awudome land.

7. The Plaintiff's appointment as Representative and caretaker to deal with the said Awudome land was the subject-matter in the said suit No. 3/1939 between *Aryeh & Ors.* versus *Dawuda*, M. D. A. Ankrah, Co-Defendant: the decision was in favour of the Defendants on the 13th day of November, 1943, and on appeal the decision was upheld by the West African Court of Appeal dated 23rd day of May, 1944, in connection with this same Awudome land.

8. The Plaintiffs in the case referred to above are the same persons who made the Co-Defendant herein Charles Amoo Ankrah their Head ostensibly to sell a portion of this very Awudome land to the Defendant Captan to satisfy their selfish ends and they are also the same persons involved in the transferred suit No. 32/1947 between *Naa Quarduah Ankrah and M. D. A. Ankrah* alias *Kwaku Nyame Ankrah* versus *J. K. Q. Aryeh, D. S. Quarcoopome, J. Amos Lamptey, Charles Amoo Ankrah and Others* as Defendants herein.

9. That the Defendant M. Captan on being approached by me when I saw that he had fixed pillars on my land he told me that one M. D. A. Ankrah has sued him and should he win the case, my land,

*In the  
Supreme  
Court.*

No. 15.  
Co-  
Plaintiff  
J. C.  
Ankrah's  
Statement  
of Claim,  
20th July  
1948,  
*continued.*

together with the buildings thereon, are all included. This information emboldened me to apply to be joined as Co-Plaintiff herein, in the suit No. 112/1947. Both the Defendant J. K. Q. Aryeh and others know that I have been granted land by the Plaintiff M. D. A. Ankrah alias Kwaku Nyame Ankrah with the knowledge and consent of the Mantse Ankrah family and that I have built thereon. It is no little surprise to me when I heard that my land together with the buildings thereon, has been sold to the Defendant Captan or in some other words that the portion of the land sold to him includes my land.

Dated at Accra this 20th day of July, 1948.

10

(Sgd.) JOSEPH COMMEY ANKRAH,  
Co-Plaintiff.

To the Registrar,  
The Supreme Court, Accra,  
and

To be served M. D. A. Ankrah alias Kwaku Nyame Ankrah, and  
M. Captan, Charles Amoo Ankrah.

No. 16.  
Defence of  
Defen-  
dants C. A.  
Ankrah  
and Others  
to Claim  
of J. C.  
Ankrah  
(Suits Nos.  
112/47 and  
32/47),  
9th August  
1948.

No. 16.

**DEFENCE of Defendants C. A. Ankrah and Others to Claim of J. C. Ankrah.  
Suit Nos. 112/47 and 32/47.**

20

IN THE SUPREME COURT OF THE GOLD COAST  
Eastern Judicial Division  
Land Court, Accra.

*(Title as No. 14. Consolidated Suits.)*

STATEMENT OF DEFENCE (TO THE CO-PLAINTIFF'S CLAIM) FILED ON BEHALF  
OF THE CO-DEFENDANT IN THE FIRST, AND THE DEFENDANTS IN  
SECOND OF THE CONSOLIDATED SUITS BY AKUFO ADDO, Esquire.

1. The Co-Defendant in the first, and the Defendants in the second, of the two consolidated suits admit, and have at all material times admitted, the Co-Plaintiff's title to the land described in paragraph 2 of his Statement of Claim, and they say that the said land was to the knowledge of the Co-Plaintiff excluded from the area sold to the Defendant M. Captan.

30

2. The Co-Defendant and the Defendants say as to the rest and remainder of the allegations contained in the Statement of Claim that it is unnecessary in view of the above admission, to plead to them.

Dated at Kwakwaduum Chambers, Accra, the 9th day of August, 1948.

(Sgd.) AKUFO ADDO,  
Co-Defendant and Defendants'  
Solicitor.

The Registrar, Land Court, Accra,  
10 A. M. Akiwumi, Esq., Solicitor for M. Captan,  
K. A. Bossman, Esq., Solicitor for Plaintiffs,  
and  
Joseph Commey Ankrah, the Co-Plaintiff of Accra.

*In the  
Supreme  
Court.*

No. 16.  
Defence of  
Defen-  
dants C. A.  
Ankrah  
and Others  
to Claim  
of J. C.  
Ankrah  
(Suits Nos.  
112/47 and  
32/47),  
9th August  
1948,  
*continued.*

No. 16A.  
COURT NOTES.

IN THE LAND COURT OF THE SUPREME COURT OF THE GOLD  
COAST, Eastern Judicial Division, held at Victoriaborg, Accra, on  
Monday the 23rd day of August, 1948, before JACKSON, J.

No. 16A.  
Court  
Notes,  
23rd  
August  
1948.

20 M. D. ADJABENG ANKRAH and JOSEPH COMMEY ANKRAH  
V.  
M. CAPTAN and C. A. ANKRAH  
and  
NAA QUARDUAH ANKRAH & Anor.  
V.  
ARYEH and Others  
(Consolidated actions.)

Bossman for Plaintiffs in both actions.  
Akiwumi for Captan.  
Akufo Addo for C. A. Ankrah and Aryeh and others.

30 AKUFO ADDO :

This case only came on the list last Friday. Pleadings were filed by C. A. Ankrah and I filed my Statement of Defence—but had no hearing Notice. Ask until tomorrow to prepare my case.

Bossman : and Akiwumi agree with postponement until tomorrow.  
Postponed to 24.8.48.

(Sgd.) J. JACKSON,  
Judge.

*In the  
Supreme  
Court.*

No. 17.

OPENING ADDRESSES of Counsel.

No. 17.  
Opening  
addresses  
of Counsel,  
24th  
August  
1948.

IN THE LAND COURT OF THE SUPREME COURT OF THE GOLD  
COAST, Eastern Judicial Division, held at Victoriaborg, Accra, on  
Tuesday the 24th day of August, 1948, before JACKSON, J.

1. M. D. A. ANKRAH

2. J. C. ANKRAH

V.

1. M. CAPTAN

2. C. A. ANKRAH

10

and

N. Q. ANKRAH & M. D. A. ANKRAH

V.

ARYEH and others.

Assessor : J. A. Attoh.

(1) For  
Plaintiffs.

*Bossman* addresses Court :

Basic facts not seriously in dispute. Land was granted by Manchemei  
of Ga State to the late Manche Ankrah on his return from the Barme War  
(1853 approx.) whereon he might settle with the slaves he had then brought  
from the war and land has been attached to his stool since then. Previous  
litigations—first was in 1930 when Divisional Chief under whom was  
Manche Ankrah Family Stool claimed whole land as attached to  
Otublohum Stool. Occupant of the Manche Ankrah Stool at that time was  
Nii Ankrah Quansah and he successfully maintained title of the family as  
against the Divisional Chief. 20

[sic]

Another case in 1931 before Hall, J. (Divisional Court) between  
Nii Ankrah Quansah and representative of the Otublohum Manche.  
Judgment *in* 17.8.31 in favour of Nii Ankrah *Manche*. Last occupant  
of Stool was Nii Ankrah Quansah who died in 1936 and since his death  
Plaintiff (M. D. A. Ankrah) has been the lawfully appointed acting Head  
of the family who has been in charge of the land up to date. 30

As pleaded in para. 6 of Statement of Claim dated 3.12.47 in  
Suit 32/1947.

While he was so acting certain persons who now purport to have  
now made Charles Amoo Ankrah (Defendant in Suit 112/1947) the head  
challenged the Plaintiff's authority to make a grant to an Hausa man  
called Dawuda and J. E. Allotey—they claimed they were the direct male  
descendants of Manche Ankrah that property was their property and the  
property of the wider stool family and that Plaintiff had no authority to  
make grant.

40

*Court* :

What type of grant ?



*Bosman :*

Grants by way of gifts in perpetuity with usual rights by custom on failure of heirs—but a right of disposal during lifetime of grantee on the descendants. Judgment given on 13.11.1943 wherein Court found that Plaintiff was the properly appointed person to deal with the stool land. Plaintiffs in that case are now the Defendants—judgment was in favour of Ankrah—a judgment subsequently confirmed in West African Court of Appeal.

10 It is our contention that this dispute in effect is an attempt to re-litigate the same matter already adjudicated upon. Same people who disputed with Ankrah in 1943 now allege they have made Charles Amoo Ankrah (who was in 1943 on our side) head of the family giving him power to deal with the lands.

Plaintiff is the only person authorised to assume such an authority until such time as he has been lawfully removed from his position as head of the family. Persons entitled to appoint and to remove the head have not at any time questioned the Plaintiff's authority to deal with the land.

Submits that burden of proof falls upon Defendants to show that Plaintiff has been lawfully removed from his office as head of the family.

20 Cause of Action was sale of a large area of land abutting on Ring road to a Syrian named Captan—whole area formerly occupied by the Base Ordnance Depot—just by the junction of the Railway line. These are the facts upon which Plaintiff relies.

*Akufo Addo :*

On behalf of Charles Amoo Ankrah and the Defendants in suit No. 32/1947. Certain basic facts as to history of land are not denied. It is however denied that Nii Ankrah Quansah at any time occupied the family stool. He was appointed by the family to act as a caretaker and their Attorney in all matters affecting family property.

(2) For Defendants other than Captan.

30 *Court :*

Has not status of Nii Ankrah Quansah ever been defined in these cases so as to bind you ?

*Akufo Addo :*

That has never been decided. As regards the 1943 dispute it is correct to say that judgment did go against my clients but judgment did not pronounce Plaintiff as head of family—he was pronounced to be a representative appearing with a Power of Attorney.

40 Since that judgment family has elected a substantive head of the Manche Ankrah family. Manche Ankrah stool family is under the Manche of Otublohum. Otublohum Manche is also a member of the Manche Ankrah family. It is the custom in the family that heads of family when appointed are always presented to the Otublohum Manche who performs certain customary ceremonies and who in turn presents the appointed head to the Ga Manchemei in Accra. That was done in the case of Charles Amoo Ankrah in accordance with the strict requirements of custom.

*In the Supreme Court.*

No. 17.  
Opening addresses of Counsel, 24th August 1948, *continued.*

*In the  
Supreme  
Court.*

My learned friend has propounded that as Acting Head is the only person who can summon a family meeting—that we deny has ever been the custom—such a custom would be contrary to Akan principles of Equity.

No. 17.  
Opening  
addresses  
of Counsel,  
24th  
August  
1948,  
*continued.*

As to Suit 32/1947 we have pleaded estoppel in para. 2 of our Defence dated 11.2.48—estopped from claiming any individual property, interest she claims in the Statement of Claim an interest arising from a grant made to her by the Head of the family—she is estopped and at appropriate stage I will tender the claim and judgment referred to.

*Akwumi :*

10

(3) For  
M. Captan.

Our position is that we acquired our interest in a bona fide owner and we are unable to say who is entitled to be our vendor and we abide the result of the case.

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**PLAINTIFFS' EVIDENCE.**

**No. 18.**

**M. D. A. ANKRAH.**

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
24th  
August  
1948.

MARK DAVID ADJABENG ANKRAH : Sworn/States in Ga :  
1st Plaintiff (112/47) 2nd Plaintiff (32/47).

Examina-  
tion.

*Examination-in-Chief :*

Also known as Kwaku Nyame Ankrah. Carpenter by trade. Live in Accra. I am the eldest in the family of Manche Ankrah. The family has a stool from time immemorial. Stool is called Otu Ahiakwa Stool. Manche Ankrah who went to Barme War sat on this stool. He was the fifth Manche. He was sitting on that Stool when he went to the War. When he returned from that war the Chiefs made him a present of this land and this land is called Awudome. He settled his captives on that land. After him Nii Okanta Ankrah sat on the stool. After him came Antonio Ankrah. After him Kpakpo Odehe Ankrah sat on the stool. After him Ankrah Quansah alias William Adjabeng Solomon sat on the stool.

30

*Q.* It is suggested that Ankrah Quansah was only an acting head and that he never sat on the stool ?

*A.* That is not so.

*In reply to Court :*

I knew him during his lifetime and I was one of the people who installed him and I was acting Ankrah before he was enstooled in about 1927.

*Examined :*

I produce a copy of proceedings showing evidence of J. K. Aryeh (Defendant).

40

*Akufo Addo :*

Object to the evidence at this stage as irrelevant.

*Bossman :*

I tender it as an admission made on oath on a former occasion by one of the Defendants in a matter which is now in issue.

*In the  
Supreme  
Court.*

*Court :*

That evidence I rule is admissible (admitted and marked No. 1). (Evidence of Josiah Korquaye Quaminah Aryeh commencing at p. 172 and running to p. 190 where this relevant portions are tendered in evidence as admission.)

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
24th  
August  
1948,  
*continued.*

*Examined :*

10 Quansah alias Solomon died in 1936. I buried him at the request of the family (Ankrah).

Ex. " 1."

*Q.* In whose charge is the stool today ?

*A.* The stool, the paraphernalia and all the lands are in my charge today. The stool is in my possession. I performed the stool custom this year. Every year custom is performed for the stool.

*Q.* How were you appointed to act as head after his death ?

*A.* A meeting was held in the house where the late Quansah Ankrah lived and died.

*Q.* What customs were performed ?

20 *A.* The elders of the stool of which I am one took rum to the Stool Room and poured libation and called the names of all the ancestors and they said from " today " you are appointed to look after the stool, the family, the paraphernalia and all the lands. That was spoken to me.

*Q.* After that were you taken and shown to the Chiefs of the Town ?

*A.* I was taken to a State Council Meeting and I was introduced to all the members as being the man who was to represent the Manche Ankrah family. Charles Amoo Ankrah was present and followed me to the State Council. The Ga Manche then was Nii Ayi Bonte—he was the acting Ga Manche until Tackie Oblie was enstooled. Akototse Kobla and Oko Ankrah were among the elders and among the elderly women attending the pouring of the libation were Owusua and Wamba Quarmahfio.

30

*Q.* After the pouring customary side were you given any document ?

*A.* Yes—I tender it (admitted and marked No. 2).

Ex. " 2."

*In reply to Court :*

I can read a little and write a little.

This signature is that of Charles Amoo Ankrah now sitting in Court.

*Court :*

That is no signature—it is a mark.

*In reply to Court :*

40 I was appointed and started to act. I attended several State Council meetings. I know Malam Dawuda. While acting as head I gave land to Allotey a member of the family. I gave him the land to build on.

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
24th  
August  
1948,  
*continued.*

Ex. "3."  
Ex. "4."  
Ex. "5."

*Examined :*

Q. Did you retain to your family any rights in that land ?

A. He was given the land outright. He could lease to a stranger but he could not sell. If family permitted he could sell. Dawuda occupied this land. There was an action about it. Present Defendants brought an action. Proceedings commenced in the Ga Mantse's Native Court and was then transferred to the Divisional Court (Proceedings tendered, admitted and marked No. 3). Tender copy of proceedings in the Divisional Court (admitted and marked No. 4). I was joined on my application as a Defendant and as representing the Nii Ankrah family. Judgment 10 affirmed by the West African Court of Appeal (Proceedings tendered and admitted and marked No. 5). After this case my position as acting Head was not challenged except when this present litigation started. I am conversant with native custom.

Q. As from time when acting head is appointed who is responsible for convening family meetings ?

A. The Acting Head.

Q. Supposing any of the members wished to summon a meeting can they ignore you and convene one themselves ?

A. No—unless they come and tell me first. 20

Q. If you are requested to convene a meeting can you by native custom refuse to do so ?

A. I have no right to refuse.

Q. After this case did the Defendants at any time request you to convene a family meeting for any purpose ?

A. No—they have not requested me—but they sent and told me they were going to convene a meeting to elect a Head of family.

Q. What was the message you got ?

A. J. R. Ankrah sent to tell me that they were going to meet and elect a head of Manche Ankrah family and I said "no that is not the 30 custom."

*In reply to Court :*

Q. Why was that not the custom ?

A. What they could have done is this. After that case (Divisional Court) they should have gone to one of the Elders in the Town of Accra to convene the meeting in order that myself and the Defendants would meet with the whole family. We had been at loggerheads. It was equally wrong for them as for me to convene a meeting. I was of opinion that if a meeting was to be held it was to be convened by a neutral elder in the town. 40

*Examined :*

Meeting was held and I and my faction did not attend other than Charles Amoo Ankrah (Defendant). Later on I heard they had sold the land to Captan.

Q. In your appointment by members of the family you say that with the exception of Charles Amoo Ankrah none of the Defendants participated in your appointment ?

A. That is so.

Q. Have personnel who had no share in your appointment the right to remove you by custom ?

A. Custom does not allow that.

Q. Charles Amoo Ankrah and J. R. Ankrah (Defendants) you say rank with you as " brothers " ?

10 A. Yes.

Q. The rest of the Defendants are younger members of the family ?

A. Yes—they are our children. I know Naa Quarduah Ankrah (Plaintiff). She is a member of the family—I am older than *her*. She is an elder and has a voice in the family affairs. I gave her a portion of this land outright.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
24th  
August  
1948,  
*continued.*

[*sic*]

*In reply to Court :*

I have given land to Charles Amoo Ankrah. I gave it to him about 1934. We made no document. It was an outright grant as to other members of the family.

20 *Examined :*

This land sold to Captan is attached to the Otu Ahiakwa Stool. I with consent of family, am only person who can deal with it. Defendants had no right to sell it to Captan.

*Cross-examined by Akufo Addo :*

Q. You are not a direct descendant of Mantse Ankrah ?

A. His brother, Ayi, is my grandfather.

Q. Late Ankrah Quansah was also a descendant of Ayi ?

A. Yes—the grandson of Ayi.

Q. Do you know late Ankrah Quansah's (Solomon) handwriting ?

30 A. Yes—if I am shown it. Yes, he signed it. He was called Solomon Ex. " A." (Admitted and marked " A " ).

Q. Apart from that document and your document—there have been no documents relating to person occupying the Stool ?

A. Okanta, Antonio and Kpakpo Odehey were actually elected and enstooled and no documents were made.

Q. In the case of Solomon he was not actually placed on the Stool as in the case of these other three ?

A. In 1922 Ankrah Quansah had not been installed—until 1927 when he was actually installed. That was why we gave him a paper in 1922.

40 Q. What was he to Manche Ankrah ?

A. His brother.

Q. The other man Antonio was a son of Manche Ankrah ?

A. Yes.

Cross-  
examina-  
tion.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
24th  
August  
1948,  
*continued.*

*Q.* Kpakpo Odehey was a grandson ?

*A.* Yes.

*Q.* Manche Ankrah had a son by name of Kommey Tetteh ?

*A.* Yes.

*Q.* His son is Charles Amoo (present Defendant) ?

*A.* Yes.

*Q.* You and Adjarbeng Solomon (Ankrah Quansah) were descendants of Nii Ayi ?

*A.* Yes.

*Q.* You have never been installed as Head of Manche Ankrah Stool 10 family ?

*A.* I have not.

*Q.* It is a fact that as between you and Charles Amoo—Charles Amoo has the better claim to be the substantive head ?

*A.* He has no better claim than I have.

*Q.* When were you appointed to the family as the Acting Headship ?

*A.* I was acting until Ankrah Quansah was enstooled and one of the elders who installed him and after his installation I ceased to act. After his death I acted again.

*Q.* When were you then appointed an acting head ?

20

*A.* About 1925.

*Q.* Do you say that by 1925 this document (A) had ceased to have any effect ?

*A.* This document was given in respect of a case in the Tribunal (refers to Exhibit "A").

*Q.* You say that the word "Attorney" is referred to herein with reference to a particular case ?

*A.* Yes.

*Q.* When did you start acting ?

*A.* About 1925.

30

*Q.* Who was the last man on the stool before 1925 ?

*A.* After Kpakpo Odehey nobody has sat on the stool before 1925. Kpakpo Odehey died about 1904.

*Q.* Do I understand you to mean you acted from 1904 to 1925 ?

*A.* No—I said I started acting in 1925.

*Q.* Who was caretaker between 1904 and 1925 of family property ?

*A.* One Afo Ankrah, Oku Ankrah and Chief John Vanderpuye and then W. A. Solomon. They were caretakers for the stool between 1904 and 1925.

*Q.* Were they all direct descendants of Manche Ankrah ?

40

*A.* They were all related by blood.

*Q.* You appreciate that any member on the Nii Ayi side who had anything to do with this property has done so as a caretaker ?

*A.* Yes, and they occupy the stool too.

Q. Can you tell me anyone from the Nii Ayi side who has been actually installed on the stool ?

A. Nii Ankrah Quansah alias Solomon. Apart from him no one else from the Nii Ayi side.

Q. Are you saying that the land was never Manche Ankrah's personal property ?

A. No—because he alone did not go to the war.

Q. With whom did he own the property in his lifetime ?

10 A. During his lifetime he knew himself that when he sat on the stool —all property acquired by him belonged to the stool. I was a party when claim was made—that this was Otublohum land (Refers to pp. 6-7).

Q. You said that the stool that he occupied was the Otu Ahiakwa Stool ?

A. Yes.

Q. You do no doubt draw a line between the Manche Ankrah family and the Otu Ahiakwa family ?

A. The Otu Ahiakwa stool is the one that Manche Ankrah occupies.

Q. There is a branch of Otu Ahiakwa family which was initiated by Manche Ankrah ?

20 A. There is no difference. I am a member of the family.

Q. According to you the Otu Ahiakwa Stool was in existence long before Manche Ankrah went to war ?

A. Yes.

Q. And according to you he was also a founder of the Stool ?

A. Yes.

Q. There only is the family called Manche Ankrah and not Otu Ahiakwa ?

A. Manche Ankrah was a great man and his name has become bigger than all his predecessors.

30 Q. We say that Manche Ankrah was the founder of the Stool ?

A. So you said, and judgment was given against you.

Q. Do you realise that the name of Ankrah never formed a part of the stool name until Manche Ankrah and those who came after him ?

A. What you are saying is not true (Akufo Addo refers me to paragraph 1 of Plaintiff's Statement of Claim dated 22.9.1947).

Q. You are not suggesting that the Otu Ahiakwa stool is the Otublohum Stool ?

A. They are different stools. Otu Ahiakwa brought the same name to found the Quarter.

40 Q. Do you claim that the Otu Ahiakwa stool is bigger than the Otublohum stool ?

A. Nowadays it is not—but in former days it was because he founded his own Quarter.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
24th  
August  
1948,  
*continued.*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
24th  
August  
1948,  
*continued.*

*Q.* You do agree that Manche Ankrah family is only one Section of Otublohum Quarter ?

*A.* It is half of that Quarter. They say I am under the Otublohum Manche but I do not agree because there is a case pending.

*Q.* You know that when a sub-chief had to be taken to the State Council a bigger Chief takes him to introduce him ?

*A.* The only person who has the right to introduce him is the person who was acting before he was enstooled.

*Q.* Who introduced you to the State Council ?

*A.* Akototse Kobla the grandson of Manche Ankrah. Ayi Oko 10 Ankrah. He was another person who took me to the State Council. Also Linguist Ashong.

*Q.* Who was the man who introduced you ?

*A.* Akototse and Ayi Oko Ankrah.

*Q.* They did not sign your power of Attorney ?

*A.* They had died before the Power of Attorney was made.

*Q.* But their names are there ?

*A.* That is not the Ayi Oko Ankrah I mentioned—he was dead then.

*Q.* Why did it ever become necessary to draw up a Power of Attorney in an English form with the greater number of the subscribers illiterate ? 20

*A.* In case of any cases arising about the stool lands.

*Q.* Do not nearly all the persons whose names are here come from the Nii Ayi and Nii Okanta side ?

*A.* They were direct descendants of Otu Ahiakwa. When you see the name Otu—that is Ahiakwa.

*Q.* After that case the Defendants sent to you to ask the whole family to meet ?

*A.* No one of them ever came to me.

*Q.* Which of them came to you to say that a meeting should be held to appoint a head ? 30

*A.* A man called Ayidornu who said that J. R. Ankrah had sent him to say they were electing a Head and I should come.

*Q.* Do you say you have never seen Mr. Aryeh (Defendant) in the house with a message ?

*A.* He did not come.

*Q.* Did Revd. Father Okwabi once send for you to come and settle your family affairs also Revd. Mettle ?

*A.* Madame Owusua said that Father Okwabi should call a meeting because the person they had elected as an Acting Head was not a proper person. I have been to Father Okwabi's place about three times. 40

*Q.* All these meetings were summoned at the request of others to settle the family affairs ?

*A.* Yes.



*Q.* And on all 3 occasions it was for the same purpose ?

*A.* No—in 1943 we went to settle the family dispute but in 1945 they had elected Charles Amoo Ankrah and it was because of that we were there. They did not agree and wanted to hear the result of the case first. It was at the instance of my party that that meeting was convened. J. R. Ankrah (Defendant) is very much older than I am.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 18.

M. D. A.  
Ankrah,  
24th

August  
1948,

*continued.*

*Q.* In fact the oldest in age in the Ankrah family ?

*A.* There is no doubt about that.

10 *Q.* And do you say that the oldest man in the family cannot send for you to come and convene a meeting ?

*A.* No one can convene a meeting without the consent of the family.

*In reply to Court :*

To Court.

The message to me was that they had met to elect a Head and that I should come.

*Cross-examined :*

They did not suggest that one should be convened.

Cross-  
examina-  
tion  
(*continued.*)

*In reply to Court :*

20 *Q.* Are you anxious that a Head should be appointed ?

*A.* I am.

*Q.* Have you asked the Chief of Accra to convene a meeting ?

*A.* (Quibbles and does not reply.)

*Cross-examined :*

Since I began to act there has been constant litigation.

Adjourned to 25.8.48.

(Sgd.) J. JACKSON,  
Judge.

25.8.48.

25th  
August,  
1948.

30 *Q.* Do you remember a suggestion being made by Defendants that a representative each from the section of family namely Manche Ankrah, Nii Ayi and Nii Okanta should be appointed to act jointly in the management of the families properties ?

*A.* It is not true.

*Q.* You know the Otublohum Manche (Amu Nakwa) ?

*A.* Yes, I know him.

*Q.* He is a descendant of Nii Ayi as you are ?

*A.* Yes.

*Q.* You agree that he is the oldest living member of the Nii Ayi Family ?

40 *A.* Yes.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 18.  
M. D. A.  
Ankrah,  
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August  
1948,  
*continued.*

*Q.* Is it not a fact that when Nii Ankrah sent to you that a meeting was required that messenger told you the meeting was to be held in the presence of the Otublohum Manche ?

*A.* No.

*Q.* It is a fact that before the 1943 litigation Defendants had made two attempts to get a meeting convened to appoint a head ?

*A.* It is not true.

*Q.* You know Amanua Ankrah ?

*A.* Yes. She was one of the oldest women in the Manche Ankrah Family. 10

*Q.* Do you remember a meeting in her house in the High Street ?

*A.* It is not true. We had a meeting in her house during the earthquake (1939). Some of the Defendants were there.

*Q.* What was the subject of the discussion then ?

*A.* Government wanted some land to erect building for earthquake victims —so we met there. That was the only meeting we held there apart from those concerning deaths of members of the family.

*Q.* Do you remember a meeting at Lamptey's mother's house at Korle Gonno ?

*A.* We had several meetings. Mr. Lamptey's mother sent for me and I went there. 20

*Q.* Lamptey's mother is oldest living descendant of Manche Ankrah now living ?

*A.* She is not older than Owusua.

*Q.* The object of the meeting was to try and settle the family differences and to get peace in the family ?

*A.* No—not on account of that.

*Q.* Did you know the meeting was called at the instance of the Defendants ?

*A.* No—my sister called me. When I was there the conversation had no interest to me. 30

*Q.* What was the subject that was of no interest to you ?

*A.* She told me that the Defendants had suggested that I should remove from the caretakership and I told her that if that was so there should be a meeting convened by the whole family.

*Q.* Is it not a fact that all the elderly people in the three sections of the family were present ?

*A.* He called myself alone and I met two Quarcoopomes and two Lampteys there and Amponsah. These people belonged to the Ankrah family. 40

*Q.* Have you taken any steps to see that a substantive head shall be appointed ?

*A.* Ever since I started acting there was litigation in the family. The family are more powerful than myself and they made me take the position. They can change me if they like. Antonio Ankrah is known as Kommey. Okanta before him occupied the Manche Ankrah family stool.

Q. Do you know of a Government acquisition in 1895 of lands belonging to Manche Ankrah family ?

A. Yes—at that time I was grown up. I am now nearly 70 years of age. Manche Antonio Ankrah gave evidence in that case. Matter came before the Supreme Court. I did not come to Court.

Q. Did you know that he told the history of the Manche Ankrah stool to the Court ?

A. Yes, I know he gave a history. He told me the history.

Q. He was the eldest son of Manche Ankrah ?

10 A. He was not.

Q. The name Kommy by Ga Custom is always given to the eldest son ?

A. No.

*Court to Assessor :*

What is your view ?

*Assessor :*

Kommei indicates “ eldest son—Kommei means the first son—but if there be a girl before him—the name would still be Kommei.”

*Cross-examined :*

20 Antonio Ankrah would tell the Court what he told me.

*Akufo Addo :*

I tender the evidence.

*Bossman :*

I object, question of the character of the property is not in dispute. Objection.

*Court :*

The Courts have already held that on the 8.2.41 when the Writ was issued in a previous case the present Plaintiff was the proper person to deal with these lands. The issue before me now is has the Plaintiff prior to the grant to Captan been removed from that office. How does the evidence tend to show that the Defendants were justified in removing the Plaintiff from his office ?

30

*Akufo Addo :*

The foundation for the relevance of the evidence is that we say the land was granted to the late Manche Ankrah as a present for his war services and that it descends to his successors according to the ordinary rules of inheritance and that Manche Ankrah was the founder of the Stool referred to as the Manche Ankrah stool and was founded after the war. We say that the head of family shall be appointed according to the law which governs these rights of inheritance of family property and not of

40 Stool property.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

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*Bossman :*

Defendants are estopped from raising the issue by the Judgment dated 13.11.43. Effect of this judgment is that their contention that the property of Manche Ankrah can be controlled by a section of the family alone was rejected and the contention of the Plaintiff was that property belongs to the wider stool family was upheld.

*Court :*

In that judgment Quashie-Idun, J., said " It is not for this Court to declare whether the property is or is not stool property. That issue has been decided in 1931. It is to that judgment given in 1931 to which I 10 must look."

*Bossman :*

The learned Judge in his judgment followed and was guided by that judgment which held that the property was stool property. I refer to Exhibit " B " at p. 167 and Hall, J.'s judgment at p. 248.

*Court :*

The terms of the judgment of the State Council appear to me to support the contention made by the defence that the land now the subject of this dispute was the self acquired property of the famous Manche Ankrah of Barne War fame—that on his death intestate it 20 devolved upon his successors as family property and governed by the Ga Laws of inheritance.

But in the case referred to as the 1931 case which appears at p. 238 of the Record in which the Plaintiff was Nii Ankrah Quansah—it is clear from the opening address of his counsel that he claimed the same land to be the property of the Ahiakwa stool and on the 17.8.1931 Hall, J., entered a judgment (settled) granting to the then Plaintiff a declaration in his representative capacity, i.e., as representing the Ahiakwa Stool.

*Akufo Addo :*

30

It does not matter what name is given to the stool. We say that Manche Ankrah founded the stool which is called Ahiakwa stool and founded it after the war—it is a purely family stool as opposed to a public stool. That does not affect the ownership of lands by people possessing a family stool. Inheritance to these lands is governed by the ordinary law as to family property. All that has been settled is that the land is a part of the Manche Ankrah stool property but the true test is whether that property is that of a public or a founder stool—we affirm the latter proposition. Court will observe that the cases referred to were not issues within the family but related to disputes with the Otublohums. At p. 229 40 the parties agreed that " the issues to be tried by the Court were whether or not the Defendant, Ankrah, is a member of the Ankrah family and whether or not he has any right to represent the Ankrah family in this action."

*Court :*

That is, the *Plaintiff's* were then saying that he had no right to represent in the land matter the family of Ankrah as construed in the limited meaning, i.e., the direct descendants and as excluding the other two branches.

*In the  
Supreme  
Court.* [sic]  
—  
*Plaintiffs'  
Evidence.*

*Akufo Addo :*

Court found that Plaintiff had acquiesced for a long time in the present Plaintiff exercising duties as caretaker of this land. At same p. 230, l. 5 " It is significant to note &c. &c."

No. 18.  
M. D. A.  
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*continued.*

- 10 The only question then before the Court (1943) was whether the Defendant has a right to deal with the land. The Court found that he had dealt with the land as stool land for a long time with the knowledge and concurrence of the then Plaintiffs and that at the time he made those grants that authority had not been revoked and it was perfectly left to the family to determine whether he should continue or not. We have decided he shall not and have removed him. We say we have properly removed him as the only persons whose consent is required by customary law are those members of the family who own the family stool of Ahiakwa and known as Manche Ankrah. Seek to put in evidence the evidence of
- 20 Antonio Ankrah to enable the Court to determine the nature of the property and in consequence the manner of its devolution by law. Submit that evidence of Antonio Ankrah is admissible.

*Court :*

I rule that this evidence is admissible. I will give my reasons when ultimately writing my judgment. Ruling.

*Akufo Addo :*

I tender proceedings and refer to pp. 166-167 (admitted and marked " B ").

Admission  
of  
Ex. " B."

*Cross-examined :*

- 30 *Q.* You have been selling some of the land ?  
*A.* I have sold some to Dr. Hoyte with the consent of the family who empowered me to sell. Cross-examina-  
*Q.* When was this ? tion  
*A.* About three years ago. (continued).  
*Q.* How much ?  
*A.* £500.  
*Q.* Where is the money ?  
*A.* That has been expended in litigation.

*Re-examined :*

- 40 *Q.* You've heard it read that Chief Ankrah made his own stool ?  
Have you ever heard that said in the family ?

Re-exam-  
ination.

*A.* I heard that he brought his own stool as a Captain's stool, and that later on he occupied the Ahiakwa stool. He was Captain under

*In the  
Supreme  
Court.*  
*Plaintiffs'  
Evidence.*

Otublohum stool. This Ahiakwa stool is my family stool. Ankrah's grandfather was Otu Ahiakwa and he was the founder of the stool. He created the stool in Accra. That stool is with me to-day, i.e., the Captain's stool (Asafoatse). That stool is under the Otu Ahiakwa's stool.

*In reply to Court :*

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M. D. A.  
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*continued.*

*Q.* How many stools are in your possession ?

*A.* Seven.

*Q.* Where is the Otu Ahiakwa stool ?

*A.* In the same room.

*Akufo Addo through the Court (by leave)*

10

Further  
cross-  
examina-  
tion.

*Cross-examined :*

*Q.* You know that these Defendants swore oath upon you in regard to the Manche Ankrah's stool in your possession ?

*A.* They have sworn the oath—but they are unable to go on with the case.

*Q.* Stool was removed without consent of other members of the family from Ankrah Quansah's house to yours ?

*A.* I am the caretaker of all the stools. During the earthquake I removed them to the old " P. & B " building. I recently went there to live.

20

*Q.* The claim of Defendants initiated by the oath is still pending in the State Council ?

*A.* That was in 1942—they have been unable to prosecute it—they will not come forward to prosecute it.

*Q.* You know that State Council have listened to the evidence on at least six occasions ?

*A.* Yes.

*Q.* The State Council then sent the case back to the Paramount Tribunal ?

*A.* Yes.

30

*Q.* And you appeared there many times ?

*A.* Yes—they have not finished.

Further  
re-exam-  
ination.

*Re-examined :*

*Q.* Who was Ankrah's mother ?

*A.* Amanua.

*Q.* Had she other children apart from Ankrah ?

*A.* A son Ayi and another son Okanta. She had a daughter who died without issue.

*Q.* Of the three who died first ?

*A.* Ayi. He left children and property.

40

*Q.* You say you are a descendant of Ayi ?

*A.* Yes, I am his grandson.

Q. And so was the late Quansah Solomon ?

A. Yes—he was Ayi's daughter's son.

Q. When Ankrah died was any son of his mother alive at the time he died ?

A. Yes—Okanta was alive.

Q. And according to Ga customary law who inherited Ankrah's property ?

A. Okanta inherits property both of Ayi and of Ankrah.

10 Q. As from date when Ankrah died is it possible to contend by customary law that his property can only be inherited by Ankrah's children ?

A. No—custom does not allow this—his uterine brothers and descendants also inherit. I remember the last case before Idun, J. The children only of Ankrah claimed against me—and a small portion of them but the majority of his grandchildren are on my side. My contention is that I am appointed by the descendants of all three, i.e., Ankrah, Ayi and Okanta.

Q. At the time of the meetings before the Church Elders had the 1943 case been heard ?

20 A. At that time judgment had been given by Idun, J., and the appeal before the W.A.C.A. was pending.

Q. Since judgment of W.A.C.A. have they made any effort to reconcile themselves with the other part of the family ?

A. No.

Q. Who is the eldest surviving man in the Okanta line ?

A. Tawia Okanta. I know R. J. Ankrah (*identified in Court*).

Q. From whose line does he come ?

30 A. He is the eldest by age in the Ankrah branch in Accra. He is with me. Chief John Vanderpuye was one of the caretakers. He came from the Ayi line. He acted as caretaker before Nii Quansah was appointed to the stool.

