

Q III 4 -

4/1960

IN THE PRIVY COUNCIL

No. 31 of 1958

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

B E T W E E N :

- 1. H.E. GOLIGHTLY
- 2. TETTEY GBEKE II ... (Defendants) Appellants

- and -

- 1. E.J. ASHRIFI
- 2. A.E. NARH
- 3. CHARLES PAPPOE ALLOTEY (Plaintiffs) Respondents

(and connected consolidated Appeals)

R E C O R D O F P R O C E E D I N G S

PART III

Pages 626 to 796
and Original Index

W.W. BOX & CO.,
28 Great James Street,
Bedford Row,
London, W.C.1.
Solicitors for the Appellants.

HERBERT OPPENHEIMER, NATHAN
& VANDYK,
20 Copthall Avenue,
London Wall,
London, E.C.2.
Solicitors for the Respondents.

UNIVERSITY OF LONDON
 W.C.1.
 - 7 FEB 1944
 INSTITUTE OF ADVANCED

EXHIBIT "17" - SUMMONS, STATEMENT OF CLAIM, and Exhibits
 COURT NOTES OF AMENDMENT in
 TETTEH KWEI MOLAI v. TETTEY
 GBEKE & OTHERS. "17"

Tendered and admitted in evidence for
 defendants in re Mumo Ayitey Cobblah
 v. J.W. Armah & 18 other cases.

15/2/51.

CIVIL SUMMONS

10 IN THE TRIBUNAL OF THE PARAMOUNT CHIEF OF THE GA
 STATE, EASTERN PROVINCE, GOLD COAST COLONY.

BETWEEN

TETTEH KWEI MOLAI, Acting Korley
 Priest

Plaintiff

TETTEY GBEKE, AFFUM, ADJETEY OKAI,
 TETTEH ASHA, ALHAJI SALIFU BUMBUMKALI,
 MALAM ALIBRAKA, BABA CHIEF BRIMAH,
 MENSAH, MENSAH LO, KWAO CHURU, SACKKEY,
 GEORGE MUSAH DOCTOR, AKUAMOA, J.R.
 RANDOLPH, GRUMAH, TETTEY & AYI KWAO

Defendants

x PHILIP TETTEY BOTHWAY, Dsasetse of
 the Mankralo Stool of Osu
 (Christiansborg) Accra

Co-Defendant

= SAMUEL SYLVANUS COKER, Acting Head
 of the Nii Ayi Diki and Nii Nettey
 Family of Accra.

x Joined by
 Order of Court
 dd. 27/11/43.
 S.O. Quashie-
 Idun, Ag. J.

= Joined by
 Order of Court
 dd. 26/8/44
 A.N.D.
 J.

To the above-named Defendants of Accra and Avenor.

30 You are hereby commanded to attend this
 Tribunal at Accra on Wednesday the 19th day of May,
 1943, at 8.30 o'clock a.m. to answer a suit by
 Tetteh Kwei Molai of Accra against you.

The plaintiff as head of the Korle We family
 of Accra and representing such family claims as
 against the defendants severally and jointly for
 a declaration of title that the property herein-
 after described + is the property of + the Korle
 We Family of Accra, + who hold it for themselves,
 the Ga Mantse and the Gbese Manche + that is to
 say -

+ Amended by
 Order of Court
 dated 12th
 March, 1947.
 L.M.
 J.

Exhibits

"17"

Summons,
Statement of
Claim and
Court Notes
of Amendment
in Tetteh
Kwei Molai v.
Tetteh Gbeke
& others.
29th April,
1943.
14th July, 1943
12th March,
1947
- continued.

All that piece or parcel of land situate lying and being in the Ga State and known as Akrrade, Kokomlemle, Akwando, Karliawo (Kabiawe) Fanofa, and Pjehegon lands which said lands together are bounded on the north by Korley lands, on the south by the township of Adabraka, on the east by Osu Stool lands and on the west by the Accra/Aisawam motor road.

The plaintiff further claims £100 damages from the defendants for trespass on the land property and for a perpetual injunction restraining them defendants their agents and/or servants from further trespass thereon.

10

Issued at Accra the 29th day of April, 1943.

Sum claimed	£100. - . -
Tribunal Fee	1. 5. -
Mileage & Service	- 19. -
	<u>£102. 4. -</u>

(Sgd.) Tackie Obile.
GA MANCHE.

20

IN THE SUPREME COURT OF THE GOLD COAST
EASTERN PROVINCE
DIVISIONAL COURT, ACCRA

BETWEEN

TETTEH KWEI MOLAI, Acting Korle
Priest of Accra, Plaintiff

- and -

TETTEY GBEKE, AFUM. ADJETEY OKAI,
TETTEH ASHA, ALHAJI SALIFU BUBUNKALI,
MALAM ADABRAKA, BABA, CHIEF BRIMAH,
MANSAH, MENSAH LO, KWAO CHURU SACKEY,
NAMA, GEORGE MUSAH DOCTOR, AKUANUA,
J.C. RANDOLPH, GRUMAH, TETTEH & AYI
KWAME, Defendants

30

PLAINTIFF'S STATEMENT OF CLAIM.

+ Amended by
Order of Court
dd. 12/3/47.
L.M.
J.

- The lands in Accra known as Akrrade, Kokomlemle, Akwando, Caribiawe, Fanofa and Kpehegon, and which form the subject matter of this action are the property of the Korle Family of Accra who hold it for + themselves, the Ga Mantse and the Gbese Mantse +

40

2. The Plaintiff is the Acting Korle Priest and the Head and Representative of the said Korle Family.

Exhibits

"17"

3. The defendants have been claiming the said lands as their property, and committing trespass thereon.

Summons,
Statement of
Claim and
Court Notes
of Amendment
in Tetteh
Kwei Molai v.
Tetteh Gbeke
& others.

4. The plaintiff as Head and Representative of the said Korle family of Accra claim as against the defendants jointly and severally:-

10 (Intd.) (a) a declaration that the said + lands are
L.M. the property of the Korle family of Accra
who hold it for themselves the Ga Mantse
and the Gbese Mantse. +

29th April,
1943.
14th July, 1943
12th March,
1947
- continued.

(b) £100 damages for trespass committed on the said lands by the defendants.

Dated at Accra this 14th day of July, 1943.

(Sgd.) Akilagpa Sawyerr,
SOLICITOR FOR PLAINTIFF.

20 THE REGISTRAR, DIVISIONAL COURT, ACCRA.

And

TO THE ABOVE NAMED DEFENDANTS THEIR AGENTS OR SOLICITORS, ACCRA.

12th March, 1947.

IN THE SUPREME COURT OF THE GOLD COAST, EASTERN JUDICIAL DIVISION, LANDS DIVISION, held at VICTORIABORG, ACCRA, on WEDNESDAY the 12th day of MARCH, 1947, before M'CARNEY, J.

AYITEY COBBLAH

v.

30 TETTEY GBEKE & ORS.

x x x x

Sawyerr asks leave to amend the writ of summons (1) by deleting the words "belongs to the Korle We Family of Accra" after the word described in line 4 and substituting therefor the words "is the property of the Korle We Family of

Exhibits

"17"

Summons,
Statement of
Claim and
Court Notes
of Amendment
in Tetteh
Kwei Molai v.
Tetteh Gbeke
& others.

29th April,
1943.
14th July, 1943
12th March,
1947

- continued.

Accra who hold it for themselves, the Ga Mantse and the Gbese Mantse" and to amend the statement of claim (a) by substituting in paragraph 1 for the words "who hold it for the Ga people" the words "who hold it for themselves the Ga Mantse and the Gbese Mantse", and (b) by substituting for paragraph (a) the following:-

"(a) a declaration that the said lands are the property of the Korle Family of Accra who hold it for themselves the Ga Mantse and the Gbese Mantse."

10

Dove points out that the question of an amendment of the writ of summons and statement of claim was raised by the Court before the hearing began.

The amendment would necessitate the further cross-examination of some of the witnesses for the plaintiff and protract the proceedings. At any rate Dove submits that the defendants are entitled to costs up to date.

20

By Court -

The amendments sought are allowed. The question as to whether the defendants are entitled to any costs in respect of it will be considered later.

x x x x

(Intd.) L. M.



EXHIBIT "51" - JUDGMENT of W.A.C.A. in
T.K. MOLAI v. ABBLAH KOTEY.

Exhibits

"51"

Tendered & admitted in evidence for
Defendant, in Ayitey Cobblah v. Armah
& Ors.

22/2/51.

Judgment of
W.A.C.A. in
T.K. Molai v.
Abblah Kotey.

4th June 1943.

4th June, 1943

10 IN THE WEST AFRICAN COURT OF APPEAL, GOLD COAST
SESSION, held at VICTORIABORG, ACCRA, on FRIDAY
the 4th day of JUNE, 1943, before THEIR HONOURS
SIR DONALD KINGDON, C.J., Nigeria (President), SIR
PHILIP BERTIE PETRIDES, C.J., Gold Coast and SIR
GEORGE GRAHAM PAUL, C.J., Sierra Leone.

Civil Appeal.

TETTEH QUAYE MOLAI, Acting Korle Priest
for himself and as representing all
other members of the Korle Webii,
Plaintiff-Respondent-Appellant

v.

20 GRACE KOTEY, ROBERT KOTEY and H.A. KOTEY
Appellants-Respondents-Appellants

APPEAL from Judgment of Court of Provincial
Commissioner Eastern Province, dated the
12th May, 1942.

A. Sawyerr for Plaintiff-Appellant.
A.W.K. Thompson with him C.C. Lokko for Respondents.

JUDGMENT -

30 By consent it is ordered that the judgment of
the Provincial Commissioner's Court is upheld but
with the addition of the words "The plaintiff-
respondent to be at liberty to bring fresh action"
and also by consent the defendants-appellants-
respondents are awarded costs in this Court assess-
ed at £14. 9. 6.

Donald Kingdon,
PRESIDENT.

Exhibits

EXHIBIT "16" - DEED OF CONVEYANCE between
NII TETTEY GBEKE and G.A. AGYARE

"16"

Deed of
Conveyance
between Nii
Tettey Gbeke
and G.A.
Agyare.

Tendered and admitted for Defendant, in
re Numo Ayitey Cobblah vs: J.W. Armah &
18 other cases.

14/2/51.

DEEDS REGISTRY No.169/1946

2254/43

20th July, 1943.

THIS AGREEMENT made the 20th day of July in the
year of Our Lord One thousand nine hundred and
Forty-three (1943) BETWEEN NII TETTEY GBEKE
Dsasetse of the Otuopai Stool Accra in the Eastern
Province of the Gold Coast with the consent and
concurrence of the Elders and Councillors of the
said Stool whose consent and concurrence are re-
quisite and necessary to the execution of any
valid Document for the alienation of Otuopai Stool
land and have signified such consent and concur-
rence by attesting as witnesses hereto (hereinafter
called the Vendor which expression where the con-
text so admits shall include his heirs personal
representatives and assigns) of the one part And
GEORGE ASIAMA AGYARE also of Accra in the Province
aforesaid (hereinafter called the Purchaser which
expression where the context so admits shall in-
clude his heirs personal representatives and
assigns) of the other part WHEREAS the Vendor
is seised in unencumbered fee simple and is other-
wise well possessed of the hereditaments herein-
after described and intended to be hereby granted
and conveyed and has agreed with the Purchaser for
the absolute sale to him of the said hereditaments
for the sum of One Hundred and Fifty Pounds (£150)
NOW THIS INDENTURE WITNESSETH that in pursuance of
the said Agreement and in consideration of the said
sum of One Hundred and Fifty Pounds (£150) to the
Vendor paid by the Purchaser on or before the
execution of these presents (the receipt whereof
the Vendor doth hereby acknowledge and from the
same doth hereby release the Purchaser) the Vendor
hereby grants and conveys unto the Purchaser his
heirs personal representatives and assigns ALL
THAT piece or parcel of land "L Shaped" situate
lying and being at AKRADE Accra in the Province
aforesaid and bounded on the North by Mr. Archie
Hayford's property measuring two hundred feet
(200') more or less on the South partly by Otuopai
Stool land measuring One hundred Feet (100') more

10

20

30

40

Exhibits

"16"

Deed of
Conveyance
between Nii
Tettey Gbeke
and G.A.
Agyare.

10 or less and partly by proposed road measuring one hundred feet (100') more or less on the East by proposed road measuring one hundred and eighty feet (180') more or less and on the West partly by proposed road measuring ninety feet (90') more or less and partly by Otuopai Stool land measuring Ninety feet (90') more or less and containing an area of 27,000 sq. feet which said piece or parcel of land is more particularly delineated in the plan attached hereto and edged "Pink"

(General words and "All the estate" Clause)

20th July, 1943
- continued.

TO HAVE AND TO HOLD the said hereditaments and land hereby granted or expressed so to be unto and to the use of the Purchaser his heirs personal representatives and assigns for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above-written.

20 SIGNED BY MAKING HIS MARK)
SEALED AND DELIVERED by)
the said NII TETTEY GBEKE)
Dsastse of the Otuopai) (Sgd.)
Stool after the foregoing) Nii Tettey Gbeke II
had been read over inter-) (L.S.)
preted and explained to) (Sgd.) E. T. Addy
him in the Ga language by) "
? ? Aryee and he seemed) J. Adjetey Okai
perfectly to understand) (Linguist)
30 the same before making)
his mark thereto in the) Their
presence of the following) Antie Addy X (R.T.P.)
witnesses who have them-) Tetteh Obe
selves read and/or had the) Addy X
same read over interpreted) marks
and explained to them and) (R.T.P.)
they also understand the)
same before making their)
marks thereto:)

40 (Sgd.) ? ? Aryee
Witness to marks
(Sgd.) ? ? Aryee.

SIGNED SEALED AND)
DELIVERED by the said) (Sgd.) Geo. A. Agyare
GEORGE ASIAMA AGYARE in) (L.S.)
the presence of :-)
(Sgd.) ? Tamakloe.

Exhibits

"65"

EXHIBIT "65" - LETTER from GBESE MANTSE
to COMMISSIONER OF LANDS

Letter from
Gbese Mantse to
Commissioner of
Lands.

Tendered and admitted in evidence for
Odoitso Odoi Kwao Family in re Numo A.
Cobblah v. J.W. Armah & Anor.

20th July, 1943.

21.3.51.

No.19/43/41/GM.

Senior Divisional Chief
Ga State
Gbese Mantse We
P.O. Box 27

10

NII AYITEY ADJIN III
GBESE MANTSE.

20th July, 1943.

The Commissioner of Lands,
Cantonments
Accra.

REGISTERED.

My Good friend,

GBESE STOOL LANDS.

Since my enstoolment on the 25th of October,
1941, I have been hearing of contentions between
parties relative to ownership of plots of the
above lands as also contentions between individuals
and the Korle Webii who are caretakers of the lands
for the Gbese Stool and between the Atukpai Family
who also belong to the Gbese quarter of Accra and
the Korle Webii.

20

Although my elders and I have not sat down
customarily to be informed of the true position of
things political in the division, I hasten to in-
form Government and particularly you, of the
situation and to advise that until I shall have
been acquainted with the state of affairs in the
division and satisfied myself, any document res-
pecting Gbese Stool lands tendered in your depart-
ment for any action may be referred to me for my
information.

30

You will agree with me that some of these
lands had been given away carelessly and thought-
lessly by both Korle Webii and Atukpai people and
further mistakes must be prevented.

Thanking you in anticipation.

40

I am, Your Good Friend,

Ayitey Adjin III
GBESE MANTSE.

EXHIBIT "97" - CONVEYANCE between E.T. ADDY
and J.G. SACKEY.

Exhibits

"97"

Tendered and admitted for Defendants, in
re Nuno Ayitey Cobolah etc. v. J.W. Armah
and other consolidated cases.

22.3.51.

Conveyance
between
E.T. Addy and
J.G. Sackey.
27th July, 1943.

THIS INDENTURE made the 27th day of July One
thousand Nine Hundred and Forty-three (1943)
Between EMMANUEL TETTEH ADDY of Accra in the
Eastern Province of the Gold Coast Colony (herein-
after called the Vendor which expression shall
10 where the context so admits include his heirs
executors administrators and assigns) of the one
part and JOSEPH GEORGE SACKEY of Accra aforesaid
(hereinafter called the Purchaser which expression
shall where the context so admits include his heirs
personal representatives and assigns) of the other
part WHEREAS in the month of January One Thousand
Nine Hundred and Forty-One (1941) the Stool of
20 Atukpai in the Gbese Division Accra aforesaid was
seised of the land hereinafter described and in-
tended to be hereby conveyed AND WHEREAS in the
said month and year Nii Tettey Gbeke the Second
Dsasetse of the Stool of Atukpai aforesaid with
the consent and concurrence of the principal Elders
and Members of the said Stool granted the said
land and hereditaments hereinafter described known
as Plot Number - of Block - of the Atukpai Stool
lands situate and being at Agotin Accra on the
30 Accra - Nsawam to the said Emmanuel Tetteh Addy
(the Vendor) by way of Voluntary Gift according to
Native Custom free from incumbrances AND WHEREAS
the Vendor is now seised in fee simple in posses-
sion free from incumbrances of the said land and
hereditaments hereby assured and he has agreed with
the Purchaser for the absolute sale to him for the
sum of Fifty-three pounds (£53) of the hereditaments
hereby granted in fee simple in possession free
from incumbrances NOW THIS INDENTURE WITNESSETH
40 that in pursuance of the said agreement and in
consideration of the sum of FIFTY-THREE POUNDS
(£53) to the Vendor paid by the Purchaser on or
before the execution of these presents (the receipt
whereof the Vendor doth hereby acknowledge and from
the same doth hereby release the Purchaser) the
Vendor doth hereby Grant and Convey unto the Pur-
chaser his heirs and assigns ALL THAT piece or
parcel of land situate lying and being at AGOTIN
Accra aforesaid on the Accra-Nsawam Road and bounded
on the North by Otukpai Stool Lands measuring One

Exhibits

"97"

Conveyance
between
E.T. Addy and
J.G. Sackey.
27th July, 1943
- continued.

Hundred and Twenty-five (125') feet more or less on the South by J.C. Nortey's land measuring One hundred and twenty-five (125') feet more or less on the East by Otuopai Stool lands measuring Seventy-five (75') feet more or less and on the West by Nsawam Road and measuring Seventy-five (75') feet more or less comprising an area of 22 acres or howsoever otherwise the same may be bounded known described or distinguished and is more particularly delineated on the plan hereto attached and therein edged Fink

10

(General words and "All the estate" Clause)

TO HOLD the same unto and to the use of the Purchaser his heirs and assigns for ever

(Full covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED)
by the said EMMANUEL TETTEH)
ADDY after this Indenture)
had been first read over)
interpreted and explained)
in the Ga language by ?)
Aryee to him when he seemed)
perfectly to understand the)
same before signing his)
name thereto in the pres-)
ence of:-)

20

(Sgd.) E.T. Addy

(Sgd.) Nii Tettey Gbeke II
(Sgd.) ? Aryee
(Sgd.) ?

30

This Instrument was delivered to me for registration by Joseph George Sackey of Accra at 10.12 o'clock in the forenoon this 30th day of January 1947.

(Sgd.) S.O. Quashie-Idun
AG. REGISTRAR OF DEEDS.

GOLD COAST LAND REGISTRY
Registered as No. 82/1947.

40

(Sgd.) S.O. Quashie-Idun
AG. REGISTRAR OF DEEDS.

SIGNED SEALED AND DELIVERED)
by the said JOSEPH GEORGE) (Sgd.) J. George Sackey
SACKLEY in the presence of:)

Exhibits

"97"

(Sgd.) ?
(Sgd.) ? Aryec
(Sgd.) Nii Tetteh Gboke II

Conveyance
between
E.T. Addy and
J.G. Sackey.

Received the within named Purchase money of Fifty
Three Pounds (£53)

27th July, 1943
- continued.

(Sgd.) E. T. Addy.

10 Witnesses:

(Sgd.) ? Aryec
(Sgd.) Nii Tetteh Gboke II.

EXHIBIT "92" - AFFIDAVIT of ERIC LUTTERODT
in NII TETTEY GBEKE v.
E. LUTTERODT & OTHERS.

"92"

Tendered and admitted in evidence for
plaintiff in re Numo Ayitey Cobblah v.
J.W. Armah & Ors.

Affidavit of
Eric Lutterodt
in Nii Tettey
Gboke v.
E. Lutterodt &
others.

23rd August,
1943.

20 IN THE SUPREME COURT OF THE GOLD COAST
PROVINCIAL COMMISSIONER'S COURT,
KOFORIDUA

NII TETTEY GBEKE Dsasetse of Otuopai
as representative of for himself and
as representing the Stool and people
of Otuopai, Plaintiff

v.

ERIC LUTTERODT QUARSHIE-SOLOMON and
CONRAD LUTTERODT, Defendants

AFFIDAVIT OF ERIC LUTTERODT

30 I, ERIC LUTTERODT of Accra in the Gold Coast make
Oath and say -

Exhibits

"92"

Affidavit of
Eric Lutterodt
in Nii Tettey
Gbeke v.
E. Lutterodt &
others.

23rd August,
1943

- continued.

1. I am the first defendant herein and have been authorised by the two other defendants to swear to this Affidavit on behalf of themselves and me.
2. That the Affidavit of Nii Tettey Gbeke II the plaintiff herein sworn to on the 19th day of August 1943 with Exhibit "A" were served upon us on the 20th day of August, 1943 at Accra.
3. That the contents of the Affidavit and Exhibit have been read by us. 10
4. That the Plaintiff has no land which forms bounday which the Lutterodt family to the best of my knowledge information and belief.
5. That the boundaries stated in Exhibit "A" afore-mentioned as follows -

"Kokomlemle land is bounded on the North by Blakpa Tso and Reindorf's land on the South by Lomo Ansah's land on the West and South West by Osu land and on the West by Accra Nsawam Road and Lutterodt family land". 20
6. That the Lutterodt family land is situate at Kpehe.
7. That from Kokomlemle to Kpehe where the Lutterodt family land is one has to pass (when going from Adabraka to Kpehe) Akrade and Agotim.
- sic. 8. That the complainant of the plaintiff that we have committed trespass on his land is not true.
9. That until the Plaintiff is able to show or point out the land in question upon which the alleged trespass is committed it will not be possible for the Court to grant the perpetual injunction he seeks. 30
10. That I am making this Affidavit to oppose the grant of the perpetual injunction sought for by the Plaintiff herein.

Sworn at Victoriaborg,)
Accra, this 23rd day of) (Sgd.) E.A. Lutterodt.
August, 1943.)

40

Before Me,

(Sgd.) F.A.R. Botchey
COMMISSIONER FOR OATHS.

EXHIBIT "68" - DEED OF CONVEYANCE between
NII TETTEY GBEKE and MARY
DUNCAN.

Exhibits

"68"

Tendered by Counsel (Okai v. M.O.
Ankrah & Ors.) and admitted in re
Kumo Ayitey Cobblah vs: J.W. Armah
& Ors.

6/3/51.

Deed of
Conveyance
between Nii
Tettey Gbeke
and Mary
Duncan.

8th September,
1943.

DEEDS REGISTRY No.82/1944.

10 THIS INDENTURE made the 8th day of September in
the year of our Lord One Thousand Nine Hundred and
Forty-Three (1943) BETWEEN NII TETTEY GBEKE
Dsasetse of the Otuopai Stool of Accra in the
Eastern Province of the Gold Coast acting on behalf
of himself and as representative of all members of
the said Otuopai Quarter - whose consent to or con-
currence in these presents is for more perfect
assurance of the provisions hereof requisite and
desirable according to Native Customary Law or
20 Custom of the said Quarter which consent or concur-
rence is sufficiently testified by the attestation
of these presents by some of the members (herein-
after called the Vendor which expression shall
include where the context so requires or admits
besides the said NII TETTEY GBEKE his successors
in title and assigns) of the one part And MARY
DUNCAN also of Accra in the Province aforesaid
(hereinafter called the Purchaser which expression
30 shall include wherever the context so requires or
admits her heirs personal representatives and
assigns) of the other part WHEREAS the Vendor is
seised in fee simple free from encumbrances and is
otherwise well possessed of the land and heredita-
ments described in the Schedule hereunder written
intended to be hereby granted and conveyed and has
agreed with the Purchaser for the absolute sale to
her of the said hereditaments for the sum of One
Hundred and Thirty Pounds (£130) NOW THIS INDENTURE
WITNESSETH that in pursuance of the said Agreement
40 and in consideration of the said sum of One Hundred
and Thirty Pounds (£130) to the Vendor paid by the
Purchaser on or before the execution of these
presents (the receipt whereof the Vendor doth here-
by acknowledge and from the same doth hereby
release the Purchaser the Vendor hereby grants and
convey unto the Purchaser his heirs personal
representatives and assigns ALL THAT piece or
parcel of Land situate lying and being at Kokomlemle

Exhibits

"68"

Deed of
Conveyance
between Nii
Tettey Gbeke
and Mary
Duncan.
8th September,
1943.
- continued.

Accra in the Province aforesaid comprised in the
Schedule hereto which said piece or parcel of land
is more particularly delineated in the Plan attach-
ed hereto and edged "Pink"

(General words and "All the estate" clause)

TO HAVE AND TO HOLD the said hereditaments and
land hereby granted or expressed so to be unto and
to the use of the Purchaser her heirs personal
representatives and assigns for ever

(Full Covenants for Title)

10

IN WITNESS whereof the parties hereto have
hereunto set their hands and seals the day and year
first above written

SIGNED SEALED AND DELIVERED)
by the said NII TETTEY)
GBEKE Dsasetse of the)
Otuopai Stool in the pres-)
ence of the following)
witnesses who have them-)
selves read and/or had the)
same read over interpreted)
and explained to them in)
the Ga language by)
and they seemed perfectly)
to understand the same)
before making their marks)
thereto:-)

(Sgd.)
Nii Tetteh Gbeke II
(Seal)

20

(Sgd.) E. T. Addy
" J. Adjatey Okai
" M.T.T.Q. Aryee.

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SIGNED SEALED AND DELIVERED)
by the said MARY DUNCAN in)
the presence of)

(Sgd.) M. Duncan
(L.S.)

(Sgd.) Owusu Danquah
" Ashaley Okoe

THE SCHEDULE above referred to

ALL THAT Piece or Parcel of Land situate lying and
being at Kokomlemle Accra bounded on the North by
Otuopai Stool land measuring One hundred and Twenty
five feet (125'0") more or less on the South by
Otuopai Stool land measuring One hundred and Twenty
five feet (125'0") more or less on the East by

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Otuopai Stool land measuring Eighty feet (80'0") more or less and on the West by Accra-Nsawam Road measuring Eighty feet (80'0") more or less.

Exhibits

"68"

On the 22nd day of February 1944 at 10.5 o'clock in the forenoon this Instrument was proved before me by the Oath of the within-named Mohammed Thiru Thomas Quarcoo Aryee to have been duly executed by the within-named NII TETTEY GBEKE Dsassetse of the Otuopai Stool of Accra.

Deed of Conveyance between Nii Tettey Gbeke and Mary Duncan.

8th September, 1943

- continued.

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GIVEN UNDER MY HAND

(Sgd.) Derek Harbord
AG. REGISTRAR OF DEEDS.

EXHIBIT "M" - DEED OF GIFT between
TETTEH KWEI MOLAI and
R.A. BANNERMAN

"M"

Deed of Gift between Tetteh Kwei Molai and R.A. Bannerman.
28th September, 1943.

Tendered and admitted for Plaintiff in re Numo Ayitey Cobblah v. J.W. Armah & 17 other cases.

2.2.51.

20 DEEDS REGISTRY No.641/1950.

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THIS INDENTURE is made the 28th day of September in the year of Our Lord One Thousand Nine Hundred and Forty-Three (1943) BETWEEN TETTEH KWEI MOLAI Acting Korle Priest and Lawful Representative at date hereof of the Korle Family of Accra with the knowledge consent and concurrence of the members of the said family whose knowledge consent and concurrence are requisite and necessary according to Native Customary Law for the valid transfer or alienation of any land or property of the said family which said knowledge consent and concurrence is hereby evidenced by the principal members and elders of the said family subscribing their names to these presents as witnesses (hereinafter called the Donor which expression shall where the context so requires or admits include his heirs successors-in-title and assigns) of the one part And ROBERT ALEXANDER BANNERMAN also of Accra aforesaid (hereinafter called the Donee which expression shall where the context so requires or admits include his heirs personal representatives and assigns) of the other part WHEREAS the Donor herein is seized

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Exhibits

"M"

Deed of Gift
between Tetteh
Kwei Molai and
R.A. Bannerman.
28th September,
1943
- continued.

for an estate in fee simple absolute in possession free from incumbrances of the hereditaments hereinafter described and intended to be hereby conveyed and he is desirous of making a voluntary gift and disposition of the same to Donee NOW THIS INDENTURE WITNESSETH that in consideration of the natural love esteem and affection the Donor has for the Donee and of past services rendered by the Donee to the Donor and the said family and in further consideration of the sum of Twenty-Five Pounds (£25) paid by the Donee to the Donor on or before the execution of these presents (the receipt whereof the Donor hereby doth acknowledge and from the same hereby doth release the Donee) and for divers other good causes and considerations the Donor as Legal and Beneficial owner doth hereby grant and convey unto the Donee ALL THAT piece or parcel of Land situate lying and being at North Adabraka Accra in the Province and Colony aforesaid and bounded on the North by proposed road measuring Three Hundred (300) feet more or less on the South by Ring Road measuring Three Hundred (300) feet more or less on the East by Korle Family Land measuring Three Hundred (300) feet more or less and on the West by E.N.F. Crabbe's land measuring Three Hundred (300) feet more or less or howsoever otherwise the said piece or parcel of land may be bounded known or described as the same is for purpose of identification only more particularly delineated on the plan attached hereto and thereon edged Pink

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(General words and "All the estate" clause)

TO HAVE AND TO HOLD the said hereditaments and premises hereby granted or expressed so to be unto and to the use of the Donee for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

MARKED SEALED AND DELIVERED)
by the said TETTEH KWEI)
MOLAI the foregoing having)
been first read over and) his
interpreted to him in the Ga) Tetteh Kwei Molai X
language by Emmanuel Benjamin) mark
Okai when he seemed perfectly) (L.S.)
to understand the same be-) (White cap chief)
fore making his mark thereto)
in the presence of:-)

(Sgd.) ? Jacobson

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- | | | | |
|--|--------------------|-------|-----------------|
| | | their | <u>Exhibits</u> |
| | Nii Ayitey Ogbloku | X | "M" |
| | Tetteh Kwei Onyan | X | |
| | Comney Kwao | X | |
| | | marks | Deed of Gift |
| | (Sgd.) G. Annan | | between Tetteh |
| | | his | Kwei Molai and |
| | Ayitey Mensah | X | R.A. Bannerman. |
| | | mark | 29th September, |
| | (Sgd.) E.B. Okai. | | 1943 |
| | | | - continued. |
- 10 SIGNED SEALED AND DELIVERED) (Sgd.)
by the said ROBERT ALEXANDER) Robert A. Bannerman
BANNERMAN in the presence of) (L.S.)
- (Sgd.) O. Blankson Sawyerr
" E.B. Okai
- Odai Tetteh his
 X
 mark
- (Sgd.) ? ? O'lai Kotey
- 20 Received from the within-named Donee ROBERT
ALEXANDER BANNERMAN the within-named consideration
sum of Twenty-Five Pounds (£25)
- Dated at Accra the 28th day of September 43.
- his
Tetteh Kwei Molai X
 mark
- Witnesses:
- (Sgd.) E.B. Okai
" ? ? Jacobson
" ? ? Annan
30 " O. Blankson Sawyerr
- With the knowledge and concurrence of my Elders I
give my consent to the validity of this Instrument
dated 28th September, 1943 between the Acting
Korle Priest Tetteh Kwei Molai and Robert Alex
Bannerman.
- (Sgd.) ? ? ?
Mantse of Gbese;
23.7.48.
- Witness to signature
- 40 (Sgd.) Aryeetey II (Gbese Akwasontse)
" Theo. O. Tagoe (Linguist)
-

Exhibits
"69"

EXHIBIT "69" - DEED OF CONVEYANCE between
NII TETTEY GBEKE and E.A.A.
AMAMOO.

Deed of
Conveyance
between Nii
Tetty Gbeke
and E.A.A.
Amamoo.

Tendered in evidence by consent of Counsel
(Okai v. Marbell) admitted in re Numo A.
Cobblah v. J.W. Armah.

DEEDS REGISTRY No.66/1945.

9th December,
1943.

THIS INDENTURE made the 9th day of December One
Thousand Nine Hundred and Forty-Three (1943)
BETWEEN NII TETTEY GBEKE II. for himself and as
Representative of the Otuopai Stool with the con-
currence and consent of all the Principal Elders
and Members of the said Otuopai Stool whose
concurrence and consent is necessary for the valid
alienation of any Land of the said Otuopai Stool
of Accra in the Eastern Province of the Gold Coast
(hereinafter called the Vendor which expression
where the context so requires or admits shall in-
clude his heirs successors and assigns) of the one
part and ELFRIDA ABIGAIL AMA AMAMOO also of Accra
in the Province and Colony aforesaid (hereinafter
called the Purchaser which expression where the
context so requires or admits shall include her
heirs personal representatives and assigns) of the
other part whereas the Vendor declares that the
Otuopai Stool is absolute seised of and entitled
to all that piece or parcel of land hereditaments
and premises hereinafter described and hereby
given granted and conveyed or expressed so to be
And whereas the Vendor hath agreed with the Pur-
chaser for the absolute sale and conveyance to the
Purchaser of the said piece or parcel of land
hereditaments and premises absolutely in possession
free from incumbrances for the purchase price of
Fifty-three Pounds Ten Shillings (£53.10.0) NOW
THIS INDENTURE WITNESSETH that in pursuance of the
premises and in consideration of the sum of FIFTY
THREE POUNDS TEN SHILLINGS (£53.10.0) now paid to
the Vendor by the Purchaser on or before the execu-
tion of these presents the receipt whereof the
Vendor doth hereby acknowledge and from the same
doth hereby release the Purchaser the Vendor as
representative of the Otuopai Stool and as bene-
ficial owner doth hereby give grant and convey unto
the Purchaser ALL THAT piece or parcel of land
hereditaments and premises situate lying and being
at South of Kokomlemle Accra aforesaid and bounded
on the North by Otuopai Stool land measuring One

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hundred and Twenty-five feet (125') more or less on the South by Otuopai Stool land and measuring One Hundred and Twenty-five feet (125'0") more or less on the East by Otuopai Stool land measuring Seventy feet (70'0") more or less and on the West by Proposed Road measuring Seventy feet (70'0") more or less which said piece or parcel of land is more particularly delineated on the Plan hereto attached and therein edged Red

Exhibits

"69"

Deed of
Conveyance
between Nii
Tettey Gbeke
and E.A.A.
Amamoo.