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No. 19.

COMMEY TETTEH.

COMMEY TETTEH : (m.) S/S in Ga : 1st Witness for Plaintiff.

*Examination-in-Chief :*

Live Accra. Linguist to the Ga State. Was linguist to the Gbese Manche for many years before. Have been a linguist since 1927. Have taken part in decision of cases heard in the Native Tribunals and have attended State Council meetings. Know Ga custom.

40 Q. If a man has land and dies intestate will it go to his children or to his uterine brother ?

A. The land goes to the family i.e. to the brother and to the children.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

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No. 19.  
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1948,  
*continued.*

*Q.* Who ordinarily looks after it for all of them ?

*A.* The brother—if he has a good head—he will look after it for the children and for all the family.

*Q.* A man had two brothers by same mother—then died leaving land ; his brothers have died but their children survive. To whom does the property belong now ?

*A.* The land will go to the grandchildren of all three brothers and the one in the whole family who has sense will be appointed by them all to look after the land.

*Q.* If a man occupies a stool—either town or family—and acquires 10 property to whom does that property belong ?

*A.* It belongs to the stool. If you occupy the stool and acquire property while on the stool that property belongs to the stool.

*Q.* I give you the case of one brother leaving property and his two brothers leaving descendants. Take an instance where the children of one of these brothers claim property as against the descendants of the other two brothers and judgment goes against them are any steps prescribed by custom as to how they can be reconciled with the others ?

*A.* There is a way. Some of the losing party i.e. the leader of them must approach the one who was successful to ask him to come to be 20 reconciled with the others. The successful party could also move.

*Q.* Whatever happens would those who have been offended have to give anything by way of pacification ?

*A.* Yes. They would have to get a sheep with rum—slaughter the sheep and eat it and drink the rum.

*Q.* How is a head of a family appointed ?

*A.* Elders meet to appoint on both men's and women's side. They meet in the house of the late Head of the family. The man in whose hands are the things given to take care of must call the meeting and some other elder man in the family can do so. If he is an old man who cannot 30 walk about he sends messengers. If not he goes himself to tell them.

*Q.* Can one branch of such a family as I specified nominate the head of the family for the whole ?

*A.* It cannot. They must all join and do it together.

*In reply  
to Court.*

*In reply to Court :*

*Q.* If they cannot agree and do not want to agree.

*A.* They will continue to try. Those who are obstinate and do not want to come—then the other side will go to a Chief of the town and hand the matter to him to call them and the Chief will call them.

*Q.* If they still do not come—can the chief decide the matter ? 40

*A.* He cannot—as he cannot decide the matter which concerns a family.



*Examined :*

I know the Defendants and the Plaintiffs.

*Q.* While you were linguist to Gbese Manche did they ever appear before you in relation to a family dispute ?

*A.* Yes—I remember Nii Ayite Adjin III was the Manche. That was about four years ago. One of the elders who is not in Court an Ankrah, came and told the Manche that there was no peace between both sides of his family and had come to him to ask him to call both parties to bring unity among them. Both sides met at the Manche's place. Plaintiffs and Defendants all came with their followers.

*Q.* What was the result ?

*A.* The side against whom judgment had gone in the Court told the Manche that they had appealed against the decision of the Court and that the Manche should leave the matter alone and that after the Appeal Court had given a decision they would come again—ask the Manche to call the matter up for a decision.

*Q.* You know that frequently in an election to the occupant of a stool there is division ?

*A.* Yes.

*Q.* When there has been such division and the matter has gone to Court and the installation has been declared by the Court to be in order who would have the right to remove him from that position ?

*A.* Those who enstooled him. I am a member of State Council. I was present when Plaintiff M. D. A. Ankrah was introduced to the State Council—he was introduced as the man who would represent the Atifi and Dadebanna branches of his family. It was the Dadebanna family that they mentioned.

*Q.* Do you know which is the Dadebanna family ?

*A.* They are the Ankrahs.

*30 In reply to Court :*

*Q.* Who are the Ankrahs ?

*A.* Plaintiffs and Defendants are all Ankrahs.

*Examined :*

Owusua among those who introduced him is still alive. I know Charles Amoo Ankrah (Defendant).

*Q.* He was recently brought to the State Council to be introduced ?

*A.* He was not brought to the State Council. Once he came there with Mr. Lamptey saying that Otublohum Manche had sent him to represent him and the State Council said “ You who are standing here—we do not know you—you have no paper from the Otublohum Manche for us to know that he has sent you.” He was told to go.

*Q.* You say he has not been formally introduced as Nii Ankrah ?

*A.* No. I know the last occupant of the Nii Ankrah Stool. It was Quansah Ankrah alias Solomon. His representative at the moment at State Council is Mr. Ankrah (Plaintiff).

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Supreme  
Court.*

*Plaintiffs'  
Evidence.*

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continued.*

*Examina-  
tion  
(continued).*

*Reply to  
Court.*

*Examina-  
tion  
(continued).*

In the  
Supreme  
Court.

*Cross-examined by Akufo Addo :*

*Q.* Do you say Plaintiff is a member of the State Council ?

*A.* At present he is not amongst us.

*Plaintiffs'*  
*Evidence.*

*Q.* You are not a member of the Ankrah family of any branch ?

*A.* I am not, I know the Otublohum Manche. Yes he has told me is a member of this family. Plaintiffs are a section of Otublohum.

No. 19.  
Commeey  
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25th  
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*continued.*

*Q.* It would be customary if there was to be any introduction of a Head of the Ankrah Family to the State Council that the introduction would be done by the Otublohum Manche ?

*A.* Yes. 10

Cross-  
examina-  
tion.

*Q.* Do you know that the Otublohum Manche introduced Charles Amoo Ankrah to the late Ga Manche ?

*A.* I don't know if he did.

*Q.* Do you know as a certainty that he has not been introduced at State Council ?

*A.* I know it.

Reply to  
Court.

*In reply to Court :*

*Q.* Is any record kept of such introductions in a Minute Book ?

*A.* Yes. If he was brought and rejected—it would be noted in the Minutes Book. 20

*Q.* In what year was Charles Amoo Ankrah introduced and rejected ?

*A.* About 1947.

*Court :*

I shall require to see the Minutes Book of the State Council in corroboration of that evidence.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

I became a State Councillor about four years ago.

*Q.* You know C. D. Addo ?

*A.* I know him. He acted sometimes as a linguist.

*Q.* Do you remember an occasion on which these Defendants came to 30  
Manche Ayi Bonte and asked him to send for Plaintiff about family dispute  
—when you were deputed to call the Plaintiff ?

*A.* No I don't remember and I was not sent.

*Q.* Have you been sent on any other occasion to the Plaintiff ?

*A.* After Ayi Bonte's death when Teiko was acting I remember I was sent to call the Plaintiff about a complaint brought by Dede Ofori to settle a family dispute. It was not a family meeting at which Defendants were present. I don't remember ever going to Plaintiff's place at request of Nii Abola.

*Q.* The example given to you was of three uterine brothers who had 40  
no sister. You do know that all ordinary inheritance is matrilineal ?

*A.* Yes.

Q. You know that Otublohum people were originally Twi people ?

A. Yes.

Q. And you know that children normally do not belong to their father's family, they belong to their mother's ? You know that when a man dies leaving a sister and a brother it is the sister's children who will inherit and not the brother's children—do you agree ?

A. If a brother dies leaving a brother and sister and both have children—the children of the sister are given the preference.

10 Q. And strictly speaking they are the persons who can claim to be the family of their mother's brother ?

A. Yes.

Q. In strict law the sister's children and her brother's children do not belong to the same family ?

A. They call them one family. No one in Accra can say he belongs to only one family.

Q. The general rule in Accra is that inheritance is through the mother's side ?

A. Yes—somebody else will be inheriting the father's side.

20 Q. It is only when a man dies without any female relatives that a male may inherit ?

A. Yes.

Q. Not because actually they are entitled to it ?

A. Yes.

Q. Do you say then that if there are three brothers and no sister and that one of the brothers dies—that the children of the other two brothers can enter into the inheritance ?

A. The children of the man who dies will inherit.

*In reply to Court :*

30 Q. If there were a sister and she was dead—would the children of that sister inherit ?

A. Yes.

*Cross-Examined :*

Q. A man dies leaving *x* children of his own and a uterine brother—you said the uterine brother would succeed ?

A. Yes.

Q. Then is it not the case that on the death of this uterine brother—the property goes back to the children of the owner of the property, i.e., the first brother who died ?

A. Yes—that is what I have said.

40 Q. You said that the Gbese Manche had to settle some dispute between the Plaintiff and the Defendants ?

A. Yes.

Q. It was about the headship of the family ?

A. No.

*In the  
Supreme  
Court.*

*Plaintiffs'  
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*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

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Court.*

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*continued.*

*Q.* Then what was the dispute about ?

*A.* The same as is the case before the Court now.

*Q.* I suggest it was entirely a different matter ?

*A.* I was standing there as a linguist.

*Q.* Do you remember when the old lady Amanuah Ankrah died ?

*A.* Yes—I remember.

*Q.* Now this woman was buried at Awudome on Manche Ankrah's land the Plaintiff objected ?

*A.* Yes—because of the litigation. Yes he objected to her body 10 being buried on that land.

*Q.* And Plaintiff swore oath on Defendants to prohibit them taking her body for burial ?

*A.* Yes.

*Q.* And Defendants did bury the old lady there ?

*A.* Yes.

*Q.* And because of the oath the matter came before Gbese Manche ?

Reply to  
Court.

*In reply to Court :*

I've never attended any meeting as to the family head of Ankrah.

*Q.* In your opinion who is the head of the Ankrah family ?

20

*A.* The Plaintiff.

*Q.* In 1945 when Defendants presented Gbese Manche with customary drink to announce fact that Charles Amoo elected—you partook of the drinks ?

*A.* I heard of it—but drink was not given to me.

*Q.* You said that when all chances of compromising differences in a family have ended in failure that the Chief can do nothing ?

*A.* That is so. We would call an arbitration and if he refused to attend the arbitration we would issue a writ of summons for him to show cause.

30

*Q.* And if he fails satisfactorily to show good cause what happens ?

*A.* Judgment goes against him and the Court removes him from his position.

*Q.* And that you say is also the position when the Manche is also a member of the family ?

*A.* The matter will go to another Manche.

*Q.* You also said that whatever a man acquires on the stool belongs to the stool. You know that Nii Ayi Bonte had a cocoa farm at Suhum.

*A.* He had none.

*Q.* Do you know that Plaintiff has inherited his uncle's property— 40 a big estate—i.e. his mother's brother ?

*A.* I know that.

*Q.* That is why he added Kwaku Nyame to his name ?

*A.* Yes.

Adjourned to 26.8.48.

(Sgd.) J. JACKSON,  
Judge.

26. 8. 48.

*In the  
Supreme  
Court.**Cross-examination (continued) :*

Q. Do you know that Nii Obeng is the successor of the late Manche Ankrah (Solomon) ? *Plaintiffs' Evidence.*

A. Yes—I do.

Q. He was ceremoniously installed as that ?

A. What I know was that I heard that Quansah Solomon made a Will indicating what shall be given to Nii Obeng. *No. 19. Commey Tetteh, 26th August 1948, continued.*

Q. But Quansah's family appointed him successor ?

10 A. That I do not know.

Q. Do you know there is another section of Nii Ayi family whose head is Nii Kpakpo Oti ? *Cross-examination (continued).*

A. I don't know.

*Re-examined :*

Q. Reference late Solomon (Quansah Ankrah) did you know that he occupied several positions in his lifetime ? *Re-examination.*

A. Yes.

Q. Did you know him as occupant of Nii Ankrah Stool ?

A. Yes I know that.

20 Q. In addition did you know he occupied Nii Obeng Stool ?

A. I don't know.

Q. Since he died do you know who has been appointed to succeed him as Nii Ankrah ?

A. What I know is that Plaintiff was introduced to us to act.

Q. Yesterday you were asked about succession—were given instance of 2 uterine brothers, one having property dying and his brother succeeding him then dying and you said the property would then come back to the children of the original owner. Supposing that the uterine brother who succeeded had children at the time of his death—what is the position ?

30 A. The land would be divided equally among the children.

*Court to Assessor :*

What is your opinion as to that answer ?

*Assessor :*

I do not agree with that answer. The property goes back to the children of the original owner. *Opinion of Assessor.*

Q. If there are say 3 brothers and they leave children—what is the Ga custom as to that ? *Re-examination (continued).*

A. Property belongs to all the children of the uterine brothers.

*In the  
Supreme  
Court.*

No. 20.  
TAWIAH ANKRAH.

*Plaintiffs'  
Evidence.*

TAWIAH ANKRAH (m.) sworn, states in Ga, 2nd Witness for Plaintiffs.

No. 20.  
Tawiah  
Ankrah,  
26th  
August  
1948.

*Examination-in-Chief :*

Carpenter. Live Accra. Have heard of Ankrah, Okanta and Ayi—the three brothers. Okanta was my grandfather. He begat my father.

*Q.* Of the people in the Okanta line who is the eldest now ?

*A.* I am.

*Q.* Can you give any idea as to your age ?

*A.* No. Remember Asante War (1900). I was then a full grown man 10—but not married. I know of Otu Ahiakwa Stool. It is to-day at Dadebanna at Otublohum at “ P. & B.” House—our family house.

*In reply to Court :*

When I say family house I mean the family common to the three brothers.

*Examina-  
tion.*

*Examined :*

Custom is performed for the stool annually. I assist M. D. A. Ankrah with others in its performance. We did not do it this year—because of numerous deaths in the house—purification ceremonies have not been completed. Founder was Otu Ahiakwa. Nii Amu Nakwa succeeded him. 20 After him came Daku Panyin. After him came Quansah. After him came Nii Ankrah. After Nii Ankrah came Nii Okanta my grandfather. After him came Nii Commey—also known as Antonio Ankrah. After Commey was Quansah Ankrah also called Solomon. He was the last occupant of the stool.

*Q.* Have you ever heard that Ahiakwa stool was made for the first time by Manche Ankrah ?

*A.* No that is not so. I forgot to mention the name after Commey—I remember it now, it is Kpakpo Odehey.

*Q.* Have you ever heard of consideration under which this Awudome 30 land was given ?

*A.* I heard that there was Barne War—that after the war—when they returned—Nii Ankrah returned with Nii Okanta and other members of the family. Since I grew up I've heard that it only belongs to Nii Ankrah's grandchildren.

*Q.* Assuming that a head is to be made for the family of the three brothers should you be notified to attend ?

*A.* Yes—I should be informed.

*Q.* When Ankrah (Plaintiff) was made acting head did you take part ?

*A.* Yes, I took part.

*Q.* Have you ever been invited to any meeting at which Charles Amoo Ankrah was made head ?

*A.* No.

*Q.* Since he was so appointed he has been dealing with the lands ?

*A.* Yes—any member of the family who wants land comes to him.

*Q.* If application is made to him by a member for land does he come to you first and ask you ?

*A.* He informs all the elders.

*Q.* If any money is given as drink what does he do with it ?

*A.* We used to ask him to keep it in case any surveyor wants to plot the land.

10 *Q.* If any member of the Ayi family dies, for example, who is responsible for conducting the burial ceremony ?

*A.* The Plaintiff.

*Q.* When you perform custom for the stools who is responsible ?

*A.* The Plaintiff has to provide everything for it.

*In reply to Court :*

Yes—out of his own pocket.

*Examined :*

*Q.* Elder brother of Charles Amu Ankrah called Amu died sometime ago. Who was responsible for his burial ?

*A.* The Plaintiff.

20 *Q.* You remember a meeting before Gbese Manche to promote reconciliation ?

*A.* I remember.

*Q.* Before that meeting were you sent anywhere ?

*A.* Yes—I and Linguist Ashong were sent to Anyinam to our elder brother there called Anyinam Ankrah who is from the Ayi line, to tell him to come to Accra to assist him to settle the dispute. The Plaintiff sent us.

*In reply to Court :*

*Q.* When was this ?

*A.* About 5 years ago.

30 *Examined :*

The Judgment of Idun, J., had then been given. The appeal had not yet been heard. Anyinam Ankrah came. He referred the matter to the Gbese Manche—we met all parties met. Some did not attend. Those who did not attend were not important persons. At that time Charles Amoo Ankrah was on our side. No settlement was reached as the other side did not agree to discuss it before the Appeal was heard. J. R. Ankrah was then the head of the opposition to the Plaintiff.

*In reply to Court :*

*Q.* At that time had the land been sold to Captan ?

40 *A.* No.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 20.

Tawiah  
Ankrah,  
26th

August  
1948,

*continued.*

*In Reply  
to Court.*

*Examina-  
tion  
(continued).*

*In Reply  
to Court.*

*Examina-  
tion  
(continued).*

*In Reply  
to Court.*

*In the  
Supreme  
Court.*

*Examined :*

I know the last case. I came to Court on Plaintiff's side. I did not give evidence.

*Plaintiffs'  
Evidence.*

*Cross-examined by Akufo Addo :*

No. 20.

Tawiah  
Ankrah,  
26th  
August  
1948,  
*continued.*

Examina-  
tion  
(*continued*).  
Cross-  
examina-  
tion.

Q. How old are you ?

A. I don't know.

Q. You know J. W. Dodoo ? The man who works at Bartholemew and called Mansah ?

A. Yes.

Q. He is a grandchild of Nii Okanta ?

10

A. I don't know properly.

Q. Do you know one of the descendants of Okanta called Dodoo ? He lives at Tudu ?

A. Yes I know him. Yes he is a grandchild of Okanta.

Q. Can you say with certainty that you are older than Dodoo ?

A. No—I am not older than Dodoo. He may not be older than me.

*In Reply  
to Court.*

*In reply to Court :*

I know him as a young man. We used to play together as children. We seemed about the same age.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

20

Q. Are you older than Ofeye ?

A. Ofeye is older than I am. I am not the oldest member—but in the family I am the eldest.

Q. In what family are you the eldest ?

A. In the three families. But the ones older than myself do not attend.

*In Reply  
to Court.*

*In reply to Court :*

Q. Are they entitled to come ?

A. They are.

Q. Are they entitled to be heard in family matters ?

30

A. Yes. Their fathers are from other quarters—that is why they do not attend. I assume that is the reason.

*In reply to Court :*

Ofeye is of the Okanta line—he is older than I am. I did not say I am older than Ofei, who lives at a distance, but I who live near by am the oldest man who does things.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

Yes, Ofeye is in Accra. I know Oto. He is a grandchild of Okanta. He is not older than I am. I am older than he is.

Q. Is it not a fact that these do not attend meetings because they disapprove of Plaintiff being a caretaker of the property ?

A. I don't know.



Q. Manche Ankrah, Nii Ayi and Nii Okanta have one Common mother but had different fathers ?

A. Yes that is so.

Q. What is the name of the father of Ayi and Okanta ?

A. Nii Okaidjah.

Q. And the father of Manche Ankrah ?

A. Ablomoti.

Q. You will agree that members of Ayi and Okanta families are not entitled to the name of Ankrah ?

10 A. I am the descendant of Nii Okanta—but my name is Ankrah.

Q. That name was adopted by you ?

A. No. They all had one mother. The mother's name was Amanuah.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 20.  
Tawiah  
Ankrah,  
26th  
August  
1948,  
*continued.*

*In reply to Court :*

Q. Before Ankrah was born of Amanuah there was no such name in your family ?

A. I was not then born.

Q. It is suggested that the grandchild of Ayi and Okanta adopted the name Ankrah because they were very proud of their granduncle's name ?

20 A. Yes.

*In Reply  
to Court.*

*Cross-examined :*

Q. Is there only one stool in the family to which you claim to belong or are there many stools ?

A. There are 7 stools.

Q. What are these 7 ?

A. Otu Ahiakwa, Amu Nakwa, Daku Panyin, Amponsah, Nii Ankrah, Nii Okanta and Antonio Ankrah.

Q. There is one among these stools called the Manche Ankrah stool distinct from the others ?

30 A. No—all these stools are under the Otu Ahiakwa Stool.

Q. There is a family stool called Adjarbeng Stool in the Nii Ayi line ?

A. Yes—that is in the same stool room. That does not mix with the 7 stools—because it is covered with gold and is kept apart.

Q. That is the stool now occupied by Nii Obeng who succeeded Nii Quansah Ankrah ?

A. No.

*In reply to Court :*

Q. Who occupied the Adjarbeng Stool today ?

40 A. Stool was in hands of Nii Quansah Ankrah and when he died and left them with Obeng—he will occupy it. Nii Obeng is alive and is acting as the occupant of the stool.

*In Reply  
to Court.*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 20.  
Tawiah  
Ankrah,  
26th  
August  
1948,  
*continued.*

*Q.* Where is the stool to-day ?

*A.* In the same room and in charge of Nii Obeng.

*Q.* You remember the big ceremony when he was placed on the Adjarbeng Stool ?

*A.* I don't know that he has been placed on the stool.

*Q.* But he is the right man to occupy the stool ?

*A.* Yes.

*Q.* Ankrah Quansah was man of considerable wealth ?

*A.* Yes.

*Q.* And a good deal of his property is now enjoyed by his children 10 and his nephew and successor Nii Obeng ?

*A.* Yes.

*Q.* You know too that Nii Ayi had considerable property in Accra ?

*A.* Ayi died before Nii Ankrah and so all his property came to Nii Ankrah making the three properties as one.

*In reply to Court :*

*Q.* To which 3rd property do you refer ?

*A.* Ayi died first—his properties were given to the eldest Nii Ankrah —when Nii Ankrah died—Nii Okanta occupied the stool and the properties.

20

Cross-  
examina-  
tion  
(*continued*).

*Cross-Examined :*

*Q.* Have you ever heard of an elder brother succeeding a younger one ? Ankrah was older than Ayi wasn't he ?

*A.* I was not born then. That is what I have been told.

In Reply  
to  
Assessor.

*By Assessor :*

Can Ankrah as elder brother of Ayi marry Ayi's wife ?

*A.* No.

Cross-  
examina-  
tion  
(*continued*).

*Cross-Examined :*

*Q.* Is it not a test whether *A* can succeed *B* is whether *A* on demise of *B* can marry *B*'s wife ?

30

*A.* It is the custom that the younger brother marries the elder brother's wife and not vice versa.

*Q.* Do you know that the whole of Adjarbeng and the area by Station land was originally Ayi's property ?

*A.* I know that it belonged to Nii Adjarbeng. Nii Adjarbeng was a son of Nii Ayi.

*Q.* When Ayi died a man called Arde was his successor—the man who built " P & B " in High Street ?

*A.* I've never heard that.

*Q.* When Arde died did not Adjarbeng succeed him ?

40

*A.* He did.

Q. Arde was a son of Nii Ayi ?

A. Yes.

Q. The eldest at his death ?

A. Yes—older than Nii Adjarbeng.

Q. You remember when land at Railway was acquired ?

A. Yes.

Q. You know that compensation for acquisition of that property was paid to Ankrah Quansah's mother ?

A. I don't know. I don't know who received the compensation.

10 Ankrah Quansah's mother was Dede a daughter of Ayi.

Q. You know the building near " P & B " where a watch-repairer named Bonin lives—you know that property originally belonged to Nii Ayi and was Nii Ayimo ?

A. Yes I know that. (Mo = Castle.)

Q. Now Nii Obeng collects the rents there ?

A. No.

Q. Who does collect the rents now ?

A. Ayite Kortor collects these rents and gives it to the three sections of the family. If any one dies the money is used for the burial. Quansah

20 Ankrah gave this property to the 3 families.

Q. Before Quansah's time it was exclusively in the Nii Ayi Family ?

A. Yes.

Q. Ayikuma and Ayite Kortor which family do they come from ?

A. Ayi family.

Q. Would you dispute the fact if I told you compensation was paid to Quansah Solomon's mother ?

A. I cannot deny—because I do not know.

Q. You know there is a branch of the Ayi family known as Oti family of which Nii Kpakpo Oti is the head ?

30 A. Yes.

Q. Oti was the eldest son of Nii Ayi ?

A. Yes.

Q. And Nii Kpakpo Oti is the head of that family now ?

A. Yes.

Q. And there is a stool which he occupies ?

A. That I do not know.

Q. That section also has properties ?

A. I do not know. They may have property. I know Pig Farm at Pokoase. We own land there—so they may own land there.

40 Q. When anything is done in the Ankrah family Oti family have nothing to do with it ?

A. Sometimes he comes—sometimes he does not.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

*No. 20.  
Tawiah  
Ankrah,  
26th  
August  
1948,  
continued.*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence*

No. 20.  
Tawia  
Ankrah,  
26th  
August  
1948,  
*continued.*

*Q.* Of the three brothers Okanta was the only one who left no property at all ?

*A.* Yes.

*Q.* He was a fetish priest ?

*A.* I've never heard that. I heard he was a captain before he occupied the stool.

*Q.* Is it not true that most of the people who made Plaintiff caretaker came from the Okanta line ?

*A.* They all came—the three branches.

*Q.* How many branches has the Okanta side developed into ? 10

*A.* Ablo people and his brothers, I and my brothers, Apleshie and his brothers, Botsheiw, who live at " P & B " and the Dodoos.

*Q.* How many children had Okanta ?

*A.* My father Tawia, Apleshie's father whose name I've forgotten, Kwanchi, Nii Fannah. I don't know of a child named Akwei.

*Q.* These children have each formed separate groups ?

*A.* Yes—but our children are not well to do.

*Q.* The Ablorhs—where do they come from ? From whom do they descend ? From which child of Okanta do they descend ?

*A.* From Nii Fannah. 20

*Q.* Who is head of Ablorh Branch ?

*A.* Kodjo. He is dead. Kwei succeeded him. Properties of Kodjo are in his hands now and the children.

*Q.* Who is head of your branch of the family ?

*A.* I am.

*Q.* Have you succeeded to anybody at all in your line ?

*A.* My father died and left the house and is in my possession now. That is all that my father left.

*Q.* You said the property was not given to Nii Ankrah alone ?

*A.* Yes. 30

*Q.* Who were the other people to whom the property were given ?

*A.* Nii Ankrah going to the war—went with Okanta. Okanta was a captain with him. The Land was given to him and to all the families who went to war.

*Q.* Who were the people to whom the land was given—mention their names ?

*A.* Ankrah still at the war sent a message to Nii Ayi in Accra to ask the elders to get some land as he was bringing many people. The land was given to Nii Ayi before Ankrah arrived and it was handed to Ankrah for all those who went to war with him. The land was given to Nii Ankrah. 40

*Q.* To him alone ?

*A.* No to those who went to the war.

*Q.* You say that land was also given to Okanta ?

*A.* Yes.

- Q. Mention the names of the people to whom you say the land was given ?
- A. Nii Ankrah, Nii Ayi, Nii Okanta and their people.
- Q. Is that why you claim to have an interest in this property ?
- A. Yes.
- Q. Did not Nii Ayi die 3 years before the Barme War ?
- A. That is not true. My father told me some of the history. Some others told me some.
- 10 Q. Were you present at the meeting at Gbese Manche's house ?
- A. I was there.
- Q. What was it about ?
- A. Anyiname Ankrah convened a meeting to reconcile the whole family.
- Q. Do you know of an incident in connection with the death of Amanua Ankrah ?
- A. Yes—this meeting at Gbese Manche's house had taken place before her death. I know of 2 meetings there.
- Q. What was subject of discussion at 2nd meeting ?
- A. That as they did not agree with 1st meeting—they did not send to
- 20 inform us officially of her death as they should have done. We went to her funeral but were driven away.
- Q. You know Plaintiffs swore oath on Defendants not to bury her ?
- A. Yes. Yes that brought about the meeting before the Gbese Manche.
- Q. Was it right on part of Plaintiff to prevent the burial of the oldest granddaughter on the land now in dispute ?
- A. Ankrah was the one looking after the land and as they proposed to bury her there—they should have informed him—which annoyed him. They were entitled to bury her there—but they should have informed
- 30 him. That was about 4 years ago—it was after the judgment of Idun, J.
- Q. You remember Plaintiff gave permission to the Ga Manche's family to bury the mother of Tackie, Ex-Ga Manche on the land ?
- A. Yes.
- Q. A grave was dug and the inside cemented ?
- A. I heard that she was buried there.
- Q. She was never buried there ?
- A. I did not go there to see.
- Q. Did you hear that Charles Amoo Ankrah raised objection ?
- A. I did not. I heard they went before the District Commissioner.
- 40 She was a member of our family.
- Q. You remember a meeting before Revd. Father Okwabi and Revd. J. J. Mettle ?
- A. I remember it.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 20.  
Tawiah  
Ankrah,  
26th  
August  
1948,  
*continued.*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 20.  
Tawiah  
Ankrah,  
26th  
August  
1948,  
*continued.*

*Q.* You remember a suggestion made by Defendant that they did not want litigation and suggested that a member from each of the 3 sections should be appointed to look after the property jointly ?

*A.* I don't remember. It was an ordinary meeting. Defendants would not agree to continue discussion until the appeal case was finished.

*Q.* You know that Plaintiff is not a substantive head and that he is only acting ?

*A.* Yes. Yes until the family unite and make a head.

*Q.* Which is better a substantive head or an acting head ? Which do you prefer ?

10

*A.* A substantive head.

*Q.* What steps have you taken to achieve that ?

*A.* All the time there is litigation.

*In Reply  
to  
Assessor.*

*In reply to Assessor :*

*Q.* Do you say that if I send you to go and ask for a present from somebody for me—that present if given belongs to you and me.

*A.* The sender is the owner of the property.

Adjourned to 27.8.48.

(Sgd.) J. JACKSON,  
Judge.

20

27th  
August  
1948.

27.8.48.

*Re-exam-  
ination.*

*Re-examined by Bossman :*

Yes, my father was one of children of Okanta. Dodoo was the father of Ofei.

*Q.* How is Ofei connected with Okanta ?

*A.* Through the mother. Ofei's mother was Adjakuma. Adjakuma was Okanta's daughter.

*Q.* As between your father and Ofei's mother who was the elder ?

*A.* Ofei's mother was the elder.

*Q.* You say that Ofei has not been attending family functions. While Nii Quansah was alive did Ofei attend the functions ?

30

*A.* In Nii Quansah's time sometimes he did not attend. He is alive now. Ayi was also known as Korkorsakyi.

No. 21.

JOHN BENJAMIN ANKRAH.

*In the  
Supreme  
Court.*

JOHN BENJAMIN ANKRAH (m.) sworn states, 3rd Witness for Plaintiffs' Evidence.

*Examination-in-Chief :*

Farmer. Live Anyinam and am commonly called Anyinam Ankrah. Member of the Manche Ankrah family. I am of the Ayi line.

Q. Is there any member of Ankrah, Okanta and Ayi line older than you to-day.

10 A. I cannot say—but I don't think so in the case of the men—I'm not quite certain as to the women. For sometime there has been misunderstanding between Ankrah's direct line and the other 2 lines. They had a case in Court all that time I was in the bush.

Q. Did you try to get them to come together to make peace ?

A. Yes—I made an attempt.

Q. Did you make the attempt direct, or were you approached by anyone ?

A. I made the attempt myself. I know Tawiah Ankrah. While I was at Anyinam I received a message—it was one of my cousin's called  
20 Ankrah who directed that message.

Q. As a result of that message did you come down ?

A. At that time I was sick—but when I was well enough I came to Accra. This man now in Court (Robert James Ankrah) is the cousin of mine whom I mentioned. When I came to Accra I approached Father Okwabi. There was a meeting. I was present. I and late Blankson Mills went to Father Okwabi and the Revd. Mettle was also there. The two parties met—there were 3 ministers. Father Agyeman was the other.

30 Q. What happened at that meeting ? The matter was that all the members of the family should be reconciled and unite as one when anything was required to be done by the family. That was put to the parties. We talked over the matter for some time—but the Nii Ankrah side (indicating Defendants) said there was a matter pending before the Gbese Manche and that unless they finished that matter first—they could not go on with the discussion. Subsequently I was present at a meeting before the Gbese Manche. There also we talked over all the matter.

*In reply to Court :*

Q. What was the cause of the difference in the family ?

A. I have not been in Accra—so I do not know the details but at the  
40 meeting they said there was a case between them. I found that the old men were of one mind, namely Kommey, Adjarben and many elders. I found that the old men were of one mind. I shared their view. My opinion was that in land matter all these sections should be consulted. What I know of Accra custom is that if land is to be looked after the whole family, male and female, meet—decide who is the best man to look after it.

No. 21.  
John  
Benjamin  
Ankrah,  
27th  
August  
1948.

Examina-  
tion.

In Reply  
to Court.

*In the  
Supreme  
Court.*

*Examined :*

I was born sometime between 1860 and 1861.

*Plaintiffs'  
Evidence.*

*Q.* When you say you found the elders of one mind—from which line or lines did these elders come ?

No. 21.  
John  
Benjamin  
Ankrah,  
27th  
August  
1948,  
*continued.*  
Examina-  
tion  
(*continued*).

*A.* Ankrah, Ayi and Okanta's children were of one mind. The elderly men were of one mind. When I say that they were all one and want them to be one—we want some one to look after the property for all three sections and not one to look after it for his section alone. Nii Quansah (Solomon) came from Ayi line. He was put on the stool by the whole family. It is only since he died that these differences have arisen 10  
in the family. When he died—although I was in the bush—I know that it was the Plaintiff whom we all appointed to act for us.

*Q.* Were you informed that Charles Amoo Ankrah had been appointed head ?

*A.* No—no one informed me of that. Charles Amoo Ankrah is of the Ankrah line. He is the son of Manche Ankrah's son Kommey-Tetteh. Otu Ahiakwa's stool is in our family.

*Q.* Do you know who founded that stool ?

*A.* Otu Ahiakwa founded it and it was the stool which our fathers sat on. 20

*Q.* Have you ever heard that that stool was made for the first time by Manche Ankrah himself ?

*A.* I know that Otu Ahiakwa was the stool which Ahiakwa founded and was the one which Manche Ankrah occupied. That is the stool we know. If Manche Ankrah made a stool—he did not make it for himself but as successor of Otu Ahiakwa and we call the stool Otu Ahiakwa stool.

*Q.* Have you ever heard that Manche Ankrah made a stool himself ?

*A.* I cannot say.

*Cross-  
examina-  
tion.*

*Cross-examined by Akufo Addo :*

*Q.* From your account you claim to be the oldest male descendant of 30  
Ankrah, Okanta and Ayi ?

*A.* Those I know or have seen would not be older than myself. There are women amongst us. If any are older than myself I cannot say.

*Q.* Take your mind to meeting at Gbese Manche's house. How many times did you approach Revd. Okwabi to settle the differences in your family ?

*A.* I only went to him once.

*Q.* Was not this case at Gbese Manche's house relating to certain incidents which arose as to death of Amanua Ankrah ?

*A.* Yes—I now remember. Yes that was the matter before the 40  
Gbese Manche.

*Q.* And it was the same case brought up for discussion before Revd. Okwabi ?

*A.* Yes—when we went to him that oath matter was mentioned—but what I was seeking then to do was to make the family one.



Q. Did not the Plaintiff say that he had sworn oath upon the Defendants and that it was a matter that could only be decided by the Manche ?

*In the Supreme Court.*

A. They all said there was a case before the Gbese Manche but when I went there—they would not talk about the matter—I had no time so I went.

*Plaintiffs' Evidence.*

I tried to settle the matter—but when people say they cannot agree—I can do not more.

No. 21.

10 Q. I suggest you did not bother because you know the property belonged exclusively to the Ankrah section ?

John Benjamin Ankrah, 27th August 1948, *continued.*

A. I have said it belongs to the whole family. I am married to one of the grandchildren of Nii Ankrah. My wife is a cousin to the Defendants. Because of this I do not want any confusion in the family.

Q. The interest you have is because your wife comes from that family ?

A. No—because of my wife—it is because of the whole family.

Q. You know that all your children support the Ankrah line ?

A. No—they support the whole family.

*In reply to Court :*

*In Reply to Court.*

20 Q. Would it be right to say that all the old men are of your way of thinking and that all the young men are of the Defendant's way of thinking ?

A. I have not been told that.

*Cross-examined :*

*Cross-examination (continued).*

Q. You know of the 3 old brothers—Okanta was the only one who left no property at all ?

30 A. I have not been told what you are asking me. What I have been told is that if Ankrah tells Okanta to do this—he would do it and if he told Ayi to do anything he would do it. As an elder brother if he left anything it went to the younger brother.

Q. Who died first Manche Ankrah or Nii Ayi ?

A. Ayi died first.

Q. Who succeeded Nii Ayi ?

A. Manche Ankrah performed funeral custom of Ayi.

Q. Was it not Nii Arde who succeeded Nii Ayi ?

A. I don't go into that. If Arde took it—it is all the same.

Q. You know it was Nii Arde, the son of Ayi, who succeeded him ?

A. I don't know that—all I know is that they were all one and did things in common.

40 *In reply to Court :*

*In Reply to Court.*

Q. Did you know Nii Arde personally ?

A. I saw him when I was young.

*In the  
Supreme  
Court.*  
—  
*Plaintiffs'  
Evidence.*  
—  
No. 21.  
John  
Benjamin  
Ankrah,  
27th  
August  
1948,  
*continued.*  
Cross-  
examina-  
tion,  
*(continued).*

*Cross-Examined :*

*Q.* He had a house in High Street called Ayimo ?

*A.* I know that.

*Q.* You know that Nii Arde lived in that house after Nii Ayi's death ?

*A.* Yes he lived there.

*Q.* When Nii Arde died he was succeeded by Nii Adjarbeng ?

*A.* Yes.

*Q.* Adjarbeng was another son of Nii Ayi ?

*A.* Yes.

*Q.* And Adjarbeng also lived at Ayimo ?

10

*A.* Yes.

*Q.* After Adjarbeng's death Dede (Solomon's mother) succeeded ?  
*Who succeeded Adjarbeng ?*

*A.* Quansah (Solomon).

*Q.* And now Quansah's successor is Nii Obeng ?

*A.* Yes.

*Q.* And you know that this place Ayimo is in the hands of Nii Obeng who collects the rents ?

*A.* I don't know—I live in the bush.

*Q.* You know place called Adjarbeng and the Railway Station site— 20  
you know that was Nii Ayi's property and was acquired by the  
Government ?

*A.* Nii Adjarben had a house there. I know Nii Adjarben built there and lived there.

*Q.* You know that land was acquired for the Railway in 1908 ?

*A.* Yes.

*Q.* You know that the compensation was paid to Dede the mother of Quansah (Solomon) ?—a daughter of Nii Ayi ?

*A.* I don't know actually to whom it was paid—either to Dede or to Quansah. 30

*Q.* You know that at that time F. A. Ankrah otherwise known as Afo Ankrah a brother of Amanua Ankrah was the caretaker of the Manche Ankrah Stool ?

*A.* I know that house was his father's house—he was the caretaker.

*Q.* You remember in 1912 when Manche Ankrah's own house in High Street was acquired by Government ?

*A.* Yes—I know. Yes the property was demolished.

*Q.* And you know the compensation was paid to Afo Ankrah—Okaikai Ankrah ?

*A.* I was in the bush—I heard so. 40

*Q.* Did anyone send you any part of the money ?

*A.* No. I was in the bush then. I don't know what went on.

Q. You know that Nii Ayi family has developed into 2 distinct branches ?

A. Have never heard it.

Q. You know Oti family in Otublohum whose head now is Kpakpo Oti ?

A. Yes.

Q. Oti was the eldest son of Nii Ayi ?

A. Yes.

Q. And the Oti branch of the family do nothing in common with the Ankrah or Adjarben or Okanta side ?

10 A. Kpakpo Oti's father is our cousin and what I know is that if any of the families make palaver—I come to settle the matter.

Q. All I say is that the Oti branch is now a distinct family which has no relation to the Manche Ankrah Stool ?

A. If he has a Stool—they all belong to Manche Ankrah.

Q. Your mother was Akuorkor ?

A. Yes.

Q. A twin sister of Akole ?

A. Yes.

Q. Both twin children of Ayi ?

20 A. Yes. Akuorkor is dead.

Q. Have you or your brothers succeeded to her property ?

A. I and my sisters look after the property for the whole family.

*In reply to Court :*

Q. Did you inherit your mother's property ?

A. Yes.

*Cross-examined :*

Q. Akole had a son Ayikuma ?

A. Yes.

30 Q. Ayikuma left property in Accra—a very rich estate—buildings and money ?

A. Yes.

Q. You know that he like yourself had no sisters ?

A. Yes.

Q. And you know that all Ayikuma's properties are now in the exclusive hands of his children ?

A. I don't deny that—but I can explain that. After Ayikuma's death a Will was produced and I know that he himself did not make the Will—I call it a false Will and by that Will the property was left to the children and we do not want litigation and have left it to them.

40 Q. Another branch of Ayi's family is the Adjarben branch ?

A. Yes.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 21.

John  
Benjamin  
Ankrah,  
27th  
August  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 21.

John  
Benjamin  
Ankrah,  
27th  
August  
1948,  
*continued.*  
Re-exam-  
ination.

*Q.* And the properties in that line are in the hands of Quansah (Solomon) and his nephews ?

*A.* Yes—I heard so. I know the history of Awudome land. Land was given to Manche Ankrah in appreciation of his military services. War was brought to a successful conclusion by the efforts of Manche Ankrah and his brothers.

*Re-Examined :*

*Q.* You were asked about case before Gbese Manche ; if Plaintiff was in charge of the land at that date and any section of the family wanted to do anything on the land, by custom must they inform him ?

10

*A.* Yes—they ought to inform him.

*Q.* Did he explain to the Manche why he swore the oath ?

*A.* He did not go into it. There were lots of differences between them. (Good demeanour.)

No. 22.

Nii Akwaa  
Mensah II,  
27th  
August  
1948.

Examina-  
tion.

No. 22.

NII AKWAA MENSAH II.

NII AKWAA MENSAH II: sworn states in Ga—4th witness for Plaintiffs :

*Examination-in-Chief :*

Live Accra and I am the Nai priest. My predecessors were the people who lived in Accra before the strangers—we were the founders of Accra. I know the tradition of the founding of the Quarter known as Otublohum. My ancestors gave it to them. Otu Ahiakwa founded it. I was told that he came from Ashanti Denkyera. When Ashantis and Denkyeras fought the Dutch Commandant brought him first to Elmina and subsequently to Accra. Dutch Commandant lived in Ussher Fort. Dutch got the ground for the Fort from the Nai priest. Otu Ahiakwa applied for land from my predecessors through the Dutch Commandant. Otu Ahiakwa was steward boy and he would look after the slaves that were being dealt in. When he was given the land, he built on it and in time he grew rich. In the end he became a big man in the Otublohum Quarter. He became an Onukpa (an elder) who looked after the Quarter and his people and also his stool. On his death he was succeeded by Nii Ankrah as I was told and he occupied that stool.

20

30

Cross-  
examina-  
tion.

*Cross-examined by Akufo Addo :*

*Q.* Have you ever been told that Manche Ankrah founded his own stool ?

*A.* No—he himself made no stool. He sat on his grandfather's stool. I know some of the customs as to inheritance. Inheritance can be either through the male or female line.

40

*Q.* Which quarters in Accra inherit through the female line alone ?

*A.* Otublohum succeed through female line, but in our Quarter we succeed through male line. My quarter is called Nai house. That is in the Gbese Quarter.

*Q.* In James Town inheritance is through the female line ?

*A.* I don't know. I've not had a James Town case.

*In reply to Court :*

*Q.* Do I understand that your knowledge of these customs is founded upon what the people of each have told you ?

10 *A.* Yes.

*No re-examination :*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 22.  
Nii Akwaa  
Mensah II,  
27th  
August  
1948,  
*continued.*

In Reply  
to Court.

No. 23.

ROBERT JAMES ANKRAH.

ROBERT JAMES ANKRAH (m) sworn states in English—5th witness for Plaintiffs :

*Examination-in-Chief :*

Retired trader living Accra. Member of Ankrah family. My ancestor was Manche Ankrah. Come direct from his line. My father was James Darko Ankrah commonly known as Anomabo Ankrah—his mother came from Anomabo. I am only survivor—my brothers and sisters are dead. My mother came from James Town.

20 *Q.* What is your position in the Ankrah family ?

*A.* I belong to the Ankrah section. I am one of the elders.

*Q.* You and Charles Amoo Ankrah and J. R. Ankrah (Defendants) which is the older ?

*A.* I am the older. Next year in January I shall be 80 years old.

*Q.* If there is going to be a meeting to appoint a head of the Manche Ankrah line only—should you as a representative of your father be invited to that meeting ?

30 *A.* I should be invited. I was not invited to any meeting to make a head.

*Q.* Tell me the names of your father's brothers who are the children of Manche Ankrah ?

*A.* Ngleshi Ankrah, Ngleshie Ayi Ankrah.

*Q.* Who are these 2 you have mentioned ?

*A.* Manche Ankrah's sons. Then comes F. A. Ankrah and Sempe Ankrah and Ayi Ankrah. Then comes Abu Ankrah, Joseph Ankrah alias Addoquaye.

No. 23.

Robert  
James  
Ankrah,  
27th  
August  
1948.

Examina-  
tion

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 23.  
Robert  
James  
Ankrah,  
27th  
August  
1948,  
*continued.*

Q. These are Kommey's children ?

A. Yes.

Q. Are these not the children of Antony Ankrah ?

A. Yes.

Q. That is not what I ask you ?

A. Oh ! Kommey Ankrah and Kommey-Tetteh and then my father Darku Ankrah and Otu Ankrah.

Q. J. R. Ankrah and Charles Amoo Ankrah are sons of Kommey-Tetteh ?

A. Yes.

10

Q. Has Otu any surviving child at present ?

A. No—but there are grandchildren.

*In Reply  
to Court.*

*In reply to Court :*

I heard about the meeting. I heard after the meeting. I did not say anything when I was not called.

*Examina-  
tion  
(continued).*

*Examined :*

I am one of those who appointed Plaintiff as caretaker. This is my signature (Ex. 2).

*In Reply  
to Court.*

*In reply to Court :*

This was signed at Plaintiff's house—in the one which is now 20 demolished.

Q. Why did you prepare a document at all ?

A. For him to look after the properties.

Q. Did you have it published in the Spectator, the Echo and the Post.

A. We did. Defendants raised objection against it at the time in the newspapers.

Q. Why have Power of Attorney typed ?

A. Because of litigation. We did not fear litigation.

*Cross-  
examina-  
tion*

*Cross-examined by Akufo Addo :*

30

Q. Who suggested the making of the document (Ex. 2) ?

A. Meeting in house of J. D. Ankrah.

Q. But who said " let's make a document " ?

A. No one—the whole meeting.

Q. Did you sign any of the earlier authorities ?

A. No. The whole family suggested making it.

*In Reply  
to Court.*

*In reply to Court :*

Q. Which was the family house of the whole family at that time ?

A. Nii Ankrah's house at Otublohum. Old " P. & B." house. We did not meet at that house.

40

*Cross-examined :*

Q. Is it not a fact that " P. & B." house belongs to Nii Arde ?

A. Yes.

Q. Nii Arde succeeded Nii Ayi when he died ?

A. Yes.

Q. And Adjarben succeeded Nii Arde ?

A. Yes.

10 Q. Is it not a fact that there never has been a house in Accra which could be pointed as the house of the three brothers (Ankrah, Okanta and Ayi) ?

A. The family house we know was the Nii Ankrah house which has been destroyed.

Q. You are telling of the house on High Street where S.C.O.A. Motors are now—which was acquired by Government in 1912—is that the one you said was demolished ?

A. No—the house that I refer to was facing the sea and is now an open space or street.

Q. Did you know that Manche Ankrah's house was where S.C.O.A. Motor workshop is now ?

20 A. No, it did not reach there.

Q. At same time as Manche Ankrah's house existed there existed a house called Nii Ayimo ?

A. I know that.

Q. And if any descendant of Nii Ayi died the ceremony was performed in Nii Ayimo ?

A. Yes.

Q. And anyone who died on Manche Ankrah's side—the funeral was at place where S.C.O.A. is now ?

A. It took place at " P. & B." That is not the same as Ayimo.

30 Q. Why did you not sign the earlier Authorities ?

A. I was not in town. My son was among the signatories.

Q. How many of the direct descendants of Manche Ankrah were signatories to this document (Ex. 2) ?

A. My children did not sign this one (Ex. 2).

Q. Did they refuse to sign ?

A. No—they did not refuse.

Q. Why did they not sign ?

40 A. My son in place of myself signed. My children signed the earlier ones. They did not sign the later one (Ex. 2) as I was in town. I have at present 4 children.

Q. Who was the next senior man to you in the direct Manche Ankrah line who signed that document ?

A. Charles Amoo Ankrah.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 23.

Robert  
James  
Ankrah,  
27th

August  
1948,

*continued.*

Cross-  
examina-  
tion

*(continued).*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 23.

Robert  
James  
Ankrah,  
27th

August

1948,

*continued.*

In Reply  
to Court.

Q. Who was the next one ?

A. Amponsah.

Q. He is a great-great-grandchild of Ankrah ?

A. Yes. S. E. Allotey is in Nii Ayi's line. Only 3 of us in the direct Manche Ankrah line signed.

Q. When Nii Ayi died his property went to Nii Arde ?

A. I don't know to whom the property went.

*In reply to Court :*

Q. You don't know because you had no interest—no right to any part of that property ?

10

A. I was not in town.

Q. Since you came back to town have you made any enquiries ?

A. It has gone to Nii Adjarben's hands.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

Adjarben never occupied Manche Ankrah's stool.

Q. You do know that late Quansah Solomon was given a written Power to look after the property specifically ?

A. I was not in town.

Q. Did you know that Quansah kept Ayi's property distinct from Manche Ankrah's property ?

20

A. I do not know that. I don't know that Nii Obeng is successor of Quansah Solomon so far as Nii Ayi's properties are concerned.

Q. Do you know that Nii Obeng now collects rents from Anyimo now occupied by some watch repairer called Bonin Bros. ?

A. I know that.

Q. Do you know that the site now occupied by the Railway was Nii Ayi's property ?

A. I do not know that.

In Reply  
to Court.

*In reply to Court :*

Q. Do you know to whom it did belong ?

30

A. I don't know.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

Q. Was it Manche Ankrah's property ?

A. No. I don't know to whom compensation was paid in respect of Ankrah's house which is now occupied by S.C.O.A. Motor works.

Q. And you say—you as a grandson of him does not know to whom compensation was paid for your grandfather's house ?

A. It was paid to F. A. Ankrah—a grandson of his.

Q. That money was shared among the direct descendants of Manche Ankrah ?

40

A. Yes—but I don't know how it was divided.



*In reply to Court :*

I got none.

*Cross-examined :*

*Q.* You then consulted a lawyer—late Bannerman ?

*A.* That was my own father's building which was paid separately to F. A. Ankrah. I claimed as I was entitled to that.

*Q.* F. A. Ankrah was the caretaker of the stool and properties ?

*A.* Yes.

*Q.* This building was part of the house of Manche Ankrah ?

10 *A.* It was Manche Ankrah land on which my father built.

*Q.* At that time people who had built small houses were all direct descendants of Manche Ankrah ?

*A.* Yes.

*Q.* You know that the properties which Quansah Solomon inherited from Nii Adjarbeng are to-day in the possession of Nii Obeng as the proper successor ?

*A.* That is quite right.

*Q.* And Nii Obeng to-day occupies the Adjarben stool ?

*A.* I don't know.

20 *Q.* You remember when Quansah Solomon died and Nii Obeng was placed on the stool ?

*A.* No.

*Q.* Can you tell the Court any reason why Nii Obeng the successor of Quansah Solomon is not also the occupant of Manche Ankrah's stool and the successor to those properties ?

*A.* I cannot tell.

*Q.* Do you know that apart from the Adjarben branch there is also an Oti branch whose head is Nii Kpakpo Oti with a stool ?

*A.* I cannot tell.

30 *Re-examined :*

*Q.* You know a woman called Lucy Ussher alias Owusua ?

*A.* I know her.

*Q.* What position does she occupy in the family ?

*A.* She comes from Manche Ankrah line. I know Amanua Ankrah—another woman. She also comes from same line. I know Adjua Owu. She comes from Manche Ankrah line.

*Q.* What about Naa Kwaduah ?

40 *A.* Same line. Obanla Ankrah comes from same line. Akua Tabon comes from same line. Tema Ayi Ankrah is a man. He and Charles Amoo Ankrah are brothers. He died recently. His funeral custom was performed at "P. & B." He is of Ankrah line.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 23.  
Robert  
James  
Ankrah,  
27th  
August  
1948,  
*continued.*  
In Reply  
to Court.  
Cross  
examina-  
tion  
*continued.*

Re-exam-  
ination.

*In the  
Supreme  
Court.*

*Q.* You were asked about what happened when Ayi died. Did you know him?

*Plaintiffs'  
Evidence.*

*A.* I did not. He died before I was born. Lucy Ussher (Owusua) is the Queen Mother to the stool. She is alive.

No. 23.

Adjourned to 30.8.48.

Robert  
James  
Ankrah,  
27th

(Sgd.) J. JACKSON,  
Judge.

30.8.48.

August  
1948,  
*continued.*

Adjourned to 21.9.48. Question of costs to be discussed on that day. 10

(Sgd.) J. JACKSON,  
Judge.

21.9.48.

No. 24.

Amponsah  
Ankrah,  
21st  
September  
1948.

No. 24.

**AMPONSAH ANKRAH.**

AMPONSAH ANKRAH (m.) sworn, states in Ga, 6th Witness for Plaintiffs.

*Examina-  
tion.*

*Examination-in-Chief :*

Blacksmith. Live Accra. Member of Manche Ankrah family. From Manche Ankrah's line. Manche Ankrah begat Commey who begat Aboe 20 my father. I have brothers and sisters. We are 8.

*Q.* Did you take part in the alleged election of Charles Amoo Ankrah?

*A.* No. None of my father's children took part. My father had a sister—a uterine sister named Ayikailey. She is dead. She has no children surviving her. Ayikailey's younger brother is Ankrah Fio. Ankrah Fio had children who are alive. They took no part in the election.

*Q.* Who is head of the whole family?

*A.* M. D. Ankrah (Plaintiff) is the Acting Head looking after us all.

*In reply to Court :*

*Q.* What prevents you having a substantive head?

30

*A.* Litigation.

*Examined :*

When he was made acting head I took part in his appointment.

*Q.* Have you ever heard that Awudome land belongs to your line alone?

*A.* No it belongs to all three lines.

*Cross-examined by Akufo Addo :*

My father was Aboe—son of Commey. Yes he was known as Antonio Ankrah. I knew him before he died.

*Q.* Did you know that Antonio Ankrah disinherited your father before he died ?

*A.* It is not true.

*Q.* Since whose death has litigation prevented your electing a head.

*A.* Since Nii Otu Ahiakwa Ankrah Quansah (alias Solomon) died.

10 *Q.* M. D. Ankrah (Plaintiff) has been the man engaged in that litigation ?

*A.* Yes he represented us in all the cases.

*Q.* You know litigation has been in respect of properties of Ankrah Quansah ?

*A.* Yes—his self-acquired properties.

*Q.* You know that his successor is Obeng ?

*A.* Yes.

*Q.* And Nii Obeng occupies the stool—the Adjarben Stool ?

*A.* Yes.

20 *Q.* When you were asked if the property belonged to Manche Ankrah line alone you said “ No it belongs to all three ” who are the three ?

*A.* Nii Ankrah, Nii Ayi and Nii Okanta.

*Q.* How did these 3 come to acquire this property ?

*A.* When Barme War broke out Ga people deputed Ankrah to go to the war and he made his brother Okanta captain. Nii Ayi was left behind and supplied the war materials. Whilst Ankrah was there he sent message to Ayi to tell Ga people that he had won and had lots of captives and wanted land on which to put them. When Ankrah came back he put them on the land. Nii Ayi gave the rum and he bought the rum. Yes the property was given to Nii Ayi.

30 *Q.* Who died first Manche Ankrah and Nii Ayi ?

*A.* Nii Ayi. Nii Ankrah succeeded Nii Ayi. I know house called Ayimo in High Street.

*Q.* That was Nii Ayi's house ?

*A.* Yes.

*Q.* And after his death it was occupied by Nii Arde ?

*A.* Yes.

*Q.* After Nii *Adi's* death—Arde occupied it ?

*A.* Yes.

*Q.* Nii Arde was succeeded by Dade ?

40 *A.* Yes.

*Q.* That was Ankrah Quansah's mother ?

*A.* Yes.

*Q.* And Ankrah Quansah (Solomon) succeeded when she died ?

*A.* Yes.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 24.  
Amponsah  
Ankrah,  
21st  
September  
1948,  
*continued.*

Cross-  
examina-  
tion.

[sic]

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 24.  
Amponsah  
Ankrah,  
21st  
September  
1948,  
*continued.*

Q. And now Nii Obeng is the successor ?

A. Yes.

Q. Do you know that he collects all the rents of Ayimo now ?

A. Yes.

Q. And he does so as successor—on direct line of Nii Ayi ?

A. He uses the money to pay all family expenses and he does not use it for himself.

Q. You know Adjarben land ?

A. Yes.

Q. You know it was Nii Ayi's property ?

10

A. It was Adjarben's the son of Nii Ayi.

Q. That is the uncle of Quansah Ankrah ?

A. Yes.

Q. Do you know that when Government acquired the property compensation was paid to Dede and Ankrah Quansah ?

A. Yes. All family met and they told them to take the compensation. I know Otublohum Manche.

Q. He is the grandson of Nii Ayi ?

A. Yes.

Q. Do you say that he too has an interest in this property ?

20

A. Yes. I know Dainsuah Ankrah.

Q. You know she invited you to a meeting at the Otublohum Manche's house ?

A. He came to me and told me that I must make one with them to drive the Plaintiff away from the family. I refused. I did not attend the meeting.

*In Reply  
to Court.*

*In reply to Court :*

Q. Why did you not attend the meeting and oppose that resolution ?

A. He said he wanted me to be one with him and make a paper.

*Cross-  
examina-  
tion  
(continued).*

*Cross-examined :*

30

Q. Why did you not go and register your protest ?

A. Because it was a bad thing. I never went to Quarcoopome the tailor to complain.

Q. Did you go to him to discuss any family affairs at all ?

A. No.

Q. Do you know that apart from Adjarben family there is a branch called Oti ?

A. Yes Nii Kpakpo Oti had a stool under Otu Ahiakwa stool.

Q. Do you place Oti in same category as Ankrah stool ?

A. Yes Manche Ankrah is under the Otu Ahiakwa stool. Yes 40 Adjarben stool is also under Otu Ahiakwa stool.

Q. Are there any other stools under the Ahiakwa stool other than these 3 ?

A. Nii Okanta also has a stool under Otu Ahiakwa.

Q. That is different from Manche Ankrah stool ?

A. When Manche sits on the big stool—your small stool comes under the big stool.

*Re-examined :*

Q. At what time does an occupant of a big stool acquire a stool of his own ?

10 A. When war broke out and you go to the war—the stool which you take to the war when it comes back goes under the big stool. But when there is no war when you die the stool which you sat on.

When war broke out and before you go to it, you swear an oath before the big stool. The big stool is wrapped up in a cloth and it is taken to the war by the Manche. When he comes back and he makes his own stool which comes under the Big Stool. A Manche on coming back from war must make a stool of his own. If you don't go to war and die when body is washed the family will create one. Every Manche has a stool which is name attached to it. How land was acquired is a tradition

20 I was told.

*In reply to Court :*

Q. Which of the three sections of the family lives on the land ?

A. The descendants of the captives brought from the war—I also have a house there.

No. 25.

M. D. A. ANKRAH (re-called).

Plaintiff re-called by leave of Court.

M. D. A. ANKRAH, sworn, states, 1st Plaintiff (112/47), 2nd Plaintiff (32/47), re-called.

30 *Cross-examined by Akufo Addo :*

Q. You remember when Robert James Ankrah gave evidence and the Power of Attorney was shown to him and he was asked " where did the family meet to sign that document ? " " he said they met in your house in Station Road "—a house inherited from your mother. There was no family house for all 3 branches of the family was there ?

A. " P & B " is the family house.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 24.  
Amponsah  
Ankrah,  
21st  
September  
1948,  
*continued.*

*Re-exam-  
ination.*

*In Reply  
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No. 25.  
M. D. A.  
Ankrah  
(re-called),  
21st  
September  
1948.

*Cross-  
examina-  
tion.*

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 25.

M. D. A.  
Ankrah  
(re-called),  
21st  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).  
Ex. "C."*

*In reply to Court :*

*Q.* Why did you meet in your house then and not at " P & B " ?

*A.* It was prepared at P & B—and I was not well so they came to my house and executed the document.

*Cross-examined :*

*Q.* Is this your signature on the paper ?

*A.* Yes.

*Q.* In the paper you said the Manche Ankrah stool was distinct from Otu Ahiakwa stool ?

*A.* I said it was a captain's stool under the Otu Ahiakwa stool. 10

*Q.* You mean the Manche Ankrah stool came into existence in 1830 ?

*A.* 1829 when they went to Barme war.

*Akufo Addo :*

I tender the document admitted and marked " C. "

*Q.* You did not dispute the fact that Awudome land is under the Otublohum Manche ?

*A.* No it is under Otu Ahiakwa stool.

*Q.* When I say under him—I do not mean to say it belongs to him ?

*A.* Otu Ahiakwa stool was named after a Quarter of Otublohum.

*Q.* Awudome land is under the Otublohum Manche ? 20

*A.* No it is not.

*Q.* Is this your signature ?

*A.* Yes.

*Q.* You say here that " Awudome is under the Otublohum stool as per the chief list page 15 and therefore the contention that Awudome is under the Gbese stool is an after thought. " Is that what you swore ?

*A.* I did (after being questioned by me 4-5 times after grumbling).

*Q.* Did you say : " Awudome is known throughout the length and breadth of the country and so it is in the archives of the Court that Awudome is under the Otublohum Stool " ? 30

*A.* I made that affidavit.

*Akufo Addo :*

*Ex. " D. "*

I tender the affidavit (admitted and marked " D ").

*In Reply  
to Court.*

*In reply to Court :*

I can read small small. I read the affidavit referred to. I understand what I read—if I don't understand I ask.

*Q.* What has caused you to change your mind—opinion as to Awudome land being under Otublohum ?

*A.* Otublohum had 2 different stools.

*Q.* Under which of these 2 stools is Awudome ? 40

*A.* Under the Dadebanna stool. Atifi is the other stool. Yes Awudoma is under the Dadebanna stool of Otublohum.

*Cross-examined by Akufo Addo :*

Q. Who is now the occupant of the Dadebanna Stool ?

A. Since death of Ankrah Quansah no one has sat on it.

Q. Is it the same as the Otu Ahiakwa stool ?

A. Yes it is the same.

Q. So what you mean is that Awudome land is under Otu Ahiakwa stool ?

A. Yes.

10 Q. You know the difference between land being under a stool and land being the property of the stool ?

A. When land is under a stool it belongs to the stool. It is the person not the land that is under the Paramount stool.

Q. Who is the occupant of the Atifi stool now ?

A. Amu Nakwa.

Q. He is the man recognised as the Otublohum Manche ?

A. He is the Otublohum Atifi Manche—but he took the whole title.

Q. In that affidavit you were relying on the Chief's list ?

A. Yes. Yes in the copy of the Chief's List the post is shown as being vacant. Ashong is under my stool.

*In the  
Supreme  
Court.*

*Plaintiffs'  
Evidence.*

No. 25.

M. D. A.  
Ankrah  
(re-called),  
21st

September  
1948,  
*continued.*

Cross-  
examina-  
tion  
(*continued.*)

20 *In reply to Court :*

Q. Do you mean he cannot deal with his land without your consent ?

A. He cannot—because I am the caretaker. Yes a caretaker may be removed.

Q. And you—yourself have no voice in the matter of your removal ?

A. I am not an ordinary person—I am a member of the family. Those who appointed me as a caretaker—if they meet to-day and remove me I am ready to move.

*In Reply  
to Court.*

*Re-examined :*

30 Your contention is that it is not open to people who did not appoint you to meet and destool you ?

A. They have no right.

Q. Defendants—other than Charles Amoo Ankrah had nothing to do with your appointment ?

A. They had not. Defendants claimed Awudome land and sued Malam Dawuda and myself as a co-Defendant as I had granted the land to him. That was in 1943.

Q. What is the name of the Atifi stool ?

A. Otu Brafu stool.

40 Q. When you said that land is not under the Otublohum stool what particular stool had you in mind ?

A. Otu Ahiakwa stool (Question repeated 3 times) I meant it was not under Otu Brafo's stool.

*Re-exam-  
ination.*

*In the  
Supreme  
Court.*

*Q.* There has been litigation between your stool and Oto Brafo stool as to seniority ?

*A.* Yes—it is not yet finished. I started it.

*Plaintiffs'  
Evidence.*

*In reply to Court :*

*Q.* Until you became caretaker was there litigation ?

*A.* There was.

Case closed for Plaintiff.

No. 25.  
M. D. A.  
Ankrah  
(re-called),  
21st  
September  
1948,  
*continued.*

*Defendants'  
Evidence.*

**DEFENDANTS' EVIDENCE.**

No. 26.

**CHARLES AMOO ANKRAH.**

10

No. 26.  
Charles  
Amoo  
Ankrah  
21st  
September  
1948.

CHARLES AMOO ANKRAH (m.), sworn, states in Ga, Defendant (112/47).

*Examination-in-Chief :*

Am direct descendant of Manche Ankrah. Am his grandson—am son of Kommey Tetteh. Am head of Manche Ankrah family now i.e. of his direct descendants. I remember when I was made Head. Appointment was made at my brother Ankrah's house. My brother's name is J. R. Ankrah.

*In Reply  
to Court.*

*In reply to Court :*

I don't know what J.R. stands for.

20

*Examina-  
tion.*

*Examined :*

Manche Ankrah family belong to Otublohum Quarter and are under Otublohum Manche who is now Nii Amu Nakwa. Nii Amu Nakwa is a relation of mine being a grandson of Nii Ayi and a brother of Manche Ankrah.

*Q.* Did he play any part in your election ?

*A.* Yes—meeting took place at his house.

*Q.* Who convened that meeting ?

*A.* I was not there—did not go to the meeting. I was then at a village called Tema. I was sent for from there. The person to be elected does not attend. That is a matter of etiquette. A ceremony is later performed. A sheep was slaughtered and the linguist of the Ga State came. I was introduced to the Divisional Chiefs and to the Ga Manche. This was two Christmas ago. I know Awudome land.

*Q.* Who was first owner of Awudome land ?

*A.* Manche Ankrah. Land was given to him after the Barme War, by the Manchemei Ga. After he returned from the Barme war he asked the Ga Manche to give him. He asked for it. I heard of Ayi and Okanta—my grandfather's brothers. They had no sister.



*Q.* Did Ankrah have a different father from Ayi and Okanta ?

*A.* Yes. Name Ankrah is derived from name of Manche Ankrah family. Nii Ayi died 3 years before Manche Ankrah died.

*Q.* Who succeeded Nii Ayi ?

*A.* Nii Arde—his nephew.

*Q.* Who succeeded Nii Arde ?

*A.* Nii Obeng.

*In reply to Court :*

*Q.* How was Nii Obeng related to Nii Arde ?

10 *A.* I do not know.

*Examined :*

*Q.* Who is the man now in Nii Ayi's position ?

*A.* M. D. A. Ankrah (Plaintiff).

*Q.* Had Nii Ayi any property of his own ?

*A.* Yes—he had. It is in Station Road—where Railway station is.

*In reply to Court :*

*Q.* How did Nii Ayi get the land ?

*A.* I have not been told how he came by it.

20 *Q.* It is stated that you were among the persons who appointed Plaintiff as caretaker of these properties ?

*A.* Yes after Ankrah Quansah's death.

*Q.* Do you hold the view that descendants of Nii Ayi and Nii Okanta have a share in Awudome land ?

*A.* No—because we have no share in theirs.

*Q.* Did you have any share in the compensation for Adjarben property (Railway Station) ?

*A.* No.

*Q.* You know house in High Street called Ayimo—who collects rents ?

*A.* Nii Obeng.

30 *Q.* Do you have a share in the rents ?

*A.* No.

*Cross-examined by Bossman :*

*Q.* You say that shortly after Quansah Ankrah died Plaintiff was appointed caretaker of the land ?

*A.* Yes.

*Q.* You personally took part in that ?

*A.* Yes.

*Q.* Your elder brother (J. R. Ankrah) also took part ?

*A.* No—he did not.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.  
Charles  
Amoo  
Ankrah  
21st  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Examina-  
tion  
(continued).*

*In Reply  
to Court.*

*Cross-  
examina-  
tion.*

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.  
Charles  
Amoo  
Ankrah  
21st  
September  
1948,  
*continued.*

Q. Other Defendants did not take part ?

A. They were there—but I don't know whether they signed or not.

Q. I suggest to you that that appointment was made mostly from members of Ayi and Okanta lines ? and including some from your line ?

A. Yes.

Q. And that appointment was valid by custom ?

A. Yes.

Q. Late Quansah was in charge of the Land ?

A. Yes.

Q. And he was in charge in his capacity as Chief ?

10

A. Yes.

Q. And during his time he litigated with Otublohum stool about the land ?

A. Yes.

Q. And you know him as successor of Manche Ankrah ?

A. Yes.

Q. In the same stool as your grandfather sat ?

A. Yes.

Q. You do know that he was from the Ayi line (i.e., Quansah) ?

A. Quansah was from the Ayi line. Stool was given for him to 20 sit on.

Q. And for all intents and purposes he was Manche Ankrah ?

A. Yes.

Q. Nobody in the family then was senior in rank to him ?

A. Yes.

Q. You do know that when he was made head he was not made head for your own line alone but for all 3 lines ?

A. We made him head for Manche Ankrah's line.

Q. Do you say that when he was alive, there were separate heads for the Ayi and Okanta lines ?

30

A. No—there was only one.

Q. I suggest to you that he looked after all the 3 branches and their affairs ?

A. No—we had our stool and we gave it to him to look after. The other 2 branches came and joined us.

Q. Is it not true that when Quansah Ankrah was on the stool that the 3 branches constituted one family and he looked after them ?

A. We called them and we made one.

Q. And it was while the 3 branches were one that he fought the case against the Otublohum Manche ?

40

A. It was Manche Ankrah's descendants who fought the case.

*In reply to Court :*

Q. Did not the Ayi and Okantas subscribe towards the cost of the litigation ?

A. They did not. It cost us £300.

Q. Did you apportion that £300 among the 3 branches ?

A. No—Quansah paid it all from his own purse.

*Cross-Examined :*

We paid Quansah.

10 Q. The case was actually fought by members of the Ayi line. They went to Court and gave evidence ?

A. No—none of Ayi's descendants gave evidence. They gave Ankrah (Plaintiff) a Power of Attorney to fight the case. Plaintiff comes from the Ayi line.

*In reply to Court :*

Q. Why give a Power of Attorney to a man of the Ayi Branch if he has no interest in the land ?

A. It is done.

*Cross-examined :*

Quansah gave evidence.

20 *In reply to Court :*

Q. Which man of your own line gave evidence in that case ?

A. Amanuah—a woman and Oko Ankrah.

*Cross-examined :*

Q. Quansah Ankrah had your full authority to represent you in that case ?

A. Yes. He fought the case and he won it.

Q. For a long time he was not well ; was in his village and the conduct of the case fell upon the Plaintiff ?

A. Yes.

30 Q. When he died Plaintiff was appointed to succeed him ?

A. Yes—he took the Power of Attorney.

Q. The same Power of Attorney you had given to Quansah was transferred to Plaintiff except you did not put him on the stool ?

A. Yes.

Q. You introduced Plaintiff to State Council as Manche Ankrah's Representative in political affairs ?

A. No. He was introduced at State Council. I accompanied him.

Q. To act then in the same way as Quansah Solomon had acted in his lifetime ?

40 A. No.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.  
Charles  
Amoo  
Ankrah  
21st  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In Reply  
to Court*

*Cross-  
examina-  
tion  
(continued).*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.

Charles  
Amoo  
Ankrah  
21st  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*Q.* What was the difference ?

*A.* He was only introduced as a representative until we got a Manche. We slaughtered a sheep for Quansah because he came on the stool. We did not slaughter a sheep for Plaintiff because he was not enstooled.

*In reply to Court :*

*Q.* Who is it proposed should be made the head of the whole family ?

*A.* I don't know. They proposed electing me as head. I had been elected head of my branch.

*Q.* So you are ineligible as head of the whole family ?

*A.* I have the right. 10

*Cross-examined :*

*Q.* The only thing that has been dividing you from the other 2 branches is that you are setting up the claim to deal exclusively with this land ?

*A.* Yes.

*In reply to Court :*

*Q.* Do I understand that apart from the land matter there is nothing that divides the family in opinion ?

*A.* It is because of this land.

*Q.* And if your branch conceded that the land belonged to all 3 branches then a head could be appointed ? 20

*A.* We do not agree.

*Q.* Did your grandfather Manche Ankrah have land belonging to his own section before he went to the Barme War ?

*A.* No.

*Q.* Did Ayi and Okanta have any of their own ?

*A.* No.

*Cross-examined by Bossman :*

*Q.* In 1943 when your people did this you had the good sense to go with Plaintiff ?

*A.* That is not true. 30

*In reply to Court :*

I sold the land to Captan.

*Q.* Have either Ayi or Okanta sold any land ?

*A.* Yes.

*Q.* Did you join in that ?

*A.* Yes.

*Court :*

If this is true I shall expect affirmative evidence of these sales.

*Cross-examined :*

In 1943 I was on Plaintiff's side. 40

*In reply to Court :*

Q. Had you a genuine belief in his cause ?

A. Yes.

Q. What has made you change your mind ?

A. (No answer).

Q. How many stools have you in your own branch ?

A. About 7. Captan first approached me about buying this land not quite a year ago. He sent his clerk.

Q. Did you tell the Plaintiff about this ?

10 A. I did not because I had been installed. I had then been installed for nearly 3 years.

Q. In that point have you sold land to anyone else ?

A. No.

Q. It was when he started building Plaintiff took the writ ?

A. He had not started building.

*Cross-examined by Bossman :*

Q. Take you back to the 1943 case—they put up your brother “ J.R. ” as your head ?

A. Not as head but as representative.

20 Q. They purported to make “ J.R. ” head of Manche Ankrah alone to claim the land ?

A. Yes it is so.

Q. Did you know that when you were on the side of Plaintiff understand the position like that ? That is that they were claiming the land as the property of their own section of the family ?