9th December,
1943.

- continued

10 (General words and "All the estate" Clause)

TO HAVE AND TO HOLD the said Land and hereditaments hereby granted or expressed so to be unto and to the Use of the Purchaser her heirs executors administrators and assigns for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have herunto set their respective hands and seals the day and year first above written

20 SIGNED SEALED AND DELIVERED)
by the said NII TETTEY) (Sgd.)
GBEKE II as representative) Nii Tettey Gbeke
for and on behalf of the)
Otuopai Stool and as the)
act and deed of the said)
Otuopai Stool in the pres-)
ence of -)

(Sgd.) E. T. Addy
" Adjetej
" ? ?

30 SIGNED SEALED AND DELIVERED)
by the said ELFRIDA ABIGAIL) ? ?
AMA AMAMOO in the presence)
of -)

(Sgd.) ? ?
" ? ?
" ? ?
" ? ?

40 Received from the within named Purchaser Elfrida Abigail Ama Amamoo the within-named purchase money of Fifty-Three Pounds Ten Shillings (£53.10. 0)

Dated at Accra this 9th day of December, 1943.

(Sgd.) Nii Tettey Gbeke.

Exhibits

"103"

EXHIBIT "103" - CONVEYANCE between TETTEY
QUAYE MOLAI and THOMAS
KOJO HALM-OWOO

Conveyance
between
Tetteh Quaye
Molai and
Thomas Kojo
Halm-Owoo.

24th April,
1944.

Tendered and admitted for Plaintiff in
41/50 in re Numo Ayitey Cobblah v. J.W.
Armah & Ors.

30/3/51

1217/44.

THIS INDENTURE made the 24th day of April One
 Thousand Nine Hundred and Forty-four (1944) BETWEEN 10
 TETTEH QUAYE MOLAI Acting Korle Priest of Accra
 in the Gold Coast Colony with the consent and
 concurrence of the elders and people whose assent
 to or concurrence in the valid alienation of lands
 belonging to the Korle-webi is requisite or nec-
 essary according to native custom which assent is
 testified by the execution of this deed by some
 of the said elders and people (hereinafter called
 the Vendors which expression where the context so
 requires or admits shall include their and each of 20
 their successors in title and assigns) of the one
 part and THOMAS KOJO HALM-OWOO of Accra aforesaid
 (hereinafter called the Purchaser) which expression
 where the context so requires or admits shall in-
 clude his heirs personal representatives and
 assigns of the other part WHEREAS the Vendors are
 seised in fee simple in possession free from all
 incumbrances of the hereditaments hereinafter des-
 cribed and intended to be hereby granted and con-
 veyed AND WHEREAS the Vendors have agreed with 30
 the Purchaser for the sale to him of the said
 hereditaments and the inheritance thereof in fee
 simple free from all incumbrances at the price of
 Fifty (£50) Pounds NOW THIS INDENTURE WITNESSETH
 that in pursuance of the said Agreement and in
 consideration of the sum of FIFTY POUNDS (£50) to
 the Vendor paid by the Purchaser on or before the
 execution of these presents (the receipt of which
 the Vendors hereby acknowledge) the Vendors hereby
 Grant and Convey to the Purchaser ALL THOSE two pieces 40
 or parcels of land situate lying and being at
 Aquandor North of Guinea Lodge Adabraka Accra
 aforesaid described in the Schedule hereunder
 written

(General words and "all the estate" Clause)

TO HAVE AND TO HOLD the same Unto and to the Use

of the Purchaser and his heirs for ever
 (Full Covenants for Title)

Exhibits
 "103"

IN WITNESS whereof the parties hereto have
 hereunto set their hands and seals the day and year
 first above written

Conveyance
 between
 Tetteh Quaye
 Molai and
 Thomas Kojo
 Halm-Ovoo.

24th April,
 1944

- continued.

THE SCHEDULE above referred to

10 1. ALL THAT piece or parcel of land situate
 lying and being at Aquandor North of Guinea Lodge,
 Adabraka Accra in the Gold Coast Colony and
 bounded on the North by property now or formerly
 belong to the Kawli Webii and measuring 200
 feet more or less on the South by a proposed road
 and measuring 200 feet more or less on the East by
 property now or formerly belonging to the Kawli
 Webii and measuring 150 foot more or less and on
 the West by property now or formerly belonging to
 the Kawli Webii and measuring 150 feet more or less
 the same being more particularly described on the
 Plan hereto annexed and thereon edged Pink

20 2. ALL THAT piece or parcel of land situate
 lying and being at Aquandor North of Guinea Lodge,
 Adabraka Accra in the Gold Coast Colony and bounded
 on the North by a proposed road measuring 200 feet
 more or less on the South by property now or
 formerly belonging to the Kawli Webii measuring
 200 feet more or less on the East by property now
 or formerly belonging to the Kawli Webii and meas-
 uring 200 feet more or less and on the West by
 property now or formerly belonging to the Kawli
 30 Webii and measuring 200 feet more or less the same
 being more particularly described on the plan here-
 to annexed and thereon edged Pink.

MARKED SIGNED SEALED AND)
 DELIVERED by the said) their
 TETTEH QUAYE MOLAI and the) TETTEH QUAYE MOLAI X
 said Elders and people) (L.S.)
 (Korle webii) after this)
 Instrument had been read) TETTEH QUAYE ONYA X
 over and interpreted to) (L.S.) marks
 40 the said Tetteh Quaye)
 Molai and his Elders and) (Sgd.)
 people in the Ga language) JOSEPH M. LAMPTEY
 by of Accra) (L.S.)
 when they appeared to)
 understand the same before)
 putting their marks hereto)
 in the presence of :-)

(Sgd.) ? ? ?
 his
 50 Kojo Sodoli X
 mark
 (Sgd.) ? ?

Exhibits

"103"

Conveyance
between
Tetteh Quaye
Molai and
Thomas Kojo
Halm-Owoo.

24th April,
1944
- continued.

SIGNED SEALED AND DELIVERED)
by the said THOMAS KOJO) (Sgd.)
HALM-OWOO in the presence) Kojo Halm Owoo
of -) (L.S.)

(Sgd.) Kofie Parry
his
Kojo Sodoli X
mark
(Sgd.) ? ?

Received the within-mentioned sum of Fifty Pounds 10
(£50) the Purchase Price.

their
Tetteh Quaye Molai X (L.S.)
Tetty Quaye Onyah X (L.S.)
marks
(Sgd.) Joseph M. Lamptey.

"121"

Conveyance
from Halm-Owoo
to Mustapha
Thompson.

26th April,
1944.

EXHIBIT "121" - CONVEYANCE from HALM-OWOO
to MUSTAPHA THOMPSON.

Tendered and admitted for Mustapha Thompson
in re Numo Ayitey Cobblah vs: J.W. Armah & 20
Ors.
16.4.51.

DEEDS REGISTRY. No.218/1944.

THIS INDENTURE made the 26th day of April One
Thousand Nine Hundred and Forty-four (1944) BETWEEN
THOMAS KOJO HALM-OWOO of Accra in the Gold Coast
Colony (hereinafter called the Vendor which express-
ion where the context so requires or admits shall
include his heirs personal representatives and
assigns) of the one part and MUSTAPHA THOMPSON of 30
Lagos, Nigeria at present residing in Accra in the
Colony aforesaid (hereinafter called the Purchaser
which expression where the context so requires or
admits shall include his heirs personal representa-
tives and assigns) of the other part WHEREAS the
Vendor is seised in fee simple free from all in-
cumbrances of the hereditaments hereinafter
described and intended to be hereby conveyed AND
WHEREAS the Vendor has agreed with the Purchaser
for the sale to him of the said hereditaments and 40
the inheritance thereof in an unincumbered fee
simple free from all incumbrances at the price of

Exhibits

"121"

Conveyance
from Halm-Owo o
to Mustapha
Thompson.

26th April,
1944
- continued.

SIXTY-TWO POUNDS (£62) NOW THIS INDENTURE
WITNESSETH that in pursuance of the said agree-
ment and in consideration of the sum of SIXTY-TWO
POUNDS (£62) to the Vendor paid by the Purchaser
on or before the execution of these presents (the
receipt whereof the Vendor hereby acknowledges)
the Vendor doth hereby Grant and Convey to the
Purchaser ALL THAT piece or parcel of land situ-
ate lying and being at North of Guinea Lodge -
10 Adabraka Accra in the Gold Coast Colony and bounded
on the North by property now or formerly belonging
to the Vendor and measuring 200 feet more or less
on the South by property now or formerly belonging
to the Kawli Webii and measuring 200 feet more or
less on the East by property now or formerly be-
longing to the Kawli Webii and measuring 100 feet
more or less and on the West by property now or
formerly belonging to the Kawli Webii and measuring
100 feet more or less which said piece or parcel of
20 land is more particularly delineated in the Plan
annexed hereto and thereupon edged Pink

(General words and "All the estate" Clause)

TO HAVE AND TO HOLD the same Unto and to the use
of the Purchaser and his heirs for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have
hereunto set their hands and seals the day and year
first above written

30 SIGNED SEALED AND DELIVERED)
by the said THOMAS KOJO)
HALM-OWOO in the presence) T.C. Kojo Halm-Owoo
of -)

Kofie Parry
J. Magnus Allotey

SIGNED SEALED AND DELIVERED)
by the said MUSTAPHA THOMPSON) M. Thompson
in the presence of :-)

Kofie Parry
J. Magnus Allotey.

40 Received the within-named purchase price of Sixty
two Pounds (£62).

T.C. Kojo Halm-Owoo.

Witnesses -

Kofie Parry
J. Magnus Allotey.

Exhibits

EXHIBIT "124" - CONVEYANCE from T.Q. MOLAI to J.K. PARRY

"124"

Conveyance from T. Q. Molai to J.K. Parry.

2nd May, 1944.

Tendered and admitted for Mustapha Thompson in re Numo Ayitey Cobblah & Ors. v. J.W. Armah & Ors.

16.4.51.

THIS INDENTURE made the Second day of May One Thousand Nine Hundred and Forty-four (1944) BETWEEN TETTEH QUAYE MOLAI of Accra in the Gold Coast Colony Acting Korle Priest with the consent and concurrence of the elders and people whose assent to or concurrence in the valid alienation of lands belonging to the Korle webii is requisite or necessary which assent or concurrence is testified by the said elders and people executing this Instrument (hereinafter called "the Vendor" which expression where the context so requires or admits shall include their and each of their successors in title and assigns) of the one part and JOHN KOFIE PARRY of Accra aforesaid (hereinafter called "the Purchaser" which expression where the context so requires or admits shall include his heirs personal representatives and assigns) of the other part WHEREAS the Vendors are seised in fee simple in possession free from incumbrances of the hereditaments hereinafter described and intended to be hereby conveyed AND WHEREAS the Vendors have agreed with the Purchaser for the sale to him of the said hereditaments and the inheritance thereof in fee simple free from incumbrances at the price of Twenty pounds (£20) NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of Twenty Pounds (£20) to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendors hereby acknowledge) the Vendor hereby Grants and Conveys unto the Purchaser ALL THAT piece or parcel of land situate lying and being at Aquandor North of Guinea Lodge Adabraka Accra in the Gold Coast Colony and bounded on or towards the North by property now or formerly belonging to Thomas Kojo Halm Owoo and measuring 200 feet more or less on or towards the South by the Ring Road measuring 200 feet more or less on or towards the East by property of the Vendors measuring 100 feet more or less and on or towards the West by property of the Vendors and measuring 100 feet more or less or howsoever otherwise the same may be bounded known described or distinguished

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as is more particularly delineated in the Plan hereto annexed and thereon edged Pink

Exhibits

"124"

(General words and "All the estate" Clause)

TO HAVE AND TO HOLD the same Unto and to the use of the Purchaser and his heirs for ever

Conveyance from T. Q. Molai to J. K. Parry.

(Full Covenants for Title)

2nd May, 1944 - continued.

IN WITNESS whereof the parties hereto have herunto set their hands and seals the day and year first above written

10 MARKED SIGNED SEALED AND)
 DELIVERED by the said) Their
 TETTEH QUAYE MOLAI and his) Tetteh Quaye Molai X
 elders and people after)
 this Instrument had been) Tetteh Quaye Onya X
 read over and interpreted) marks
 to him in the Ga Language)
 by Joseph Mills Lamptey of) Jos. Lamptey.
 Accra when he seemed per-)
 fectly to understand the)
 20 same before putting his)
 mark hereto in the presence)
 of :-)

?
 ? Owoo
 his
 Kojo Sododi X
 mark

Witness to mark:

?

30 SIGNED SEALED AND DELIVERED)
 by the said JOHN KOFIE) Kofie Parry
 PARRY in the presence of:-)

?
 ? Owoo
 his
 Kojo Sododi X
 mark

Witness to mark:

?

40 Received the within-mentioned sum of Twenty Pounds
 their
 Tetteh Quaye Molai X
 Tetteh Quaye Onyah X
 marks
 Joseph M. Lamptey.

Exhibits

EXHIBIT "122" - CONVEYANCE from J.K. PARRY
to M. THOMPSON

"122"

Conveyance
from J. K.
Parry to
M. Thompson.

Tendered and admitted for Mustapha
Thompson in re Nuno Aytley Cobblah
vs: J.W. Armah & Ors.

16.4.51.

3rd May, 1944.

DEEDS REGISTRY No.219/1944.

THIS INDENTURE made the Third day of May One
 Thousand Nine Hundred and Forty-four (1944) BETWEEN
 JOHN KOFIE PARRY of Accra in the Gold Coast Colony 10
 (hereinafter called the Vendor which expression
 where the context so requires or admits shall in-
 clude his heirs personal representatives and
 assigns) of the one part and MUSTAPHA THOMPSON of
 Lagos Nigeria at present residing in Accra in the
 Colony aforesaid (hereinafter called the Purchaser
 which expression where the context so requires or
 admits shall include his heirs personal representa-
 tives and assigns) of the other part WHEREAS the
 Vendor is seised in fee simple in possession free 20
 from incumbrances of the hereditaments hereinafter
 described and intended to be hereby conveyed AND
 WHEREAS the Vendor has agreed with the Purchaser
 for the sale to him of the said hereditaments and
 the inheritance thereof in fee simple free from
 incumbrances at the price of Fifty-two Pounds Ten
 Shillings (£52.10/-) NOW THIS INDENTURE WITNESSETH
 that in pursuance of the said agreement and in
 consideration of the sum of £52.10/- to the Vendor
 paid by the Purchaser on or before the execution 30
 of these presents (the receipt whereof the Vendor
 doth hereby acknowledge) the Vendor Hereby Grants
 and Conveys unto the Purchaser ALL THAT piece or
 parcel of land situate lying and being at Aquandor
 North of Guinea Lodge Adabraka Accra in the Gold
 Coast Colony and bounded on or towards the North
 by property of the Purchaser measuring 200 feet
 more or less on or towards the South by the Ring
 Road measuring 200 feet more or less on or towards
 the East by property of the Kawli Webii measuring 40
 100 feet more or less and on or towards the West
 by property of the Kawli Webii and measuring 100
 feet more or less or howsoever otherwise the same
 may be bounded known described or distinguished as
 is more particularly delineated in the Plan hereto
 annexed and thereon edged Pink

(General words and "All the estate" Clause)

TO HAVE AND TO HOLD the same unto and to the use of the Purchaser and his heirs for ever

Exhibits

"122"

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

Conveyance from J. K. Parry to M. Thompson.

3rd May, 1944
- continued.

SIGNED SEALED AND DELIVERED)
by the said JOHN KOFIE) J. Kofie Parry
PARRY in the presence of:-)

10 ? Owoo
J. Magnus Allotey
?

SIGNED SEALED AND DELIVERED)
by the said MUSTAPHA)
THOMPSON in the presence) M. Thompson
of :-)

T. Kodjo Halm Owoo
J. Magnus Allotey
?

20 RECEIVED the within-mentioned sum of Fifty-two Pounds Ten Shillings (£52.10/-)

J. Kofie Parry.

EXHIBIT "70" - BUILDING PERMIT to J.E.KONEY

"70"

Tendered and admitted in re Numa A.
Cobblah v. J.W. Armah & Ors.
6/3/51.

Building Permit to J.E. Koney.

12th May, 1944.

ACCRA TOWN COUNCIL

Accra Building Regulations, 1944
(Regulation 3)

BUILDING PERMIT No.78.

30 PERMISSION is hereby granted to J.E. Koney of S.C.O.A. High Street, Accra to construct a building viz: 2 storey building and outhouses at Kokomlemle,

Exhibits

"70"

Building Permit
to J.E. Koney.

12th May, 1944
- continued.

Accra in accordance with the plans, specifications and other particulars approved by me on the 26th day of April, 1944 and subject to the conditions endorsed herein and the provisions of the Accra Building Regulations, 1944.

This Permit shall be valid until the thirtieth day of June, 1946.

Dated this 12th day of May, 1944.

A. T. Flutter
MUNICIPAL ENGINEER

10

Note - This permission does not confer any right or title to the above-mentioned premises, lands or buildings.

ENDORSEMENTS.

I the representative of the District Authority Accra under Regulation 51 of 1941 (Control of Building Materials) refuse to permit the acquisition and/or use of cement for the construction of the fence as approved on plan attached to this permit.

20

A. T. Flutter,
for DISTRICT AUTHORITY.

"75"

Building Permit
to Mary Duncan.

13th May, 1944.