A. I understand that. I opposed it.

Q. They said that Plaintiff had no right to give any portion to Dawuda—that they were the persons entitled ?

30 A. That is not so. At that time I was with the Plaintiff who acted in accordance with what I told him.

Q. Did you agree for Plaintiff to give the land to Allotey ?

A. I agreed. Allotey was a member of Ayi line.

*In reply to Court :*

Q. Did you agree when Allotey gave the land to Dawuda ?

A. Yes to live on.

*Cross-examined :*

Q. When earthquake came it was agreed that any member of any of the three lines could get a piece of the land for building purposes from the Plaintiff on paying £2 ?

40 A. We had a meeting which did not finish. There was a row about it and we came to no conclusion. That was in 1939. I gave evidence in the course of the 1943 case before the Divisional Court.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.  
Charles  
Amoo  
Ankrah,  
21st  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.

Charles  
Amoo  
Ankrah,  
21st  
September  
1948,  
*continued.*

*Q.* I'm reading from your evidence "the land in dispute . . . it is a fact that the members of the family met and appointed . . . after this some of the Plaintiffs joined in granting it . . . it was agreed at the meeting that all the members of the family should contribute £2 5s. each . . ." Did you say that ?

*A.* I did not say so.

*Q.* Did you say the meeting took place at "P & B" Hall ?

*A.* I said so. I said there was a row when the £2 5s. was mentioned. Yes all 3 branches met about the land at "P & B" Hall. It was agreed that everybody should get a plot. They refused to pay the £2 5s. 10

*Q.* Did you say "that every member should pay 2s. 6d. a month . . . i.e. every one who built on the property" ?

*A.* I said if a Fanti man, Kwahu man built he should pay.

*Q.* It was after that meeting that Plaintiff gave Allotey the Dawuda plot ?

*A.* Yes. Allotey was from Ayi line. I know Mrs. Delphina Ocquaye. She is from the direct Ankrah line. Afo Ankrah was her father.

*Q.* She applied for a plot after the meeting ?

*A.* Yes.

*Q.* And she paid £2 5s. and got a receipt ? 20

*A.* Yes she showed it to me.

*Q.* So in 1939 the position was that you all met and agreed that members of whole family could get plots and that was result of that Plaintiff started apportioning plots ?

*A.* Not at that time. Yes receipt was tendered in evidence.

*Q.* Suggest that in 1939 there was no suggestion by anyone in the direct line that it belonged exclusively to the one line ?

*A.* No—they knew it.

*Q.* I refer you to page 253 and the receipt given to Delphina Ocquaye ?

*A.* Yes Mary Ankrah is in my line through her mother. I know she 30 paid and was given a receipt.

*Q.* Suggest that therefore whatever line they came—they were treated equally ?

*A.* Yes.

*Q.* Later when land became valuable the scholars got up the idea of making the land the exclusive property of your branch ?

*A.* They all knew it all belong to our line only.

*Q.* You have heard a little about tradition ?

*A.* If you ask me and I know I will tell you.

*Q.* Do you deny that your late grandfather and Okanta as his Captain 40 went together to the Barme War ?

*A.* I've never heard it. Ankrah went but not Okanta.

*Q.* Did you know he was Chief before he went to the war ?

*A.* Yes.

*Q.* Do you accept the story that he sat on the Otu Ahiakwa stool ?

*A.* Otu Ahiakwa had no stool.

*Q.* Have you never heard of an Otu Ahiakwa stool in Otublohum ?

*A.* I have never heard of it.

*In reply to Court :*

*Q.* Do you say you've never heard it mentioned until in this case ?

*A.* Yes.

*Cross-examined :*

*Q.* Do you remember State Council saying that your stool was senior  
10 in rank to Atifi Stool ?

*A.* I said Manche Ankrah's stool was superior to Atifi stool. Yes we were the first comers before the Atifi stool. I said we were superior in rank because our stool arrived before the Atifi stool. Manche Ankrah sat on that stool.

*Q.* Did you know the stool was there before he was born and enstooled ?

*A.* He founded his own stool.

*Q.* Did Ankrah in the State Council mention the name of that stool which came first ?

20 *A.* Otu Ahiakwa was the founder of that Quarter.

*Q.* Did you not hear that when he founded the Quarter in Otublohum he founded a stool ?

*A.* He came as a steward boy with the Europeans.

*Q.* And when he founded the Quarter he founded a stool ?

*A.* I never heard of Otu Ahiakwa stool.

*Q.* So your grandfather was in no way connected with Otu Ahiakwa ?

*A.* I cannot tell. I know the name of mother of Manche Ankrah. I do not know her name.

*Q.* But you know that Amanua begat Ayi and Okanta ?

30 *A.* I heard that. I remember now—it was the same woman.

*Q.* Can you now remember that Manche Ankrah was connected with Otu Ahiakwa ?

*A.* I cannot say.

*Q.* Manche Ankrah had a son called Otu ?

*A.* I've heard. I don't know him.

Adjourned to 22.9.1948.

(Sgd.) J. JACKSON,  
Judge.

22nd September, 1948.

40 *Q.* You agree that your family is by origin Denkyera-Akan ?

*A.* I don't know.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.

Charles  
Amoo  
Ankrah,  
21st  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

22nd  
September  
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*Cross-  
examina-  
tion  
(continued).*

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.

Charles  
Amoo  
Ankrah,  
22nd  
September  
1948,  
*continued.*

*Q.* You've never heard that Otu Ahiakwa was from Denkyera ?

*A.* I only know that he founded the Quarter.

*Q.* You've never heard that Otublohum were Akans (Twi) ?

*A.* I only heard that they came from Kumasi side.

*Q.* You admitted that they succeed on the mother's side ?

*A.* I did not know that. I know present Otublohum Manche.

*Q.* Do you know that he inherits the stool through his mother ?

*A.* I have nothing to do with that.

*Q.* Did your grandfather succeed to the stool through his father or his mother ? 10

*A.* I don't know if he inherited through his mother.

*Q.* In first case—sometime after judgment given—before the appeal both of you met to try and settle your differences ?

*A.* After case finished here I went to Tema and do not know what happened.

*Q.* You told us at time of earthquake meeting to divide for members to have plots—do you remember that strangers to the family applied and had plots allotted to them ?

*A.* I said that after the earthquake Kwahu and Fanti people applied and they were given plots. They each paid a case of rum. The cases were given to me and I gave them to D. S. Quarcoopome for safekeeping. 20

*In Reply  
to Court.*

*In reply to Court :*

Yes he kept them safely. It is finished.

*Cross-  
examina-  
tion  
(continued).*

*Cross-examined :*

*Q.* Who made the grants ?

*A.* I and the Plaintiff.

*In Reply  
to Court.*

*In reply to Court :*

*Q.* Had you been given a Power of Attorney ?

*A.* We gave the Plaintiff the Power of Attorney.

*Cross-  
examina-  
tion  
(continued).*

*Cross-examined :*

We the Manche Ankrah section, gave the Plaintiff the Power of Attorney. 30

*Q.* Do you agree that with consent of elders of all 3 sections the Plaintiff made grants of lands to members after the earthquake ?

*A.* Manche Ankrah section gave him the Power of Attorney.

*Q.* When land was granted to Fantis by Plaintiff did not elders of Ayi and Okanta section also go on the land and you all divided the drink ?

*A.* We did not drink the drinks.

*Q.* Did you all go on the land ?

*A.* Kommey Ankrah, Allotey Ankrah and Plaintiff went on the land. We did not meet before land was given to the Fantis. Plaintiff sent for me. 40



Q. Did you not go to P & B house ?

A. It was not there—it was in Plaintiff's own house.

Q. Do you say it was not at P & B house that Fantis brought the sheep and drinks ?

A. No—not P & B house.

Q. Are you prepared to swear that Fantis did not bring a sheep and drinks to the P & B house where there was a family meeting ?

A. (witness quibbles) I did not see the sheep—I saw the drinks at P & B house. From District Commissioner we went to P & B house.

10 Q. District Commissioner had written a letter to Plaintiff begging for the land ?

A. Plaintiff did not tell me so. I went to see the District Commissioner.

Q. Who and who went to District Commissioner ?

A. Kommey Ankrah, Amponsah Ankrah went (points to J. R. Ankrah and Kommey Tetteh in body of Court).

Q. Amponsah is an elder from the Okanta line ?

A. He comes from the Ankrah line—on both mother and father side.

Q. Was there a meeting at P & B ?

20 A. Yes.

*In reply to Court :*

Q. Is P & B the family house ?

A. It was not a family house but as my grandfather's house had been demolished we took it there.

Q. Was your grandfather's house a family house for the whole family ?

A. No.

Q. Where is your family house for all 3 sections ?

A. P & B.

*Cross-examined :*

30 Q. There the whole family—yesterday regarding a funeral ?

A. None of us went there.

Q. When your brother Ayi died was the funeral not there ?

A. I was then on Plaintiff's side.

*In reply to Court :*

Whether it is a good thing or a bad thing to sell family land to a foreigner—Plaintiff did it first.

Q. Which piece of land did Plaintiff sell to a foreigner ?

A. A part of Awudome land. He sold it to Hoyte—a pensioner, about 3 years ago. He sold it for £510.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 26.

Charles  
Amoo  
Ankrah,  
22nd  
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1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion [sic]  
(continued).*

*In Reply  
to Court.*

*In the  
Supreme  
Court.*

*Defendants'  
[sic] Evidence.*

No. 26.  
Charles  
Amoo  
Ankrah,  
22nd  
September  
1948,  
*continued.*

Cross-  
examina-  
tion  
(*continued*).

*Q.* How much of that was given to your branch ?

*A.* £2. Plaintiff said he would rebuild my grandfather's house with the rest. He has not done so. He gave £1 each to the Okanta side. He gave £1 each to his own children (Ayi side). Hoyte is a West Indian settler. Captan comes from same side of *England*.

*Q.* What did Captan pay you ?

*A.* £7,000.

*Q.* How much did you give to the Okanta side ?

*A.* I did not give them any. I did not give Plaintiff anything.

*Cross-examined :*

*Q.* You signed as a witness of the conveyance to Hoyte ?

*A.* I signed as a Head.

*Q.* Elders from Ayi and Okanta line also signed ?

*A.* Yes—they had the right to witness. They were only witnesses.

*Q.* Just a week after Hoyte's sale you were bribed with an offer to be made a head ?

*A.* It is not true.

*Q.* How long ago after Hoyte's sale did you go over to the other camp ?

*A.* I don't know—I did not count.

10

20

*In Reply  
to Court.*

*In reply to Court :*

*Q.* Was the sale to Hoyte the first only sale of that land ?

*A.* Yes—I was pleased he had sold the land—was going to build a house for my grandfather.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

*Q.* Until the dispute cropped up Plaintiff was in charge of all family affairs ?

*A.* Yes. Descendants of the captives lived on the land. They are still members of the family.

*Q.* If any of them dies the head of the 3 sections look after that ? 30

*A.* No.

*Q.* Is it the right of the head of the family to attend to it ?

*A.* No—not the head of the family—yes the head of the family.

*In Reply  
to Court.*

*In reply to Court :*

*Q.* Now that there is a head who does it ?

*A.* We contribute.

*Q.* Would Ayi and Okanta have to join in this contribution ?

*A.* No—they do not contribute.

*Q.* When Quansah Solomon was alive what happened ?

*A.* At that time I was at Tema so I do not know except what Quansah 40 Solomon told me. He used to tell me that some of descendants died and

I would pay my portion. Quansah Solomon came from Ayi line. He collected to pay funeral expenses. He was head of all 3 sections. He came to me for my share. That is the custom. *In the Supreme Court.*

Q. What amount was received for the cemetery acquisition ? *Defendants' Evidence.*

A. £300. Cemetery was part of this land.

Q. What happened to that money ? *No. 26.*

A. Quansah Solomon paid the money for the litigation—so when he was paid the money he kept it. He litigated on behalf of the whole family. *Charles Amoo Ankrah, 22nd September 1948, continued.*

Q. I suggest you only received £2,000 ?

10 A. No, I sold it for £7,000. I prepare the conveyance. Captan gave me £7,000. He paid me by cheque.

Q. Who was head of your section of the family before you ?

A. My grandfather Kommey.

*In reply to Court :*

Q. Did you succeed as head on death of your grandfather ? *In Reply to Court.*

A. No—Kpakpo Odehey succeeded. Quansah Solomon succeeded him.

*Cross-examined :*

20 1945 Q. Is it a fact that you purported to be made head in November, 1945 ? *Cross-examination (continued).*

A. It is not quite 3 years.

Q. And you say that was not a week after you signed the Hoyte's document ?

A. That is not so. Yes we published my appointment in the papers. I heard the Ga people gave the land to my ancestor for himself.

*Re-examined :*

Q. What have you done with the money from Captan ? *Re-examination.*

A. I am building with it on the land in question. The estimated cost of the building is about £7,000—it is a big house.

30 Q. What is it intended to be ?

A. I'm building for Manche Ankrah section. No building has been put up since his building was demolished.

Q. Do you know of any other sales by Plaintiff ?

A. Yes—he gave one to one Eboe, a Syrian and I don't know whether he sold it or leased it.

*In the  
Supreme  
Court.*

No. 27.

J. K. Q. ARYEH.

*Defendants'  
Evidence.*

JOSIAH KORKWEI QUARMINA ARYEH, sworn, states in English.  
Defendant 32/1947.

No. 27.  
J. K. Q.  
Aryeh,  
22nd  
September  
1948.

*Examination-in-Chief :*

Am one of the Defendants and a direct descendant of Manche Ankrah. I know history of Awudome land. Land was given to him by the Ga people as a personal gift. I remember when Ankrah Solomon had a case in the State Council.

Q. Did Quansah Ankrah Solomon then say anything different than 10  
what you are saying now ?

A. He said the same.

*Akufo Addo :*

I refer to page 234 Exhibit No. 4.

*Examina-  
tion.*

*Examined :*

Ayi and Okanta were the other brothers of Manche Ankrah. Ayi predeceased Ankrah. Did not know any of them. I was born on August 4th, 1888. When Nii Ayi died Nii Ardey succeeded him. Nii Ardey was Nii Ayi's son. When Ardey died—Adjarben succeeded him. *Adjarben was a younger brother of Ardey* of the same mother. 20

When he died—his brother Adjarben succeeded on his death his sister Dede succeeded—she was a daughter of Nii Ayi.

*In Reply  
to Court.*

*In reply to Court :*

Amanua was Nii Ayi's mother.

*Examina-  
tion  
(continued).*

*Examined :*

W. A. Solomon succeeded after Dede.

Q. When Manche Ankrah died who succeeded him ?

A. Nii Okanta—a uterine brother of Ankrah. Nii Kommey succeeded Okanta. Nii Kommey was the eldest son of Manche Ankrah. After Kommey—came Kpakpo Odehey Mingle. 30

Q. What was he to Kommey ?

A. Kommey's sister's son was Kpakpo Odehey. After Kpakpo Odehey came Okaikai a daughter of Manche Ankrah. After Okaikai came Frederick Afo Ankrah. It was in Afo's time when dispute arose about Awudome land.

Q. How did Ankrah Quansah come to be apparent head looking Awudome property ?

A. Late Otublohum Manche was trying to take the land from Ankrah family as his stool property. Ankrah family took a loan of £100 from Quansah Ankrah to fight the case. He lent us this money. £60 was paid 40  
to lawyer Sawyerr. We agreed with him that he should join us to fight the case. He agreed—so we empowered him to stand for us. This is the Power of Attorney we gave to him (Exhibit " A " referred to).

*Q.* Do you know if in any of these cases Ankrah Quansah styled himself as Head of the Ankrah family ?

*A.* He never said so.

*Court :*

The only admissible evidence of the fact is to find it in the proceedings to which reference is made.

*Examined :*

*Q.* Has anyone of Ayi family ever become head of Ankrah family ?

*A.* No—not until Solomon—he did so on our authority.

10 *Q.* Do you know what properties Manche Ankrah had ?

*A.* I know. I know what properties Ayi had. Okanta had no properties.

*Q.* What properties did Ankrah have.

*A.* Awudome first, Afuaman and Mayara. Also his house that was demolished by the Government in 1911.

*Q.* What properties did Ayi have ?

*A.* Mayarafase, Adjarben Lodge near Railway Station and his house in High Street. Okanta being a follower of fetish had no property. Adjarben Lodge was acquired by Government for Railway Station about 20 1908–1910. Thirty bags of money was paid, i.e. £3,000. It was rumoured it was paid.

*Court :*

I cannot have hearsay evidence.

*Examined :*

I was in Court when Solomon applied for compensation money for his mother Dede. Not a penny came to Ankrah or Okanta family.

*Q.* Did any member of your family lay any claim to that property ?

*A.* We did not. We had no interest in it. Ayimo was in possession of Nii Obeng—successor of Solomon Quansah Ankrah.

30 *Q.* Who collects rents ?

*A.* Obeng.

*In reply to Court :*

*Q.* How do you know ?

*A.* Nii Obeng is Quansah's successor.

*Court :*

There is no evidence that Obeng has collected any rents.

*Examined :*

We do not share in any of these rents, Nii Obeng has nothing to do with Awudome land.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 27.

J. K. Q.

Aryeh,

22nd

September

1948,

*continued.*

Court.

Examina-

tion

(*continued*).

Court.

Examina-  
tion  
(*continued*).

In Reply  
to Court.

Court.

Examina-  
tion  
(*continued*).

[sic]

*In the  
Supreme  
Court.*

*Q.* When a man dies—leaving no *sisters* or *sisters* dead—but leaving a brother—who succeeds to the property ?

*A.* The brother.

*Defendants'  
Evidence.*

*Q.* When brother dies who succeeds ?

*A.* Property goes back to original owner—to his descendants.

No. 27.

J. K. Q.  
Aryeh,  
22nd  
September  
1948,  
*continued.*

*In reply to Court :*

*Q.* Have the brothers children any share in it ?

*A.* They have no share in it.

*In Reply  
to Court.*

*Examined :*

*Examina-  
tion*

*(continued).*

*Q.* Can you say why although Nii Obeng is the successor of Solomon 10 who was the caretaker of Awudome lands he does not perform same duties as his predecessor ?

*A.* Because Awudome land is not his property.

*Q.* When Quansah Solomon was alive in what capacity was he acting in relation to Ayi's property and to Awudome lands ?

*A.* He dealt with Ayi's property as the rightful heir, but in

*Akufo Addo :*

I asked " Awudome land is Manche Ankrah property " ?

*Court.*

*Court :*

That is the very issue before me and to suggest to you whether 20 Awudome land is Manche Ankrah's property is to invite a reply that is the very issue. It is leading and I disallow the words " as Manche Ankrah's property after Awudome." I allow the question in the form in which I have rendered it.

[sic]

*Examina-  
tion  
(continued).  
Ex. " A."*

*Examined :*

In respect of Awudome lands he was acting under the Power of Attorney (Ex. A).

*Q.* How did the Plaintiff come to be a caretaker of these Awudome lands ?

*A.* When Solomon died the Plaintiff became the caretaker of all 30 Solomon's affairs—everything left by Solomon he was the caretaker. Awudome lands were under Solomon when he died. I know nothing about the Power of Attorney (Ex. No. 2) shown to me by his Counsel.

*Q.* When did you first know that Plaintiff was doing anything in connection with Awudome lands ?

*A.* Solomon died in 1936. I saw corrugated iron sheets erected on the land sometime about 1939 or 1940—I and other members of Ankrah family went there and saw a man of N.T.'s by name Mallam Dawuda. I questioned him how he got there. He told me and we took action against him. There Plaintiff joined as a Defendant.

*In reply to Court :*

That was the first time I knew he was acting as caretaker.

*In the  
Supreme  
Court.*

*Examined :*

Plaintiff sold a portion of this land to Hoyte. I first heard of this in 1944–1945. It was for over £500. He leased land to Eboe. He leased to Farrar.

*Defendants'  
Evidence.*

No. 27.  
J. K. Q.

Aryeh,  
22nd  
September  
1948,  
*continued.*

In Reply  
to Court.

Examina-  
tion  
(*continued*).  
Court.

*Court :*

Why were these matters not put to Plaintiff in the box. The source of the evidence appear to render this evidence of no evident value— it is no evidence to say he got the information from the archives of this court or what Farrar told him.

*Bossman :*

At no time did we promise to build any house nor have we built.

*Court :*

I will re-call the Plaintiff immediately after this examination in order to testify to these matters which should have been put to him when he was in the box.

*Examined :*

No house has been built by Manche Ankrah. I signed a conveyance to Captan for £9,000. We sold it to put up a substantial building in memory of our ancestor Manche Ankrah. It is now under construction on Awudome land. Started the building about 6 months ago.

Examina-  
tion  
(*continued*).

*Court :*

How is this relevant to the issue ?

Court.

*Akufo Addo :*

To show that amount passed to us in answer to Mr. Bossman's suggestion—it was only £2,000.

Q. Are any members of Manche Ankrah family benefiting by these properties left by Solomon ?

Examina-  
tion  
(*continued*).

A. They do not.

30 Q. You spoke of Manche Ankrah's house in Otublohum acquired by Government ?

A. That was in 1911. Now called High Street.

Q. To whom was compensation paid ?

A. Madam Okaikai—then head of Manche Ankrah family. Okaikai was daughter of Manche Ankrah, Okaikai died about 1915. She was very very old then.

Q. Did Okaikai give any of it to Okanta family ?

A. No my mother received £5.

*In the  
Supreme  
Court.*

*Q.* Who invited a meeting for purpose of electing Amoo Ankrah as head ?

*Defendants'  
Evidence.*

*A.* J. R. Ankrah. Meeting held at Otublohum Manche's house. It was a meeting for the election of a head of the direct descendants of Manche Ankrah.

No. 27.  
J. K. Q.  
Aryeh,  
22nd  
September  
1948,  
*continued.*

*Q.* Otublohum Manche is a grandson of Nii Ayi ?

*A.* Yes.

*Q.* Who was present there ? Do you know if any people were invited—did you go and call any ?

*A.* I went to call T. V. Kofi a descendant of Nii Ayi and one of the 10 executors of Quansah Solomon. He came. I went to Korle Gonno to call 2 old women who are Manche Ankrah's granddaughters. Went to Adabraka and called an old woman Afua Mansa. These are those I went to call—we were sent to different places. They came. I saw Ankrahtse, Mark E. Ankrah, Mr. D. S. Quarcoopome, Mr. J. W. Dodoo and many others.

*Q.* Was attendance confined to direct descendants of Manche Ankrah ?

*A.* It was not—some came from Okanta and Ayi's lines.

*Q.* Why was it necessary for these to be there ?

[*sic*]

*A.* They are our family. They are relatives and so if I *went* to do 20 something I must send for them to witness what I am to do. They have no interest in Manche Ankrah's properties.

*Q.* Do you know the land sold to Hoyte ?

*A.* Yes. Hoyte is not now in possession. It is part of the land we sold to Captan. There are Syrians living on the land. We did not give them that land. It is included in the land which we sold to Captan. I know a Syrian called Farrar. He has done nothing on the land. Captan has put pillars on the land.

*In Reply  
to Court.*

*In reply to Court :*

Amoo at that time was Plaintiff's follower. 30

*Examina-  
tion  
(continued).*

*Q.* You remember part of land was acquired by Government for cemetery ?

*A.* Yes. Compensation was paid to Quansah (Solomon). It was £304.

*Q.* Did he pay that money to you ?

*A.* It was like this—he did not pay it to us—when we met to share the money he said “ Oh I have shipped cocoa and there is a debt and I want you to allow me to pay the debt with the money—when I get the debt I will pay you back.” He never paid us back. We have demanded it from the executors under the Will.

*In Reply  
to Court.*

*In reply to Court :*

*Q.* When did you make the demand ?

*A.* About 4 years ago I think. 40



*Examined :*

There was correspondence between D. S. Quarcoopome and the executors.

*In the  
Supreme  
Court.*

*Cross-examined by Bossman :*

*Defendants'  
Evidence.*

Q. It is correct to say you are the leader of the Defendants ?

A. It is not. The other Defendants are senior to me. I have been Secretary and collector of tolls of this land since 1912.

Q. In the last case you spoke for all your colleagues ?

A. Yes.

10 Q. When you spoke were you not then representative and leader ?

A. It does not mean I am the leader.

Q. Do you say that your case in 1943 was in any way different to your case to-day ?

A. It is the same. But there were some plans in the first case. It was non-suited. I did not agree with the judgment.

Q. You file motion for leave to go to Privy Council and then abandoned it ?

A. Yes—there were reasons.

Q. What do you call that (Ex. A) ?

20 A. A Power of Attorney—an acknowledgement by Solomon that he was Attorney for Manche Ankrah family for those whose names are appended there. I was not there at the time.

Q. Do you see mark of Benjamin Okanta ?

A. Yes—I know him.

Q. From what line is he ?

A. His mother is from Manche Ankrah line and his father is not of Okanta line.

Q. I again ask you if he is from Okanta line ?

A. He is not—I am not aware that his father is from Okanta line.

30 This man in Court (Tawia Ankrah)—his father is named Atta Tawiah.

Q. Will you deny if I tell you that Benjamin Okanta is this same Atta Tawiah ?

A. I will deny it.

Q. There is one called Ayikuma ?

A. I see one. Full name is recorded as Ayikuma. I know of 3 Ayikumas in Accra. I know of 2 Ayikumas in my family—one is in Ayi line and the other in Manche Ankrah's line. Ayikuma was my father-in-law. Okaikai had a son called Ayikuma who was the father of my divorced wife. The other is from Ayi line. His mother was

40 Nii Ayi's daughter.

Q. How old is the Ayikuma of your line ?

A. He died when he was 80 years old. He attended family meetings. He died about 9 years ago.

No. 27.  
J. K. Q.  
Aryeh,  
22nd  
September  
1948,  
*continued.*  
Examina-  
tion  
(*continued.*).  
Cross-  
examina-  
tion.

*In the  
Supreme  
Court.*

*Q.* Tawia Ankrah—you know him? Do you know where he came from?

*A.* I can't make him out.

*Defendants'  
Evidence.*

*Q.* You see Owusu Lamptey's name there. Do you know him?

*A.* I know one Owusu Lamptey.

No. 27.  
J. K. Q.  
Aryeh,  
22nd  
September  
1948,  
*continued.*

*Q.* Did you know one who had a sister called Adompia?

*A.* I know him. He was a grandson of Nii Ayi.

*Q.* The suggestion to you is that even in 1922 there was no question that when reference was made to Ankrah family it referred not only to your side but to Okanta and Ayi? 10

*A.* When Ankrah is referred to—it refers to all three sections as the brothers adopted the name.

*In Reply  
to Court.*

*In reply to Court :*

*Q.* When did they first adopt the name?

*A.* A long time ago. Before I was born.

At time Solomon signed "A" he was sitting on Adjarben stool. He was not then sitting on the Ankrah stool.

*Cross-  
examina-  
tion  
(continued).*

*Q.* He was enstooled in 1927?

*A.* I never witnessed that to my knowledge he was enstooled on the Ankrah stool. I was in Togoland. Yes Dawudah's case commenced in the Native Court. Yes I issued that writ in the Native Court. I went to the Native Court to take out the writ. I cannot remember if I dictated—we took a paper. At time "A" was made Annan Seblebe was claiming a portion of this land. Solomon and D. S. Quarcoopome fought him in the James Town Tribunal. 20

*Q.* You mentioned Ayikuma—was he ever the caretaker of Awudome land?

*A.* No—he was not.

*Q.* Read p. 176 in the evidence you gave to the Native Court beginning "this land belonged to Manche Ankrah . . . what follows? 30  
"It was a question of our family land . . . all transactions in respect of the land are . . . are addressed to the man Ayikuma the eldest of the surviving children of Manche Ankrah." Is that what you said?

*A.* I don't remember saying that. If I did say so—it was not true. The recorder of the evidence was not a good man (refers to page 176 Ex. No. 6).

*Q.* I'm asking you again "Do you say you do not know that Manche Solomon was enstooled on the Ankrah stool"?

*A.* I was not in Accra.

*Q.* Read your evidence at p. 189, l. 32 of these Native Court proceedings 40  
Ex. No. 6—after reading that what do you say, you said "he was the occupant of our stool"?

*A.* That is what the record says.

*Q.* And you know the name of the stool on which he sat?

*A.* Yes.

Q. What was it called ?

A. Manche Ankraah stool.

Q. Any other name ? Look at the name written there at p. 190, l. 6 ?

A. " We placed him on the Otu Ahiakwa stool to which Manche Ankraah succeeded." I challenged the record. The original record is missing. This was used in the last case against us.

*Court :*

Was any objection made to the tender of this certified copy.

*Bossman :*

10 No objection has been made (refers to Ex. No. 6).

*Cross-examined :*

Manche Ankraah did not succeed Manche Amponsah but he succeeded Dodu Nyan. That was after Barne War. Manche Ankraah succeeded to the Brafu stool.

Adjourned to 23. 9. 48.

(Sgd.) J. JACKSON,

Judge.

23. 9. 48.

20 Q. Look at Exhibit 6 again at p. 173, l. 30 you gave evidence concerning a case late Quansah Solomon had with Bruce Vanderpuye ?

A. Yes.

Q. And you said that he sued as Nii Otu Ahiakwa Ankraah Quansah (Plaintiff) is that correct or not ?

A. Yes.

Q. Suggest to you that before you ever convened meeting the claim by your section you admitted this land belonged to Otu Ahiakwa stool of Otublohum ?

A. It is property of Manche Ankraah family.

30 Q. Look at p. 173, l. 16 : you say whole family authorised Quansah Solomon to prosecute case 22/30 against Amponsah & ors. ?

A. Yes.

Q. And family retained lawyer Sawyerr ?

A. Yes. I gave evidence in that case.

Q. You know that Quansah as your representative said the land was attached to the Otu Ahiakwa stool ?

A. Yes.

Q. And judgment was given in terms accordingly ?

A. Yes.

40 Q. When Solomon was fighting that case do you know that he left the case and gave Power of Attorney to Plaintiff to continue it ?

A. I don't know that. I know that Plaintiff also gave evidence in that case.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 27.  
J. K. Q.  
Aryeh,  
22nd  
September  
1948,  
*continued.*  
Court.

Cross-  
examina-  
tion  
(*continued*).

23rd  
September  
1948.

Cross-  
examina-  
tion  
(*continued*).

*In the  
Supreme  
Court.*

*Q.* I suggest to you that throughout period of your ancestors not a single one has made an individual claim to the ownership of the land ?

*A.* It is known among the whole family (evades question again).

*Defendants'  
Evidence.*

*Q.* The land has been used in common by all 3 sections of the family ?

*A.* I don't know that. Yes they joined to fight the case because we are one family.

No. 27.  
J. K. Q.  
Aryeh,  
23rd  
September  
1948,  
*continued.*

*Q.* Look at the copy of proceedings before Gbese Manche. Do you remember the occasion to which they relate ?

*A.* I remember very well—but I was not in Accra. Yes it is to obtain 10 permission from the Manche to bury on the land.

*Bossman :*

Ex. 7.

I tender proceedings (admitted and marked 7).

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

*Q.* You said you wrote a letter demanding £300 from the executors ? Have you a copy of any letter which you wrote to Solomon in his lifetime claiming the £300 ?

*A.* No.

In Reply  
to Court.

*In reply to Court :*

*Q.* What proof of that debt did you submit to the executors ?

20

*A.* It was a verbal agreement. The executors have not paid us.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

I don't doubt that Ayikuma signed a Bond on behalf of the family.

*Q.* He was the elder brother of the witness Anyinam Ankrah who gave evidence for the Plaintiff ?

*A.* He is a cousin—not a brother.

*Q.* Was he the man who signed the bond ?

*A.* I cannot say.

*Q.* Would it be correct to say that all control over this land from 1900 up to time of the Dawuda case has been in the Ayi branch of the 30 family ?

*A.* Not to my knowledge. D. S. Quarcoopome used to inform me when people applied for the land.

*Q.* Don't you know that all people applied to Plaintiff for permission ?

*A.* No—to Ankrah family (evasion again).

*Q.* You remember Government submitted a draft conveyance of part of the land to the Fanti community to be signed by the family to make the grant ?

*A.* I heard of it—I did not make the deed myself.

*Q.* You talked yesterday about properties of Ayi. You know there 40 is distinction between a person holding office and an ordinary man ?

*A.* Yes.

Q. What would be the position of a head of family acquiring property with the assistance of members of his family. What is the character of that property ?

*In the Supreme Court.*

A. It becomes family property.

*Defendants' Evidence.*

Q. And that applies to the occupant of a stool ? What is character of that ?

No. 27.

A. It becomes property of the stool.

J. K. Q. Aryeh, 23rd September 1948, *continued.*

10 Q. Will you agree that if a chief on a stool goes to war with his subjects and comes back and as a result of war acquires property—that property becomes a part of the stool property ?

A. It becomes war booty.

*In reply to Court :*

*In Reply to Court.*

The captives served Manche Ankrah alone.

Q. Before you sued in 1943 you made " J.R." your head just as you made Charles Amoo Ankrah ?

*Cross-examination (continued).*

A. Yes.

Q. And you then claimed that property belonged to the one section alone ?

A. Yes.

20 Q. And you claimed that as a representative of that branch he had no right to deal with that property or give it away ?

A. Yes.

Q. Were you present when meeting was held after the earthquake to allot building plots ?

A. I was not present at all the meetings. I attended some.

Q. And members from other branches of your family applied and got plots ?

A. No—I don't know of anybody. (After question repeated 3 times to witness.)

30 Q. Don't you know that Mrs. Delphina Ocquaye applied ?

A. Yes. She came from our line. Granddaughter of Commey Ankrah. J. Commey Ankrah did not apply to any land. He has a block building on the land. He is of the direct Ankrah line.

*Court to Bossman :*

*Court.*

Is the house within the area the subject of the trespass.

*Bossman :*

It is according to my instructions.

*Akufo Addo :*

We say the land sold to Captan did not include this house.

*In the  
Supreme  
Court.*

*Court :*

*Defendants'  
Evidence.*

Then it would appear that J. C. Ankrah has no interest in the subject matter of the action and the summons is dismissed if these facts are correct, the better.

No. 27.

*Bossman :*

J. K. Q.  
Aryeh,  
23rd  
September  
1948,  
*continued.*

Will obtain further information by to-morrow.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

This is the first time I've seen this photograph. All the people I see in it come from the Ayi line. I see one from the Ankrah line. Asafoatse Atu (sitting down)—I cannot say if he is of our line—we are all mixed. 10

*Q.* You remember case when Plaintiff claimed his was the senior stool in Otublohum ?

*A.* It is not the senior one—I remember the case. We were then together with the Plaintiff. When he did this we all deserted him because it was not true.

*Q.* Then what case were you going to put up ?

*A.* Not to my knowledge. There are conflicting histories.

*Q.* Did you hear that Otu Ahiakwa founded Quarter called Otublohum?

*A.* I have heard that—I have also heard that Braffo did. 20

*Q.* Do you deny that Manche Ankrah is a descendant of the Otu Ahiakwa stool ?

*A.* Have never heard it.

*Q.* In the Native Court you were asked : " If Ankrah Quansah were not a direct descendant why did you place him on the stool ? " Your answer was : " We placed him on the Otu Ahiakwa stool to which Manche Ankrah succeeded." In face of that do you still say your descendant was not a descendant of Otu Ahiakwa stool ? Did you say that ?

*In Reply  
to Court.*

*In reply to Court :*

(I warn the witness of the consequences of perjury.) 30

*A.* That was said by me.

*Q.* Was it true ?

*A.* It is true.

*Re-exam-  
ination.*

*Re-examined :*

*Q.* It was suggested that there was no claim to Awudome by any particular branch. When to your knowledge did this trouble start ? Do you know of any instance before Quansah Solomon when the head had 2 joint successors ? Have you ever heard an instance of when a head looks after land for the whole that on his death a part of that land goes to one man as his " successor " and another part to a family " caretaker " ? 40

*A.* I've never heard of that.

- Q. When did this trouble actually start ?  
 A. When late Manche Quansah Amponsah fought Otublohum claiming Awudome land as his stool land.  
 Q. I refer to Exhibit 4 at p. 232. To which land did it refer ?  
 A. Awudome land. I was in Court.  
 Q. You were asked about the debt due to you from Solomon and you said executors had not paid debt. Did they tell you why they had not ?  
 A. Yes. (A most unsatisfactory witness.)

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 27.  
J. K. Q.  
Aryeh,  
23rd  
September  
1948,  
*continued.*

No. 28.

NII AMU NAKWA.

10

NII AMU NAKWA : (M) sworn states in Ga : 1st witness for Defendant.

*Examination-in-Chief :*

Manche of Otublohum. Know all parties to this case other than Captan.