EXHIBIT "75" - BUILDING PERMIT to MARY
DUNCAN

Tendered and admitted (Okai v. M.O. Ankrah)
in re Numo Ayitey Cobblah vs. J.W. Armah &
Ors.

7.3.51.

(For office use only)

B.P. No. 113 dated 27.6.44

T.B.P. No.date....

Application No. 92.

Recd. J.D.M. 23/6/44 (Sgd.)

App'd A.T.F. 26/6/44.

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ACCRA TOWN COUNCIL

ACCRA BUILDING REGULATIONS 1944
(Regulation 4)

Approx. cost £600.

To the Town Engineer,
Accra.

40

I MARY DUNCAN of House No. N421/9 Adabraka -

Accra hereby apply for permission to construct a building, viz :-

Exhibits

"75"

Single Storey Building including outhouses on my land as per plan herein attached, at Kokomlemle - Accra, subject to the provisions of the Accra Building Regulations, 1944 and in accordance with the particulars herein set forth and the drawings hereto attached.

Building Permit to Mary Duncan.

13th May, 1944
- continued.

Dated this 13th day of May, 1944.

10

Signature M. Duncan (Signed)

Approved as far as Town Planning is concerned.

(Sgd.) W.W.A.
20/6/44.

(Sgd.) D.W. McCulloch
S.P.H.E.
20/6/44.

Description of Materials, etc. to be used in the work.

All Plans must be fully dimensioned.

20

(NOTE. The description of materials and extracts from building regulations which follow are not reproduced)

EXHIBIT "125" - CONVEYANCE from T.K. HALM-OWOO to J.K. PARRY.

"125"

Tendered and admitted for Mustapha Thompson in re Numo Ay'tey Cobblah vs: J.W. Armah & Ors.

Conveyance from T.K. Halm-Owoo to J.K. Parry.

16.4.51.

13th May, 1944.

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THIS INDENTURE made the 13th day of May One Thousand Nine Hundred and Forty-four BETWEEN THOMAS KOJO HALM-OWOO of Accra in the Gold Coast Colony (hereinafter called the Vendor which expression where the context so requires or admits shall include his heirs personal representatives and assigns) of the one part and JOHN KOFIE PARRY of Accra aforesaid (hereinafter called the

Exhibits

"125"

Conveyance
from T.K.
Halm-Owoo to
J.K. Parry.

13th May, 1944

- continued.

Purchaser which expression where the context so requires or admits shall include his heirs personal representatives and assigns) of the other part WHEREAS the Vendor is seised in fee simple in possession free from incumbrances of the hereditaments hereinafter described and intended to be hereby conveyed AND WHEREAS the Vendor has agreed with the Purchaser for the sale to him of the said hereditaments and the inheritances thereof in an unincumbered fee simple free from incumbrances at the price of Twenty Pounds (£20) NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £20 to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor hereby acknowledges) The Vendor hereby Grants and Conveys unto the Purchaser ALL THAT piece or parcel of land situate lying and being at Aquandor North of Guinea Lodge Adabraka - Accra in the Gold Coast Colony and bounded on or towards the North by a Proposed Road measuring 200 feet more or less on or towards the South by property belonging to Mustapha Thompson measuring 200 feet more or less on or towards the East by property belonging to the Kawli Webii measuring 100 feet more or less and on or towards the West by property belonging to the Kawli Webii and measuring 100 feet more or less or howsoever otherwise the same may be bounded known described or distinguished as is more particularly delineated on the Plan annexed hereto and thereon edged Pink

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(General words and "All the estate" Clause)

TO HAVE AND TO HOLD the same unto and to the use of the Purchaser and his heirs for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SFALED AND DELIVERED)
by the said THOMAS KOJO)
HALM-OWOO in the presence)
of :-)

T. Kojo Halm-Owoo.

40

Magnus Allotey
Hansen Road Accra.
Petty Trader.

SIGNED SEALED AND DELIVERED)
by the said JOHN KOFIE PARRY) J. Kofie Parry.
in the presence of :-)

Exhibits

"125"

Magnus Allotey
Hansen Road Accra.
Petty Trader.

Conveyance
from T.K.
Halm-Owoo to
J.K. Parry.

Received the within-mentioned sum of Twenty Pounds
(£20).

13th May, 1944
- continued.

T. Kojo Halm-Owoo.

10

EXHIBIT "67" - LETTER from GBESE MANTSE
to COMMISSIONER OF LANDS.

"67"

Tendered and admitted for Odoitso Odoi
Kwao Family in Numo A. Cobblah v. J.W.
Armah & Anor.

Letter from
Ghese Mantse to
Commissioner of
Lands.

21/3/51.

2nd July, 1944.

AYITEY ADJIN III
GBESE MANTSE.

No.378/8/42.
Ghese Mantse We,
Accra.

20

July 20, 1944.

The Commissioner of Lands,
Cantonments,
Accra.

My Good Friend,

GBESE STOOL LANDS.

30

With further reference to my letter
No.159/43/41GM dated 20th July, 1943 relative to
the above lands, I have to inform you that the in-
junction enforced against Korle Webii and Atukpai
people places the Neema land presently under Malam
Futa in the same category.

Kindly acknowledge receipt.

I remain

Your Good Friend,

Ayitey Adjin III
GBESE MANTSE.

Exhibits

"64"

EXHIBIT "64" - LETTER from COMMISSIONER OF LANDS to NIKOI O'LAI KOTey.

Letter from Commissioner of Lands to Nikoi O'lai Kotey.

27th August, 1944.

Tendered and admitted for Odoi Kwao Family in re Numo A. Cobblah v. J.W. Armah & Ors.

21.3.51.

D.11310/18/15

558.

27 August, 1944.

10

Sir,

DEFENCE REGULATION, 1939
TAKING POSSESSION OF LAND UNDER.

ACCRA - FEEDER LINE TO AIRPORT
CLAIM BY NEE ODOI KWAO FAMILY.

With reference to your letter dated the 31st January 1944, I have the honour to inform you that the Honourable Director of Public Works upon careful investigation reports that the "remains of 7 ancient ruinous, slave-keeping stone buildings" consisted only of a few stones believed to be the foundations.

20

The only value of the remains of the building is therefore the value of the stones but, as these have only been excavated and not removed, it is considered that no compensation is payable in respect thereof.

It is observed that compensation for crops herein to the amount of £4. 4/- has been paid to your good self by the District Commissioner, Accra.

I have the honour to be,
Sir,
Your obedient Servant.

30

J.A. Rice
for COMMISSIONER OF LANDS.

Mr. C. Laud Nikoi O'lai Kotey,
P.O. Box No.3,
Accra.

EXHIBIT "59" - DEATH CERTIFICATE of
OKAIKOR CHURU.

Exhibits

"59"

Tendered and admitted for Aflyea in re
Numo Ayitey Cobblah vs: J.W. Armah & Ors.
28.2.51.

Death
Certificate
of Okaikor
Churu.

Certified copy of Entry in Register of Deaths and
Burials

2nd February,
1945.

No. 604

Name - Okarkor Churu

10 Ag - Y. M. D.
87.

Whether Still-born -

Sex - Female

Nationality or Tribe - Ga.

Occupation - Trader

Religion - Heathen

Residence at Death - Gbose Street

Period of continuous
residence in Station - All her life.

20 Last place or residence
before arrival in Station -

Date of Death - 5.8.1924.

Cause of Death - Apoplexy

Duration of illness - 1 week

Date of Registration - 5.8.1924

Name of Informant - G.T. Ayikumah

Name of Qualified Medical Practitioner,
Herbalist or other person certifying
cause of death - Dr. C.E. Reindorf.

Cemetery - Kokomlemle

30 Signature of Registrar - M. Hay

I DAVID LENNOX Acting Principal Registrar

Exhibits

"59"

Death
Certificate
of Okaikor
Churu.

2nd February,
1945

- continued.

of Deaths and Burials for the Gold Coast Colony and its Dependencies do hereby certify that the foregoing is a correct copy of the entry in the Register of Deaths and Burials kept by me under the provisions of Section 8 of the Births, Death, and Burials Ordinance, 1936, showing that Okarkor Churu died at Accra on the 5th day of August, 1924.

Given under my hand and seal at Accra in the Gold Coast Colony, this 2nd day of February, 1945.

(Sgd.) D. Lennox
AG, PRINCIPAL REGISTRAR
OF DEATHS AND BURIALS.

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"104"

Conveyance
between Tettey
Quaye Molai
and Thomas
Kojo Halm-Owoo.

13th February,
1945.

EXHIBIT "104" - CONVEYANCE between TETTEY
QUAYE MOLAI and THOMAS
KOJO HALM-OWOO.

Tendered and admitted for Plaintiff in
41/50 in re Numo A. Cobblah vs. J.W.
Armah & Ors.

30.3.51.

DEEDS REGISTRY No.750/1945.

20

THIS INDENTURE made the 13th day of February One Thousand Nine Hundred and Forty-five (1945) BETWEEN TETTEY QUAYE MOLAI of Accra in the Gold Coast Colony Acting Korle Priest with the consent and concurrence of the elders and people whose assent or concurrence in the valid alienation of lands belonging to the Kawle Webii is requisite or necessary which assent or concurrence is testified by some of the said elders and people executing this Instrument (hereinafter called "the Vendors" which expression shall where the context so requires or admits include their and each of their successors in title and assigns) of the one part and THOMAS KOJO HALM-OWOO of Accra aforesaid (hereinafter called "the Purchaser" which expression shall where the context so requires or admits include his heirs personal representatives and assigns) of the other part WHEREAS from time immemorial the Vendor's are seised in fee simple in possession free from incumbrances of the hereditaments hereinafter described and intended to be hereby conveyed AND WHEREAS the Vendors have agreed with the Purchaser for the sale to him of the said hereditaments and the inheritance thereof in fee simple free from

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Exhibits

"104"

Conveyance
between Tettey
Quaye Molai
and Thomas
Kojo Halm-Owoo

13th February,
1945

- continued.

10 incumbrances at the price of Thirty Pounds (£30)
NOW THIS INDENTURE WITNESSETH that in pursuance of
the said agreement and in consideration of the sum
of £30 to the Vendors paid by the Purchaser on or
before the execution of these presents (the receipt
whereof the Vendors hereby acknowledge) the Vendors
hereby grant and convey to the Purchaser ALL THAT
piece or parcel of land situate lying and being at
Aquandor North of Guinea Lodge Adabraka Accra in
the Eastern Province of the Gold Coast Colony and
20 bounded on the North by a proposed road measuring
400 feet more or less on the South by a proposed
road and existing property of the Purchaser measur-
ing 400 feet more or less on the East by a proposed
road measuring 250 feet more or less and on the
West by property now or formerly belonging to the
Kawli Webii measuring 250 feet more or less which
said piece or parcel of land is more particularly
delincated in the plan annexed hereto and thereon
edged Pink

(General words and "All the estate" Clause)

TO HAVE AND TO HOLD the same Unto and to the use
of the Purchaser and his heirs for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have
hereunto set their hands and seals the day and year
first above written

MARKED SEALED AND DELIVERED)

30 by the said TETTEH QUAYE) Their
NOLAI Acting Korle Priest) Tetteh Quaye Molai X
and some of his elders and) (R.T.P.) (L.S.)
people of the Kawli Webii) Tetteh Quaye Onya X
after this Instrument had) (R.T.P.) (L.S.)
been read over and inter-) marks
pretod to them in the Ga) (Sgd.)
language by Joseph Mills) Joseph M. Lamptey
Lamptey of - when they) (L.S.)
seemed perfectly to under-)
stand the same before)
40 making their marks hereto)
in the presence of :-)

(Sgd.) J.K. Parry Kodjoe Sodede his X
Witness to marks mark

(Sgd.) Joseph Mills Lamptey.

Exhibits

"104"

Conveyance
between Tettey
Quaye Molai
and Thomas
Kojo Halm-Owoo

13th February,
1945
- continued.

SIGNED SEALED AND DELIVERED)
by the said THOMAS KOJO) (Sgd.)
HALM-OWOO in the presence) T. KOJO HALM-OWOO
of :-) (L.S.)

(Sgd.) Kofie Parry
" Joseph Mills Lamptey
his
Kojo Sodede X
mark

Received the sum of Thirty Pounds (£30) the
within-mentioned purchase money.

10

(Sgd.) Joseph Mills Lamptey
his
Tetteh Quaye Onyah X
mark
his
Tetteh Quaye Molai X
ACTING KORLE mark
PRIEST

(R.T.P.)

20

"84"

Building Permit
in favour of
H.B.K. Gimba.

23rd February,
1945.

EXHIBIT "84" - BUILDING PERMIT in favour
of H.B.K. GIMBA.

Tendered by consent and admitted in re
Numo A. Cobblah v. J.W. Armah & 15 Ors.
9/5/51.

B.P. NO. 88 dated 18. 4. 45.
T.B.P. No. dated
Application No.74.

ACCRA TOWN COUNCIL

ACCRA BUILDING REGULATIONS 1944
(Regulation 4)

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TO THE TOWN ENGINEER,
ACCRA.

I, H.B. KADIRI GIMBA of House No.S308/7
Cowlane Accra hereby apply for permission to con-
struct a building, viz: Two Storeyed Building, Two
Boys Room One Hall, Two Kitchens, Two Latrines
and One Bath Room on my plot of land situate at

Kokomlemle Extension Accra subject to the provisions of the Accra Building Regulations, 1944, and in accordance with the Particulars herein set forth and the drawings hereto attached.

Exhibits

"84"

Dated this 23rd day of February, 1945.

Building Permit
in favour of
H.B.K. Gimba.
23rd February,
1945
- continued.

Signature. H.B. Kadiri Gimba.

Approved as far as Town Planning is concerned.

(Sgd.) ? 28/2/45

(Sgd.) ? 25/3/45
S.P.H.E.

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(NOTE. The description of materials and extract from Building Regulations which follow are not reproduced)

EXHIBIT "123" - CONVEYANCE from J.K. PARRY
to M. THOMPSON.

"123"

Tendered and admitted for Mustapha Thompson
in re Numo A. Cobblah vs. J.W. Armah and
Ors.

Conveyance
from J.K. Parry
to M. Thompson.

16.4.51.

29th March,
1945.

20 DEEDS REGISTRY No.584/1946.

THIS INDENTURE made the 29th day of March One thousand Nine Hundred and Forty-five BETWEEN JOHN KOFIE PARRY of Accra in the Gold Coast Colony (hereinafter called the Vendor which expression where the context so requires or admits shall include his heirs personal representatives and assigns) of the one part and MUSTAPHA THOMPSON of Lagos Nigeria now in Accra aforesaid (hereinafter called the Purchaser which expression where the context so requires or admits shall include his heirs personal representatives and assigns) of the other part WHEREAS the Vendor is seised in fee simple in possession free from incumbrances of the hereditaments hereinafter described and intended to be hereby conveyed AND WHEREAS the Vendor has agreed with the Purchaser for the sale to him of the said hereditaments and the inheritance thereof in an unincumbered fee simple free from incumbrances at the price of Fifty-two Pounds (£52) NOW

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Exhibits

"123"

Conveyance
from J.K. Parry
to M. Thompson.

29th March,
1945
- continued.

THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £52 to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor hereby acknowledges) The Vendor hereby Grants and conveys unto the Purchaser ALL THAT piece or parcel of land situate lying and being at Aquandor North of Guinea Lodge Adabraka Accra in the Gold Coast Colony and bounded on or towards the North by a Proposed Road measuring 200 feet more or less on or towards the South by property belonging to Mustapha Thompson measuring 200 feet more or less on or towards the East by property belonging to the Kawli Webii measuring 100 feet more or less and on or towards the West by property belonging to the Kawli Webii and measuring 100 feet more or less comprising an area of approximately 2,000 sq. feet or however otherwise the same may be bounded known described or distinguished as is more particularly delineated on the Plan annexed hereto and thereon edged Pink

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(General words and "All the estate" Clause)

TO HAVE AND TO HOLD the same Unto and to the use of the Purchaser and his heirs for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED)
by the said JOHN KOFIE)
PARRY in the presence of:-)

J. Kofie Parry

30

? Owoo

SIGNED SEALED AND DELIVERED)
by the said MUSTAPHA)
THOMPSON in the presence)
of:-)

M. Thompson

Received the within-mentioned sum of Fifty-two Pounds (£52).

Kofie Parry.

664.

EXHIBIT "66" - LETTER from GBESE MANTSE
to COMMISSIONER OF LANDS

Exhibits

"66"

Tendered and admitted for Odoitso Odoi
Kwao Family in re Numo A. Cobblah v. J.W.
Armah & Anor.

21.3.51.

Letter from
Gbese Mantse
to Commissioner
of Lands.

NII AYITEY ADJIN III
GBESE MANTSE

No.691/8/12
Gbese Mantse We
P. O. Box 27
Accra.

26th April,
1945.

10

26th April, 1945.

The Commissioner of Lands,
Cantonments,
Accra.

My Good Friend,

GBESE STOOL LANDS

With reference to my letter No.398/8/42 dated
20th July last, I have to report that I have inter-
viewed Nii Odoi Kwao Family regarding Neema land.

20

Having been satisfied that that land was grant-
ed to this family years ago by the then Korle Priest
with the knowledge and consent of the Gbese Mantse
on the Stool at that time, I now withdraw the letter
referred to supra.

This does not, however, cancel my letter
No.159/43/41/FM dated 20th July, 1943.

Please acknowledge receipt.

I am,

Your Good Friend,

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Ayitey Adjin III
GBESE MANTSE.