Q. Are you related in any way to them ?

A. Yes.

Q. How are you related ?

A. Nii Ayi begat Adjarben. I am the son of Adjarben's lawful wife. My grandfather Ayi had a brother named Manche Ankrah and another  
 20 called Okanta. The Defendants are descendants of Manche Ankrah.

Q. You and Plaintiff are descendants of Nii Ayi ?

A. When my father died—the Plaintiff was not born—so I do not know that. I had not seen Plaintiff among my father's children, nor did my father ever say he had such a son. He called himself my father's son. I know family history and I know Awudome lands.

Q. Whose property was it ?

A. Manche Ankrah's. It was his own property. I was told how he came by it. When Nii Dodu Nyan was the Manche of Otublohum that time Manche Ankrah was one of his right hand men and an important sub-chief.  
 30 Certain war broke out. At that time Dodu Nyan was ill and he deputed Nii Ankrah, an elder and a wealthy man to represent him and go to the war. He represented all the Gas and led them to the war. They went and conquered and came back. When they came they brought a lot of captives—so the Gas said that as he had done this great work for them they gave him the Awudome land and he put the captives there.

Q. Have you ever heard any doubts that this land was given to Manche Ankrah personally ?

A. No doubts.

Q. Your grandfather Ayi died before Nii Ankrah ?

40 A. Yes—three years before Manche Ankrah went to the war.

No. 28.

Nii Amu  
Nakwa,  
23rd  
September  
1948.

Examina-  
tion.

*In the  
Supreme  
Court.*

*Q.* When Nii Ayi died who succeeded to his properties ?

*A.* Nii Arde.

*Q.* What relation was Nii Arde to Nii Ayi ?

*A.* A son. My father Adjarben succeeded to the properties of Nii Arde and after him Dedu succeeded—she was Adjarben's sister, and Nii Ayi's daughter. Quansah Solomon succeeded Dedu. Nii Obeng succeeded Quansah Solomon.

*Q.* Did Nii Ayi have land property ?

*A.* Yes—one at Ayeramayera faase.

*Defendants'  
Evidence.*

No. 28.  
Nii Amu  
Nakwa,  
23rd  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*In reply to Court :*

10

*Q.* How did he acquire that property ?

*A.* I don't know—the older man told me it was his.

*Q.* On his death did any people of Okanta claim any share in it ?

*A.* Nii Okanta because they worship fetish can have no claim.

*Q.* Did Manche Ankrah branch claim any share in that lands ?

*A.* No—I was not told so.

*Q.* Had they any right to make such a claim ?

*A.* They have no right. Each line of the family owns their property separately.

*Q.* If one line owned land and wished to sell it outright must they 20  
consult the other 2 lines before they do so ?

*A.* No—they need not be told.

*Examina-  
tion  
(continued).*

*Examined :*

*Q.* Place near Railway Station—do you know when that property  
was acquired ?

*A.* Yes it was when Quansah Solomon was on the stool.

*Q.* Did any part of compensation money go to Ankrah's people ?

*A.* No—I was living in their Quarter. Okanta people received none.

*Q.* Did Okanta have any landed properties ?

*A.* No.

30

*In Reply  
to Court.*

*In reply to Court :*

[sic]

*Q.* By the old law were the Okanta people capable of *owing* land ?

*A.* I have never heard that Okanta had land. If they had I would  
have heard.

*Examina-  
tion  
(continued).*

*Examined :*

*Q.* Manche Ankrah had a house in High Street where S.C.O.A. Motor  
department is today ?

*A.* Nii Ayi had a house where watch repairers (Bonin) are. At time  
of fire in Accra house was destroyed.

*Q.* Nii Ayi, Nii Ankrah and Nii Okanta had no sisters at all ?

*A.* They had none.

40



Q. If they had had sisters—when Manche Ankrah died who would have succeeded to the Awudome land ?

A. If he had a sister at time of his death—his sister's son would have succeeded.

Q. But as there were no sisters who had the right to succeed ?

A. His son.

Q. Could that son have sold the land outright without consulting the children of Ayi and of Okanta ?

A. If they are on good terms they must do so.

10 Q. Is he bound to do so by custom ?

A. If he likes.

Q. If he did not tell them before he sells does he commit any offence against custom ?

A. He does not.

Q. Would it be any difference if the land had been the individual property of Amanua—the mother of Manche Ankrah ?

A. All children would be entitled to enjoy it. Many of the Ankrahs come to my house.

*In reply to Court :*

20 Q. When you speak of Ankrah family do you include Okantas and Ayis ?

A. Yes.

*Examined :*

Charles Amoo Ankrah was elected head.

Q. Head of what ?

A. Nii Ankrah's family.

Q. Does that mean he was made head for Okanta line too ?

A. Yes—they were all there.

*In reply to Court :*

30 Q. Is he now head of Ayi line as well ?

A. Yes. They came and made a head for Manche Ankrah family—for the whole family.

*Examined :*

Q. Who has control over Nii Ayi's properties ?

A. Nii Obeng.

Q. What properties are now under control of Charles Amoo Ankrah ?

A. Manche Ankrah's properties.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

*No. 28.  
Nii Amu  
Nakwa,  
23rd  
September  
1948,  
continued.*

*In Reply  
to Court.*

*Examina-  
tion  
(continued).*

*In Reply  
to Court.*

*Examina-  
tion  
(continued).*

*In the  
Supreme  
Court.*

*In reply to Court :*

*Q.* Is any land owned collectively by the 3 lines of the Ankrah family ?

*Defendants'  
Evidence.*

*A.* I have not heard that.

No. 28.

*Examined :*

Nii Amu  
Nakwa,  
23rd  
September  
1948,  
*continued.*

*Q.* If there were any such land would you know of it ?

*A.* I ought to know of it.

In Reply  
to Court.

*In reply to Court :*

I am a member of the State Council.

Examina-  
tion  
(*continued*).

*Examined :*

10

In Reply  
to Court.

When Amoo was elected to be head we drank rum among all the Manches including the Ga Manche. If you are a sub-chief—and a person is made a head of a family under you—all the Manchemei must be informed and when we inform them we take rum to them.

Examina-  
tion.  
*continued.*

*Cross-examined by Bossman :*

*Q.* You have not been on very cordial terms with Plaintiff ?

*A.* I have no quarrel with him.

*Q.* You do not live with him as a brother ?

*A.* I have no quarrel with him. He lives in his house and I live in mine.

20

*Q.* And neither visits the other ?

*A.* As Manche of Otublohum if he wants me—he comes to my house.

*Q.* Does he come to your house ?

*A.* No.

*Q.* And I suggest that apart from your position as Chief you do not visit him ?

*A.* If he wants to see me he will come.

*Q.* You don't salute each other ?

*A.* I have no palaver with him. He used to salute me and I salute him.

30

*Q.* Last time they brought action in 1943 you gave evidence ?

*A.* I was called as a witness.

In Reply  
to Court.

*In reply to Court :*

I come here on subpoena.

Cross-  
examina-  
tion.  
(*continued*).

*Cross-examined :*

*Q.* When did you first get to know the Plaintiff ?

*A.* I always used to see him.

*Q.* From his infancy you've known him and heard him called Ankrah ?

*A.* Yes. I knew the late Solomon. I don't know if he was head of all 3 branches.

40

*In reply to Court :*

Q. In his lifetime who was head of all 3 branches ? and at time of his death ?

A. Solomon.

*Cross-examined :*

Q. Do you know if Solomon occupied a stool or not ?

A. I said he sat on my father Adjarben's stool.

Q. You know that Solomon was the most important man in the house in his lifetime ?

10 A. Yes—he looked after all.

Q. And you know that Plaintiff was his right hand man ?

A. I don't know. He used to follow him.

Q. Until Solomon died did you know Plaintiff's name ?

A. Yes.

Q. Quansah Solomon died in 1936 ?

A. About there.

Q. You then know Plaintiff's name quite well ?

A. Yes.

20 Q. And yet when you asked in the Court in 1943 you said you did not know his name ?

A. I sat at time of my father's death I did not know him.

[sic]

Q. Did you say that you did not know his name ?

A. I said that at time of my father's death I did not know his name was Ankrah.

Q. Did you say " I don't know his name ? "

A. I said I used to see him but did not know him. (Refers to Exhibit 4 at p. 228, l. 7.)

Q. But you know him as your father's son ?

30 A. I've already said that at time of my father's death—he had not been born. My father died about 61 years ago.

Q. How old was the Plaintiff when first saw him ?

A. He was at Koforidue playing " merry-go-round "—he was grown up.

Q. Before Quansah died had you not got to know he was your father's child by another woman ? i.e., your half-brother ?

A. Yes—the family used to say so—but I don't know.

Q. He has claimed that his family stool is senior to the one on which you are sitting ?

40 A. I have not been told that by my elders. He made the claim several times.

Q. And I suggest that he has far more influence in your family than you have ?

A. As I know I have a stool—I don't care about the family stool. Have been enstooled since about 18 years.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 28.  
Nii Amu  
Nakwa,  
23rd  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 28.  
Nii Amu  
Nakwa,  
23rd  
September  
1948,  
*continued.*

*Q.* When were you officially recognised by the Government ?

*A.* About eight years ago.

*Q.* Before you were enstooled you had little to do on your father's side—but looked to your mother's side where you hoped to succeed to a better stool ?

*A.* Yes.

*Q.* It follows that you know less of these affairs than Solomon and the Plaintiff ?

*A.* I don't take interest on question of inheritance from my father's side. I look to my mother's side for inheritance. 10

*Q.* Otublohum consist of Denkyeras and Akwamus ?

*A.* My elders have not told me that. I heard of Braffo who came from Akwamu. I hear people say that these are Denkyeras—but I don't know. If there were Denkyeras there they would be under me.

*In Reply  
to Court.*

*In reply to Court :*

*Q.* Don't you think that after 18 years it is about time you found out ?

*A.* They shut me up in a room for a long time.

*Cross-  
examina-  
tion  
(continued).*

*Cross-examined :*

*Q.* Both Denkyeras and Akwamus are of Akan stock ?

*A.* Yes. 20

*Q.* That is why you ascend a stool through your mother ?

*A.* Yes.

*Q.* You know that particularly in Otublohum the inheritance is matrilineal ?

*A.* Yes.

*Q.* Since you came on the stool have you not heard of the case which your predecessor Manche Amponsah had with the Plaintiff in the State Council ?

*A.* That is why I was confined in a room. The name of the stool which was opposing me was the Otu Ahiakwa Stool. 30

*Q.* Was it also called the Manche Ankrah stool ?

*A.* No. I don't know if Manche Ankrah's name was brought in it at all. We only hear that Otu Ahiakwa came to trade. He was a successful trader. He lived many many years ago. I have not heard that he erected a stool. I made a stool for Wetse Kojo of James Town. He was a wealthy trader. I made a palanquin for him. Wetse Kojo made himself rich by trade. I can read and write. I knew of Reindorf and I heard he wrote a history. I have not read it. I've only heard it. We use it in the State Council.

*Q.* Do you say that you never heard that Otu Ahiakwa founded the first settlement in Otublohum ? 40

*A.* I never heard it. (Reads at p. 28 of history.) No chief or Manche ever told me this—I only heard it from the book. Litigation between Otublohum and Braffu stools was in 1930.

Q. Do you say that today you do not know in whose possession the stool is ?

*In the  
Supreme  
Court.*

A. I do not—as I did not hear he had been made a Manche.

Q. Don't you know that the 2 stools were inspected in company of the District Commissioner ?

*Defendants'  
Evidence.*

A. I don't know because I was confined in a room.

Q. Did you know that at one time your predecessor Amponsah claimed Awudome land as being attached to the Braffo stool ?

No. 28.  
Nii Amu  
Nakwa,  
23rd  
September  
1948,  
*continued.*

A. Yes—I heard that.

10 Q. Were you told that he claimed this as his stool property for the reasons that when Manche Ankrah went to Barme War he was sitting on the Braffu Stool ?

A. I heard it.

Q. You know there is a custom that when you are on the stool you are the representative of your subjects ?

A. Yes.

Q. Supposing now you were to go out with your subjects and with their assistance you gained something—would you say that thing was your exclusive property or for you and them ?

20 A. If I go and gain some title—the title belongs to me.

Q. If you and your followers conquered some land who would it belong to ?

A. I will give some to them.

Q. Have you ever heard of a chief fighting a war taking land as his private property ?

A. He would live there with his subjects.

Q. And do you say that if a Manche goes to war assisted by his subjects and they thank him with a present that his subjects have no interest in that thing ?

30 A. He could not drink it alone. Manche Ankrah went with all the Gas.

*In reply to Court :*

*In Reply  
to Court.*

Q. Then all the Gas should have an interest in Awudome land ?

A. No—because Gas dashed him the land.

*Cross-examined :*

Yes, each Division of the Gas had its own Captain. Each division fought under its own captain.

*Cross-  
examina-  
tion  
(continued).*

Q. Ankrah would have his immediate followers ?

A. Yes.

40 Q. Supposing you go to house of an elderly man in Acera with 2 servants and he produces rum or money—by custom are your followers entitled to share in that ?

A. Yes.

*In the  
Supreme  
Court.*

*Q.* You spoke of land at Mayerafase and said it belonged to Nii Ayi—do you also know his name as Nii Korkorsakyi ?

*A.* Yes.

*Defendants'  
Evidence.*

*Q.* You don't know how he came by it ?

*A.* No.

No. 28.  
Nii Amu  
Nakwa,  
23rd  
September  
1948,  
*continued.*

*Q.* Do you know what year Barme war was fought ?

*A.* I heard about 1829.

*Q.* And were you told that by then Korkorsakyi had died ?

*A.* Now I think the Barme War was 1826.

*Q.* What then happened in 1829 ?

10

*A.* It has escaped my memory. Elders told me Ayi Korkorsakyi died 3 years before Barme War. Did not hear that Okanta sat on Ankrah Stool.

*Q.* Supposing Ankrah or Ayi had bought land with his own money and had died leaving his mother and his brothers—by custom who would inherit ?

*A.* The one that the mother liked—she would depute him to look after the property for her.

*Q.* And if the mother was not alive and there were 5 or 6 brothers what happens ?

20

*A.* They will all look after it.

To Court. *In reply to Court :*

*Q.* Will each one of the 5 or 6 brothers be allowed to farm the land ?

*A.* Yes—one looks after it and the others if they want to farm it will ask his permission.

Cross-  
examina-  
tion  
(*continued*).

*Cross-examined :*

*Q.* Now suppose in case of 5 brothers—one had died, but had children ; could these children farm the land in place of their dead father ?

*A.* Yes.

Adjourned to 24.9.48.

(Sgd.) J. JACKSON,  
Judge.

30

24th  
September  
1948.  
Cross-  
examina-  
tion  
(*continued*).

24.9.48

*Q.* According to you Charles Amoo Ankrah was installed as Head of Manche Ankrah family ?

*A.* Yes.

*Q.* Who was the last head of the family to your knowledge ?

*A.* Nii Commey. Kpakpo Odehey.

*Q.* Since Kpakpo Odehey there has been no other head ?

*A.* One Oko—a grandson of Manche Ankrah.

40

Q. You never heard that Quansah Solomon was the last head ?

A. It was said that Quansah was acting. I don't know in what way. I've heard Quansah was installed to look after the family—but I don't know in what way.

Q. Who buried Quansah Solomon ?

A. The family.

Q. Who stood in front of the family to bury him ?

A. His nephew Nii Obeng.

Q. Did you take any part in his funeral ?

10 A. I did not because I was confined to the room. I was in the room for 10 years.

Q. Did you invite Nii Obeng to appoint a successor to Quansah ?

A. Yes—they sent for him. Plaintiff was man representing him. He was Obeng's guardian.

Q. Did you not preside at the appointment of Charles Amoo Ankrah ?

A. Yes.

Q. Did you send for Nii Obeng whom you say buried Quansah ?

A. I sent to call Plaintiff—I did not send for Obeng.

*In reply to Court :*

20 Q. Do I understand the meeting was to appoint a successor to Quansah ?

A. Yes.

Q. And from which line did Solomon Quansah come from ?

A. Nii Ayi family.

*Cross-examined :*

Q. It is necessary that the man who buried the person should be present when a successor is appointed ?

A. Yes.

Q. And that was reason why you sent for Plaintiff ?

30 A. Yes. I sent J. R. Ankrah, Quarcoopome and Aryeh.

Q. You say that you have never stepped into Plaintiff's house ?

A. I have been there several times. That was before I was confined in the room. Since I was enstooled I have not been to his house.

Q. Did you honestly expect him to come to your house ?

A. As I am the elder he ought to come.

Q. If you had been acting in good faith would it not have been better to have summoned the meeting in the house of some third party ?

A. We met once at Amuginaah—so that the matter could be settled. Yes that was for purpose of making Nii Obeng and my grandmother one.

40 *In reply to Court :*

Q. Has each of the three lines of the family a head ?

A. Yes. This meeting was to appoint a successor to Quansah Solomon.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

No. 28.

Nii Amu

Nakwa,

24th

September

1948,

*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In Reply  
to Court.*

*In the  
Supreme  
Court.*

*Cross-examined :*

*Defendants'  
Evidence.*

*Q.* At Amuginah meeting—that was another dispute in which you took part against the Plaintiff ?

*A.* I went there as a Manche.

*Q.* What steps have you taken to get the parties reconciled ?

*A.* As case is still pending I can do nothing.

No. 28.  
Nii Amu  
Nakwa,  
24th  
September  
1948,  
*continued.*

*In reply to Court :*

*Q.* Who asked you to preside at the meeting when Charles Amoo was appointed ?

*A.* J. R. Ankrah. I understand what was wanted and I agreed. 10

*Q.* Did you discuss the position of the Plaintiff at that meeting ?

*A.* They said he should cease being a caretaker as he did not come to the meeting.

*Cross-  
examina-  
tion  
(continued).  
In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*Cross-examined :*

*Q.* In the circumstances of the dispute in the family before an appointment of a successor was made should not something be done by custom ?

*A.* The loser can come to the winner and he will be welcomed. When I had a case and won it—the losers would come to me and I would welcome them. Yes it is for the losing side to approach the winner. 20

*Q.* It follows then it would not be customary for you to make a new head without first approaching the Plaintiff ?

*A.* They had no right to.

*Q.* Before the last case Amoo's brother was appointed head and you were notified ?

*A.* Yes. Yes—judgment was given against the one I gave evidence for. I am direct successor of Manche Amponsah of Otublohum.

*Q.* And you are also closely connected with Ankrah family ?

*A.* Yes.

*Q.* Did you know that Solomon Quansah had a case with your 30 predecessor Amponsah ?

*A.* I heard it. My elders told me about it. They told me that they had a case and had finished. That was all. Judgment went against Amponsah.

*Q.* Do you agree that when a chief is enstooled—he can only be removed by the people who enstooled him ?

*A.* Yes.

*Q.* Would those who had nothing to do with his enstoolment have a right to destool him ?

*A.* They would have no right. 40



Q. I suggest that since you came of age you have known that the land Awudome belongs to the whole family, i.e., the 3 lines ?

A. I've only heard the name as Manche Ankrah's. I started to build on this land during the plague (1908)—I started clearing the land. Okure, Chief John, Afo Ankrah and Sonkortse stopped me.

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

*In reply to Court :*

Q. When you started clearing this land did you believe you had the right to clear it or not ?

A. I knew I was right. Because it belonged to the family.

10 Q. So your knowledge of tradition was not the same then as you told me yesterday.

A. (No answer.)

Oko Ankrah was then the head. I did not inform the head or any one. Chief John queried me among others

Q. Chief John is from the Ayi line ?

A. Yes.

Q. So at the time the elders were united in defending the land ?

A. Yes.

20 Q. Did not your father Adjarben blast stones on a part of this land ?

A. I don't remember.

Q. When he built Adjarben Lodge where did he get the stone from ?

A. I don't remember. In 1908 I was 18 years of age.

*Re-examined :*

Q. How old were you when your father died ?

A. 18 years old.

Q. How long before he died did your father build Adjarben Lodge ?

A. I cannot say. It was a long time.

Q. Yesterday you said Otublohum stool was not same as Manche Ankrah's stool ?

30 A. Manche Ankrah had his own stool.

Q. What is the origin of his stool ?

A. He founded his own stool.

Q. It was suggested yesterday that by custom if a chief led his subjects to war and gained anything that thing belonged to him and his subjects. When Manche Ankrah went to war did he lead his subjects only to war ?

A. He went with the Gas, Kwahus, Asantis, Akims, Akwapims and Fantis.

40 Q. You do agree when Reindorf says at p. 254 " Portuguese slaves being . . . Chief Ankrah received etc. etc. . . he (Ankrah) notified the people that he was appointed by the King etc., etc., etc."

A. Yes—I agree with that.

Q. Refers to page 29 of Reindorf's i.e. Wetse had then a stool made for him by Oto Brafo.

No. 28.  
Nii Amu  
Nakwa,  
24th  
September  
1948,  
*continued.*  
In Reply  
to Court.

Re-exam-  
ination.

*In the  
Supreme  
Court.*

*Q.* You said it was J. R. Ankrah who asked you to appoint meeting. Does he occupy any special position in the Ankrah line ?

*A.* Yes—he is the eldest.

*Defendants'  
Evidence.*

*Q.* Names of people who stopped you clearing the land in 1908 ? Akole—which line ?

*A.* A daughter of Manche Ankrah. Ayikaile came from same line. Afo Ankrah came from Nii Ankrah line. He was son of Commey.

No. 28.  
Nii Amu  
Nakwa,  
24th  
September  
1948,  
*continued.*

*Q.* At that time Oko Ankrah was head ?

*A.* Yes—he was grandson of Manche Ankrah.

*Evidence  
called by  
Court.*

No. 29.

10

**NII AYIKAI II.**

NII AYIKAI II (m) sworn states in Ga : Witness called by Court as to Custom.

No. 29.  
Nii  
Ayikai II,  
24th  
September  
1948.  
Examina-  
tion  
(by Court).

*Examination-in-Chief :*

I am the Akumajay Manche. I am a member of the State Council. Am 50 years old. Have been State Councillor since 1940. I am not a member of the Native Court. I have my own linguist.

*Q.* From whom did you learn customary law ?

*A.* The Dsasetse (Elder).

*Q.* Since 1914 until today has customary law changed at all ?

20

*A.* It has not changed. It is clear.

*Q.* Are all the Manchemei agreed on customary law ?

*A.* Yes.

*Q.* Is customary law the same in every part of Accra ?

*A.* Yes.

*Q.* Is it the same in Osu as it is in Accra ?

*A.* I don't know much about Osu. I know about Otublohum. Accra is peopled by persons who came from many parts.

*Q.* What does history say as to who first came to Otublohum ?

*A.* I heard the Denkyeras first came. My own people came from 30 Ayawaso.

*Q.* Ayawaso custom and Otublohum custom are they alike ?

*A.* I cannot say. I cannot say if the Otublohum people do the same as we do.

*Q.* Do you know the law regarding inheritance to land in Otublohum ?

*A.* I know the Ga custom—but not the Otublohum—at present they join with us.

Q. I want to hear you as to Ga custom as regards inheritance to land. Whilst a man lives and anticipates inheritance in the future does he look to his mother's side or his father's ?

*In the  
Supreme  
Court.*

A. If I had land and I died my brothers would inherit it.

Q. And if you had 3 brothers of the same mother who would inherit it ?

*Evidence  
called by  
Court.*

A. The elder.

Q. Would the younger have no right in the land ?

No. 29.

A. The other two also have a right.

Nii  
Ayikai II,  
24th  
September  
1948,  
*continued.*

10 two ? Q. Could the elder brother sell the land without consulting the other

A. No—he cannot do it.

Q. If he sold the land for £60 to how much would each of the 3 brothers be entitled ?

A. It would be divided—the elder would get the large share.

Q. If there were only 2 brothers left and the children of a third brother who had died, would these children have a right to any of that land ?

A. Yes they would.

*Cross-examined by Bossman :*

20 Q. I wish to ask you about appointment and destoolment of heads ? If head of a family is appointed and in the family there is division and a small section do not take part—if he is going to be destooled who have the right to destool him ?

Cross-  
examina-  
tion  
(for  
Plaintiffs).

A. Those who enstooled him.

Q. Would those who did not take part in his enstoolment have a right to destool him ?

A. No—unless they have reconciled their differences first.

Q. I give a hypothetical case. Do you know anything about the facts of the present case before I ask it ?

30 A. No.

Q. One women begat three children A, B, C. A takes his own money and buys a piece of land. He occupies the land for sometime and then he dies. At time he died he had surviving him his 2 brothers and their children and his own children. To whom does that land then belong ?

A. The elder of the two surviving brothers will look after the land for all of them.

Q. If the elder brother then dies ?

A. The younger surviving brother looks after it for the rest. If there is a dispute as to where one shall farm it is the elder who decides.

40 Q. When all the brothers die—leaving only the children what happens ?

A. It goes to the eldest child of the man who bought the land.

Q. Does it go to him absolutely or as caretaker ?

A. As caretaker for his own brothers.

*In the  
Supreme  
Court.*

*In reply to Court :*

Q. Do you mean that the children of *B* and *C* are cut out ?

A. They are not cut out. They share. They are one family.

*Evidence  
called by  
Court.*

Q. It is suggested that because *B* and *C* are dead that the children of *A* inherit the land to the exclusion of the children of *B* and *C*. Is that the Ga custom ?

No. 29.

Nii  
Ayikai II,  
24th  
September  
1948,  
*continued.*

A. The elder child will look after the land for the children of *A*, *B* & *C*.

Q. I go back now to the appointment of a head and there is division in the family and the matter comes to Court and only half the family appoint a head and Court decides that appointment is good and it is sought to destool him—who may destool him ? 10

*In Reply  
to Court.*

A. By those who made him the head.

*Cross-  
examina-  
tion (for  
Defendants  
other than  
Captan.)*

*Cross-examined by Akufo Addo :*

Q. Suppose man is appointed a “ caretaker ” of property—not a head and a section of the family claim that property to be their own—do you say they cannot dispense with his services and put their own man ?

A. That is if they enstool him as caretaker and he is not looking after it properly—they can destool him.

Q. It is an accepted basic principle in law of inheritance here in 20 Accra, that you inherit on your mother’s family, is that not so ?

A. You can inherit both your mother and your father’s property.

*In Reply  
to Court.*

*In reply to Court :*

Q. Are the rights of a child over his father’s property as full and complete as over his mother’s ?

A. If my father has a room I can live in it—but that is only during good behaviour.

Q. And it is your mother’s people who are the judge of that behaviour ?

A. Yes. Yes—if one hopes for a little money in the future we look rather to our uncle’s than to our father. 30

*Cross-  
examina-  
tion  
(continued).*

*Cross-examined by Akufo Addo :*

If your father has no brother and sister and then children—then our claims to inherit comes in.

Q. The test is “ Does my mother comes from that family ” ? If she does you have a chance to inherit ? Is that correct ?

A. Yes.

Q. The test is never whether my father’s mother comes from a particular family ?

A. Yes.

Q. Suppose *A*, *B* and *C* (brothers) had a sister *D* and *D* had children. 40 *A* acquires the property himself. Is it not a fact that when *A* dies only *D*’s children can inherit ?

A. No.

Q. Who are entitled ?

A. The 2 brothers will inherit first and then it will go to the woman.  
The brothers will look after the property for all the children.

Q. When the woman dies ?

A. Then it goes to the children of A.

Q. Who will the property belong to ?

A. The sister's children.

Q. To the exclusion of the children of the 3 brothers ?

A. They will all enjoy it. They are one family.

10 Q. You are saying that there is a difference in the law of inheritance and when the children are all males—when some are males and some females ?

A. Yes—provided that they all came of the same stock.

Q. Is it not true that the moment you turn your descent from a male you cease to belong to that family ?

A. It is not so.

Q. You remember R. S. Sackey's case ?

A. I was not in town. Yes—I inherit on my mother's stool.

20 Q. Is it not a fact that when a man has his self acquired property and dies leaving a brother of the same mother that the property goes to that brother and after his death the property goes back to the children of the first owner to the exclusion of the children of his brother ?

A. It will go back to the children of the first owner but it will not cut the others away.

*In reply to Court :*

Q. Can the children of the first owner sell the land without obtaining the consent of the children of the brothers ?

A. They can sell it and tell them.

30 Q. If the children of the brothers do not agree to the sale what then is the position ?

A. As they have an interest they would take them to Court.

*Cross-examined by Akufo Addo :*

Q. Do you say that their consent is required before the sale can go through ?

A. Yes.

Q. Again brothers A, B and C. Suppose B also had his own self acquired property and it is known that his own children have used it exclusively for their own use—do you say that A and C have a right to enjoy the property ?

40 A. As it was property of one man—all children must use it. If from the start the children of the original owner start inheriting then it goes along that line throughout—but that is not so where a brother has succeeded to property owned by a brother of his.

*In the  
Supreme  
Court.*

*Evidence  
called by  
Court.*

No. 29.  
Nii  
Ayikai II,  
24th  
September  
1948,  
*continued.*

*In Reply  
to Court.*

*Cross-  
examina-  
tion  
(continued).*

*In the  
Supreme  
Court.*

No. 30.

**QUASHIE OKAI.**

*Defendants' Evidence.* QUASHIE OKAI (m) sworn states in Ga : 2nd witness for Defendants.

No. 30.

Quashie  
Okai,  
24th  
September  
1948.

Examina-  
tion.

*Examination-in-Chief :*

Live in Accra. Tailor. Related to D. S. Quarcoopome. He is my uncle. Sometime ago I was sent to M. D. A. Ankrah (Plaintiff). That was about 2½ years ago. J. R. Ankrah (Defendant) sent me. I told Plaintiff that I was sent by Ayi Wulu to inform him were sent by J. R. Ankrah that they were inviting him to attend a meeting to elect a head of the Ankrah family. I told him he was wanted to attend the meeting that same evening at Nii Amu Nakwa's house. Plaintiff said he was ashamed of us—otherwise he would beat us—but for a little respect he had for me. He said “you are not the proper person to be sent to me.” So we came back and delivered that message. 10

Cross-  
examina-  
tion.

*Cross-examined by Bossman :*

*Q.* You 2 who were sent are not members of Ankrah family at all are you ?

*A.* No.

*Q.* And young as you are—you knew you were not the proper persons to be sent on such a message ? 20

*A.* I did not know that until he told us.

*Q.* Have you found out since whether he was correct or not ?

*A.* I have not taken the trouble to find out. I did not know my uncle had had a previous case with Plaintiff.

*No Re-examination.*

No. 31.

Alexander  
Mensah  
Allotey,  
24th  
September  
1948.

No. 31.

**ALEXANDER MENSAH ALLOTEY.**

ALEXANDER MENSAH ALLOTEY (m) sworn states in Ga : Third  
Witness for Defendants.

Examina-  
tion.

*Examination-in-Chief :*

Live in Accra. Proprietor and Manager of the King Tackie Memorial School. I knew late Quansah Solomon very well. He was a cousin of mine. I lived with him in the same house. He died on February 2, 1936, leaving a Will. I and Mr. Kofi were appointed his Executors. We obtained Probate in November, 1936. Received a letter from D. S. Quarcoopome on behalf of his family—demand was in respect of £304 paid for Awudome land—which amount Quansah had borrowed. I and Dinna Ankrah took this money and paid it to Messrs. G. B. Ollivant to Mr. Quansah Solomon's account. I was not present when Quansah negotiated that loan. I have not repaid the money. It is a debt owed by the Estate to D. S. Quarcoopome. 40

*In reply to Court :*

Q. Why have you not paid this debt—if in fact a debt was due ?

A. Demand was not made until October, 1936. Judgment was given in the Will case in 1944. We were sued by Plaintiff and others.

Q. What was the claim against you ?

A. That all property was family property. We put in an inventory. But no statement as to the debt was filed.

*Examined :*

This is a copy of the letter (no objection, admitted and marked “ E ”).  
 10 The other executor Kofi was also a relation of Solomon—a grandchild of Nii Ayi. I came in the Nii Ayi line. My father was Allotey and Allotey’s sister was married to Nii Ayi.

*Cross-examined by Bossman :*

Q. You admit you were not present, when Solomon borrowed this money ?

A. I was not. Solomon gave me £300 and directed us to pay it to Ollivants.

Q. You don’t suggest that Solomon could not pay £300 within any year ?

20 A. He could pay.

Q. Solomon during one season would make £1,000 profit in one year ?

A. I cannot say. Solomon owed many debts before he died. He was not capable of paying £300 at time he gave it to me.

Q. Do you know the case out of which the £300 was obtained ?

A. Yes.

Q. Do you know who paid the expenses of that case ?

A. Yes—Solomon.

Q. You know that Solomon was put on Manche Ankrah’s Stool ?

30 A. Otublohum Manche sought to stop it but he was eventually enstooled.

Q. And before he was enstooled litigation went on for some time in the State Council ?

A. There was no case against him in person.

Q. During Solomon’s lifetime—the Manche of Otublohum opposed his enstoolment in the State Council ?

A. I do not know anything about that.

*In reply to Court :*

At time he was enstooled I was not living with Solomon.

40 Q. Do I understand from you that the Estate of Solomon was insolvent ? Did you open a Bank account for the Estate ?

A. We did.

*In the  
Supreme  
Court.*

*Defendants’  
Evidence.*

No. 31.  
Alexander  
Mensah  
Allotey,  
24th  
September  
1948,

Ex. “ E.”

*continued.*

*In Reply  
to Court.*

*Examina-  
tion  
(continued).*

*Cross-  
examina-  
tion.*

*In Reply  
to Court.*

*In the  
Supreme  
Court.*

*Defendants'  
Evidence.*

Q. What is the balance to-day ?

A. It was taken away from us since 1937.

Q. And given to whom ?

A. Mr. Alexander Konuah.

No. 31.

Alexander  
Mensah  
Allotey,  
24th  
September  
1948,  
*continued.*

*Cross-examined :*

Q. You have never heard before that the Acquisition money was paid to Solomon to reimburse him for his expenditure during litigation ?

A. I've never heard that.

Q. Why then did Government pay it to him ?

A. Because he represented the family in that Acquisition case. 10

Q. And do you swear that he told you that he borrowed that money ?

Cross-  
examina-  
tion  
(*continued*).

A. Witness quibbles and says I know it was the Acquisition money and he used it to pay his own debt and this I know he borrowed it.

Re-exam-  
ination.

*Re-examined :*

Q. You said that a portion of Estate was declared by the Court to be family property and are in hands of his successor ?

A. Yes—in the hands of Obeng. (Unsatisfactory demeanour.)

*Question through the Court :*

Q. In what stool name did Solomon fight that Acquisition case ?

A. Manche Ankrah. 20

*Evidence  
called by  
Court.*

No. 32.

T. B. F. F. RIBEIRO.

THOMAS BIRCH FREEMAN FRANCISCO RIBEIRO (m) sworn states

Witness called by Court :

*Examination-in-Chief :*

The subpœna given to me does not indicate sufficiently what is wanted.

(Sgd.) J. JACKSON,  
Judge.

Adjourned to 25.9.48.

25th  
September  
1948.

25.9.48. 30

*Examination-in-Chief :*

I have here the original proceedings in suit No. 68/41 *J. K. Q. Aryeh & Ors. v. Mallam Sawuda and M. D. A. Ankrah*. On 21.4.41 it is shown that case started at folio 878 and go on to 879 and then from 882–884.

Adjourned to 2.10.48 (by consent) to enable Registrar of Ga Native Court to compare Exhibit 6 with the original proceedings in his custody.

(Sgd.) J. JACKSON,  
Judge.

Examina-  
tion  
by Court.



2.10.48.

Have compared the original record with the copy. They do not agree. On page 2 of the typed record composition of Court inconsistent with that shown in original record. There are many omissions—some additions. These places marked in blue are words which do not appear in the original record. (Court inspects the original record and the copy (Ex. 6) the matters put to the Defendant Aryeh by Mr. Bossman appear to be both in the original record and in the copy.)

*In the  
Supreme  
Court.*

*Evidence  
called by  
Court.*

No. 32.  
T. B. F. F.  
Ribeiro,  
2nd  
October  
1948.  
*continued.*  
Examina-  
tion  
(*continued*).

*No Cross-examination.*

10

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No. 32A.  
COURT NOTES.

*Bossman :*

R. J. Commey (2nd Plaintiff)—his area is included in the area sold.

*Akufo Addo :*

Refers to paragraph 1 of Statement of Defence dated 9.8.48 in which we admit the co-Plaintiff's title—plead that that area was omitted from the conveyance to Captan.

*Court :*

Let the conveyance to Captan be put in evidence.

20 *Akufo Addo :*

This conveyance I am informed is with the Commissioner of Lands as it relates to a part of the land now acquired by Government.

*Bossman :*

I am quite satisfied with that answer given by Captan's Solicitor.

*Bossman :*

I have led no evidence re N. Q. Ankrah—left the cases to be decided between the principal grantor i.e. M. D. Ankrah and Charles Amoo Ankrah and the other Defendants.

30

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No. 33.  
CLOSING ADDRESSES of Counsel for Defendants.

*Akufo Addo addresses Court :*

Claim is for damages for trespass against Captan to whom grand-children of Manche Ankrah sold land at Awudome. Evidence voluminous. Do not intend to go through whole now—but will ask Court to consider particular parts of it.

No. 33.  
Closing  
addresses  
of Counsel  
for  
Defendants,  
2nd  
October  
1948.  
Akufo Addo  
(for  
Defendants  
other than  
Captan).

*In the  
Supreme  
Court.*

No. 33.

Closing  
addresses  
of Counsel  
for  
Defendants,  
2nd  
October  
1948,  
*continued.*

M. D. Ankrah sues as representative of Manche Ankrah family and says he is acting head and caretaker of this property for Manche Ankrah family. Expression "Manche Ankrah Family" is rather ridiculous. Our contention is that there is no magic in names. Onus upon Plaintiff to establish their case and rule of law is that Plaintiff must rely on strength of his evidence and not on weakness of his opponent's case.

Case for Plaintiff is that Amoo Ankrah and other Defendants have no power to dispose of any portion of this land at all and that he (Plaintiff) is proper person to alienate it and that alienation by Defendants to Captan and entry upon land by Captan constitutes an act of trespass. 10

Plaintiffs rely very strongly on decision some few years ago (action against Mallam Dawuda) in this Court. There pertinent to refer to judgment in that case at p. 228. From top of p. 230 "it appears case came before State Council . . . etc. etc."

Refers now to judgment of W.A.C.A. (Ex. 5). Point is this, Defendants here and the Defendants in that case sued Dawuda for trespass with Ankrah joined as a co-defendant. Trial Judge formulated issue as to whether present Plaintiff was the person entitled by custom to alienate portion of land on ground that he was the accredited representative of the family. Caretaker cannot sell land without authority of the remainder's 20 of family's consent. This case was made clear in a case recently heard in Accra, *Tetteh Kwei Lolai (deceased) v. Tettey Gbeke* which ultimately went to the West African Court of Appeal which deals with the law as to caretakership. Idun, J., went further and said he was making no declaration of title and then by way of *obiter* suggested that if they wished to remove him they could. In relation to the particular land the Defendants now got together and say that we are appointing our own head to take charge of this property and they did so.

This step taken by Defendants in appointing their head would probably have caused no unrest at all—but for certain historic accident. 30

The first was when they agreed to allow Quansah Solomon to take care of that property.

Up to that stage there is not the slightest hint that anybody from the Nii Ayi line had sat upon the Manche Ankrah stool and taken charge of Awudome property.

With solitary exception of Nii Okanta (uterine brother of Manche Ankrah)—all successors in title to Manche Ankrah have been either his children or grandchildren (i.e. up to the time of Solomon).

Submit that this was in strict accord with custom. Now we come to Quansah Solomon's time that for some reason or other the children of 40 Manche Ankrah agreed that Solomon should look after this property.

Significance of that is made quite clear in the case of *Solomon v. Vanderpuye* Exhibit 4 at p. 232—note title of case "W. A. Solomon on behalf of Manche Ankrah's grandchildren"—whole case relates to Awudome lands. There is some conflict of evidence as to Solomon's subsequent capacity in which he acted in respect of the land—but the basic of his authority to deal with these lands has always been the same, namely Exhibit "A" (his acceptance of the office of Attorney)—it refers to "their" family property not "our" family property.

[sic]

There is evidence that subsequently he was installed on Manche Ankrah's stool. Be that as it may—I might even concede he had been—it was the authority of the “family”.

*In the  
Supreme  
Court.*

Solomon was a reputed wealthy man—appointment of Quansah Solomon himself and his regime did not as themselves bring about complications while it lasted because there is no criterion that Solomon used the property in any way inconsistent with the rights of Manche Ankrah branch family—but the danger was there—because Solomon was the head of the Nii Ayi family—which opened up an avenue to combine  
10 the headship of the 2 branches in one man.

No. 33.  
Closing  
addresses  
of Counsel  
for  
Defendants,  
2nd  
October  
1948,  
*continued.*

While Quansah was there we had no trouble. Trouble came after his death. Quansah was succeeded by Nii Obeng who occupied the Adjarben stool which is the Nii Ayi stool—whose house was originally Ayimo on the High Street.

It is not contended that Nii Obeng as successor of Solomon has any authority to look after Awudome lands. Why is this. When Solomon died all properties of his went to Obeng except the Awudome lands.

That was the only property over which Quansah Solomon was caretaker which did not come to Obeng.

20 Submit that if custom as advanced by Plaintiffs is correct then when Ayi died leaving this house Ayimo the descendants of Ankrah and Okanta branches would have had a share.

That is why I term them historical accidents. Each child succeeded to the properties of his father and Nii Obeng is direct descendant of Nii Ayi that is why all properties of Nii Ayi are in his possession.

Only trouble since 1830 was after death of Quansah Solomon—every one in former days was quite content.

30 Refers to 2 affidavits (marked C and D)—in one paragraph “the land known as Awudome . . . dig grave . . .” i.e. the said stool sprang from Otu Ahiakwa stool i.e. it was a subordinate stool.

Refers to Exhibit D paragraphs 2 and 3 i.e. evidence of the Plaintiff “I say that Awudome is under the Otublohum stool . . .”

40 Now ask Court to keep in mind what Solomon said at p. 235, l. 42, Exhibit 4 “that it was Nii Ankrah's self acquired property”. That defeats Plaintiff's argument that land was given to three brothers. One conclusion of fact cannot be side tracked and that it was his self acquired property and that is where we start. Authorities not easy to come by—but hope to prove that custom is that where *A*, *B* and *C* are uterine brothers with no sister or sister's children—when one dies his real property descends to each brother in turn and after the brothers it goes back to the children of the original owner of the property.

Refers to Sarbah's Fanti Customary Law 2nd Edition at p. 108 “In early part of 1891; . . .” That refers to Accra custom, “answer not very helpful: children in Ga State of six cloth marriage have a definite share in real property—which in Akan law they do not. They are entitled to a partitioned share.”

Refers to *Sarah L. Ribeiro & Ors. v. Elizabeth Mingle and others* decided by Ga Manche's Tribunal on 4.7.1944 and confirmed by Land Court on appeal on 14.12.45 by M'Carthy, J.—there were 3 uterine

*In the  
Supreme  
Court.*  
No. 33.  
Closing  
addresses  
of Counsel  
for  
Defendants,  
2nd  
October  
1948,  
*continued.*

brothers of same mother. *C* bought land—individual property—*B* joined him in putting up a building. *B* died and made a Will devising his half share to *C*—making *C* complete owner. *C* died intestate. *A* took over property by inheritance and enjoyed it for 10 years or so. He died and his children claimed to be entitled to that property. *C*'s children claimed it to be their own property, to the exclusion of *A*'s children.

At p. 110 Bannerman says “the mother does not come in at all—but the inheritor of the property is bound to take care of her . . .”

When we speak of maternal descent in Accra it is slightly different to Akan—Akan law—the mother, if alive inherits—by Ga custom she 10 does not.

Refers to *Sackey v. Okanta* 1919 Divisional and Full Court Reports (p. 88 at 89). “The further Mr. Bannerman goes . . .” Refers particularly to passage at p. 91 “I have given a good deal of consideration etc. etc.” indicates that when uterine line became extinct it is children that succeed and he says it is children of original owner of the property.

[sic] Refers to Power of Attorney (Ex. 2)—evidence is that majority who gave the power were Nii Ayi and Nii Okanta—very few Nii Manche Ankrah—which I refer to as irregular. Nii Okanta side *start* to gain nothing. This Power of Attorney was apparently the one dealt with by Idun, J.—but 20 point is this—be that as it may the very first time that Defendants had any suspicion of the ambition of Plaintiff regarding this land was when in 1941 they discovered he had given land to Dawuda. That spontaneous action corroborates our evidence that this Power was given in a secret manner.

One cannot acquiesce unless one has knowledge. Here is Ayi's branch—who kept their own property sedulously apart—claiming to have a joint interest in this one. A section cannot claim individual rights over this one and deny those rights to another section.

So Defendants go to Court are then confronted with this elaborately 30 prepared Power of Attorney—they get back and say we must do something—we must appoint our own head to look after our own property.

*Court :*

If in fact they knew they had no one acting as head of their section why were they so long in appointing one and why inform the Plaintiff ?

*Akufo Addo :*

When certain incidents occur one has to take in the wider family.

*Court :*

Why—if it was for the appointment of the head of a section only was it necessary to call on the Plaintiff who was an Ayi. 40

*Akufo Addo :*

J. R. Ankrah had been appointed as head—became ill and stepped out. Only trouble before the Power of Attorney was between Ayi's branch and the Executors of Quansah's Will.

Refers to p. 219, l. 34 “ the signatories of the Power of Attorney . . . ” why bring in the slaves—how could slaves have any voice in such a matter. Amoo Ankrah has now sold a portion of this land and invite your Honour to leave out any question of property of question of sale. Submit that having regard to all the history the property belongs to direct descendants of Manche Ankrah—judgment of Idun, J., is no estoppel—so as to estop Defendants from disputing Plaintiff’s right to deal with this property—his status as caretaker—which we have denied—was formally removed by our meeting and appointment of Charles Amoo Ankrah as head.

*In the Supreme Court.*

No. 33. [sic]  
Closing addresses of Counsel for Defendants, 2nd October 1948, continued.

10 Adjourned to 4.10.48.

(Sgd.) J. JACKSON,  
Judge.

4.10.48.

*Akiwumi :*

Although we gave no evidence—wish to address Court. Not in position either to admit or to deny the claim made by Plaintiff—admit purchasing land from Charles Amoo Ankrah. Throughout evidence question has been one of ownership between Plaintiffs and Defendants. Question of possession not evidenced—neither is it pleaded—no act of trespass has been pleaded—no proof of amount of damage suffered.

4th October 1948.  
Akiwumi (for Defendant Captan).

20

No. 34.

**CLOSING ADDRESS of Counsel for Plaintiffs.**

*Bossman replies :*

Scarcely understand submission put forward. Plaintiff has pleaded is owner and person entitled to possess and deal with this land. (Para. 7 of Statement of Claim dated 22/9/47.) If there is evidence before Court that Captan has entered this land—affixed pillars and that evidence was not attacked when given although not specifically pleaded. Damages must be general—nominal. If Court is satisfied that Amoo had no right to convey the land and that Captan entered the land—affixed pillars then—act of trespass is established.

No. 34.  
Closing address of Counsel for Plaintiffs, 4th October 1948.

30

On case generally my submission is that oral and documentary evidence before the Court overwhelmingly and convincingly establishes that land (subject matter of suit) belongs to the stool family consisting not only of direct descendants of Manche Ankrah—but of the descendants of the others who came from the same womb as Manche Ankrah. If Court has to decide that as question of fact—it will be my further contention that point has been decided and are estopped *per rem judicatum* by the 1943 proceedings and the judgment upon it before Quashie-Idun, J., and as interpreted by W.A.C.A.—non-suit having same force as a judgment on the merits. Order 39 Rules 1 and 3. No leave was reserved to bring a fresh action.

40

I concede that burden of proof is upon Plaintiff. Submit that evidence in favour of Plaintiff is overwhelming and on the main undisputed by Defendants. Secondly Counsel has said “ there is no magic in a name ”—meaning it does not matter what name is applied to the family.

*In the  
Supreme  
Court.*

No. 34.

[sic] Closing  
address of  
Counsel  
for  
Plaintiffs,  
4th  
October  
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That is so—provided you know the number of persons to whom that name is applied. Does it mean here the direct descendants of Manche Ankrah or to all the descendants of Amanua the mother of Manche Ankrah. Same applies to the stool.

Common ground—that this land is attached to a stool. Defendants admit it is a stool—but does not agree with its title. We agree that lands are attached to a stool. Oral and documentary evidence supports our case that it is the Otu Ahiakwa stool and not a stool created after the Barme War. Counsel for Defendants relied on Ex. C—an Affidavit made by Plaintiff in which following appear “lands known as Awudome 10 is . . . is known as Manche Ankrah . . . it sprang from Otu Ahiakwa stool.” Wording here is clearly ambiguous—all you have to do is to refer to the case from this evidence and determine what precisely is the claim and there at p. 238 (Ex. 4) Mr. Sawyerr, Counsel, then appearing for Nii Ankrah Quansah head of Manche Ankrah family sets out the history exactly in the same way as we have evidenced now—a representative of the family at the time giving history of the Ahiakwa stool which late Manche Ankrah took when he went to the Barme War.

State Council accepted that history but found that when Atifis Stool came it took precedence. Evidence of Quansah in that case is evidence of 20 an adviser by Charles Amoo’s predecessor in title. Call attention to admission made by Defendants themselves in the Native Tribunal at p. 189, l. 39 (Ex. 6). “In what year did . . . ascend Ankrah stool? In 1928.

[sic]

Q. *Quansah* executed the Power of Attorney.

A. Only the direct descendants of Manche Ankrah . . . we placed him on the Otu Ahiakwa stool to which Manche Ankrah succeeded . . . Late Quansah was entitled to succeed to the stool.”

On face of this admission of their own representative in the Native Tribunal before it came into the hands of Solicitors—how can they ask 30 any Court to accept the story that it was a stool created by Ankrah himself. Question of credibility of witnesses is vitally important. Before I leave this point—Amoo (now principal Defendant) accepted *in toto* this position up to the end of the 1943 case. Counsel for defendants has argued that up to time of Solomon this property had been exclusively administered by the direct descendants alone. My answer to that is that oral and documentary evidence establish rather the contrary.

Starting with Ankrah—when he died who inherited—the answer is Okanta. Then the brothers were all exhausted. The next successor is found on the senior son of Ankrah namely Nii Antonio—that is correct. 40 He dies—a nephew Kpakpo Odehey another in the same line then succeeds. Then he (Kpakpo Odehey) dies and then comes the position shortly as it was before the accession of Solomon. Between the period of Kpakpo Odehey’s administration of the property and that of Solomon—how was it administered ?

Refers to Aryeh’s evidence in Native Tribunal at p. 185, l. 13 Ex. 6—he is asked this question.

“At time layout was to be made on Awudome . . . ?—A. No. Atta Ayikuma was the caretaker.” Ayikuma was in the Ayi line. Then at p. 173, l. 29 he evidences “direct descendants etc. etc. . . .” Point I wish 50

to bring out is that far from the land being looked after only by direct descendants at every stage a man from Nii Ayi line is actually looking after it. In this connection Ex. A is material. That is a document given by Solomon to person who gave him authority to prosecute the 1922 case against Vanderpuye (p. 168). Amongst the persons to whom Solomon gave the acknowledgment was "Tawia Ankrah" a man from the Okanta line. There is Ayikuma from the Ayi line, Owusu Lamptey from the Ayi line. These facts are admitted by Aryeh under cross-examination. No suggestion there that he was acting for Ankrah's line alone.

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- 10 How do Ankrah's descendants sign together with descendants of Okanta and Ayi if Solomon, as a stranger was acting for the Ankrah line alone. At that time Solomon had not been formally installed and the Elders gave him this authority. In 1927 he is formally put on the stool as of right—the stool of the 3 branches.

- 20 Observe in Ex. 4 proceedings before Hall, J. on pp. 238–249—it is Quansah Solomon who is acting conducting litigation to preserve this property. That was in 1931 after he had been enstooled. Defendant's story is that he was only acting as their agent. If while on the stool which is for the 3 brothers—then if he represented one of the branches—he could only represent them under the Power of Attorney or as the Head of that particular branch.

On the contrary you found him fighting for them all as the occupant of the Manche Ankrah stool.

Quansah Solomon bore all expenses of this litigation (admission in evidence of Charles Amoo Ankrah) and explained that because of that they allowed him to take the £300 paid in respect of an Acquisition by Government.

- 30 For the first time one sees money coming—not very much it is true—one would expect some of it at any rate to be taken by the Ankrah line—but it is all taken by Solomon and is used, so they say to pay Messrs. Ollivants. Court is asked to believe that all the time Ankrah line has controlled this land. Rather from 1925 up to recent case it was Nii Ayi line who was in direct control or management. No evidence that at any stage any one from the Ankrah branch controlled the property to the use of his branch alone.

- 40 In 1830 there was no ground for private acquisition which exists today. When head of family asked for land—he had in mind rather the family proper than himself. Look at position immediately before Dawuda case in 1943—according to evidence of Charles Amoo Ankrah then before he changed his "faith"—he said (p. 220, l. 7, Ex. 4): "It is a fact that members of the family including some of Plaintiffs (now Defendants) appointed Defendant (now Plaintiff) to be caretaker of the land." He says that after earthquake there was a family meeting at P & B house. "It was agreed that all members of the family should contribute etc. etc."

- 50 In other words—right up to time of earthquake everyone was satisfied that land belonged to all—earthquake came and some members dispossessed—so whole family met. Significance of the meeting cannot be over-emphasised. Grants were made on equal terms to all members of the 3 branches, on this Awudome land and members from all the 3 branches got the plots.

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If land had been property of Ankrah branch alone they would not have paid.

*Court :*

If it belongs to all—why did anyone pay ?

*Bossman :*

It was being partitioned for good and all—like other individual grants to a member of a family. Plaintiff gave a piece of land to a member of the family called Allotey—which he was entitled to do. Allotey then gave the land to Dawuda to cultivate for him—as if he did not effectively occupy and use it—he might by custom, have lost it. Then literate sections of Defendants got up and saw in them a chance to get at the Plaintiff. Plaintiff has done nothing which can be called erroneous or ambitious—as Defendants have suggested—the elderly generation of the Manche Ankrah branch support the Plaintiff—not the Defendants. Submit that so far as use and occupation of the land is concerned it has been overwhelmingly established that user has been by all 3 branches and not by one (Manche Ankrah) alone. In tracing of who are members of a family for purpose of inheritance children of the other brothers are definitely included. Refers now to native customary law. What is expert evidence on this point. Clearly it is entirely in our favour including the Chief called by the Court. Linguist gave evidence and Manche likewise. Evidence of his was as to Ga customary law and it has not been shown that Otublohum custom differ from the ordinary Ga laws. 10 20

“ *Ratio decidendi* ” in 1943 case (Dawuda) was that after death of the brother of the first owner—the property descends to the children of the first acquirer to the exclusion of the others—that was the proposition which Defendants (then Plaintiffs) sought to establish.

In the recent Native Court case referred the facts are not entirely on all fours as one of the brothers had disposed of his interest. That case so far as it affects customary law is in exactly the same position as the expert evidence adduced before the Court. 30

The West African Court of Appeal by its judgment dated 23.5.44 affirmed that the general principle of matrilineal inheritance had not been displaced and they are estopped now from making that claim again since in the absence of liberty to bring a fresh action that decision operates as a judgment on the merits.

*Court :*

Was not the Native Court when it gave judgment on the 4.7.44 bound by that decision regarding customary law as affirmed by the West African Court of Appeal. 40

*Bossman :*

They were bound—but may have no notice of it.

Akufo Addo’s argument was that Plaintiff could be removed and a new head appointed so as to create an entirely new situation. Submit that person can only be removed by the person who appointed. In 1943—the facts were exactly as they are now presented. The direct descendants—had appointed J. R. Ankrah—the brother of Charles Amoo—to be their



head. They claimed that this land belonged to the direct descendants only and that Ayi line from which Plaintiff comes had no interest whatsoever and as authority to deal with it. Plaintiff, on other hand, then Defendant, set up exactly the same case as he does now.

He called Charles Amoo as his witness to support that story—he gave evidence to support that story. The question we put in issue whether direct descendants of Ankrah inherited—the 3 branches together.

*Court :*

10 After the decision of the West African Court of Appeal the Defendants would have to show, as Manche Otublohum evidenced, that Charles Amoo Ankrah had been enstooled as head of the 3 branches—a fact which was never pleaded by them.

*Bossman :*

That is so.

*Court :*

20 No estoppel appears to have been pleaded as to any finding of customary law as to inheritance—the plea of estoppel as set up in para. 7 of the Statement of Claim of Suit 32/1947 sets up estoppel as to the appointment and authority of M. D. A. Ankrah to act as Acting Head of the Family ; but the issue before me was as to which unit constituted the family ?

*Bossman :*

Submit that Defendants have nothing whatsoever in their favour—evidence against them as to user, as to headship and above all as to the constitution of the family—customary law is also against them—our suit is as effective as any other judgment. Ask for judgment.

*Assessor :*

30 In my view the customary law is that on the death of Nii Ankrah, Nii Ayi and Nii Okanta the property of Nii Ankrah should go back to his direct descendants to the exclusion of the children of Ayi and Okanta as the property did not belong to Amanua and because the mothers of the children of Nii Ankrah, Nii Ayi and Nii Okanta are outside the Ankrah family. I disagree with the expert witnesses and I agree with the decision of the Native Court's case referred to (1944).

*Court :*

40 Can you indicate to me which authorities as to customary law were before the West African Court of Appeal when it held that “ the ordinary rule of native customary law etc. etc.” “ As to descent through the female line *prima facie* applies in this case.” That is the ordinary principle of Akan or Fanti law. I have been told equally emphatically by learned Counsel for the Defendants and by the Assessor that this although it may be good Akan customary law is not Ga customary law.

*Bossman :*

Refers to *Botwe v. E. G. Solomon* (Divisional Court case 7.12.1935) dealt with succession in Ga state. There—person entitled had to be

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traced through the mother of the person who acquired the property. All that we have to plead is estoppel. Estoppel as pleaded in para. 7 estops the Defendants from litigating any fact which was material to the party in that former case—we say that the material fact was right of all descendants of all three brothers to participate in the inheritance.

Judgment reserved to 15.10.48.

(Sgd.) J. JACKSON,  
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**No. 35.  
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10

IN THE LAND COURT OF THE SUPREME COURT OF THE GOLD COAST, Eastern Judicial Division, held at Victoriaborg, Accra, on Friday the 15th day of October, 1948, before JACKSON, J.

Suit No. 112/1947.

M. D. ADJABENG ANKRAH, alias KWAKU  
NYAME ANKRAH for and on behalf of MANTSE  
ANKRAH Family of Otublohum Dadebanna,  
Accra . . . . . Plaintiff  
JOSEPH COMMEY ANKRAH . . . . . Co-Plaintiff

V.

20

M. CAPTAN OF ACCRA . . . . . Defendant.  
CHARLES AMOO ANKRAH as Head and repre-  
sentative of MANTSE ANKRAH Family of  
Otublohum, Accra . . . . . Co-Defendant.

and

Tr. Suit No. 32/1947.

NAA QUARDUAH ANKRAH and M. D. A.  
ANKRAH alias KWAKU NYAME ANKRAH both  
of Accra . . . . . Plaintiffs

V.

30

J. K. Q. ARYEH, D. S. QUARCOOPOME,  
J. AMOS LAMPTEY, CHARLES AMOO  
ANKRAH, J. R. ANKRAH, A. DINNAH  
ANKRAH and AFLAH QUARCOOPOME . Defendants.

(Consolidated)

**JUDGMENT :**

This trial is of two actions which were consolidated by an order made on the 4th December, 1947, Suit No. 32/1947 having been transferred from the Native Court to this Court by an Order made on the 22nd September, 1947.

40

Pleadings in both cases were ordered and were duly filed.

Suit No. 32/1947 is at the instance of Naa Quarduah Ankrah and M. D. A. Ankrah. The former sued in her personal capacity ; the latter

as the Attorney and representative of the Manche Ankrah family. They claimed as against the seven Defendants, who were sued as members of the Manche Ankrah Family, £50 damages for trespass to land situate at Awudome, and for an injunction.

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The nature of the act of trespass is pleaded in paragraph 8 of the Statement of Claim dated the 3rd December, 1947, and reads :—

“ The Defendants have broken the pillars of the 1st Plaintiff which were erected by the said 1st Plaintiff to mark the boundaries of her building plot . . . ”

- 10 She claims possessory rights over the plot of land by reason of a grant made to her by the 2nd Plaintiff, M. D. A. Ankrah, who pleaded his authority to make such a grant in paragraphs 3 and 4 of the Statement of Claim, namely as the representative by native customary law of the Manche Ankrah Family, and which authority had been ratified by a Power of Attorney given to him by the members of that family.

- 20 The Defendants in paragraph 1 of their Statement of Defence dated the 11th February, 1948, admit that the Plaintiffs are members of the Manche Ankrah Family, but deny the other facts pleaded in paragraphs 3 to 8 of the Statement of Claim, and aver in paragraph 2 of that defence that any such alleged appointment has been overruled by the “ accredited principal members of the Family and that the Defendant Charles Amoo Ankrah was appointed Head of the Family in November 1945.”

- 30 To the plea of estoppel raised by the Plaintiffs in paragraphs 6 and 7, upon which they founded on a judgment recovered by a decision of the Divisional Court given on the 13th November, 1943, and affirmed by the West African Court of Appeal, the Defendants replied that such judgment did not pronounce the 2nd Plaintiff, M. D. Ankrah, to be head of the Family, nor did it preclude them from appointing a head, which they aver they did in November, 1945, when they appointed Charles Amoo Ankrah.

Suit No. 112/47 is one at the instance of M. D. A. Ankrah, suing in his representative capacity on behalf of the Manche Ankrah Family, together with J. C. Ankrah (joined as Co-Plaintiff on the 22nd June, 1948) against a Syrian trader named Captan and Charles Amoo Ankrah, who was joined as a Defendant, and who defended this action as the Head of the Manche Ankrah Family. The writ of summons claimed £200 damages for trespass to land and an injunction.

- 40 To these claims was added in the Statement of Claim dated the 22nd September, 1947, and to which no objection was raised throughout the trial and which in fact became the principal issue in the trial, a claim for :—

“ A declaration that they are in possession as owners of all that piece or parcel of land commonly called and known as Awudome or Ahodome, situate lying and being at Accra in which a portion of the said land is this suit herein.”

The issues are much clearer than the pleadings would appear to indicate, but an understanding of the history of the land Awudome and of the Manche Ankrah Family is necessary to fully appreciate them.

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The land called Awudome came into the possession of the Manche Ankrah Family in the circumstances described in a decision given by the State Council of the Ga State on the 12th July, 1930, a copy of which is set out at pages 236 and 237 of the record of appeal in the case of *Aryeh and others v. Malam Dawuda, M. D. A. Ankrah and S. E. Allotey* and which was admitted and marked as Exhibit No. 4. This decision I find to be binding upon all parties to the two actions in view of the Defendants' pleading in paragraph 1 of the Statement of Defence in Suit No. 32/1947 and which admits that the Plaintiff M. D. A. Ankrah is a member of the Manche Ankrah Family.

10

That decision was that this land known as Awudome was the self-acquired property of the late Manche Ankrah "and it belongs to and is in possession of his family." Now Manche Ankrah was one of the three sons born of a woman named Amanua, the other two being Ayi and Okanta, and whilst admitting that the Plaintiff M. D. A. Ankrah is a member of the Manche Ankrah Family as the Defendants do by their pleadings, it is quite clear that by reason of the fame achieved by this man in the Barme War of 1830, and when this land was given to Manche Ankrah by a people grateful to him for his services in that war, the descendants of the two brothers, namely Ayi and Okanta, have identified themselves with his name, a fact which again tends to cloud the issue and which is one relating to the law of the devolution of real property in the Ga State upon the death intestate of a person who, in his lifetime, has become the owner of what is commonly known as self-acquired property, and as to whether succession is shared among the members of the extended family or whether it is confined to the immediate descendants of one branch of that family alone.

20

The Plaintiffs' case is that on the death of Manche Ankrah intestate the land Awudome acquired the character of family land and became the property of all living members of the three branches, namely Ayi, Okanta and the children of Manche Ankrah, which the Defendants aver that, by Ga custom, upon the death of the brothers Ayi and Okanta, the interest in the land reverted to the immediate descendants of Manche Ankrah, to the exclusion of the children of either Ayi or Okanta.

30

[sic]

The law as postulated by the Plaintiffs is the Akan or Fanti law, with the modification that by the Ga law a child may inherit an "interest" in land owned by his father, whereas by the true Akan or Fanti law a child in such circumstances is a bare licensee. That is the sole issue, but it is one of paramount importance, as it goes to the very root of land title in the Ga State. Were *it for* long service in West Africa it would appear to me to be not only incredible, but impossible, that such a divergence of opinion could exist upon such a fundamental point of law as to who are the persons entitled to an estate in that land in the circumstances already described. It is equally clear that despite the passage of many years, and of many Judges, there is very little authority whereby one can pronounce upon this matter with any degree of certainty.

40

At the commencement, and again, in the final stages of a very lengthy trial, I did entertain doubts as to whether the hearing of such voluminous evidence had either been necessary, or even proper, in view of the decision of the West African Court of Appeal delivered on the 23rd May, 1944, 50

which had been pleaded by Mr. Bossman by way of estoppel. That plea was raised in paragraphs 6 and 7 of the Statement of Defence dated the 3rd December, 1947, and which was filed in Suit 32/1947 and reads :—

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10 “ 6. The 2nd Plaintiff’s appointment as such Representative of the said Family and his authority and Right to deal with the said Awudome land, was the subject matter of Suit No. 3/1943, *J. K. Q. Aryeh and ors. (Plaintiffs) v. Malam Dawuda & M. D. A. Ankrah*—in which suit the said 2nd Plaintiff’s appointment and authority were upheld by the Divisional Court, Accra, in the Judgment given in the said suit on the 13th day of November, 1943, and subsequently confirmed on appeal by the West African Court of Appeal on the 23rd day of May, 1944.”

“ 7. The Plaintiffs in that suit are the Defendants herein, and they are claiming in the same right as against the 2nd Plaintiff in this suit and in respect of the same land, and the Plaintiffs plead that the Defendants are estopped and precluded by the judgment in that suit from denying the 2nd Plaintiff’s appointment and authority aforesaid.”

To this pleading the Defendants answered in paragraph 3 of their  
20 Statement of Defence dated the 11th February, 1948 :

“ 3. The Defendants say in answer to the allegations contained in paragraphs 6 and 7 of the Statement of Claim that they are not estopped by the judgment cited therein from disputing the Second Plaintiff’s claim still to be the representative of the Family inasmuch as the said judgment did not pronounce him the Head of the family nor did the said judgment preclude the members of the Family from electing a proper Head of the Family which they did in November, 1945, aforesaid.”

Now as set out in the judgment of the Appeal Court dated the 23rd May,  
30 1944, in that former case—

“ The main claim is that the direct descendants of Manche Ankrah are entitled to exclusive ownership of the land in question, the descendants of Manche Ankrah’s uterine brothers having no rights in the land.”

and that was clearly the main issue before me in the present cases.

But in that former case before Quashie-Idun, J., the learned Judge quite correctly narrowed the issues as set out at page 228 of the record of appeal (Exhibit 4) and to which he again referred in the clearest terms possible in his judgment at page 229, l. 23 when he said—

40 “ The parties agreed that the issues to be tried by the Court were whether or not the Defendant, Ankrah, is a member of the Ankrah family and whether or not he has any right to represent the Ankrah family in this action.”

That the then Defendant Ankrah, and now the Plaintiff is a member of the Ankrah Family has been admitted by the present Defendants in paragraph 1 of their Statement of Defence dated the 11th February, 1948, but that admission, upon the evidence before me, is that he is a member of the extended family and not one of the direct descendants of Manche Ankrah.

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The second issue before Quashie-Idun, J., was “ whether he had any right to represent the Ankrah family in this (that) action.” Quashie-Idun, J., said :—

“ The question is whether Defendant Ankrah had any right to allocate a portion of this land to 3rd Defendant. In my opinion there is ample evidence on record proving—

(A) that Defendant, Ankrah has been appointed to represent the Stool of the late Mantse Ankrah in all matters connected with the Stool and the Stool lands

(B) that the Stool is in fact in his possession as Caretaker and 10

(C) that he has the right to represent that family Stool in these proceedings. Whether or not the members of the Stool family still wish to allow him to continue to represent the Stool is a matter for them to decide later.”

Nowhere in direct words, does the learned Judge find whether the Stool family comprises all three branches of the family, or the one containing the direct descendants of Manche Ankrah alone.

But the Court of Appeal held :—

“ It is true that the actual *ratio decidendi* in the Court below is not very clear, but the ordinary rule of native customary law as to 20 descent of property through the female line *prima facie* applies in this case, and in our opinion no sufficient evidence has been adduced to show that any other method of descent applied in this particular case. Hence we are satisfied that the learned trial Judge had no alternative but to non-suit the Plaintiffs.”

Now when the Court of Appeal held that the *ordinary* rule of native customary law as to descent of property through the female line applied, I understand that to mean that the ordinary Akan law subject to its modification as regards the interests of children in land being recognised by the Ga customary law, as opposed to the law of devolution of property 30 advanced by the Defendants, and that this issue of law was a necessary and material finding of fact before the learned trial Judge could find affirmatively on the other facts as he did.

If I am right in this assumption, then the effect of a non-suit is of as great force in this Colony as is a decision on the merits (Order 39, Rule 3) and the plea of estoppel raised by the Plaintiffs in paragraphs 7 and 8 of their Statement of Claim operates to stop the Defendants from litigating again that issue of customary law.

But in view of the somewhat uncertain issues that were decided by the learned trial Judge in that former action, learned Counsel for the Plaintiffs, 40 Mr. Bossman, felt it safer to lead evidence, and for my own part I felt it safer that it should be heard, and that it was safer to view the statement as to customary law made by the West African Court of Appeal as “ *obiter dicta.*”

I will now deal with the issues as pleaded and evidenced before me.

The writs in both actions are founded on alleged acts of trespass and in each one an injunction is also prayed for. The first suit No. 32/1947

relates to a grant of land made by the 2nd Plaintiff to the 1st Plaintiff and the act of trespass alleged was that the Defendants broke pillars erected on that land by the 1st Plaintiff.

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The second suit relates to pillars erected on the same land by the Defendant Captan who pleaded that he purchased the land from the 2nd Defendant Charles Amoo Ankrah and the principal members of the Mantse Ankrah Family.

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10 The Statement of Claim in both actions include a prayer for a declaration of title to the land known as Awudome and the principal, if not the entire, issue at this trial was whether M. D. A. Ankrah the 1st Plaintiff as the Caretaker and Acting Head of all three branches of the Mantse Ankrah Family had the right of dealing with and alienating the land subject to the consent of the principal members of his family, or whether that right was vested in Charles Amoo Ankrah the Defendant as being the elected Head of the branch of that family who were the direct descendants of Manche Ankrah.

This issue is one which depends solely upon what is the Ga customary law as to the rights of inheritance to the land called Awudome.

20 The Plaintiffs aver that by customary law sales or grants of this land for purposes such as building, and where the grant by its nature is coloured with the character of permanence, can only be made by the consent of M. D. A. Ankrah as the Caretaker and Acting Head of the Manche Ankrah Family, together with the principal members of the Manche Ankrah, Ayi and Okanta branches of that family.

The Defendants' case is that by customary law such grants or sales can only be made by the Head and principal members of the Manche Ankrah branch alone to the exclusion of the immediate descendants of Ayi and Okanta.

30 In these Courts customary law must be proved as must any other fact unless that particular custom has been observed by the Courts so frequently as to justify it being judicially noticed.

Customary law may be proved in the following ways :—

(A) By the evidence of persons expert in the knowledge of the particular custom :

(B) conduct and acts of the parties during the period of living memory which tends to corroborate that expert evidence :

(C) admission of deceased persons against interest :

(D) the writing of jurists whose treatises have been referred to by the Courts in the past :

40 (E) judgments of the Courts of this Colony.

I am satisfied that, according to tradition, the people who founded the Otu-Ahiakwa Stool in the Otublohum Quarter, Accra, originally came from Denkyera in Ashanti and settled upon land which was then granted to them by the Nai Priest, who was the Head of the aboriginal inhabitants in this area. I think it is a fair inference to find that the customary law which they brought with them at their first settlement can be described as the Fanti or Akan Law. How far that law was modified, if at all, in ancient days it is difficult to estimate, but that changes have occurred is

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certain by the fact that children in the Ga State may inherit a share of an interest in land enjoyed by their father, an interest which is denied to them by the Fanti or Akan law and where any enjoyment of a father's interest in land is a bare licence and not an interest in land.

*Prima facie* then I think it fair to say that one would expect to find the Fanti or Akan law of succession and inheritance observed by the descendants of the original settlers in the Otublohum Quarter of Accra.

As I understand the meaning of customary law it denotes something which is ancient in its origin, and unchangeable in character other than by the effect of statutory law. That this is the meaning attributed to native law or custom by the legislature, I find authority in the provisions of sections 30 and 31 of the Native Authority (Colony) Ordinance, 1944, which provides not only who may declare what is native customary law, but goes further and declares how such law may be modified. 10

There is a school of thought which believes that native customary law is not immutable, but evolves according to circumstances, as did the Common Law of England. That certainly did not apply as regards the "customary law" of England which remains unchanged until changed by Statute, and in my judgment this is clearly what the legislature intended should obtain in this Colony, and it cannot be modified other than by a recommendation made by a State Council to the Governor in Council who may then by Order direct that such modifications shall have effect. 20

This is of importance as sometimes undue weight is given to the acts and conduct of persons when seeking to determine what is a particular custom in a given area. Sometimes it affords well nigh the only criterion of what is the custom, provided one always keeps in mind the fact that persons in the course of their lives often find it convenient and sometimes profitable, to contract themselves out of the ordinary rights or obligations. Such evidence must be weighed with great caution and care.