Exhibits

"80"

EXHIBIT "80" - DEED OF CONVEYANCE from
TETTEY GBEKE to J.W. ARMAH

Deed of
Conveyance
from Tettey
Gbeke to
J.W. Armah.

Tendered by consent and admitted in re Nuro
A. Cobblah vs: J.W. Armah and Ors.
8.3.51

DEEDS REGISTRY No.847/1945.

30th April,
1945.

THIS INDENTURE made the 30th day of April in the year of Our Lord One Thousand Nine hundred and Forty-five (1945) BETWEEN NII TETTEY GBEKE II Dsasetse and Acting Mankralo and Lawful Representative and Caretaker of Otuopai Stool lands of Accra in the Eastern Province of the Gold Coast (hereinafter called the Vendor which expression where the context so admits shall include his heirs successors and assigns) of the one part And JUSUF WILLIAM ARMAH also of Accra in the Province aforesaid (hereinafter called the Purchaser which expression where the context so admits shall include his heirs personal Representatives and assigns) of the other part WHEREAS the Vendor as Dsasetse and Caretaker is seised in fee simple of all Otuopai Stool lands free from incumbrances and has power with the consent and concurrence of the Elders and principal members of the said Stool for the valid alienation transfer and other dealings in the said Stool lands for valid consideration AND WHEREAS the Vendor on the 16th March 1940 agreed for the sale to the Purchaser for the sum of Thirty three Pounds (£33) of the land and hereditaments hereinafter accurately described forming part of Otuopai Stool lands NOW THIS INDENTURE WITNESSETH that in pursuance of the said Agreement and in consideration of the sum of Thirty-three Pounds (£33) to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor doth hereby acknowledge and from the same release the Purchaser) the Vendor doth hereby grant and convey unto the Purchaser his heirs personal representatives and assigns ALL THAT piece or parcel of land situate lying and being at Kokomlemle Accra aforesaid and bounded on the North by Proposed Road and Otuopai Stool land measuring One Hundred and Thirty-seven feet (137') more or less on the South by Proposed Road or Otuopai Stool land measuring Seventy-seven feet (77') more or less on the East by Proposed Road or Otuopai Stool land (at a bend) measuring One Hundred and Eighteen feet (118') more or less and on the West by Otuopai Stool land measuring One

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hundred and Seventy-five feet (175') more or less or howsoever othorwise the same may be bounded known described or distingguished and is more particularly delineated on the Plan attached thereto and therein coloured Pink

Exhibits

"80"

Deed of
Convoyance
from Tettey
Gbeke and
T.W. Armah.

30th April,
1945

- continued.

(General words and "All the estate" Clause)

10 TO HAVE AND TO HOLD the said land hereby granted or expressed so to be unto and to the use of the Purchaser his heirs personal representatives and assigns for ever

(Full Covonants for Title)

IN WITNESS whereof the parties hcreto have hereunto set their hands and seals the day and year first above written

20 SIGNED SEALED AND DELIVERED)
by the said NII TETTEY)
GBEKE II Dsasetse and Act-)
ing Mankralo and Lawful) Nii Tettey Gbeke II
Representative and Caretaker)
of Otuopai Stool lands in)
the presence of :)

E.T. Addy
J. Adjeteyokai
M.N. Aryee
Tetteh Oboe Addy his X
mark
M.N. Aryee
Witness to mark

30 SIGNED SEALED AND DELIVERED)
by the said Purchaser YUSUF) J.W. Armah
WILLIAM ARMAH in the pres-)
ence of:)

G.O. Quarcoo Pome

Received from Yusuf William Armah, Esquire, the sum of Thirty-three Pounds (£33) sterling being full payment of the purchase price of the within-described piece or parcel of land sold and conveyed to him by me.

40 E. T. Addy Nii Tettey Gbeke II
J. Adjeteyokai VENDOR
G.O. Quarocoo Pome
M.N. Aryee
Tetteh Aboe Addy his X
mark

Exhibits

"76"

EXHIBIT "76" - DEED OF CONVEYANCE from
T. GBEKE to E. K. NGMETER

Deed of
Conveyance
from T. Gbeke
to E.K.
Ngmeter.

Tendered by consent and admitted in re Numo
A. Cobblah v. J.W. Armah & Ors.

7/3/51.

DEEDS REGISTRY No.628/1947.

1st May, 1945.

THIS INDENTURE made the first day of May One
Thousand Nine Hundred and Forty-five (1945) BETWEEN
NII TETTEY GBEKE Dsasetse and Acting Mankralo of
Atukpai Accra in the Eastern Province of the Gold
Coast with the consent and concurrence of his prin- 10
cipal councillors and elders for themselves and as
representing the people of the Stool of Atukpai
Accra aforesaid and of all other person whose con-
sent and concurrence are necessary or essential for
the valid transfer or alienation of Stool or Tribal
property according to Native Custom which consent
and concurrence is sufficiently expressed by the
signature or marks of the said councillors and
elders as attesting witnesses to these presents 20
(hereinafter called the Vendor which expression
shall where the context so admits include his heirs
successors and assigns) of the one part and EMMANUEL
KOFI NGMETER of Accra in the Province aforesaid
(hereinafter called the Purchaser which expression
shall where the context so admits include his heirs
personal representatives and assigns) of the other
part WHEREAS the Vendor is seised in fee simple
and is otherwise well possessed of the land here- 30
ditaments and premises hereinafter described and
has agreed with the Purchaser for the absolute sale
to him of the said land hereditaments and premises
and inheritance thereof in fee simple in possession
free from encumbrances NOW THIS INDENTURE WITNESS-
ETH that in pursuance of the said Agreement and in
further consideration of the sum of ONE HUNDRED AND
TEN POUNDS (£110) to the Vendor paid by the Purchas-
er on or before the execution of these presents (the
receipt whereof the Vendor doth hereby acknowledge
and from the same doth hereby release the Purchaser 40
his heirs personal representatives and assigns) the
Vendor hereby grants and conveys unto and to the
use of the Purchaser his heirs personal representa-
tives and assigns ALL THAT piece or parcel of
Land situate lying and being at Kokomlemle Accra
aforesaid comprised in the Schedule hereto which
said piece or parcel of land is more particularly
delineated on the plan hereto attached and therein
edged "Pink"

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(General words and "All the estate" Clause)

Exhibits

TO HAVE AND TO HOLD the said land hereditaments and premises hereby granted or expressed so to be unto and to the use of the Purchaser his heirs personal representatives and assigns in fee simple forever

"76"

Deed of Conveyance from T.Gbeke to E. K. Ngmeter.

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

1st May, 1945
- continued.

10

SIGNED SEALED AND DELIVERED)
by the said NII TETTEY) (Sgd.)
GBEKE Dsasetse and Acting) Nil Tettey Gbeke II
Mankralo of Atukupai in the) (L.S.)
presence of ;)

(Sgd.) E.T. Addy
" J. Adjetey Okai
" M.T.T.Q. Aryee

20

SIGNED SEALED AND DELIVERED)
by the said EMMANUEL KOPI) (Sgd.) E.K. Ngmeter
NGMETER in the presence of:-)

(Sgd.) C. Ayemo-Obo
? Luther Osi

SCHEDULE above referred to

30

ALL THAT piece or parcel of Land situate lying and being at Kokomlemle Accra and bounded on the North by Otukupai Stool land measuring One Hundred and Twenty-five (125) feet more or less on the South by the property of one J.E. Coney measuring One Hundred and Twenty-five (125) feet more or less on the East by a proposed Road measuring Eighty (80) feet more or less and on the West by the property of Mary Duncan measuring Eighty (80) feet more or less
Area. 23 acre

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On the 22nd day of July 1947 at 11.42 o'clock in the forenoon this Instrument was proved before me by the Oath of the within named Mohamed Thiru Thomas Quarcoo Aryee to have been duly executed by the within named NII TETTEY GBEKE Dsasetse and Acting Mankralo of Atukupai.

Given under my Hand.

(Sgd.) D.H. Shackles
REGISTRAR OF DEEDS, ACCRA.

Exhibits

"4"

EXHIBIT "4" - COPY LETTER from GBESE MANTSE and his elders to NII TETTEY GBEKE.

Copy Letter of request from Gbese Mantse and his elders to Nii Tettey Gbeke.

1st May, 1945.

Tendered and admitted in evidence for defendant, in re Numo A. Cobblah v. J.W. Armah & other 18 cases.

5/2/51

Tendered in evidence by defendants and marked Exhibit "16" in re Cobblah &c. v. Gbeke & ors.

9/4/47.

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NII AYITEY ADJIN III
Gbese Mantse.

No. 696/8/42
Gbese Mantse We,
P. O. Box 27,
Accra.

1st May, 1945.

Nii Tettey Gbeke II,
Acting Mankralo,
Atukpai, Accra.

Dear Nii,

20

I have to confirm my conversation with you and your elders on Thursday the 26th ultimo that the Gbese Stool requires a portion of the Atukpai Stool land also known as Kokomlemle lands, which stool is subordinate to the Gbese Stool, for sale to discharge certain Stool debts.

This request being urgent, I shall be pleased to have that portion of the land transferred over to me by Saturday the 5th instant and as it is required by and for the Stool, it must be conveyed to me as Gbese Mantse and present occupant of the Stool.

30

It must be understood, however, this is not a personal charge, but ant any time that I shall require any of the land for my private use and for the use of my family this present request shall not preclude me from doing so.

Yours very truly,

(Sgd.) Ayitey Adjin III
GBESE MANTSE.

Aryeetey II,
Gbese Akwasongtse

40

his
S.K. Tettey X
mark

CHIEF LINGUIST TO GBESE MANTSE.

W/M & Sg.
(Sgd.) ?

EXHIBIT "71" - DEED OF CONVEYANCE between
TETTEY GBEKE and J.E. KONEY

Exhibits

"71"

Tendered and admitted re Numo A. Cobblah
v. J.W. Ammah.

6/3/51.

Deed of
Conveyance
between
Tetty Gboke
and J. E.
Koney.

1st May 1945.

10

20

30

40

THIS INDENTURE made the first day of May One thousand Nine Hundred and Forty-five (1945) BETWEEN NII TETTEY GBEKE Dsasetse and Acting Mankralo of Atukpai Accra in the Eastern Province of the Gold Coast with the consent and concurrence of his principal Councillors and Elders for themselves and as representing the people of the Stool of Atukpai Accra aforesaid and of all other person whose consent and concurrence are necessary or essential for the valid transfer or alienation of Stool or Tribal property according to Native Custom which consent and concurrence is sufficiently expressed by the signatures or marks of the said Councillors and Elders as attesting Witnesses to these presents (hereinafter called the Vendor which expression shall where the context so admits include his heirs successors and assigns) of the one part and JEHOSHAFAT EBENEZER KONEY of Accra in the Province aforesaid (hereinafter called the Purchaser which expression shall where the context so admits include his heirs personal representatives and assigns) of the other part WHEREAS the Vendor is seised in fee simple and is otherwise well possessed of the land hereditaments and premises hereinafter described and has agreed with the Purchaser for the absolute sale to him of the said land hereditaments and premises and the inheritance thereof in fee simple in possession free from encumbrances NOW THIS INDENTURE WITNESSETH that in pursuance of the said Agreement and in further consideration of the sum of TWO HUNDRED AND SIXTY POUNDS (£260) to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor doth hereby acknowledge and from the same doth hereby release the Purchaser his heirs personal representatives and assigns) the Vendor hereby grants and conveys unto and to the use of the Purchaser his heirs personal representatives and assigns ALL THAT Piece or parcel of Land situate lying and being at Kokomlemle, Accra aforesaid comprised in the Schedule hereto which said piece or parcel of land is more particularly delineated

Exhibits

"71"

on the Plan hereto attached and therein edged "Pink"
(General words and "All the estate" Clause)

Deed of
Conveyance
between
Tettey Gbeke
and J. E.
Koney.

TO HAVE AND TO HOLD the said land hereditaments
and premises hereby granted or expressed so to be
unto and to the use of the Purchaser his heirs
personal representatives and assigns as in fee
simple forever

(Full Covenants for Title)

1st May, 1945
- continued.

IN WITNESS whereof the parties hereto have
hereunto set their hands and seals the day and year
first above-written

10

SIGNED SEALED AND DELIVERED)
by the said NII TETTEY)
GBEKE Dsassetse and Acting) (Sgd.) Joseph Gbeke II
Mankralo of Atukpai in the)
presence of :-)

(Sgd.) E.T. Addy
" Adjetey

SIGNED SEALED AND DELIVERED)
by the said Jehoshafat) (Sgd.)
Ebenezzer Koney in the pres-) JEHOASHAFAT EBENEZER
ence of :-) KONEY

20

(Sgd.) ? ?
" ? ?

SCHEDULE above referred to:

ALL THAT piece or parcel of landsituate lying and
being at Kokomlemle Accra and bounded on the North
by the properties of one Mary Duncan and E.K.Ngmeter
measuring Two Hundred and Fifty (250) feet more or
less on the South by the property of one H. E.
Golightly measuring Two Hundred and Fifty (250)
feet more or less on the East by a Proposed Road
measuring Eighty (80) feet more or less and on the
West by the Accra-Ksawam Road measuring Eighty (80)
feet more or less.

30

On the _____ day of _____ 1-45 at _____ o'clock
in the forenoon this Instrument was proved before
me by the Oath of the within-named
to have been duly executed by the within-named NII
TETTEY GBEKE Dsassetse and Acting Mankralo of
Atukpai.

40

EXHIBIT "23" - RECEIPT for £380.10.Exhibits
"23"

Tendered and admitted in evidence for
Odoitso Odoi Kwao Family, in re Numo
Ayitey Cobblah v. J.W. Armah & 17 other
cases.

Receipt for
£380.10.

11th May, 1945.

16/2/51.

PUBLIC LANDS ORDINANCE.

10 Received from the Government of the Gold Coast
the sum of £380.10. being agreed compensation for
and in full settlement and discharge of all claims
against the said Government which we the under-
signed or the families we represent or any member
or members of the said families may have in respect
of the acquisition by the said Government of the
land acquired for the Ring Road at Accra. in the
Eastern Province of the Gold Coast Colony.

Dated at Accra this 11th day of May, 1945.

20 Nii Tetteh Quaye Molai his
AG. KORLE PRIEST. X
mark
her
Jemima Tetteh X
REPRESENTATIVES - LOMO mark
ANSAH FAMILY
her
Odoitso Odoi Kwao X
REPRESENTATIVES - ODOI KWAO mark
FAMILY

Witness -

30 (Sgd.) Eml. B. Okai
(Sgd.) E. Edward Brown
(Sgd.) E. Laud Nikoi O'lai Kotey.

Witness to signatures and payment:

(Sgd.) ? ? ?

Gold Coast
2d Postage Stamp

Exhibits

"82"

EXHIBIT "82" - LETTER from COMMISSIONER
OF LANDS to R.A. BANNERMAN

Letter from
Commissioner of
Lands to R. A.
Bannerman.

Tendered by consent and admitted in re
Numo A. Cobblah v. J.W. Armah & 18 Ors.
9/3/51.

1st October,
1945.

No. 353/61

LANDS DEPARTMENT
CAMPOMENTS
P. O. BOX 523,
ACCRA, GOLD COAST. 10

1st October, 1945.

Sir,

ADABRAKA - ACCRA NORTH OF NSAWAM ROAD -
DODOWAH ROAD SECTION OF THE RING ROAD.

I have the honour to acknowledge the receipt
of your letter dated the 13th September 1945 and to
inform you that the pillars mentioned by you were
fixed by a Government Surveyor engaged upon the
survey for acquisition purposes of the Public Utility
sites within the area as above described. 20

Plans in respect of the acquisition are awaited
from the Survey Department. On receipt of these,
First Notice will be published and served in accordance
with the Public Lands Ordinance when you can
submit a claim.

The Plan enclosed with your letter under
acknowledgement is returned herewith.

I have the honour to be,
Sir,
Your obedient Servant,

(Sgd.) E.W. Stacpoole 30
COMMISSIONER OF LANDS.

MR. R.A. BANNERMAN
P. O. BOX 767,
ACCRA.

674.

EXHIBIT "72" - LETTER from A. SAWYERR to
J.E. KONEY.

Exhibits

"72"

Tendered and admitted in re Numo A. Cobblah
v. J.W. Armah & Ors.

6/3/51.

Letter from
A. Sawyerr to
J.E. Koney.

30th November,
1945.

Akilagpa Chambers,
P.O. Box 91, Accra.

30th November, 1945.

Dear Sir,

10

I am instructed by Mr. E.B. Okai and Madam Sarah Okai of this place that you have been trespassing on their land at Kokomlemle.

My clients inform me that you have lately started to build on their said land, and they have instructed me to ask you to stay all operations thereon forthwith.

20

And please take Notice that if you do not immediately comply with this request, my instructions are to institute legal proceedings against you in the matter without further Notice to you.

Yours faithfully,

(Sgd.) Akilagpa Sawyerr.

SOLICITOR FOR E.B. OKAI and
SARAH OKAI.

Exhibits

"73"

EXHIBIT "73" - LETTER from J.E. KONEY to
A. SAWYERR.

Letter from
J.E. Koney to
A. Sawyerr.

Tendered in evidence and admitted in re
Nuno A. Cobblah & Ors. v. J.W. Armah &
Ors.

5th December,
1945.

6/3/51.

J. E. KONEY, ESQ.,
S.C.O.A.
HIGH STREET,
ACCRA.

10

5th December, 1945.

Dear Sir,

I beg to acknowledge receipt of your letter
Ref. No.197/1945 of 30th November, 1945, written
upon instructions and on behalf of your clients
Mr. E.B. Okai and Madam Sarah Okai, in connection
with my building now in erection at Kokomlemle.

In reply thereto I have to say that your
clients have not presented the facts on the case
accurately to you.

20

The position is this, although I purchased the
land from the people of Otuopai, Accra as soon
I heard that your clients too lay claim to it. I
approached Mr. E.B. Okai who directed me to treat
with his brother to whom, according to him, he had
given authority to act upon his behalf in connec-
tion with the land.

I accordingly interview his said brother Mr. J.
Ayitey Okai at Mr. J. Ayitey Okai's request I gave
the customary bottle of rum for permission to con-
tinue the erection of the building I had started to
erect on the land, with the understanding that if
your clients should win their case now pending in
Court against the Otuopai's they too will sell the
land to me.

30

Under the circumstances I fail to see why your
clients should instruct you to write to me in the
manner you did.

Yours faithfully,
(Sgd.) J.E. Koney.

40

This is the letter marked "B" referred to in
the Oath of Jehoshaphat Ebenezer Koney sworn before
me this day of December, 1945.

EXHIBIT "81" - LETTER from GILES HUNT &
CO. TO KORLE WE FAMILY

Exhibits

"81"

Tendered by Plaintiff in 38/50 admitted
in Nuno Ayitoy Cobblah v. J.W. Armah & Ors.
9/3/51.

Letter from
Giles Hunt &
Co. to Korle
We Family.

18th December,
1945.

TO -

The Korle We or Korle Family and its lawful
Representatives.

Its Head of Family and Principal Members.

10 AND TO -

The Gbese Manche.

As Solicitor for and on behalf of the Bishop
Apostolic of the Roman Catholic Mission of the Gold
Coast WE HEREBY GIVE YOU NOTICE that possession
and quiet enjoyment have not been given of the
hereditaments contained in and demised by an Inden-
ture of Lease made the 30th September, 1939 Between
the Korle-We or Korle Family of Gbese, Accra per
its lawful Representatives therein mentioned of the
one part and Tho Right Reverend William Thomas
Portor, Bishop Apostolic of the Roman Catholic
Mission of the Gold Coast of the other part AND
20 THAT in pursuance of the covenant thereto relating
in the aforesaid lease contained YOU ARE HEREBY
REQUIRED to demise by Deed to the said Bishop
Apostolic as aforesaid land belonging to you in
the Korle We or Korle Family of Gbese, within the
limits of Accra aforesaid of extent equal to that
demised by the aforesaid Indenture of Lease; such
30 land to be in all respects equally suitable for the
purpose of a Mission Station for Schools, Church
and Residence and to be demised on the same terms
and conditions as in the aforesaid Indenture of
Lease contained.

18th Dec. 1945.

Giles Hunt & Co.
SOLICITORS FOR AND ON BEHALF OF
THE BISHOP APOSTOLIC OF THE ROMAN
CATHOLIC MISSION OF THE GOLD COAST.

Exhibits

"101"

EXHIBIT "101" - APPLICATION FOR JOINDER
of OSU TETTEH FAMILY in SUIT 23/1944
with AFFIDAVIT in support.

Application for
Joinder of Osu
Tetteh Family
in Suit 23/1944
with Affidavit
in support.

Tendered in evidence by defendant No.41/50
admitted and marked Exhibit "101" in re
Numo Ayitey Cobblah v. J.W. Armah & Ors.
23.3.51.

5th January,
1946.

IN THE SUPREME COURT OF THE GOLD COAST
EASTERN JUDICIAL DIVISION
LAND COURT, ACCRA
A. D. 1946.

10

Trans. Suit No.23/1944

H.C. KOTey as Head and Representative
of Nil Kotey Family of Korle we
Gbese, Plaintiff

v.

NIKOI KOTey, KWAKU AFONSA,
Q. SOLOMON and E.P. LUTTERODT,
Defendants

RE APPLICATION BY KWARLEY TETTEH, HEAD AND
REPRESENTATIVE OF THE OSU TETTEH (alias)
TETTEH KOJO) Family for JOINDER herein

20

TAKE NOTICE that this Court will be moved by
AKUFO ADDO of Counsel for and on behalf of Kwarley
Tetteh on Saturday the 12th day of January, 1946,
at 8.30 of the clock in the forenoon or so soon
thereafter as Counsel may be heard for an Order
that the said Kwarley Tetteh be joined as a Co-
Defendant herein in her capacity as Head and Re-
presentative of the Osu Tetteh Family (alias Tetteh
Kojo Family) of Accra and Christiansborg And/or for
any further Order or Orders as to the Court may
seem fit.

30

DATED at Kwakwaduan Chambers, Accra, this 5th
day of January, 1946.

Akufo Addo,
SOLICITOR FOR APPLICANT.

The Registrar, Land Court, Accra.

and

To H.C. Kotey of Accra, The above-named Plaintiff.

40

and

To The Defendants, Nokoi Kotey of Accra, Kwaku
Afonsa of Accra, Solomon of Accra and E.C. Lutterodt
of Accra.

Tendered and admitted for defendant
No.41/50 in re Numo Ayitey Cobblah v.
J.W. Armah & Ors.

Exhibits

"101"

28/3/51.

Filed 8/1/46 at 11.40 a.m.
S.K.D.

Application for
Joinder of Osu
Tetteh Family
in Suit 23/1944
with Affidavit
in support.

5th January,
1946

- continued.

IN THE SUPREME COURT OF THE GOLD COAST
EASTERN JUDICIAL DIVISION
LAND COURT, ACCRA.

A. D. 1946

Trans. Suit No.23/1944.

10

H.C. KOTEY as Head and Representative
of Nil Kotey Family of Korle we Gbese
Accra, Plaintiff

v.

NIKOI KOTEY, KWAKU AFONSA,
Q. SOLOMON and E.P. LUTTERODT. Defendants

RE APPLICATION BY KWARLEY TETTEH, HEAD AND
REPRESENTATIVE OF THE OSU TETTEH (alias
TETTEH KOJO) FAMILY for JOINDER herein

20

AFFIDAVIT OF ALFRED QUAYE OFORI
IN SUPPORT THEREOF

I, ALFRED QUAYE OFOLI of Accra make Oath and say:-

1. I am a member of the Osu Tetteh (alias Tetteh Kojo) Family of Accra, and I am authorised and empowered by the above-named Kwarley Tetteh, Head of the family aforesaid to swear to this affidavit on her behalf.
2. The Osu Tetteh Family are interested in the subject-matter of this suit and are desirous of being joined as co-defendants in order to be able to protect their interest.
3. A surveyed plan of the land in dispute is in the course of preparation.
4. The Osu Tetteh Family became aware that the claims put forward by both parties include a portion of land described below when the parties were pointing out their respective

30

Exhibits

"101"

Application for Joinder of Osu Tetteh Family in Suit 23/1944 with Affidavit in support.

5th January, 1946
- continued.

boundaries to the Surveyor for the purpose of the survey.

- 5. The portion claimed by the Osu Tetteh Family is bounded as follows :-

North by Odoi Kwao family property
 South by Fanofa valley
 East by Djaw wulu (or Mamobi Djaw)
 West by Old Road from Osu to Kotobabi.

- 6. The land described in paragraph 5 supra was granted to the said Osu Tetteh (alias Tetteh Kojo) an Elder of the Gbese Quarter of Accra by the Korley Priest and the elders of Gbese and Korley about 90 (ninety) years ago. 10
- 7. The said Osu Tetteh, his family servants, agents and licensees have been in possession of the land ever since and have enjoyed uninterrupted occupation of the land to date.
- 8. By reason of the premises I make this affidavit on behalf of Kwarley Tetteh in support of her application for an Order that the said Kwarley Tetteh be joined in the suit as a Co-defendant in her capacity as Head of the Osu Tetteh Family. 20

SWORN at Accra this 5th day }
 of January, 1946, by the } Alfred Quaye Ofori
 Deponent. }

Before me:

(Sgd.) J.A. Lawson,

COMMISSIONER FOR OATHS.



EXHIBIT "14" - CONVEYANCE from G.A. AGYARE
to ALICE AINOONSON.

Exhibits

"14"

Tendered and admitted for Defendant, in
re Nuno Ayitoy Cobblah vs; J.W. Armah &
13 other cases.

14/2/51.

Conveyance
from G.A.
Agyare to
Alice Ainoonson.

DEEDS REGISTRY No.255/1946.

5th March,
1946.

10 THIS INDENTURE made the fifth day of March One
Thousand Nine Hundred and Forty-six (1946) BETWEEN
GEORGE ASIAMA AGYARE of Accra in the Eastern Pro-
vince of the Gold Coast Colony (hereinafter called
the Vendor which expression shall where the context
so admits or requires include his heirs personal
representatives and assigns) of the one part and
ALICE AINOONSON of Accra aforesaid (hereinafter
called the Purchaser which expression shall where
the context so admits or requires include her heirs
personal representatives and assigns) of the other
20 part WHEREAS by an Indenture dated the 20th day
of July 1943 and made between Nii Tettey Gbeke
Dsasetse of the Otuopai Stool Accra with the consent
and concurrence of the Elders and Councillors of the
said Stool of the one part and the Vendor of the
other part ALL THAT piece or parcel of land
described therein and delineated on the plan drawn
thereto attached and therein marked red registered
as No.169/1946 having an area 27,000 square feet
more or less being bounded on or towards the North
30 by Archie Hayford's property measuring two hundred
feet (200') more or less on or towards the South
partly by Otuopai Stool land measuring One hundred
feet (100') more or less and partly by a proposed
road measuring one hundred feet (100') more or less
on the East by a proposed road measuring one hundred
and eighty feet (180') more or less and on or to-
wards the West partly by a proposed road measuring
ninety feet (90') more or less and partly by
40 Otuopai Stool land measuring ninety feet (90') more
or less Together with all rights easements and
appurtenances thereto belonging or then or there-
tofore enjoyed therewith was granted to the Vendor
his heirs and assigns for ever AND WHEREAS the
Vendor has agreed with the Purchaser for the abso-
lute sale to her of the hereditaments intended to
be hereby granted and the inheritance thereof in
fee simple in possession free from incumbrances at
the price of Fifty-five pounds (£55) NOW THIS
INDENTURE WITNESSETH that in pursuance of the said

Exhibits

"14"

Conveyance
from G. A.
Agyare to
Alice
Ainoonson.

5th March,
1946
- continued.

agreement and in consideration of the said sum of FIFTY-FIVE POUNDS (£55) to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor doth hereby acknowledge) ALL THAT piece or parcel of land containing in the whole by way of area 9,000 square feet or thereabouts situate lying and being at Akrade Accra in the Eastern Province of the Gold Coast Colony and bounded on or towards the North by Mary Villar's property measuring One hundred feet (100') more or less on or towards the South by a proposed road measuring one hundred feet (100') more or less on or towards the East by a proposed road measuring ninety feet (90') more or less and on or towards the West by Otuopai Stool land measuring ninety feet (90') more or less which said piece or parcel of land is more particularly delineated on a plan annexed hereto and thereon edged red

10

(General words and "All the estate" Clause)

TO HOLD the same Unto and to the use of the Purchaser her heirs and assigns for ever

20

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED)
by the said GEORGE ASIAMA) (Sgd.) Geo.A. Agyare
AGYARE in the presence of:-) (L.S.)

(Sgd.) J. Brookman Amissah
Accra.

30

SIGNED SEALED AND DELIVERED)
by the said ALICE AINOONSON) (Sgd.) Alice Ainoonson
in the presence of :-) (L.S.)

(Sgd.) J. B. Ainoonson

Received the within-mentioned consideration money of Fifty-five pounds (£55).

(Sgd.) Geo. A. Agyare.

EXHIBIT "15" - DEED OF CONVEYANCE between
C.A. AGYARE and MARY VILLARS

Exhibits
 "15"

Tendered and admitted for Defendant, in
 re Nuno Ayitey Cobblah v. J.W. Armah &
 18 other cases.

14/2/51.

Deed of
 Conveyance
 between
 G.A. Agyare
 and Mary
 Villars.

5th March,
 1946.

DEEDS REGISTRY No.254/1946.

10 THIS INDENTURE made the fifth day of March One
 Thousand Nine Hundred and Forty-six (1946) BETWEEN
 GEORGE ASIAMA AGYARE of Accra in the Eastern Pro-
 vince of the Gold Coast Colony (hereinafter called
 the Vendor which expression shall where the context
 so requires or admits include his heirs personal
 representatives and assign) of the one part and
 MARY VILLARS of Accra aforesaid (hereinafter called
 the Purchaser which expression shall where the con-
 text so requires or admits include her heirs person-
 al representatives and assigns) of the other part
 20 WHEREAS by an Indenture dated the 20th day of July
 1943 and made between Nii Tettey Gbeke Dsassetso of
 Otuopai Stool Accra with the consent and concurrence
 of the Elders and Councillors of the said Stool of
 the one part and the Vendor of the other part ALL
 THAT piece or parcel of land described therein and
 delineated on the plan drawn thereto attached and
 therein marked red registered as No.169/1946 having
 an area of 27,000 square feet more or less bounded
 on the North by Archie Hayford's property measuring
 Two hundred feet (200') more or less on the South
 30 partly by Otuopai Stool land measuring One hundred
 feet (100') more or less and partly by a proposed
 Road measuring One hundred feet (100') more or less
 on the East by a proposed Road measuring One
 hundred and eighty feet (180') more or less and on
 the West partly by a proposed Road measuring ninety
 feet (90') more or less and partly by Otuopai Stool
 land measuring ninety feet (90') more or less
 Together with all rights easements and appurtenances
 thereto belonging or then or therefore enjoyed
 40 therewith was granted to the Vendor his heirs and
 assigns for ever AND WHEREAS the Vendor has agreed
 with the Purchaser for the absolute sale to her of
 the hereditaments intended to be hereby granted and
 the inheritance thereof in fee simple in possession
 free from incumbrances at the price of One hundred
 and ten pounds (£110) NOW THIS INDENTURE WITNESSETH
 that in pursuance of the said agreement and in
 consideration of the said sum of ONE HUNDRED AND TEN

Exhibits

"15"

Deed of
Conveyance
between
G.A. Agyare
and Mary
Villars.
5th March,
1946
- continued.

POUNDS (£110) to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor doth hereby acknowledge) the Vendor hereby grants unto the Purchaser ALL THAT piece or parcel of land containing in the whole by way of area 18,000 square feet or thereabouts situate lying and being at Akade Accra in the Eastern Province of the Gold Coast Colony and bounded on or towards the North by Archie Hayford's property measuring two hundred feet (200') more or less on or towards the South partly by Otuopai Stool land measuring one hundred feet (100') more or less and partly by Alice Ainoonson's property measuring one hundred feet (100') more or less on or towards the East by a proposed road measuring ninety feet (90') more or less and on or towards the West by a proposed road measuring ninety feet (90') more or less which said piece or parcel of land is more particularly delineated on the plan attached hereto and thereon edged red

10

20

(General words and "All the estate" Clause)

TO HOLD the same Unto and to the use of the Purchaser her heirs and assigns for ever

(Full Covenants for Title)

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED)
by the said GEORGE ASIAMA) (Sgd.) Geo. A. Agyare
AGYARE in the presence of:-) (L.S.)

30

(Sgd.) J. Brookman Amissah
Accra.

MARKED SEALED AND DELIVERED)
by the said MARY VILLARS)
after the foregoing had) her
been read over and inter-) Mary Villars X
preted to her in the Fanti) (L.S.) mark
language by R.T. Smith of)
Accra when she seemed per-) (Sgd.) R.T. Smith
fectly to understand the) Witness to mark.
same before making her mark)
hereto in the presence of:-)

40

(Sgd.) W.A. Akiwumi

Received the within-mentioned consideration money of One Hundred and Ten pounds (£110).

(Sgd.) Geo. A. Agyare.

EXHIBIT "140"

Exhibits

JUDGMENT OF M'CARTHY J. IN
ODOITSO ODOI KWAO v. NII AZUMA III

"140"

Tendered and admitted in evidence for Nii Azuma III in re Nuno Ayitey Cobblah etc. vs: J.W. Ammah & other consolidated cases. 9/5/51.

Judgment of M'Carthy J. in Odoitso Odoi Kwao v. Nii Azuma III.

15th July 1946.

15th July, 1946.

10 In the Supreme Court of the Gold Coast, Eastern Judicial Division, Lands Division, held at Victoriaborg, Accra, on Monday the 15th day of July, 1946, before M'Carthy, Ag. C.J.

Transferred Suit
No.24/1944

Odoitso Odoi Kwao, Acting Head of the Nii Odoi Kwao Family of Christiansborg, Accra, Plaintiff

v.

20 Nii Azuma III, Head of the Brazilian Community of Accra for himself and as representing the Brazilians of Accra and the late Frank Ribeiro and Head of the Lawrence family, Defendants.

Hashem Noshie of Accra
Ezekiel Fiscian as Head of the Fiscian Family of Accra
Laliki as representing the Aruna Yawafio family
Amba Fatuma as representing the Aruna Dangana family, Co-Defendants.

30 JUDGMENT -

This suit in which the plaintiff claims inter alia a declaration of title to land north of Farrar Avenue, Accra, commenced in the Ga Mantse's Tribunal by Writ of Summons dated the 26th November, 1943, and was transferred by the Provincial Commissioner's Court by Order dated the 15th December, 1944, to the Divisional Court. By virtue of the Native Courts Ordinance, 1944, which came into force on the 1st

Exhibits

"140"

Judgment of
M'Carthy J.
in Odoitso
Odoi Kwao v.
Nii Azuma III.