In seeking to determine what is the customary law, I would now refer to the Chapter on Succession set out pages 100 *et seq.* of Sarbah's "Fanti Customary Laws," 2nd Edition, particularly to the opening lines, which in my judgment are of paramount importance when viewing the rights of communities and individuals in respect particularly of interests in land and where Sarbah says:— 30

"The first important rule which one has to learn and ever bear in mind when dealing with matters of succession is that the right of inheritance is only through the female, and pedigree is traced through the female line and *that* only."

Then follow these important observations:—

"There is no such thing as succession in the proper English meaning in a family owing ancestral property. The whole family, consisting of males and females, constitutes a sort of corporation . . . Partition being extremely rare, the idea of heirship scarcely presents itself to the mind of any member of the family." 40



Then at pages 101 and 102 are found :—

“ The owner of self-acquired real property dying intestate, is not succeeded by his sons, they being outside the line of inheritance, but *by his mother and her issue* according to seniority.”

“ Persons in the line of succession are :—

Mother,

Brothers, according to seniority,

Nephews, by seniority, etc. etc.”

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10 It follows that (it being accepted that the land Awudome was the self-acquired property of Manche Ankrah), on his death intestate, and his mother being dead, the persons in the line of succession were his brothers Ayi and Okanta—the senior of the two “ succeeding ” first, and this is clearly borne out by the evidence.

Now accepting for a moment that both Ayi and Okanta had survived Manche Ankrah (whether Ayi did or did not is indefinite and I do not think it is of great importance anyway), and accepting that Ayi was the senior, he would by customary law be the “ successor.”

20 Could he as a “ successor ” dispose of that property in his lifetime without the consent of Okanta ? The answer quite definitely is “ No ”; and here again I refer to the decision of the Court in the case of *Boham and another v. Marshall* set out at p. 106 of Sarbah :—

“ By the Court : By native law, the person succeeding to property could not dispose of it to beyond his lifetime *unless with the consent of the families.*”

Note the use of the word “ families ” in the plural and not family in the singular, i.e., as I understand it, in the present case not without the consent of the three families known as Manche Ankrah, Ayi and Okanta and which collectively are known as the Manche Ankrah Family. Sarbah goes on at page 107 :—

30 “ In the coast towns, one now and then comes across what at first sight seems to be an exception to the general rule of succession. There are some families where succession goes from father to son ; but this has reference only to the dignity or title of office, with such property or insignia going with it, and which was in the first instance created with it. Such a position is quite distinct from that of head of family, although a person may hold the two offices at the same time . . .”

40 Now during the examination and cross-examination of the witnesses in this case the use of the word “ property ” was used without specific reference to the class of property referred to, and the answers given in such cases were vague and misleading as they might refer to property acquired by a descendant of Manche Ankrah, and therefore properly enjoyed by those direct descendants alone, or it might refer to property which was in the possession of the extended family during the lifetime of Manche Ankrah or which he had inherited.

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[sic]

Again property such as house property will normally be occupied by persons who are the immediate descendants of the original builder of that house, but from that fact it should not be assumed that other branches of the family have necessarily no "interest" in that house, because from the obvious reasons of domestic convenience each branch has continued to occupy the house *formally* occupied by members of its own branch.

Again it cannot be doubted that farm land may be enjoyed by any member of any one of the families if he or she asks permission of the Head of the particular branch who had effectively occupied the land. 10

But when grants of land for building purposes are made, grants which have the character of permanence, to a member of the family, or grants or sales of land to strangers which effect alienation, then different considerations arise. It appears to me by the ordinary Akan law that before any part of such land can be divorced from the use of the community that a wider consent is required and the consent which is required is that of the Head and the principal members of the families who are directly descended from the mother of the person who first acquired the land.

This is the Akan-Fanti law as I understand it.

Has that customary law as to succession and rights of successors, 20 which the members of the Otublohum Quarter brought with them from Denkyera Asanti been modified in any way since their arrival in Accra.

Mr. Akufo Addo has referred me to the replies given by Edmund Bannerman of Accra as set out at pages 108 *et seq.* of Sarbah as evidence that Akan law has been modified to the extent as pleaded and evidenced by the Defendants.

Sarbah says at p. 109 :—

"Mr. Bannerman's opinion relates specially to the Accra district, but it will be noticed that the Accra customary laws differ very little from what have been explained herein (i.e. Fanti and 30 Akan law)."

At page 110 :—

"(c) . . . real property descends the same as personal property, with this exception, that it is inherited in conjunction with the children of the deceased of that marriage, and such real property cannot be disposed of without the children's consent."

The manner in which personal property descends is set out at pages 109 and 110 :—

" . . . With reference to the first, personal property only descends as follows : 40

(A) to the uterine brothers of the deceased, the eldest taking first ; . . ."

As I understand Mr. Bannerman, and if he were applying the law to the facts in this case, the land would descend first to Ayi on the death of Manche Ankrah, and on his death to Okanta, but I can find nothing in this which modifies in any way the general principle of law enunciated in the case of *Boham and another v. Marshall* to the effect that " the person

succeeding to property could not dispose of it beyond his lifetime unless with the consent of the families " i.e. Ayi could not dispose of it without first obtaining the consent of the children of Manche Ankrah and of Okanta.

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Now upon the death of Ayi the land would descend to Okanta and I can find nothing in the writings of Sarbah or of answers given by Mr. Bannerman, that the immediate descendants of Ayi would be deprived of all interests in the land. It would certainly be opposed to Akan law if Mr. Bannerman had intended to convey that meaning, and I feel sure that he would have expressed himself as clearly in relation to that exception as  
10 he did in regard to the rights of the children in their father's property if that other exception had existed.

But later he does by inference suggest a very great divergence from Akan law when he says :—

“ The mother does not come in at all, but the inheritor of the property is bound to take care of her ‘ *durante vita* ’ and at her demise to bury her decently.”

Now that difference is of the utmost importance, since by Akan law the mother is the first in the line of succession, and, it is the blood of the mother that is regarded when determining who are the successors to lands  
20 acquired by any one of her sons.

Now the principle governing the law of inheritance through the female as I understand it is that the blood of ancestress flows throughout the line of her descendants and “ heirs.” The blood is the ever certain and constant factor upon which inheritance is founded.

But if Mr. Bannerman's views are correct, and that in respect of self-acquired property the mother does not come in at all, then how are the rights of the uterine brothers reconciled with that principle? On what principle could they inherit other than as being of the same blood as their elder and deceased brother who had acquired the property in his lifetime?  
30 These views were expressed in 1891, and despite this apparent contradiction in principle are to be viewed with the greatest respect coming as they did from, as Sarbah described, “ that eminent solicitor and advocate whose knowledge of the customary law and long experience in the Law Courts were unsurpassed.”

It is a view which strongly supports that advanced by the Defendants.

Mr. Akufo Addo also referred me to the case of *Sackey v. Okantah* (Divisional and Full Court Judgments 1911–116) in which judgment was delivered by Crampton Smyly, C.J., on the 3rd April, 1916, and which is a direct authority by a Judge of equal jurisdiction upon the Ga Law of  
40 succession to self-acquired property through the female line and in which the learned Judge discussed Mr. Bannerman's observations on the law. It related to personal property, but for the reasons already given by Mr. Bannerman the same principles, with the exception as to the children, apply to real property.

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The learned Chief Justice's findings are set out in the following paragraph :—

“ I have given a good deal of consideration from time to time to this question of succession among the Gas and am of opinion though there are certainly witnesses to the contrary, that the whole weight of the evidence goes to show that the Ga Law of succession whether the property is self-acquired or not, is that the brothers succeed first to the property, then it descends to the nephew failing which, to the children, the brothers to succeed must be of the same mother with the deceased, and the nephew must be the sister's child.” 10

But the crux of the matter to me in this case, appears to be not only as to who is the “ successor ” to the property, but as to what are that “ successor's ” rights when making grants or sales of family lands, since a successor cannot dispose of that interest in his lifetime without the consent of the principal members of the families, and I can find nothing in that decision which bears upon this point. There can be no question that in repayment of the successor's obligations to face what is very often considerable expenditure in performing the funeral ceremonies of his predecessor he is by custom permitted and has the right to enjoy during his office certain of the perquisites which arise from this land, but clearly 20 under the Akan law he cannot dispose of the whole interest in the land without first obtaining the consent of the principal members of those families who can trace directly their descent by blood from the mother of the person who first acquired the property.

But Mr. Akufo Addo has invited my attention to a very recent case, and one which appears at first sight to directly decide the point of law at issue. It is the one of *Sarah L. Ribeiro and others v. Elizabeth Mingle and others* in which judgment was given by the Tribunal of the Paramount Chief of the Ga State on the 4th July, 1944, and which decision was subsequently affirmed on appeal to the Land Court by M'Carthy, J., on 30 the 14th December, 1945. Now in that case Charles and Henry Mingle built a house in Horse Road, Accra, and by his will Henry devised to his brother Charles his whole interest in that house. Upon Charles's death intestate in 1933 an elder brother named Joseph succeeded to his estate in Horse Road. Joseph died in 1943. The children of Charles then claimed the estate in the house from the children of Joseph and obtained judgment for recovery of the premises as against the children of Joseph.

It was held that the direct descendants of Charles L. Mingle were entitled by Ga Customary Law to exclusive possession of the land in question, the descendants of Charles L. Mingle uterine brother, Joseph, 40 having no rights in the land.

Now that was apparently the same issue of Ga Customary Law which on the 23rd May, 1944, the West African Court of Appeal discussed in the appeal *Aryeh and Others v. Malam Dawuda and Ankrah* and where they found that the customary law as relied upon by M. D. A. Ankrah was the ordinary rule of native customary law as to the descent of property and that finding is the direct opposite of the one found by the Native Tribunal some 6 weeks later.

Now the decision of the Tribunal was affirmed by M'Carthy, J., in the Land Court on the 14th December, 1945, and the learned Judge must have been aware of the decision given by the West African Court of Appeal on the 23rd May, 1944, since he was one of the Judges who subscribed to that decision. It is for these reasons as well as for those I have given earlier that I entertain doubt as to whether that finding of the West African Court of Appeal was ever intended to be of greater force than "*obiter dicta*." If it was, then clearly the Native Tribunal when it gave its judgment 24 weeks later was bound by it and it should not have been affirmed by the Land Court.

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If that decision of the West African Court of Appeal is of full force and effect, as I have said before, there was a complete estoppel to the Defendants' case as presented at the present trial.

But that case heard in the Ga Native Court cannot, I think, be held to go any further than to say that the possessory rights of the children of Henry Mingle in that house were ones which excluded these rights from the children of Joseph Mingle. But would the decision have necessarily been the same if the children of Henry wished to sell, and so dispose of, the property in the estate? Would the children of Joseph Mingle have no say in the sale of property to which they might enjoy an interest in the event of Henry's line becoming extinct?

Sarbah at page 102 of his treatise after tabulating the persons in the line of succession says:—

"Failing these and their stock, the domestics in whose veins runs any of the heritable blood, take by seniority. Next, the head domestic, lastly, a member of the tribe."

Customary law appears to envisage no complete alienation from the tribe, as would obtain under English law. The interests of the children of Joseph would not become vested until the death of the last immediate descendant of Henry and would, in English law, have no interest in the land. But I entertain doubts as to whether that is the conception of law as to estates in land in West Africa and in this instance in the Ga community.

The preponderance of evidence before me given by witnesses who could properly be described as being expert in native customary law was that not only would the consent of all three lines of the family be necessary before a valid grant of sale of land could take effect, but that every member of the three lines had an interest in the land to the extent that if they wished to farm upon it they could do so or give up all tribute upon seeking and obtaining the consent of the caretaker of the land.

Upon the question of native customary law I also called an independent witness named Nii Ayikai II. When I say he was indifferent, I mean he was called by neither of the parties, but attended the Court at a request made to him by me through the District Commissioner and was selected by the District Commissioner as being a member of the Ga State Council.

He testified that he was unable to say what was the customary law in the Otublohum Quarter but that he was conversant with what was recognised as the custom of the Ga State. Now I will say here that at no

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time has it been suggested to me that the custom in Otublohum differs in any respect to what is known as the Ga custom and that is the custom upon which Counsel have told me that all parties rely.

The evidence of this witness was given in the clearest possible terms, and it can be summarised as confirming the essential elements of Akan law as to the rights of inheritance to and alienation of land to be the Ga custom. It afforded complete corroboration of the witnesses called by the Plaintiffs who affirm that all members of each of the three lines have an interest in the land and whose elders must be consulted before it can be alienated.

10

The following passages extracted from his evidence are illustrative of this conclusion.

When examined by Mr. Bossman, Counsel for the Plaintiff, the evidence was as follows :—

*Q.* One woman begat 3 children, *A, B, C.* *A* takes his own money and buys a piece of land. He occupied the land for some time and then he dies. At time he died he had surviving him his 2 brothers and their children and his own children. To whom does that land then belong ?

*A.* The elder of the two surviving brothers will look after the 20 land for all of them.

*Q.* If the elder brother then dies ?

*A.* The younger surviving brother looks after it for the rest. If there is a dispute as to where one shall farm it is the elder who decides.

*Q.* When all the brothers die—leaving only the children what happens ?

*A.* It goes to the eldest child of the man who bought the land.

*Q.* Does it go to him absolutely or as caretaker ?

*A.* As caretaker for his own brothers.

30

*In reply to Court :—*

*Q.* Do you mean that the children of *B* and *C* are cut out ?

*A.* They are not cut out. They share. They are one family.

*Q.* It is suggested that because *B* and *C* are dead that the children of *A* inherit the land to the exclusion of *B* and *C.* Is that the Ga Custom ?

*A.* The elder child will look after the land for the children of *A, B* and *C.*”

When examined by Mr. Akufo Addo, Counsel for the Defendants, the evidence was as follows :—

40

*Q.* Is it not a fact that when a man has his self-acquired property and dies leaving a brother of the same mother that the

property goes to that brother and after his death the property goes back to the children of the first owner to the exclusion of the children of his brother ?

A. It will go back to the children of the first owner but it cannot cut the others away.

*In reply to Court :*

Q. Can the children of the first owner sell the land without obtaining the consent of the children of the brother ?

A. They can sell it and tell them.

10 Q. If the children of the brother do not agree to the sale what then is the position ?

A. As they have an interest they would take them to Court.

*Examined by Akufo Addo :*

Q. Do you say then that consent is required before the sale can go through ?

A. Yes.

20 Q. Again brothers A, B, C. Suppose B also had his own self-acquired property and it is known that his own children have used it exclusively for their own use—do you say that A and C have a right to enjoy the property ?

A. As it was property of one man—all children must use it. If from the start the children of the original owner start inheriting then it goes along that line throughout—but that is not so where a brother has succeeded to property owned by a brother of his.”

The assessor, on the other hand, was equally emphatic in his opinion to the contrary and said :—

30 “In my view the customary law is that on the death of Nii Ankrah, Nii Ayi and Nii Okantah the property of Nii Ankrah should go back to his direct descendants to the exclusion of the children of Ayi and Okantah as the property did not belong to Amanua and because the mothers of the children of Nii Ankrah, Nii Ayi and Nii Okantah are outside the Ankrah family. I disagree with the expert witnesses and I agree with the decision of the Native Court case referred to (1944) . . .”

40 Now that case heard in the Native Tribunal referred to possessory rights in house property and by a study of the evidence given in this case I entertain little doubt that in practice the direct descendants of a man who founds a house occupy that house, and are permitted to enjoy any profits arising from that property to the exclusion of the descendants of the uterine brothers of that founder, and that when persons have been dispossessed of such property in such cases for instance as were evidenced before me when land was compulsorily taken from a family under the Public Lands Ordinance the persons who obtained the compensation as being the owners in possession were the persons who in fact had enjoyed all the rights of a person in possession of land as being the owner of these lands but whose ownership was qualified by a limitation on his rights of alienating it.

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There was no evidence before me that any land had ever been alienated, and by that I mean alienated from the family by any one section of the family, without that alienation having been resisted by members of the other branches of the Ankrah family, and I am of the opinion that where land has not been effectively occupied and used by one branch of the family to the exclusion of the other, no land can be said to exist which is not held either by the Head or the Caretaker for the family on trust for the three branches collectively. That there is a strong desire among the younger generation to break away from this strict concept of tenure and a desire to enjoy a freer right of alienation by a smaller section of each family, I entertain still less doubt, and I am of the opinion that it is this tendency and wish to modify customary law that has led to difficulties in the past, and will lead to even greater difficulties and uncertainty in the future, if the Governor does not exercise his power under Section 30 of the Native Authority (Colony) Ordinance, 1944, and request the State Council of the Ga State to declare what is the customary law in relation to this subject, or that the State Council may make a recommendation to the Governor in Council for its modification under the provisions of section 31 of that Ordinance if it deems fit. 10

I hold therefore that by the native customary law the persons who are entitled to make a valid grant of Ankrah family land to a member of that family is the Head of the Family and the principal elders of each of the three sections of that family and that the same rule applies as to its alienation to strangers. 20

In the absence of a Head of a Family I find that his duties devolve by custom upon the person appointed to be the Caretaker and Acting Head and that such appointment can only be made by the principal Elders of each of the three sections of the family.

Now the position of the Plaintiff M. D. A. Ankrah was discussed and judicially determined by Quashie-Idun, J., in the case of *Aryeh and Others v. Malam Dawuda, Ankrah and Allotey* when the learned Judge said :— 30

“ In my opinion there is ample evidence on record proving (A) that defendant, Ankrah, has been appointed to represent the Stool of the late Mantse Ankrah in all matters connected with the Stool and the Stool lands (B) that the Stool is in fact in his possession as Caretaker and (C) that he has the right to represent that family Stool in these proceedings . . . ”

The learned Judge then by way of *obiter* went on to say :—

“ Whether or not the members of the Stool family still wish to allow him to continue to represent the Stool is a matter for them to decide later.” 40

Now that decision established also that the land known as Awudome was a part of the Stool lands of the family and that M. D. A. Ankrah was the accredited caretaker for the family of these lands. These facts the Defendants are estopped from denying. The sole issue before me is does “ the family ” mean the three branches known as Manche Ankrah, Ayi and Okanta, or does it mean the Manche Ankrah line alone.

It follows that if Awudome land is the heritage of all three branches of the family—the first proposition is the good one. This fact again is



shown to be correct by the pleading of the Defendants in paragraph 1 of their Statement of Defence dated the 11th February, 1948, in Suit No. 32/1947 when they say :—

“ Except the allegation contained in paragraph one (1) of the Statement of Claim that the plaintiffs are members of the Mantse Ankrah Family the Defendants deny the allegation contained in paragraphs 1, 3 and 8.”

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Now as M. D. A. Ankrah is admittedly a descendant of the Ayi branch it follows that members of that branch are recognised by the Defendants  
10 as being members of the Mantse Ankrah Family—it follows that upon their own pleadings that family consists as well of persons other than the direct descendants of Mantse Ankrah.

Has M. D. A. Ankrah been removed from his position as Caretaker ? The Defendants plead that he has been removed by a meeting of the principal members of the family in November, 1945.

M. D. A. Ankrah, I am satisfied, was appointed to the position of Caretaker by members of all three branches of the family and I am satisfied that by customary law a person so appointed can only be removed from that office by those persons who appointed him and in this respect I accept  
20 the evidence to the effect given by the witness called by the Court, namely, Nii Ayikai II.

Now the Defendants here were clearly in difficulties since if the evidence of Charles Amoo Ankrah is accepted, he had been appointed Head of the Family of the direct descendants of Manche Ankrah alone, and he claims that by virtue of that office he is the person entitled to administer the land called Awudome. He was not present at the meeting and by etiquette, being the person to be elected, it was correct that he should not be.

But the Defendant Aryeh, unsatisfactory as his demeanour was as a  
30 witness, was present and evidenced that this was the purport and effect of that meeting in November 1945. He evidenced that members of the Ayi and Okanta branches were present at that meeting but attended it only as witnesses. Now that meeting was presided over by Nii Awu Nakwa, the Mantse of Otublohum, and his evidence is a contradiction of the evidence both of Charles Amoo Ankrah and of Aryeh. I asked him :—

“ When you speak of Ankrah Family do you include Okanta and Ayi.”

His answer was an emphatic—

“ Yes.”

40 His evidence then went on under examination as follows :—

“ Charles Amoo Ankrah was elected Head.

Q. Head of what ?

A. Nii Ankrah's family.

Q. Does that mean he was made head of Okanta line too ?

A. Yes—they were all there.

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*In reply to Court :*

Q. Is he now head of the Ayi line as well ?

A. Yes. They came and made a Head for Manche Ankrah family—for the whole family.”

Later I asked the witness—

“ Q. Do I understand the meeting was to appoint a successor to Quansah ?

A. Yes.

Q. And from which line did Solomon Quansah come ?

A. Nii Ayi Family.”

10

Now this evidence is a complete negative of the case put forward by the Defendants, who affirm that it is by his right as Head of the Family of the direct descendants of Manche Ankrah alone that he sold to a Syrian named Captan a piece of Awudome land for the sum of £9,000 and he denies that the elders of the other two branches of that family should be consulted in such matters—affirming that the land is the family property of the direct descendants of Manche Ankrah alone.

I am satisfied upon the evidence that the object of that meeting was to elect a Head from the direct descendants of Manche Ankrah alone. Whether that meeting was held in accordance with customary law I cannot say, but it is quite clear upon the evidence that for the purpose of electing a Head for the *whole* family it did not accord with customary law since many elders of the Ayi-Okanta branches who were entitled to attend the meeting neither attended nor were given the opportunity to attend. I would say that in the peculiar circumstances attending the fact of this personal hostility evidenced as existing between the Manche of the Otublohum Quarter and M. D. A. Ankrah, a meeting presided over by this Manche to decide the status of Ankrah, by itself, would fly in the face both of public opinion and of custom. 20

I am not satisfied that M. D. A. Ankrah has been removed from his position as Caretaker and Acting Head of the Manche Ankrah Family by the persons who so appointed him and I find that at the date of the issue of the writs in the two actions he was the person entitled to deal with Awudome land subject to the restrictions imposed upon him by customary law as to its alienation, namely, that before doing so he must first obtain the consent of the principal members of the three branches of the family or a majority of such members. 30

I will now deal with the effect of the pleadings and evidence in relation to claims made in each action.

In suit No. 32/1947 Naa Quarduah Ankrah claims possessory rights over a portion of the land in dispute by virtue of a grant made to her for building purposes by M. D. A. Ankrah with the consent of the principal elders and members of the family (Paragraph 5 of Statement of Claim dated 3rd December, 1947). 40

In paragraph 8 it is pleaded that pillars erected by Naa Quarduah Ankrah have been broken by the Defendants. That act of trespass has been traversed in paragraph 1 of the Statement of Defence.

There is no denial of the fact that the grant was made by the Plaintiff M. D. A. Ankrah with the consent of the principal elders and that fact I find to be established. No evidence was led as to any act of trespass by the Defendants as against the possessory rights of Naa Quarduah Ankrah and the claim in respect of damages for trespass I do dismiss.

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In respect of the declaration of title as claimed, and by which the Writ was enlarged by the Statement of Claim, I find that the land known as Awudome is owned jointly by the three branches of the Ankrah Family known as the Manche Ankrah, Ayi and Okanta lines and that the Plaintiff  
10 M. D. A. Ankrah is the Caretaker and Acting Head of that said joint family and is entitled to a declaration in those terms.

I do find to the 1st Plaintiff Naa Quarduah Ankrah an Injunction against the Defendants, their agents, servants and workmen from entering upon the premises and plot of land granted to her by the said Plaintiff M. D. A. Ankrah.

In regard to suit No. 112/1947, I find that the Defendant Captan is in possession of land without the authority of the persons entitled to grant to him that possession, namely, M. D. A. Ankrah together with the principal elders and members of the Manche Ankrah, Ayi and Okanta  
20 branches of the Manche Ankrah Family and upon the facts and the defence pleadings dated the 9th October, 1947, the Plaintiff is entitled to damages for trespass which, it is agreed, shall be nominal and which I assess at £1.

The Plaintiff M. D. A. Ankrah is entitled to and is granted an injunction as against the Defendant Captan in the terms prayed for in the writ of Summons.

As against the Defendant Charles Amoo Ankrah who unlawfully sold the portion of Awudome land to the said Captan, I find that this act constituted an act of trespass and do assess general damages at £50 and against the Defendant the Plaintiff M. D. A. Ankrah is entitled to the  
30 injunction as prayed for and is granted in those terms.

In respect of the Plaintiff Joseph Commey Ankrah, there is no evidence to show that any possessory rights which he may enjoy in the land have been interfered with in any way by either of the Defendants and I do dismiss the claims as against both Defendants.

I will adjourn the matter of Order as to costs until 22nd instant.

(Sgd.) J. JACKSON,  
Judge.

Counsel :

Mr. K. A. Bossman for Plaintiffs.  
40 Mr. Akufo Addo for J. K. Q. Aryeh & Ors.  
Mr. A. M. Akiwumi for M. Captan.

COURT MINUTES of Judgment.

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15.10.48.

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Court  
Minutes of  
Judgment,  
15th  
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1948.

IN THE LAND COURT OF THE SUPREME COURT OF THE GOLD  
COAST, Eastern Judicial Division, held at Victoriaborg, Accra, on  
Friday the 15th day of October, 1948, before JACKSON, J.

Case 112/47.

M. D. A. ANKRAH & ANOR.

V.

M. CAPTAN & ANOR.

10

AND

Tr. 32/1947.

NAA QUARDUAH ANKRAH & ANOR.

V.

J. K. Q. ARYEH & ORS.

Consolidated.

Assessor present.

Crabbe holding Bossman's brief for Plaintiffs.

Akiwumi for Defendant Captan.

Akufo Addo absent.

20

*Court—*

Written judgment delivered. Question of costs adjourned to 22/10/48.

(Sgd.) J. JACKSON,  
Judge.



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## COURT NOTES awarding costs.

*In the  
Supreme  
Court.**Costs :*

C. A. Ankrah is entitled to receive his costs as against J. C. Ankrah which I assess at £5.17/-.

M. Captan is entitled to receive his costs as against J. C. Ankrah which I assess at £3.7/-.

J. K. Aryeh and the Defendants in Suit 32/1947 are entitled to receive their costs as against Naa Quarduah Ankrah which I assess at  
10 5 guineas.

M. D. A. Ankrah is entitled to receive his costs as against C. Amoo Ankrah in suit 112/47 together with his costs against J. K. Q. Aryeh and the other 6 cited Defendants in suit 32/47. These costs are to be taxed.

M. D. A. Ankrah is entitled to receive his costs against Captan which I assess at £9.19/-.

Apart from the order for the taxation the other awards of costs have been assessed summarily by me and they are the costs receivable by party against party.

20 I will assess Counsel's fees when the taxed Bill is sent to me for signature at Cape Coast.

(Sgd.) J. JACKSON,  
Judge.

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Notes  
awarding  
costs,  
22nd  
October  
1948.

No. 38.

## APPEAL and Grounds of Appeal of C. A. Ankrah.

*In the  
West  
African  
Court of  
Appeal.*

[sic]

No. 38.  
Appeal and  
Grounds of  
Appeal of  
C. A.  
Ankrah, 4th  
December  
1948.

The Appellant, being dissatisfied with the Judgment of the Land Court Accra delivered the 20th day of October, 1948, and having obtained final leave to appeal therefrom dated the 29th day of November, 1948, hereby appeals to the West African Court of Appeal upon the grounds hereinafter set forth.

## GROUNDS OF APPEAL.

1. Judgment of the Land Court was against the weight of evidence.
2. Judgment of the Land Court was wrong, because 10
  - (A) The learned Trial Judge misdirected himself on the customary law applicable to succession among Gas.
  - (B) The learned Trial Judge failed to appreciate the essential difference between the Akan law of succession to property and the Ga Law.
  - (C) The distinction drawn between possessory rights and rights of ownership to inherited property was not warranted either by the evidence before the Learned Trial Judge or by any known principle of Ga customary law of succession to property.
  - (D) The learned Trial Judge treated as of no binding effect the 20 very important decision of the Tribunal of the Paramount Chief of the Ga State in the case (cited to the Court below) of "*Sarah L. Ribeiro & others versus Elizabeth Mingle & Others.*"
  - (E) The learned Trial Judge failed to appreciate the distinction between members of the wider family commonly known as Manche Ankrah Family comprising the descendants of the three brothers (Ankrah, Ayi and Okanta) and the more restricted Family of Manche Ankrah consisting of the direct descendants of Manche Ankrah in so far as that distinction affected fundamentally the rights of the two families to property originally owned by Manche 30 Ankrah in his own right.
3. The award of damages for trespass against the Appellant was wrong, because the wrongful sale of a portion of Family property by one section of the family without the consent of the other sections of that family does not in Native customary law constitute an act of trespass.

Dated this 4th day of December, 1948.

(Sgd.) AKUFO ADDO,  
Solicitor for Co-Defendant-Appellant.

The Registrar,  
Land Court, Accra,  
and to  
M. D. A. Ankrah of Accra and  
M. Captan also of Accra.

40

## No. 39.

## APPEAL and Grounds of Appeal of M. Captan.

The Appellant being dissatisfied with the judgment of the Land Court, Accra delivered on the 15th day of October, 1948, and having obtained final leave to appeal therefrom dated the 31st day of December, 1948, hereby appeals to the West African Court of Appeal upon the grounds hereinafter set forth.

## GROUNDS OF APPEAL.

The judgment was wrong because :—

10 (A) No evidence on record of the Plaintiff being in possession of the land in dispute before and or at the time of Defendant's entry thereon.

(B) The learned trial Judge failed to appreciate the distinction between possessory right and right of ownership.

Dated this 7th day of January, 1949.

(Sgd.) A. M. AKIWUMI,  
Solicitor for Defendant.

The Registrar,  
Land Court, Accra, and  
20 To M. D. A. Ankrah of Accra.  
Charles Amoo Ankrah of Accra.

*In the  
West  
African  
Court of  
Appeal.*

—  
No. 39.  
Appeal and  
Grounds of  
Appeal of  
M. Captan,  
7th  
January  
1949.

## No. 40.

## APPEAL and Grounds of Appeal of Defendants in Suit No. 32/47.\*

The Appellants being dissatisfied with the judgment of the Land Court Accra delivered on the 15th day of October, 1948, and having obtained final leave to appeal therefrom dated the 18th day of March, 1949, hereby appeals to the West African Court of Appeal upon the grounds hereinafter set forth.

## GROUNDS OF APPEAL.

30 1. Judgment of the Land Court was against the weight of evidence.

2. Judgment of the Land Court was wrong, because :—

(A) The learned trial Judge misdirected himself on the customary law applicable to succession among the Gas.

(B) The learned trial Judge failed to appreciate the essential difference between the Akan law of Succession to property and the Ga Law.

No. 40.  
Appeal and  
Grounds of  
Appeal of  
Defendants  
in Suit  
No. 32/47,  
25th March  
1949.

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\*These Defendants are : J. K. Q. Aryeh, D. S. Quarcoopome, J. Amos Lamptey, Charles Amoo Ankrah, J. R. Ankrah, A. Dinnah Ankrah and Aflah Quarcoopome.

*In the  
West  
African  
Court of  
Appeal.*

No. 40.  
Appeal and  
Grounds of  
Appeal of  
Defendants  
in Suit  
No. 32/47,  
25th March  
1949,  
*continued.*

(C) The distinction drawn between possessory rights and rights of ownership to inherited property was not warranted either by the evidence before the learned trial Judge or by any known principle of Ga customary law of succession to property.

(D) The learned trial Judge treated as of no binding effect the very important decision of the Tribunal of the Paramount Chief of the Ga State in the case (cited to the Court below) of *Sarah L. Ribeiro & Ors. versus Elizabeth Mingle & others.*

(E) The learned trial Judge failed to appreciate the distinction between members of the wider family commonly known as Manche Ankrah Family comprising the descendants of the three brothers (Ankrah, Ayi and Okanta) and the more restricted family of Manche Ankrah consisting of the direct descendants of Manche Ankrah in so far as that distinction affected fundamentally the rights of the two families to property originally owned by Manche Ankrah in his own right. 10

Dated at Kwakwaduum Chambers, Accra, this 25th day of March, 1949.

(Sgd.) AKUFO ADDO,  
Solicitor for Defendants-Appellants  
(Second Suit.) 20

To the Registrar, West African Court of Appeal, Accra.  
and  
To Naa Quarduah Ankrah of Accra.  
and  
To M. D. A. Ankrah of Accra.

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No. 41.

COURT NOTES granting substitution of R. A. Ankrah for M. D. A. Ankrah (deceased).

*In the  
West  
African  
Court of  
Appeal.*

IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session, held at Accra, on Tuesday, the 23rd day of January, 1951, before Their Honours ARTHUR WERNER LEWEY, J.A. (Presiding J.), Sir JAMES HENLEY COUSSEY, and KOBINA AAKU KORSAH, JJ., Gold Coast.

No. 41.  
Court Notes  
granting  
substitu-  
tion of  
R. A.  
Ankrah for  
M. D. A.  
Ankrah,  
deceased,  
23rd  
January  
1951.

Motion.

10

M. D. A. ANKRAH & ANOR.

V.

M. CAPTAN & ANOR.

AND

NAA QUARDUA ANKRAH &c.

V.

J. K. Q. ARYEH & ORS.

Bossman for Plaintiffs-Respondents (Applicants).

Quist (Akufo Addo with him) for Defendants-Appellants other than Captan.

20 Motion by Bossman for the Respondents to substitute Robert Adjabeng Ankrah for the Plaintiff-Respondent M. D. A. Ankrah recently deceased.

Not opposed by Akufo Addo for the Defendants-Appellants.

Order for Substitution as prayed.



*In the  
West  
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Appeal.*

No. 42.  
Court  
Notes of  
Arguments,  
23rd  
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1951.

No. 42.

**COURT NOTES of Arguments.**

(a) **Counsel for Defendants/Appellants.**

(b) **Counsel for M. Captan.**

(c) **Counsel for Plaintiffs/Respondents.**

(d) **Counsel for Defendants/Appellants in reply.**

IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session, held at Accra, on Tuesday the 23rd day of January, 1951: before Their Honours ARTHUR WERNER LEWEY, J.A. (Presiding J.), Sir JAMES HENLEY COUSSEY and KOBINA AAKU KORSAH, JJ., Gold Coast.

8/48.

R. A. ANKRAH, ETC.

*v.*

M. CAPTAN & ANOR.

and

NAA QUARDUAH ANKRAH & ANOR.

*v.*

J. K. Q. ARYEH & ORS.

(Consolidated)

20

*Quist* and *Akufo Addo* for other Defendants-Appellants.

*Asafu-Adjaye* for M. Captan.

*Bossman* for Respondents.

(A) Counsel  
for  
Defendants/  
Appellants  
other than  
M. Captan.

*Quist*: History set out in judgment of Jackson, J. Appeal relates to large tract of land known as Awudome admitted to be self-acquired land by Manche Ankrah—had 3 sons—Manche, Ayi and Okantah and no surviving daughters, or children of daughters in heritable line.

Two brothers, in turn, succeeded Manche Ankrah. Nephew would then normally succeed, but must be son of a sister—in this case there was no such nephew.

30

Manche and both brothers left children—as Manche became famous, his two brothers identified themselves with him and his name thus extending the family.

But real family was still descendants of Manche Ankrah.

Respondents are descendants of the brothers.

Appellants are descendants of Manche Ankrah.

M. D. A. Ankrah came from Ayi's family.

Respondents contend that land descends to extended family. Appellants deny this—according to Ga Customary Law, property descends only to descendants of Manche Ankrah. Refers to Jackson's judgment pp. 123-4 and p. 127, l. 17. That is the issue—what is the Ga customary

40

law? Page 139, l. 7—where the Judge finds that land belongs jointly to the three branches. Appellants say this is contrary to Ga Law and to evidence on record and judicial decisions.

Whereas brothers claim to share family property they—Ayi, at any rate—has his own property which he shares with no one.

Record p. 131, l. 36. Judgment is contrary to Ga Law of succession. See decision of Crampton Smyly, C.J., in *Sackey v. Okantah* (Div. & Full Court Judgments (1911-16)).

10 Owner of self-acquired property dies intestate—then uterine brothers succeed, failing them to a nephew who must be a son of a sister. Failing a nephew it must go to the children of the man who acquired the property.

Therefore in circumstances of this case property must go to direct descendants of Manche Ankrah and not to Ayi and Okantah. But Jackson, J., decided to the contrary.

Record p. 132, l. 27 *Sarah L. Ribeiro & Ors. v. Elizabeth Mingle & Ors.* Decision of Tribunal of Paramount Chief of Ga State in July 1944 and affirmed on appeal to Land Court in December, 1945.

20 This shows that—(certified copy of judgment is read) Ga law—brothers of original holder are excluded in favour of children of original holder. Same principle as Smyly's decision (*supra*).

Here again, no maternal line and so goes to children of he who acquired the property. Record p. 135, l. 27: Opinion of assessor read out by Jackson, J. *Mensah Larkai v. Amorkor alias Ashitey* 1 W.A.C.A. 323.