15th July 1946
-continued.

April, 1945, it was tried by me as Land Judge sitting with Mr. Asante, Assessor.

Odoitso Odoi Kwao, Acting Head of the Nii Odoi Kwao family of Christiansborg, was substituted by the Tribunal as Plaintiff on the death of Nii Anyetey Kwao the original plaintiff.

The original defendants were Nii Azuma III, as Head of the Brazilian Community of Accra, and Frank Ribeiro as representing the Lawrence family. The latter having died his place has been taken by Nathan Cojo Lawrence his successor. The following have been added as co-defendants, Hashem Noshie (Syrian Trader), Ezekiel Fiscian, as Head of the Fiscian family; Laliki, as representing the Aruna Yawafio family, and Amba Fatuma as representing the Aruna Dangana family.

10

The Lawrence, Fiscian, Aruna Yawafio and Aruna Dangana families are all Brazilian families, and have for some years been engaged in litigation with Nii Azuma III in respect of the land in dispute in this suit. Nii Azuma claims that all Brazilian lands are under him as Head of the Brazilian community, the families mentioned claimed that each branch of the community owns its own portion of land. However in the face of the claim of the plaintiff to the land now in dispute they have sunk for the time being their internal differences and made a common front against the Odoi Kwao family.

20

The land in dispute is described in the Writ of Summons as,

30

"Land situate at Akanetso North East of Adabraka in Accra bounded on the North by Ring Road and property of the plaintiffs Nii Odoi Kwao's family, on the South by Farrar Avenue Thelma Lodge, Guinea Lodge, Late P.A. Renner's property, Lunatic Asylum and property of Adams, on the East by Government land and on the West by properties of Nii Lomo Ansah's family, Afutu Kotey and Korle Webii".

40

and delineated in the plan marked as Exhibit "A", which shows an area edged red as part of land alleged by the plaintiff to belong to her family, and almost entirely included in the said area an area

10 edged green claimed by Nii Azuma III, this latter area containing smaller areas claimed respectively by the Co-defendants. Actually the plaintiff is not claiming all the land within the red border, thus an important built-up strip of land to the south and facing Farrar Avenue is by common consent the property of persons who are not parties to the suit, but the plaintiff contends that the owner derive title through her family. Other portions have also been granted by the family to persons not parties to the suit.

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20 The land in dispute contains a few cement buildings, but is for the most part covered with foodstuff farms, and extensively planted with fruit trees. The land is on the outskirts of Accra, and the Southern portion being between eighty and sixty feet above sea level, and being close to a motor road, has of recent years become valuable building land. The remainder though less valuable may also be regarded as potential building land.

The land is on the Northern slope of a plateau; to the South of this is Accra proper. Along the North-West boundary runs a watercourse, leading to the River Odaw which it meets West of the Nsawam Road. Most of the land in dispute is lowlying. The locality is known as Fanofa valley.

Plaintiff's case is based on:

1. Tradition of grant of Ga Stool land.
- 30 2. Confirmation of ownership by owners of lands on South-Western boundary, and by the Korle Stool family, the traditional caretakers of Ga Stool lands.
3. Admission by prominent Brazilian Aruna Nelson in old case.
4. Ownership of land immediately to the North-East of land in dispute.
5. Previous ownership of land to the South.
6. Ownership of land to East.
- 40 7. Government acquisitions discrediting Brazilian case.

Exhibits

"140"

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-continued.

8. Occupation as evidenced by farms, old wells, fetish trees, and numerous fruit trees alleged to belong to plaintiff, and oral evidence.

Defendants' case based on:

1. Traditional grant of Ga Stool land.
2. Government acquisitions of alleged Brazilian lands.
3. Previous litigation.
4. Confirmation of ownership by owner of land on North-West boundary. 10
5. Occupation, payment of tolls by Brazilians to plaintiff's family being denied.

1. Tradition -

Evidence was given on behalf of plaintiff as to the grants to her ancestor, Odotei Shishiabo, about 1810 by the Ga Mantse, Gbese Mantse and the Korle We family of a large tract of land known as Akanetso. This land including that in dispute, had as its southern boundary an old footpath now become Farra Avenue, and stretched both Northwards and Eastwards a considerable distance beyond the land in dispute. The old footpath referred to as the Osu-Kpehe footpath crosses Akanetso land in a North-Westerly direction. Whereas according to the defendants this footpath is the ancient boundary between the Osus and the Accra, the evidence for the plaintiff was to the effect that this boundary lies well to the East of the Osu-Kpehe footpath and forms the Eastern boundary of Akanetso. The tradition was told by several witnesses for the plaintiff. All gave the name of the Ga Mantse who made the grant as Yaotey. It is however not disputed that the Ga Mantse who bore this name was on the Stool immediately before Tackie Tawiah I who died about 1902. The tradition evidently has gone wrong either as regards the name of the Ga Mantse or the time of the grant. 20 30

2. Confirmation of tradition:

The tradition was supported by T. Q. Onyaa, Acting Korle Priest. This is important as he spoke 40

as representative of the Korle We family, who are the traditional caretakers of Ga lands, that is those not belonging to one of the subordinate chiefs, or to a family or individual. Onyaa agreed with the plaintiff's claim as to the position of the Osu-Accra boundary, and as to the grant to Shishiabo. G.A. Tetteh another member of the Korle Family, gave similar evidence.

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10 Okoe Lamptey stated that according to his family tradition his great uncle Lomo Ansah obtained from the Ga Mantse and others land west of the said watercourse, and that the land to the East of it belongs to the Plaintiff's family.

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-continued.

Somewhat similar evidence was given by successors of J.D. Garshong and Albert Lutterodt who also derive title through Lomo Ansah.

3. Admission by prominent Brazilian -

20 In 1921 J.E. Maslino former caretaker of Brazilian lands unsuccessfully sued Tetteh Kojo the successor of Lomo Ansah in the Ga Manche's Tribunal in respect of land West of the land in dispute and lying between it and the Nsawam Road. The plaintiff has put in the evidence of Aruna Nelson, a prominent Brazilian, which contains an admission that he did not know that Fanofa land belonged to the Brazilians. Part of the land then in dispute was part of Fanofa.

4. Land North of land in dispute:

30 There appears to be no reason to doubt that the plaintiff is in possession of land immediately to the North-East of the land in dispute, though her title to land to the North generally is disputed by the Kotey family of Accra. Close to the land in dispute, on the North-East, are traces of a former building. According to Nicolai Kotey, who gave evidence as representative of plaintiff, these are the ruins of a village erected by Odoi Kwao, son of Shishiabo. Nicolai Kotey said that he can remember it shortly before it fell in ruins.
40 He said that Shishiabo lived at Nimaan on the land granted by the Accras, but a good way North of the land in dispute, and this his son Odoi Kwao also lived there.

Exhibits5. Previous ownership of land to South:

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 -continued.

Plaintiff sought to show through Exhibits "C" "D" and "E" that the Guinea Lodge, Thelma Lodge and Dieudon sites were granted to the persons who built on them directly or indirectly, by Ayieley Akua a member of the plaintiff family who obtained the land from the family. But Exhibit "I" a conveyance of the land from the Korle Priest dated the 14th May, 1910, to Ayieley Akua showed that she derived her title from the Korle Priest. Exhibit "X" also showed that W.G. Lathbridge, a European for whom Ayieley Akua bore children, derived title from the Korle Priest to a long strip of land immediately South of these houses. It is explained that the documents from the Korle Priest in each instance were obtained by way of precaution, and that actually the land was granted by the plaintiff family to Ayieley Akua or Lathbridge. But it seems improbable that the persons acquiring the properties and anxious to secure their documentary title would ignore the title of the plaintiff family, if their title were derived from it, and be at pains to establish direct title from the Korle Priest, who was supposed to have parted with the land in 1810.

Exhibit "G" is a deed dated the 4th October, 1929, and made between the plaintiff family and J.H. Adams and purported to confirm a grant in 1893 of land whose South Western corner is G.C.G.E.P. Pillar 64/28/19, which places it immediately South East of the land in dispute. Evidence as to this grant (and of a further grant to J.H. Adams of a piece of land in the centre of the land in dispute) was given on behalf of the plaintiff. The plan attached to Exhibit "G" shows that the land the subject matter of the deed is not only a peculiar shape, but corresponds exactly to the South western corner of the land acquired by Government in 1929. It is obvious that the confirmatory deed was made in connection with claims made by J.H. Adams and the plaintiff family for compensation for land acquired by the Government, whatever the truth may be as to the alleged grant in 1833.

Exhibit "H" was put in by the plaintiff as evidence of a scheme agreed upon by the plaintiff family and A.D. Allotey, successor of J.H. Adams for development of an area partly inside and partly outside the South Eastern boundary of the land in

dispute. Exhibits "N", "O", "P" and "Q" are conveyances of building plots within this area. As they bear dates between 1940 and 1942, that is at a time when the plaintiff family must have been anticipating the present dispute, they are not of much significance except for the fact that the aforesaid F.J. Ribeiro deceased, who was one of the Co-Defendants in this suit as head of the Lawrence family, signed them as a witness. It is also alleged that Laliki Aruna, another Co-Defendant acquiesced in these grants.

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-continued.

10
6. Ownership of land to East as evidence by receipt of monies as compensation in respect of Government acquisition -

20
It is admitted by the defendant that the plaintiff owns land a little to the East of the land in dispute in the neighbourhood of the Asylum. It is undisputed that the plaintiff received compensation as owner from Government in respect of several acquisitions in that locality, apart from the important acquisition in 1929 for a European Residential Area Extension.

30
The various claims made on Government in connection with the 1929 acquisition are shown in the plan Exhibit "B". The plaintiff family received compensation for the considerable area edged yellow which lies close to the Eastern boundary of the land in dispute. J.H. Adams claiming title through the plaintiff family effected a compromise with Brazilians (Nelson and Ribeiro) who made rival claims as shown in the plan.

40
In proceedings in Court in connection with the 1929 acquisition representatives of the Osu Stool admitted the title of the plaintiff family to the land claimed by it, as being based on a grant from the Accras, and for the purpose of this action I must reject the contention of the Osu Stool in this case that the plaintiff family derives title from the Osu Stool to the land East of the Osu Kpehe path.

7. Government acquisition discrediting Brazilian case: 1906 Acquisition -

This was an extensive acquisition by Government of land immediately East of land acquired in 1895

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by Government in what is now the suburb known as Adabraka. In Court proceedings one claimant representing the Accras was awarded £290, another representing the Brazilians received only £140. This was by consent. The Northern boundary of the land at one point touches Farrar Avenue and is South of the land in dispute. The land acquired is marked Blue in Exhibit "Z".

1929 Acquisition: This is a narrow strip of land, including on the North the part of Farrar Avenue which is South of Thelma Lodge, Guinea Lodge and Dieudon. The land was acquired from persons deriving title from the Korle Priest and not from the Brazilians.

10

It is submitted on behalf of the plaintiff that if land as far North as Fanofa had been granted to the Brazilians the Accras would not have got twice the amount of the compensation received by the Brazilians in one case, and the Brazilians would have claimed to be treated as owners in the other. The land acquired is also delineated in Exhibit "Z".

20

8. Occupation as evidenced by farms, wells, etc.

This can be more conveniently considered in conjunction with the defendants' case, to which I come.

1. Tradition of Grant -

Evidence was given on behalf of the defendants as to a grant in 1836 to Brazilians by the Ga Mantse and others of land stretching from the neighbourhood of Adjabeng Lodge and Tudu to Fanofa Valley. The Brazilians had recently arrived as immigrants from Brazil, about seventy in number. Tackie Komney was Ga Mantse at the time. Admittedly he preceded Yaotey on the Stool. The Eastern boundary of the land granted is said to be the old Osu-Kpehe path. The North Western limit according to one elderly witness Daniel Morton is Owerjano and old market in the vicinity of the present Adabraka Police Station.

30

40

That land was granted by the Accras to the Brazilians on arrival in or about 1836 is indisputable. Nor is it questioned that the grant included an area known as Amusudai, which apparently

began some distance South of present Castle Road and stretched from West to East of present Boundary Road. It is alleged by the plaintiff that the Northern limit was Castle Road, far short of Fanofa Valley. There is no question that Brazilians established a settlement at Amusudai, living and farming there. Whether the grant included Fanofa land is of course an important issue.

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10 2. Government acquisition of land included in alleged grant to Brazilian -

1895 Acquisition - The first of such acquisitions was in 1895 when the Government acquired a large piece of land in what is now Adabraka, west and east of the Nsawam Road. The extent of the acquisition is shown in the plan attached to the acquisition notice (Exhibit 9), and is delineated in Exhibit "Z". The claimants for compensation included J.E. Maslino (above mentioned) and others. As regards the Western section £92.11/- was awarded to Maslino and his family and a total of £27 to other claimants. As regards the larger Eastern section which reached Farrar Avenue £120 was awarded to Maslino and family, and a total of £115 to other claimants. This is revealed by Court records. The awards were made by consent.

30 1906 Acquisition - It is contended on behalf of the defendants that even though £290 was paid as compensation to the Accras and £140 to the Brazilians, the fact that they (defendants) claimed in respect of land stretching as far as Farrar Avenue and South of the land in dispute, and that they compromised with the Accras on the above terms, supports their present claim.

3. Previous Litigation -

40 In 1921 a claim in trespass in respect of land immediately North of the Western portion of the 1895 acquisition reached the Full Court. (Adduquaye and Yarteley vs. J.E. Maslino, F.C. 1920-21, 54). The plaintiff-appellants admittedly derived title through the Korle Priest, whereas Maslino represented the Brazilians.

Smyly, C.J., in delivering judgment in favour of Maslino, stated "It has been clearly proved time and time again that the so-called Brazilians do own land at Adabraka, and to describe them now as squatters and slave strangers is too late in the day"

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The Chief Justice referred to Fanofa Valley as being claimed for the Brazilians in the 1895 acquisition proceedings. It may be mentioned that also in the 1906 acquisition proceedings the Brazilian Chief claimed that his people were given land from a certain valley to Fanoowu valley (probably Fanofa).

On the 9th June, 1928, the Divisional Court decided the case of T.K. Molai, Acting Korle Wulomo (Priest) vs: J.E. Maslino. This was a dispute in which (as in the above case) the ownership of land to the North of the 1895 acquisition West of the Nsawam Road, was involved. Judgment was given in favour of the defendant, who represented the Brazilians. The Court found that the land in dispute "forms a portion of the land which is proved to have been given to the Brazilians by the late Ga Mantse Tackie Komme upon their arrival in Accra in the year 1836". The land in dispute in this case is delineated in Exhibit "Z".

10

20

4. Confirmation of Brazilian by owner of land on North Western boundary -

H.C. Kotey, head of the Kotey family of Accra, a witness who appeared to be about seventy years of age, said that Brazilians have worked on the land for many years since he was a boy. His family claims to own land on the West of the land in dispute across the watercourse. The witness's family has a land dispute with the Odoi Kwao family.

5. Occupation -

30

Much evidence was given on this question on behalf of plaintiff and the defendants. Nicolai Kotey, the plaintiff's caretaker, denied that the Brazilians had farmed the land in dispute for the past twenty-five years. Halilu, another witness for the plaintiff said that he worked on the land about thirty years ago, and collected tolls for the Odoi Kwao family from farmers including Brazilians who had been on the land before him. Another of plaintiff's witnesses, Lamptey, said that he had seen Brazilians working on the land for many years since the 1914 war and before it.

40

I am satisfied on the evidence that the Brazilians have been cultivating the land for very many years long before 1900, without permission of the

plaintiff's family, and that they have occupied it preponderantly without payment of tolls. Some of plaintiff's people have apparently also farmed on the land in recent years, and some may have done so in the past.

I will now consider the evidence generally.

10 A most important "hard fact" is that of long possession by the Brazilians of most of the land, though that of course taken by itself is not conclusive. In Kuma v. Kuma, 5 W.A.C.A. 4, it was held by the Privy Council that as the plaintiff's Stool owned land on all sides of the land in dispute, and as it had been the practice of the Stool not to exact tribute from persons occupying Stool land, the plaintiff was entitled in all the circumstances to a declaration of title notwithstanding that the defendant had been in possession for six generations without payment of tribute or performance of acts of fealty.

20 The Plaintiff's case herein rested to a considerable extent on the proposition that she owned or had owned lands to the East, North, and South of the land in dispute. Ownership of land to the East has been established. The Plaintiff is in possession of land to the North-East, even though the title is disputed.

30 As to the evidence of the owners of land adjoining the Western boundary, it is impossible to rely much on their support of the plaintiff's claim, as in the circumstances they are "friendly" witnesses. As to the South I have already pointed out that the plaintiff has failed to establish former title to the land here.

40 Moreover it is not plaintiff's case that the Brazilians though long in occupation of the land were there by permission of her family. As already mentioned the caretaker Nicolai Kotey denied long occupation. The Brazilians appear at least on two occasions in open Court, in 1895 and 1906, to have spoken of their claim to ownership of Fanofa, whereas no steps were taken by the Odoi Kwao family to vindicate its title until the present proceedings. The plaintiff's family in all probability has long been aware of the Brazilian claim.

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It is therefore clear that the facts in this case are materially different from those Kuma v. Kuma. The circumstances to which I refer are in my opinion inconsistent with the plaintiff's claim.

With regard to conflicting evidence as to tradition, "such evidence, in their Lordships' opinion, falls to be considered and weighed, quantum valeat, along with the other evidence in the case" (Kponoglo v. Kodadja, 2 W.A.C.A., P.C. 24). Taken by itself the oral evidence as to neither tradition as regards the land in dispute could carry the case very far.