*Quist* refers to evidence as to which he submits the judgment is wrong—Record p. 43, ll. 24-27 and 36-39; p. 96, ll. 36-37; p. 97, ll. 3-6; p. 107, ll. 31-43.

The other brothers left properties which their children now enjoy to the exclusion of the rest of the family.

Page 49, l. 39—page 50—pages 84-85.

30 Page 85—Judge's note as to no evidence that Obeng collected rents but see page 64, lines 23-25.

Page 96, l. 18—the evidence of one of the oldest members of the family. "Each line of the family owns their property separately."

Page 97, l. 33. No land owned collectively by three lines of family. Page 97. Answers of Nii Amu Nakwa II—Defendants' first witness.

If Ayi's descendants own his property exclusively, why should not the same apply to the position of Manche Ankrah's descendants in relation to Manche Ankrah's property.

40 Page 168—Exhibit "A"—Significant that Solomon here admits that he is attorney to look after "their family property"—the "members of the Ankrah family"—he has suggested it and is to do it *gratis*. He was not a member of the inner family yet the man who stepped into his shoes—his nephew the Plaintiff M. D. A. Ankrah—asks us to believe that this property has been pooled among the family—the extended family.

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*continued.*

*In the  
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Court of  
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On true construction of Akan law as modified by Ga Customary law, Appellants should have the property.

Trial Judge erred therefore in finding that all three branches of family owned property jointly.

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*continued.*

Not denied that direct descendants of Manche Ankrah appointed Charles Amoo Ankrah as head of family. Plaintiffs can't be heard to say not good appointment for we were not all there. Why didn't other branches then interfere when Solomon was appointed as attorney? The fact that Charles Amoo Ankrah sold this property can't mean that he can be mulcted in damages for by their own case—he was one of family 10 which owned property jointly.

Adjourned to 24th January, 1951.

(Sgd.) ARTHUR LEWEY,  
J.A.

24th  
January  
1951.

24th January, 1951.

Counsel as before.

(B) Counsel  
for  
M. Captan.

*Asafu-Adjaye* (for Captan).

Captan a purchaser for value. Head of family is the man to dispose of the property. Sale of family property is not void *ab initio* merely by reason that all members of family who should have consented have not done so. *Manko & Ors. v. Bonsu*, 3 W.A.C.A. p. 62: this applies if Respondent is now seeking to set sale aside. Captan bought from man who had been elected as head—elected to knowledge of M. D. A. Ankrah who would not attend the meeting: evidence as to this. 20

Holder of power of attorney not entitled by that to sue the family head who is really the principal.

The terms of Exhibit 2 (Power of Attorney) must be read with Solomon's document Exhibit "A." "Caretaker" in Exhibit 2 must be taken as something less than the ordinary meaning of the term in Native Customary Law. 30

It was Plaintiff's duty to be present at family meeting and protest there. M. D. A. Ankrah knew a head was to be elected and chose not to attend (p. 32, l. 26; p. 33, l. 2) (p. 124; p. 128, l. 31). There was a finding that this land was the self-acquired property of Manche Ankrah.

Captan's money has been used for the family—to put up a memorial to the original holder: who is to pay Captan back: if Respondent is member of family, he also is responsible—cannot approbate and reprobate.

Captan dealt with person who he had every reason to believe was fully entitled to sell to him. See *Manko v. Bonsu* (*supra*) and cases cited there. 40

For  
Appellants.

*Quist* (who had been given the opportunity to search for further authorities) refers to *Millers v. Victoria Van Hein* (1919), F.C. Reports, p. 22: *Lutterodt v. Anangfio & Anor.* (1919), F.C. Reports, pp. 78–81: *Jemima Nasu v. Basel Mission* (1919), F.C. Reports, p. 83.

*Bossman* : (wishes to deal first with Captan's case).

Captan has not counter-claimed for his money. Is the sale voidable? Authorities cited don't bear that out. *Quasi Bayaidie v. Kwamina Mensah*, Sarbah's Fanti Customary Law 150—where head and persons responsible have not consented there is no sale at all. *Kwesi Manko v. Bonso* (*supra*), p. 62.

Page 31. The Stool occupied by Manche Ankrah was Otu Ahiakwa—as he became famous, the stool began to be referred to by his name: he was not the founder but he occupied it.

10 Page 31, l. 1; p. 91, l. 4: Solomon was on the Stool—the Otu Ahiakwa or Manche Ankrah Stool.

Was Respondent a full "caretaker" or not?

Page 168—Exhibit "A"—who appointed Solomon?

See p. 91, l. 29.

Page 84, l. 38 *et seq.*—Defendants' evidence in chief is untrue as to this.

Pages 89–91 but when he was cross-examined: Solomon appointed (Exhibit "A") by whole family—not a restricted line of it.

Pages 88–90; p. 91, l. 4—"We placed him . . . on Stool."

20 Pages 236–237—Decision in Exhibit 4—Compromised decision—claim by extended family—must be read in relation to Otublohum Stool when they speak of Stool being his personal property: but not *vis-a-vis* rest of family.

Page 234—But still they went to Court.

Therefore Solomon was in 1931 fighting those cases head of whole of Ankrah family, and when these cases were fought there was no suggestion that he represented anything but whole family.

Wrong to suggest that Exhibit "A" first brought Solomon into picture. Had been installed on Stool by whole family—on behalf of whole family—conducted those cases.

30 At that time no one questioned that family concerned was the whole family.

Ought M. D. Ankrah to have attended the meeting? Quashie-Idun, J. was referring to the whole family—his judgment was against restricted family so how could he have been suggesting that they could have the right to summon him: found that M. D. A. Ankrah had been appointed acting head of whole family and he non-suited claimants.

The right to appoint a head existed, but only in the extended family—not the restricted one. Page 138, ll. 18–19—Jackson J. agrees and so finds. As to Captan *caveat emptor* applies.

40 Not market overt—he stands or falls according to vendor's right to sell. Judge rightly found they had no title.

As to Quist's submission, trial Judge could have come to no other conclusion. Judge was right in relying on the previous judgments. Page 132, l. 42 *et seq.*: West African Court of Appeal decision. (Ex. 5) is a complete estoppel to Defendants' case. Exhibit 4—Judgment.

Page 240, l. 2 Solomon's evidence as to Stool lands.

Page 230, l. 31. Quashie-Idun, J., found that he had right to represent family stool in the proceedings.

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(c) Counsel  
for  
Plaintiffs/  
Respon-  
dents.

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Page 267 (Exhibit 5): They appealed to the West African Court of Appeal and lost. Page 89, l. 14: Defendant admits case before Idun was same as 1943 case.

This is a re-hashing of the old case when they were non-suited—and Charles Amoo Ankrah was with us at that time and gave evidence for us (p. 220) and 221.

Afterwards he was bribed by other party by offer of headship. The decision was the “family” meant the extended family. You have to determine character of property at time when man dies. The family to whom it descends — all who have the mother’s blood, females having the preference. Page 132, ll. 3–10. Did Smyly’s dictum exclude others who have an interest? 10

All we say is that female line being extinct we and Appellants as well, share the property.

Here the mother having died without daughters the three sons carry on as a “corporation”.

The expert witness, p. 134.

Exhibit 4 can be used both as authority and as an estoppel.

The non-suit was as effective as a judgment on the merits—Order 39 rule 3, therefore Judge on question of native law was right in relying on 20 Exhibits 4 and 5 and on the expert witness he had called.

Ayi’s property: No direct evidence that he left property now exclusively used by his descendants. The family lives at P. & B. house which is family property and built by Arday (p. 81, l. 28).

Adjourned to 25th January.

(Sgd.) ARTHUR LEWEY,  
J.A.

25th January, 1951.

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*Bossman (continues)*: Refers to pleadings on page 13 *et seq.*—they raise the question really as to who was the accredited representative of the family at the time of writ—See page 123, l. 23: the question of one family or three was raised after that by the Appellants—by amended Statement of Claim. 30

(*Answers Court*—The ground transferred to Naa Quardua Ankrah by M. D. A. Ankrah is included in the piece bought by Captan.)

Refers in detail to trial Judge’s examination of issue of Estoppel by other suits page 125 *et seq.* Page 126, l. 39. Judge took line of safety, but his ultimate decision is of the greater force, since he again had taken evidence.

Only point on estoppel would have been if M. D. A. Ankrah had been removed from headship, for judgments could not then have operated against a new head. But Judge found otherwise, Pages 138–139 and that M. D. A. Ankrah has not been removed. 40

This is right—a man’s appointment can only be terminated by those who appointed.

Pages 223–4—Refers to evidence of Stool-mother (Lucy Ussher) in Exhibit 4.

The authorities : Smyly, C.J.'s dictum : nothing in it to exclude brother's children. Once property has become family property, it can't go back again. Question is, what was position at death of original holder ?

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Those authorities are surely overruled, by implication, by the West African Court of Appeal decision Exhibit 5 while Jackson, J., rightly held that the previous decisions estopped him from any other finding.

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Moreover, *Ribeiro v. Mingle* was not really contested by the other side—it is a questionable authority and was delivered after the W.A.C.A. decision.

- 10 Just because Manche Ankrah, because of his fame, was a Stool occupant and acquired property, it cannot be suggested that he had power to will away the property—it was stool property page 31, l. 10.

*Kofi Antu v. Buedo* (F.C. 1926–29 p. 474).

- 20 There is a wide field of choice as to occupants of the Stool. After the election of the first occupant by native custom, and his death, they can choose any suitable person connected with the family. Don't deny that with a famous man like Manche Ankrah there would be a tendency to favour his direct descendant—but not more than that. Page 209. Of these Plaintiffs very few are really members of the direct family—if you take the strict matrilineal test. They come from both male and female lines. Evidence of the expert bears this out.

Extended family are also mixed.

After the original holder, the choice is a matter of chance—or influence.

5 W.A.C.A. p. 42—*Hammond v. Randolph* (where Deane, C.J.'s judgment was affirmed in Privy Council). Refers to evidence in that case in Divisional Court—

The evidence in that case supports the contention as to the wide family—it is not kept strictly in the female line as in the Akan custom, at any rate in Accra (this was an Accra case).

- 30 Page 223—Exhibit 4 : Evidence of Lucy Ussher—“ all one family ” —appointment of 2nd Defendant—she had not attended a family meeting for 6 years.

No trouble about all this until the earthquake—no suggestion that property belonged only to one line : they had met together, decided about plots and about P. & B. house. That was the old history—even Charles Amoo was formerly of our view as to the extended family.

Refers to *Pappoe v. Wingrove Ltd.* (Div. Court Judgments 1921–25 page 20) especially at p. 22 and p. 23.

*Akufo Addo in reply*—Doorly's Digest answers Pappoe.

(D) Counsel  
for  
Defendants  
other than  
Captain  
in Reply.

- 40 *Brandford Nettey v. Nettey*—3 W.A.C.A., 100.

No one questions that an intestate's property goes to the family—the question before the Courts has always been What is the family ?

Page 229, l. 18–p. 230 : What did Idun, J., decide ?

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He never decided the law to be applied to the special circumstances of this case.

We are asking that in the very special circumstances of this case in Accra—and there being no direct matrilineal descendants in this family—the self-acquired property of Manche Ankrah should go exclusively to his direct descendants. It is because it is so exceptional that there are so few authorities.

When it does occur, *Sackey v. Okantah* is applied (Crampton Smyly)—and the *Mingle* judgment follows same law.

The West African Court of Appeal went farther than they need have 10 done (Idun's non-suit was limited to issues he had to try) when they made these pronouncements as to law of succession.

Page 237, l. 20 : State Council (compromise) decision.

Pages 248–9 : Compensation case decision, referred to at page 230, (l. 1 *et seq.*) “Stool property.”

True therefore there was a judgment that it was Stool property, *but* question remains as to what is meant by the family.

Refers to page 232 when Solomon brings action for Manche Ankrah's grandchildren—very significant.

It is quite common for some wise person, not in direct line, to be 20 appointed to Stool in absence of a normal successor : so with Solomon.

Confusion has arisen here by use of name Manche Ankrah family—brothers began this as a result of their pride which made them adopt name of their martial and famous brother. So we don't dispute that family including that of brothers has been referred to as the Ankrah family. *But* a different question when you come to the succession to self-acquired property—then it becomes a question of the restricted family.

No case on record where any of the Ayi's or Okantah's children have tried to claim any of this property—not until M. D. A. Ankrah started this. Page 51, l. 20 : Solomon by a positive act gives property to three families 30—and this has been exclusively in Nii Ayi's family.

Page 67 (Court : Line 19 *et seq.* does not help you very much).

It is the rest of page to which I refer and page 68 to line 26.

Nii Obeng collects rents of Ayi property—and he is successor to Solomon.

This Awudome land is the only one of the properties which Obeng has not been able to control.

It was only in Solomon's case that you had all the properties in one hand.

Pages 250–251—a bold attempt by M. D. A. Ankrah to merge 40 Awudome lands in Solomon's land.

Quashie-Idun, J.'s judgment, did not decide what “family” was. We say that it must be by Ga Customary Law the direct descendants of Manche Ankrah.



Any question of a Stool can only originate from Manche Ankrah. We don't dispute that this property is Stool property—but we say there is a Stool family. Before M. D. A. Ankrah only Solomon and Vanderpuye of the Ayi line have had anything to do with this property—and then, as regards this land, as caretakers: that is why I say no descendant of Ayi has ever laid claim as of right.

If Solomon was really in direct succession, why did he need a Power —and why should he be representing Manche Ankrah's grandchildren? (Bossman refers Court to page 90, l. 29.)

10 Coussey, J., refers to Exhibit 2, p. 263.

I admit some of them—including Charles Amoo signed Exhibit 2: some of the members of the direct family. But that is not the end of the matter—that is not an estoppel.

Adjourned to 26th January.

(Sgd.) ARTHUR LEWEY,  
J.A.

26th January, 1951.

Who are members of a Stool family?

20 Various stories about the historic origins of these stools: What is the evidence?

Page 262.—Exhibit C paragraph 5—“not a self-acquired property belonging to Mantse Ankrah but a family property of the Ankrah Stool which sprang up from the Nii Otu Ahiakwa Stool” (this was “a reply to submission” and was signed by M. D. A. Ankrah) also paragraph 6. That is now our submission i.e. that it was self-acquired property attached to a Stool created by Mantse Ankrah—and after death of brothers, it went back—failing matrilineal line—to direct descendants of Manche. See page 167, l. 3—evidence of Manche's son in 1895.

Ga Customary Law is against them.

30 Stools: page 68, l. 36 *et seq.*

Page 70. Stool which Manche founded descends to his own descendants in absence of a maternal line. Look not only at law, but at what has been happening in the family. Nii Arde's line, Nii Ayi's line and Ankrah's line were running side by side with Manche's line.

Only under Solomon when lands came under him, that any trouble started.

Respondents can only show one person—Solomon—who assumed any general control, and he was appointed by Manche's. Then on his death, this trouble began.

40 Page 95—Evidence of Manche of Otublohum—grandson of Ayi, page 96.

Customary Law: Among Gas = matrilineal descent, therefore in ordinary circumstances, none of these children would come in. If property

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had belonged to Amanuah, all would have been simple. But it didn't, it belonged to Manche Ankrah—and no question of anyone on maternal side having claimed.

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*continued.*

Mingle case applies. Do not agree that the W.A.C.A. judgment overruled it, for the West African Court of Appeal said no evidence that any other rule of descent by females applied to the case (pages 267-8). Vanderpuye's case stands.

We have produced two authorities—what have they produced ?

Bossman relied on evidence of Commey Tetteh (page 43) and Nii Ayikai II page 106 the experts. 10

Commey Tetteh does not amount to much—assessor disagrees with some of his evidence—contradictory. Nii Ayikai—hard to understand—what does he mean ? You cannot rely on these so-called experts : you must fall back on authority. It is true that after original occupant's death, there is a range of choice—but it is restricted and not general.

Pages 223-224 : Lucy Ussher : What does she know about it ? See page 224, l. 27 where she didn't know that Manche sat on a Stool created by himself. She was not representing anyone at all.

C.A.V.

(Sgd.) ARTHUR LEWEY, 20  
J.A.

No. 43.

JUDGMENTS.

- (a) Coussey, J.
- (b) Lewey, J. A.
- (c) Korsah, J.

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10 IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session, held at Accra, on Thursday, the 22nd day of February, 1951, before Their Honours ARTHUR WERNER LEWEY, Justice of Appeal (Presiding Judge), Sir JAMES HENLEY COUSSEY and KOBINA AAKU KORSAH, Judges, Gold Coast.

Civil Appeal No. 108/1948.  
Suit No. 112/1947.

ROBERT ADJABENG ANKRAH other-  
wise known and called ARDAY ANKRAH  
on behalf of OTUBLOHUM DADEBANNA,  
Accra . . . . . Plaintiff-Respondent

*versus*

M. CAPTAN of Accra . . . . . Defendant-Appellant.

20 CHARLES AMOO ANKRAH as Head  
and representative of MANTSE ANKRAH  
Family of Otublohum, Accra . . . . . Co-Defendant-Appellant.

And

Tr. Suit No. 32/1947.

NAA QUARDUAH ANKRAH and R. A.  
ANKRAH otherwise known and called  
ARDAY ANKRAH both of Accra . . . . . Plaintiffs-Respondents

*versus*

30 J. K. Q. ARYEH, D. S. QUARCOOPOME,  
J. AMOS LAMPTEY, CHARLES  
AMOO ANKRAH, J. R. ANKRAH,  
A. DINNAH ANKRAH and AFLAH  
QUARCOOPOME . . . . . Defendants-Appellants.

(Consolidated.)

JUDGMENT.

COUSSEY, J.: This is an appeal brought from the judgment of Jackson, J., in the Land Court, Accra in two consolidated actions arising out of grants of portions of an area of land at Accra known as Awudome. The main issue between the parties was whether on the death of Mantse Ankrah, who was granted the land in question by the Ga Stool, the land was stool family property as the Plaintiffs contend and became the property of the descendants of Mantse Ankrah and his brothers Nii Ayi and Nii Okantah, or whether, as the Defendants maintain, upon the death of Okantah (Ayi having predeceased him) according to the Ga customary law of succession, all interest in the property reverted to the children and immediate descendants of Mantse Ankrah to the exclusion of the children and descendants of Ayi and Okantah. It is admitted that Ankrah, Ayi

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and Okantah were the sons of a woman Amanuah. It is further admitted that Amanuah had no daughter through whom, according to the customary law, inheritance would follow on the death of the surviving brother of Mantse Ankrah.

The Plaintiffs' case, however, was that Mantse Ankrah was the occupant of a family stool, the Otu Ahiakwa stool of the Dadebanna section of the Otu Blohum quarter of Accra, which is commonly known as the Mantse Ankrah stool and, as stated above, that the land in dispute is family property attached to that stool, and that the stool family was and is the descendants of the children of the three brothers Ankrah, Ayi and 10 Okantah.

The dispute arises in the following circumstances: M. D. A. Ankrah, the principal Plaintiff in each of the consolidated actions was a grandson of Ayi and he claimed to have an interest in the land. His case was that he was duly appointed acting Head and representative and custodian of the stools and lands for the descendants of the three branches of the above-named family, and that at the material time when the 2nd Defendant Charles Amoo Ankrah purported, as head of the Mantse Ankrah branch alone to grant by absolute conveyance a part of the Awudome land to the Defendant, Captan, a stranger to the family, he the plaintiff, was the duly 20 appointed representative of the three families with whose consent and authority he had control and custody of the family stools, paraphernalia and lands including the land in dispute and that the grant by C. Amoo Ankrah was therefore invalid.

The Plaintiff supported his claim to be the accredited head and representative of the three families by a written authority which, undoubtedly, was subscribed to by members of all three branches of the family including Charles Amoo Ankrah, who now claims that the property belongs to the Mantse Ankrah branch alone.

Prior to the Plaintiff, W. A. Solomon, alias Quansah Solomon, had 30 been appointed Attorney and Caretaker of the stools and lands. The Defendants contended that Solomon acknowledged that he had been appointed only by the Mantse Ankrah branch of the family in a memorandum subscribed to by members of the family in the year 1922.

That document however refers to the "members of the Ankrah family"; it is not subscribed to exclusively by the Mantse Ankrah branch, and in the course of cross-examination J. K. Q. Aryeh, a Defendant giving evidence as a direct descendant of Mantse Ankrah, admitted that in 1922 when Ankrah was referred to, it referred not only to Mantse Ankrah's but to all three sections as the brothers Ayi and 40 Okantah had adopted the name.

It is in evidence that there had been earlier litigation between the parties in which some of the issues before the Court had been determined. An action had been instituted in 1941 by four of the present Defendants against Malam Dawuda to whom a plot of the land in dispute had been granted through the agency of M. D. A. Ankrah who was joined as a Co-Defendant in the action. It is interesting to note that in that suit the present 4th Defendant Charles Amoo Ankrah in contrast to his attitude in the present litigation supported M. D. A. Ankrah against 50 the other present Defendants who were then the Plaintiffs. The judgment

of the Land Court (Idun, J.), 13th November, 1943, established that Awudome land was part of the stool land of the Mantse Ankrah family ; that it had been so declared in earlier proceedings in 1931 and that M. D. A. Ankrah had been appointed to represent the stool family in all matters connected with the stool and the stool lands.

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In the present action, the Defendants-Appellants were rightly held to be estopped from re-opening those issues, and the main—and in fact the only—issue remaining for determination by the trial judge was whether the three branches of the family had interest in the land or only  
10 the Mantse Ankrah branch i.e. the direct descendants of Mantse Ankrah.

That was a question involving issues of fact and Ga native customary law. It is not necessary nor possible within the compass of this judgment to state the evidence in detail. I will merely observe that upon a closely reasoned review of all the evidence and the decisions relevant to the issue the learned judge arrived at the following conclusion in these words :—

“ The preponderance of evidence before me given by witnesses who could properly be described as expert in native customary law was that not only would the consent of all three lines of the family be necessary before a valid grant or sale of the land could take effect, but that every member of the three lines had an interest  
20 in the land to the extent that if they wished to farm upon it they could do so or give up all tribute upon seeking and obtaining the consent of the caretaker of the land.”

In my opinion there was ample evidence to support that finding. Apart from the admission of J. K. Q. Aryeh already referred to, the Defendants' pleadings admit that M. D. A. Ankrah who was a member of the Ayi branch was a member of the Mantse Ankrah family. This is an admission that membership of the Mantse Ankrah family is not confined to the direct descendants of Mantse Ankrah.

30 The learned judge throughout his judgment kept before himself what considerations arise when land is to be alienated permanently to a stranger or granted to a member of the family who may in turn sell it to a stranger.

Upon the question of native customary law the learned judge was assisted in arriving at his decision by the evidence of the Linguist of the Ga State called by the Plaintiffs, and by the testimony of an independent Ga Chief called by the Court as to the custom of inheritance in the circumstances presented by the case before the Court. It is true that the Assessor did not share the view of the expert witnesses and indeed  
40 supported the Defendants' contention but the opinion of the two witnesses referred to was substantially against the contention that the direct descendants of Mantse Ankrah alone inherited this property after the death of Okantah. On a question of the Ga custom of inheritance and family rights, the opinions, particularly of the independent Chief, are entitled to respect. They create a more than ordinary presumption in favour of their correctness and they had the concurrence of the learned judge who, as appears from his lengthy and detailed judgment, gave anxious consideration to the case.

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The argument in support of the present appeal is founded largely upon a rule of descent said to have been postulated by Smyly C.J. in *Sackey v. Okantah*, which the Defendants contend was followed by the Ga Native Court in the recent case of *Sarah Ribeiro v. Elizabeth Mingle* and which, it is submitted is applicable to the present case. The contention is that as the land was the self-acquired property of Mantse Ankrah who died leaving two brothers but no sister or other maternal relative, on the death of the last brother, who had admittedly succeeded to the property, according to Ga customary law the land reverted to the children of Mantse Ankrah and was inherited by their descendants to the exclusion of the descendants of Ayi and Okantah. I have given very careful consideration to these authorities but I am unable to hold that they go so far as to establish such a rule or that they are strictly applicable to the facts of this case. The argument involves the proposition that land of a family stool, undivided at the death of Okantah the brother and successor of Mantse Ankrah, could then revert to the direct descendants of the grantee as their heritage thereby losing its character of stool family property. I am unable to agree with that. All the cases upon which the Appellants rely in the argument before this Court were considered and dealt with fully by the trial judge and upon an examination of them I am unable to find in any of them clearly and affirmatively the doctrine contended for with reference to property after it has once been regarded as stool family property. In cases of this kind each must depend upon its own particular circumstances and in this case, having regard to my view of the authorities and the strong evidence for the Respondents at the trial I concur with the decision of the Court below and I think it right to dismiss the appeal. 10

(B) Lewey,  
J. A.

LEWEY, J.A. : I entirely agree with the conclusions of Coussey J. and on the same grounds. 20

At the trial, the learned judge dealt with every aspect of this case in a detailed and exhaustive judgment, and he carefully considered such authorities as were cited to him, though he felt constrained to remark that— 30

“ there is very little authority whereby one can pronounce upon this matter with any degree of certainty.”

That is an observation which commands my sympathy after having listened to the lengthy arguments of counsel on this somewhat complex matter.

In the result, the trial judge was, to a great extent, dependent on the evidence ; and upon that evidence, he came to certain conclusions favourable to the Plaintiffs. At one stage of the trial the question arose as to whether it would be necessary for certain evidence material to the issues to be called, by reason of the plea of estoppel raised by the Plaintiff in his Statement of Claim. Indeed the learned judge seems to have inclined to the view that it was unnecessary ; but, nevertheless, he took, what I may perhaps be allowed to call the fair and prudent course, of hearing the witnesses. One of the most important matters which this Court has had to consider is whether the evidence which the judge so heard can be said to have justified his conclusions. I wish to say at once that I think, as does my brother Coussey, that it did. 40

As to the authorities—such as they were—I confess that I am unable to find that the decision in *Ribeiro v. Mingle* is of any real assistance, having regard to the facts of that case and to the issues which the Tribunal had to decide. Nor am I impressed for the purposes of this appeal by the passages in the judgment of Sir Philip Crampton Smyly, C.J. in *Sackey v. Okantah* upon which so much reliance has been placed by the Appellants. I have read that judgment with great care. But it seems to me that those particular observations of the learned Chief Justice—while entitled, of course, to be treated with great respect—are too wide and general in character, and too lacking in the requisite degree of certainty, to be regarded as definite pronouncements as to the law. Since moreover, they appear to me to go beyond what was strictly necessary to decide the issues in the case, the safer course, in my own view, is to consider them as *obiter*.

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This is not an easy case, nor a usual one. Counsel for the Appellants, indeed, has conceded that it is an exceptional case. It is, therefore, important to remember—especially having regard to the complicating factor of native customary law—what the trial judge was called upon to do. He had come to a decision, in the light of the available evidence, on certain defined issues which arose from the peculiar circumstances of this case. And that, in fact, is what he did. What this Court has to say is whether his decision was right. For my part, I think it was, and I agree, therefore, that this appeal should be dismissed.

KORSAH, J. : I have had the opportunity of reading the judgment of my brother Mr. Justice Coussey, and it is with regret that I am obliged to dissent therefrom. (c) Korsah, J.

In effect, the judgment decides that, according to Ga native customary law, the children of three brothers are members of one family, or can form one family for the purpose of inheritance or succession to self-acquired real property of one of the said brothers, on the demise of the last of them without a descendant of the female line.

This case is but another example of the erroneous use of the word “Family” by the parties, in a sense other than its accepted legal interpretation, by the Courts in the Gold Coast, in accordance with Native customary law of inheritance or succession to property; in view, however, of the fact that there is evidence on record which in my opinion clearly proves that the parties are not members of the same family, according to native law, I desire to draw attention to some of the relevant matters which I hope will explain the grounds upon which I base my decision.

Jackson, J., found as a fact, that Mantse Ankrah was one of three sons born of a woman named Amanua, the other two being Ayi and Okantah; also that it is clear that by reason of the fame achieved by Mantse Ankrah in the Barme War of 1830, and when the land the subject matter of the suit was given to him for his services in that war, the descendants of the two brothers, namely, Ayi and Okantah, have identified themselves with his name.

Plaintiffs-Respondents, who are descendants of Ayi and Okanta claim to be members of Mantse Ankrah family together with the direct descendants of Mantse Ankrah and in that capacity contend that they together with the Defendants except M. Captan are owners of the said land.

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In the course of the proceedings, the parties referred to a judgment of the West African Court of Appeal in a suit between the parties with respect to the same land, in which it is stated :—

“ It is true that the actual *ratio decidendi* in the Court below is not very clear, but the ordinary rule of native customary law as to descent of property through the female line *prima facie* applies to this case, and in our opinion no sufficient evidence has been adduced to show that any other method of descent applied in this particular case.”

The evidence adduced by the parties proves that neither the Plaintiffs nor the Defendants are descendants through females, from the woman Amanua, the mother of the said three brothers—Mantse Ankrah, Ayi and Okantah, the first of whom had originally acquired the property ; consequently neither the Plaintiffs nor the Defendants, can claim to be members of the family of the woman Amanua and of which the said three brothers were members according to native customary law. 10

The Ga customary law of inheritance or succession to real property with respect to the rights of the children of the owner of self-acquired property is recorded at page 110 of Sarbah's Fanti Customary Law, 2nd Ed., where in reply to questions by Chief Justice Hutchinson in the year 1891, on Ga customary law, the late Edmund Bannerman of Accra whom Sarbah described thus “ That eminent solicitor and advocate, whose knowledge of the customary law and long experience in the Law Courts were unsurpassed,” stated with respect to self-acquired property that— 20

“ Real property descends the same as personal property with this exception, that it is inherited in conjunction with the children of the deceased of that marriage and such real property cannot be disposed of without the children's consent.”

On the same point, Mr. Justice Smith stated in paragraph 14 of his opinion on native tenure published by the Gold Coast Government in 1891, and recorded at page 274 of Sarbah's Fanti Customary Law, same edition, as follows :— 30

“ In the Eastern Province the same rule of succession prevails, with this difference, that in some parts thereof, that is Accra and East of it, children of legal marriage, that is marriage according to native law said to be known as six-cloth marriage sometimes inherit the property of their father in conjunction with the heir and the property cannot be disposed of without the consent of the children.” 40

In my opinion this view of the Ga customary law of inheritance or succession to self-acquired real property declared by these two eminent lawyers, has been approved by judgments of Courts of competent jurisdiction in this country, as the Ga customary law, in the following cases, viz. : *Sackey v. Okantah* (Div. & Full Court Judgments 1911–1916) and *Sarah L. Ribeiro & Ors. v. Elizabeth Mingle & Ors.* (Judgment by the Tribunal of the paramount Chief of the Ga State on 4th July, 1944) which was subsequently affirmed on appeal to the Land Court of the Supreme Court, by M'Carthy, J., on 14th December, 1945.



I am aware of no authority on Ga customary law, and none was cited by Counsel for Plaintiffs-Respondents in support of the proposition that when the last of the three brothers died without leaving a nephew or other descendant of their mother Amanua, through female line, the children of Ayi and Okanta, became entitled to join the children of Mantse Ankrah to form a family consisting of three branches. According to native law, as I understand it, children of three brothers cannot form one family; even children of the same father by two wives cannot in native law be members of one family for the purpose of inheritance or succession

10 to property; because every child can only be a member of his mother's family.

With reference to the evidence of Nii Ayikai II, a sub-chief of the Ga State whom the Court below described as an independent witness and Coussey, J., describes as the expert, it will be observed that in answer to Plaintiffs-Respondents' Counsel, he stated that on the death of all three brothers leaving only the children, "It goes to the eldest child of the man who bought the land." He added: "As caretaker for his own brothers."

It is true that later, in answer to questions put by the Court:—

20 "Q. Do you mean that the children of "B" and "C" are cut out?"

He answered:

"They are not cut out: they share: they are one family."

Further answers by this witness seem to me to be prevarication. The whole evidence of this witness justifies the criticism of expert witnesses contained in Redwar's Comments on Gold Coast Ordinances, p. 83:—

"Evidence of Expert witnesses called by the parties in the usual way.

30 This course is open to the objections common to all expert testimony, which in such case is liable to be biased according to the interest which the witnesses may, often even unconsciously, feel in the matter. The opinions of such witnesses almost constantly favour the side calling them, and are usually found to differ considerably.

Native Law then, where it is not incorporated by judicial decision in the case law of the Colony, must be proved either by affirmation of Native Referees, or by consultation with Experts out of Court, or by expert testimony given in the ordinary way, and must stand on the same footing as Foreign Law."

40 It seems to me, that even if there had been no clear declaration of Ga customary law of inheritance or succession to property prior to the judgment by the Tribunal of the Paramount Chief of the Ga State in *Ribeiro & Ors. v. Mingle & Ors.* this judgment should receive greater weight than the statement of a sub-chief of the same State on the same points four years after the said judgment.

It will further be noted that the opinion of the Assessor who tried the case with the Judge, approves the views I have expressed of the opinions expressed by the late Edmund Bannerman and Mr. Justice Smith in 1891.

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In my opinion Plaintiffs-Respondents failed to prove their claim that according to native law they are members of Mantse Ankrah family ; they should therefore, have been non-suited.

If on the other hand M. D. A. Ankrah relies solely on the Power of Attorney as his authority for his claim, then it is clear that the direct descendants of Mantse Ankrah, in whom the property vested on the death of the last of the three brothers, had power to appoint their own head, as they did, after the judgment of Quashie-Idun, J. ; and thereafter to deal with the property subject only to the consent of the said direct descendants the rightful owners thereof.

10

In my opinion the appeal should be allowed.

Counsel :

E. C. Quist (with him Akufo Addo) for the Defendants-Appellants (other than Captan).

E. O. Asafu-Adjaye for M. Captan.

K. A. Bossman for Plaintiffs-Respondents.

No. 44  
Court Notes  
granting  
Final Leave  
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to Privy  
Council, 3rd  
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No. 44.

**COURT NOTES granting Final Leave to Appeal to the Privy Council.**

3rd September, 1951.

IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session, 20  
CORAM JACKSON, J., sitting as a single Judge of Appeal.

108/48.  
(Motion).

R. A. ANKRAH &c.

v.

J. K. Q. ARYEH & Ors.

Akufo Addo moves for applicants for Final Leave to appeal to Privy Council.

Bossman for Respondents.

*Akufo Addo :*

All conditions have been fulfilled.

30

*Court :*

Final leave to appeal granted in respect of those persons who have subscribed to the Bond. No leave has been granted in respect of M. Captan.

*Akufo Addo :*

*Re Interim Injunction.*

*Court :*

Under what Article of the Order in Council do you move in this respect ?

*Akufo Addo :*

Article 7—ask for Injunction to restrain sale of land until appeal is determined. Land already has been sold and is evidenced to be sold.

*Court :*

10 I do not call upon Respondents. The land which was the subject of the original action was held by the judgment to be jointly owned by the three branches of the family, and before any valid sale may be made, there must be the concurrence not only of the three branches, but of the owner of the Stool land, of which the family land forms part, and which by customary law cannot be sold except in the most exceptional circumstances and which circumstances were the subject of recent cases before the Land Court.

I do dismiss the motion for an interim injunction with costs which I assess at 3 guineas.

20

(Sgd.) J. JACKSON,  
Judge.

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# In the Privy Council.

## ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL (GOLD COAST SESSION)

### CONSOLIDATED SUITS AND APPEALS.

1. Transferred Suit No. 32/1947 (from the Ga Native Court "B").

BETWEEN

**JOSIAH KORKWEI QUARMINA ARYEH, DANIEL SACEY QUARCOOPOME, J. AMOS LAMPTEY, CHARLES AMOO ANKRAH**, claiming as Head and Representative of Mantse Ankrah Family, **J. R. ANKRAH, A. DINNAH ANKRAH and AFLAH QUARCOOPOME** (Defendants) . . . . . *Appellants*

AND

**NAA QUARDUAH ANKRAH and ROBERT ADJABENG ANKRAH** (otherwise known and called Arday Ankrah substituted for Mark David Adjabeng Ankrah otherwise Kwaku Nyame Ankrah) claiming for and on behalf of Mantse Ankrah Family and ~~JOSEPH COMMEY ANKRAH~~ (Plaintiffs) . . . . . *Respondents.*

2. Suit 112/1947.

BETWEEN

**CHARLES AMOO ANKRAH** claiming as Head and Representative of Mantse Ankrah Family (Defendant) . . . . . *Appellant*

AND

**ROBERT ADJABENG ANKRAH** (substituted for Mark David Adjabeng Ankrah otherwise Kwaku Nyame Ankrah) claiming for and on behalf of Mantse Ankrah Family and ~~JOSEPH COMMEY ANKRAH~~ (Plaintiffs) . . . . . *Respondents.*

# RECORD OF PROCEEDINGS

## PART I PROCEEDINGS IN THE SUIT AND APPEAL (exclusive of Exhibits which are in Part II)

A. L. BRYDEN & WILLIAMS,  
53 Victoria Street,  
London, S.W.1,  
*Appellants' Solicitors.*

SYDNEY REDFERN & CO.,  
1 Gray's Inn Square,  
London, W.C.1,  
*Solicitors for Respondent R. A. Ankrah.*