10

The Brazilians have established their claims under the traditional grant to ownership of lands much further North than Castle Road the limit alleged by the plaintiff. But on the other hand there are the hard facts of alienation of lands close to and South of the land in dispute without their asserting title to them, and the acceptance by them of a much smaller amount of compensation than that received by the Accras in respect of the 1906 acquisition.

20

I think that there is a good deal of truth in the following evidence of G.A. Tettey, Plaintiff's witness, who claims to be an expert on Ga customary law:-

"In the olden days it was not customary to
"make grants of clearly defined areas of land
"in the bush that is outside Accra. The Korle
"Priest would take the donee to a certain
"spot; a libation would be poured, the Priest
"would bless the place, where the donee might
"erect a dwelling or village. After that he
"would be at liberty to cultivate any land in
"the neighbourhood, and to question any stran-
"ger who interfered with the land thus coming
"into actual occupation by him. In those days
"it would not occur to the Korle Webii (family)
"or Ga Mantseimei (chiefs) that by doing this
"they were permanently alienating their lands".

30

40

It is improbable that the Brazilians occupied all the land between the Tudu-Adjabeng vicinity and Fanofa. The land was so near the town of Accra that it is fairly certain that portions of it would already have been allotted to other persons. Moreover the low-lying land at Fanofa would be more

attractively to farmers than the higher land acquired for a quarry site by the Government in 1906.

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Assuming a grant more or less of the nature claimed, the Brazilians would very possibly not be regarded as owners of land until they actually occupied it.

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I would also refer to alleged admission of J.F. Ribeiro, deceased, and Laliki Aruna mentioned under Head 5 of the plaintiff's case. The admissions of Ribeiro are of weight, but not conclusive. It is to be noted that he was one of the defendants in this action, and further that the deeds witnessed by him relate only to plots in and about the south-eastern corner of the land.

15th July 1946
-continued.

I do not believe that Laliki Aruna, an elderly illiterate woman, ever intended to acknowledge the title of Allotey to any plots in the land in dispute. I do not believe that she accepted payments in respect of them on the footing that she was merely caretaker for Allotey.

The admission of Aruna Nelson, deceased, is undoubtedly of weight, but not conclusive.

It has been laid down repeatedly that in an action for declaration of title to land the onus proving title lies on the plaintiff and that he must rely on the strength of his own case and not on the weakness of the defendant's case, though of course, it may happen that the weakness of the defendant's case in certain circumstances actually strengthens the plaintiff's case.

I find that the plaintiff has failed to prove that she is entitled to the declaration sought. In all the circumstances the plaintiff will be non-suited with liberty to the plaintiff family or its privies to bring a fresh action in respect of any portion of the land as to which she or they can prove long possession.

The defendants are allowed costs to be taxed. 1st defendant allowed fifty guineas for professional expenses. The other defendants allowed twenty guineas for this purpose.

Mr. Asante, Assessor, concurs.

(Sgd) L. M'Carthy,
ACTING CHIEF JUSTICE.

Counsel -

Mr. E.C. Quist (with him Mr. Quist-Therson)
for plaintiff.

Mr. K.A. Bossman for 1st defendant.

Mr. Akilagpa Sawyerr for co-defendants.

Exhibits

EXHIBIT "99"

"99"

RECEIPT FOR 10/- IN FAVOUR OF
J.T. ODAMETEY ON ACCOUNT OF STAMP DUTY

Receipt for
10/- in favour
of J.T. Odametey
on account of
Stamp duty.

Tendered and admitted for defendants, in
re Numo Ayitey Cobblah v. J.W. Armah & other
consolidated cases.

B.K.A.
22/3/51.

7th August
1946.

SA 7624

RECEIPT TO HANDED TO PAYER.

10

STATION ACCRA 7. 8. 1940.

RECEIVED from J.T. Odametey the sum of -
Pounds Ten Shillings - Pence on account of Stamp
Duty on Documents Nos. 3225/40.

Payer's Signature -
(Sgd) ? ? ?

(Sgd) ? ? ?
CASHIER.

"131"

EXHIBIT "131"

Deed of Con-
veyance from
Nii A. Cobblah
to D.A.Wuredu.

DEED OF CONVEYANCE FROM NII A. COBBLAH
TO D.A. WUREDU

20

21st August
1946.

Tendered in evidence by Mr. Lamptey admit-
ted by consent in re Numo Ayitey Cobblah,
etc. v. J.W. Armah & other consolidated
cases. 23/4/51.

DEEDS REGISTRY No.626/1946.

THIS INDENTURE made the 21st day of August in the
year of Our Lord One Thousand Nine Hundred and
Forty-Six (1946) Between NII AYITEY COBBLAH Korle
Wulomo Priest for himself and as the duly appointed
head and lawful representative of Korle We Family
of Accra in the Eastern Province of the Gold Coast
with the knowledge concurrence and consent of the
Principal Elders and Members of the said family
whose consent is requisite or necessary according

30

to Native Customary Law for the valid alienation or transfer of any land or other property of the said Family and which concurrence and consent is evidenced by the signing of these presents by such principal elders and members as witnesses thereto (hereinafter called the Vendor which expression where the context so admits shall include his successors and assigns) of the one part AND DANIEL ADDO WUREDU of Nkwatia in the Kwahu District of the Eastern Province of the Gold Coast aforesaid but residing at date hereof at Accra aforesaid (hereinafter called the Purchaser which expression where the context so admits shall include his heirs and assigns) of the other part WHEREAS the Family of Korle We aforesaid per its Wulomo Head and Lawful Representative Nii Ayitey Cobblah being seised for an Estate in fee simple in possession free from all incumbrances of and being otherwise well truly and properly entitled to the land hereinafter more accurately described and intended to be hereby conveyed Hath Agreed with the Purchaser herein for the Absolute Sale and Conveyance to him of the land aforesaid and the inheritance thereof in fee simple in possession free from all incumbrances at the price of Seventy-five Pounds (£75) NOW THEREFORE THIS INDENTURE WITNESSETH that in pursuance of the said Agreement and in consideration of the sum of Seventy-five Pounds (£75) paid by the Purchaser to the Vendor (the receipt whereof the Vendor doth hereby acknowledge and from the same doth hereby release the Purchaser) the said Vendor's Family as Beneficial Owner Doth Hereby Grant and Convey unto the Purchaser his heirs and assigns "All that Piece or parcel of land situate lying and being at Akwandoh North of Guinea Lodge Adabraka - Accra and bounded on the North by proposed Road measuring One Hundred Feet (100') more or less on the South by Vendor's Family land measuring One Hundred feet (100') more or less on the East by property belonging to A. Ammah measuring One Hundred feet (100') more or less and on the West by property belonging to Isaac Noi Nortey measuring One Hundred feet (100') more or less and covering an approximate area of 0.229 Acre" which said piece or parcel of land is more particularly described and delineated on the Plan hereto attached and therein edged Pink

(General words and "all the estate" Clause)

Exhibits

"131"

Deed of Conveyance from Nii A. Cobblah to D.A. Wuredu.

21st August 1946 - continued.

Exhibits

"131"

Deed of Conveyance from Nii A.Cobblah to D.A.Wuredu.

21st August 1946 - continued.

To Have and To Hold the said land hereby granted or expressed so to be unto and to the use of the Purchaser his heirs executors administrators and assigns For Ever

(Full Covenants for Title)

In Witness Whereof the parties hereto have hereunto set their hands and seals the day and year first above written

Signed Sealed Marked and)			
Delivered by the said)			10
NII AYITE COBBLAH for)			
himself and on behalf of)			
and as the act and deed)			
of the Korle We Family)			
of Accra aforesaid the)			
foregoing having been)	Numo Ayitey Cobblah	his	
first read over inter-)	(L.S.)	x	
preted and explained by)		mark	
Geo. Okai Annan in the)			
Ga language to him when)			20
he seemed perfectly to)			
understand the same be-)			
fore making his mark)			
thereto in the presence)			
of some of the principal)			
Elders and members of)			
the said Family -)			

(Sgd) Martin W. Jacobson			
" Geo. O. Annan			
P.M. Anteh			30
J.N. Plange			

	their
Ayitey Ogleku	x
Ayitey Mensah	x
Robert Nortey	x
	marks

Witness to marks:
(Sgd) Geo. Okai Anna.

Signed Sealed and)			
Delivered by the said)	(Sgd) D.A. Wuredu		40
DANIEL ADDO WUREDU in)	(L.S.)		
the presence of -)			

(Sgd) Paul O. Quartey	his
Yaw Konto	x
	mark

Witness to mark:
(Sgd) Paul O. Quartey.

700.

Received from Daniel Addo Wuredu Esquire the sum of Seventy-five Pounds (£75).

Exhibits

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Dated at Accra this 21st day of August, 1946.

2d Stamp.	Vendor Numo Ayitey Cobblah	his x mark
	Witness to mark (Sgd) Geo. Okai Annan	

Deed of Conveyance from Nii A. Cobblah to D.A. Wuredu.

21st August 1946 - continued.

Witnesses:

10	(Sgd) Geo. Okai Annan
	" Paul O. Quartey
	" Martin W. Jacobson.

EXHIBIT "120"

"120"

DOCUMENT REMOVING S.S. COKER AND
SUBSTITUTING C.O. ARYEE AS HEAD OF
AYI DIKI FAMILY

Document removing S.S. Coker and substituting C.O. Aryee as Head of Ayi Diki Family.

Tendered and admitted for C.O. Aryee in re Numo A. Cobblah vs. J.W. Armah & Ors. 13/4/51.

A c c r a .

September, 1946.

20 September 1946.

We the undersigned members and descendants of Nii Aryee-Deki, Krontihene of Gbese do hereby with the consent of all other members do no more regard Mr. S.S. Coker as acting head of Nii Aryee-Deki family.

That all functions and rites of the said Nii Aryee-Deki's family is being performed by Mr. Charles Okoe Aryee and not Mr. S.S. Coker and all claims made or being made by the said Mr. S.S. Coker in the name of Nii Aryee-Deki's family from henceforth is therefore declared void.

30

(Sgd) Ashong Katai	Borketey-Akwetey	his x mark
H.Q. Nettey	his x mark	mark
(Sgd) J.A. Armah	Ayee Djaku Lamptey	his x mark
(Sgd) J.A. Armah		

WITNESS TO MARK.

701.

Exhibits

"120"

Document re-
moving S.S.
Coker and
substituting
C.O. Aryee as
Head of Ayi
Diki Family.

September
1946 -
continued.

(Sgd) Lamptey

Nerkai Nettey

her
x
mark

(Sgd) B.C. Ardayfio

Tawiah Nkpa Ankrah

his
x
mark

(Sgd) J.A. Ankrah

Mary Kokor Abbey

her
x
mark 10

Akotey Aryee

his
x
mark

(Sgd) E. Ashong-Katai

Mercy Okaikor Aryee

her
x
mark

Aryee Wulu

his
x
mark 20

Aryeetey II
GBESE AKWASONTSE.

"141"

EXHIBIT "141"

Judgment of
West African
Court of Appeal
in Odoitso Odoi
Kwao v. Nii
Azuma III.

JUDGMENT OF WEST AFRICAN COURT OF APPEAL IN
ODOITSO ODOI KWAO v. NII AZUMA III

Tendered and admitted for Nii Azuma III
in re Numo Ayitey Cobblah etc. v. J.W.
Armah & other consolidated cases. 9/5/51.

30

29th November
1946.

29th November, 1946.

In the West African Court of Appeal, Gold Coast
Session, held at Victoriaborg, Accra on Friday the
29th day of November, 1946, before Their Honours
Sir Walter Harragin, C.J., Gold Coast (President)
John Alfred Lucie-Smith, O.B.E., C.J. Sierra Leone,
and Kobina Aaku Korsah, J. Gold Coast.

43/46.

Civil Appeal

Odoitso Odoi Kwao, Acting Head of the
Nii Odoi Kwao Family of Christiansborg
and Accra, Plaintiff-Appellant

Exhibits

"141"

v.

Nii Azuma III, Head of the Brazilians
Community of Accra for himself and as
representing the Brazilians of Accra,
and Nathan Cojo Lawrence, successor
of the late Frank Ribeiro and Head of
the Lawrence Family, Defendants-Respondents

Judgment of
West African
Court of Appeal
in Odoitso Odoi
Kwao v. Nii
Azuma III.

29th November
1946 -
continued.

10 Hashem Noshie of Accra,
Ezekiel Fiscian as Head of the
Fiscian Family of Accra,
Laliki as representing the
Aruna Yawafio Family

Anba Fatuma as representing the
Aruna Dangana Family, Co-Defendants-Respondents.

* * * * *

JUDGMENT - (Read by Korsah, J.)

20 This is an appeal from the Judgment of M'Carthy,
Ag. C.J. who non-suited the Plaintiff with liberty
to bring fresh action in respect of any portion of
the land as to which she can prove long possession.

The Appellant's case is based mainly on tradi-
tion, and also some acts of ownership exercised by
her or persons acting on her behalf.

The learned Judge dealt exhaustively with all
the aspects of the case and finally non-suited
plaintiff on the ground that she had failed to prove
her title to the land.

30 It is a well recognised principle of law that
in a claim for a declaration of title, the Plaintiff
should succeed on the strength of his own case and
not on the weakness of the defence.

40 In this case, the learned Judge went further
and examined the case of the Defendants which was
also based on tradition and occupation; the evi-
dence clearly proved that Defendants had been gran-
ted land, and they had successfully claimed land in
the vicinity of the land in dispute, they have been
in possession of plots in the area sometime before
1895.

Exhibits

"141"

Judgment of
West African
Court of Appeal
in Odoitso Odoi
Kwao v. Nii
Azuma III.

29th November
1946 -
continued.

In Omanhene Kweku Dua III versus Omanhene Kwamin Tandoh. Privy Council Judgments (1874 - 1928) p.109, it was held inter alia -

"The traditional evidence as to the Appellant owing the land lost its force when opposed by facts which were inexplicable of the tradition was accurate".

In this case the acts of ownership exercised by Defendants and their people are inexplicable if Appellant's traditional evidence was accurate.

10

In Kodilinye v. Odu, 2 W.A.C.A., 336, it was held that, in a claim for declaration of title to land "if the whole evidence in the case be conflicting and somewhat confused, and there is little to choose between the rival traditional stories the Plaintiff fails in the decree he seeks, and judgment must be entered for the Defendant"

In our opinion the proper judgment should have been a judgment for Defendants.

We dismiss the appeal and give Judgment for the Defendants with costs - assessed at £91.10.6d for 1st and 3rd Respondents and £91.10.6d for 4th, 5th and 6th Respondents.

20

(Sgd) Walter Harragin
President.

J. Lucie-Smith,
Chief-Justice, Sierra Leone.

K.A. Korsah,
Judge, Gold Coast.

Counsel -

30

Mr. E.C. Quist (with him Mr. Quist-Therson)
for Appellant.

" K.A. Bossman (with him Mr. Ollennu) for
Nii Azuma III.

" Bossman (alone) for Hashem Noshie.

" Sawyers for Ezekiel Fiscian, Laliki & Amaba
Fatuma.

CERTIFIED TRUE COPY.
(Sgd) R.H. Murphy,
REGISTRAR,
WEST AFRICAN COURT OF APPEAL.

40

EXHIBIT "119"ExhibitsUNEXECUTED CONVEYANCE BETWEEN C.O. ARYEE
AND A.K. QUARTEY

"119"

Tendered by J.J. Ocquaye and admitted
in re Numo Ayitey Cobblah vs: J.W.
Armah & Ors. 13/4/51.

Unexecuted
Conveyance
between C.O.
Aryee and
A.K. Quartey.

This is the Instrument marked "A" referred to in
the Oath of - sworn before me this - day of
- 1947.

1947.

10

REGISTRAR OF DEEDS.

20

30

40

THIS INDENTURE made the day of in the year
of Our Lord One Thousand Nine Hundred and Forty-
Seven BETWEEN CHARLES OKOE ARYEE Head and Lawful
representative of Nii Aryee Deki Family of Gbese
Accra in the Eastern Province of the Gold Coast
with the consent and concurrence of the elder
members of the said family whose consent and con-
currence is necessary in accordance with Native
Customary law for the valid grant alienation sale
or other disposition of Nii Aryee Deki Family lands
and which consent and concurrence is testified by
some of such elder members subscribing their marks
and signatures to these presents as Witnesses (here-
inafter called the Vendor which expression shall
where the context so admits include his heirs suc-
cessors and assigns) of the one part and ABRAHAM
KWATELAI QUARTEY of Accra aforesaid (hereinafter
called the Purchaser which expression shall where
the context so admits include his heirs executors
administrators and assigns) of the other part
WHEREAS the Vendor is seised in fee simple in pos-
session free from incumbrances of the land and
hereditaments intended to be hereby granted and he
has agreed with the Purchaser for the absolute sale
to him of the said land and hereditaments at the
price of TWENTY ONE POUNDS TEN SHILLINGS (£21.10.0)
NOW THIS INDENTURE WITNESSETH that in pursuance of
the said agreement and in consideration of the sum
of Twenty One Pounds Ten Shillings (£21.10/-) to
the Vendor paid by the Purchaser on or before the
execution of these presents (the receipt whereof
the Vendor doth hereby acknowledge and from the same
doth hereby release the Purchaser) the Vendor as
Head and lawful representative of Nii Aryee Deki
Family doth hereby grant and convey to the Purchaser
his heirs executors administrators and assigns ALL

Exhibits

"119"

Unexecuted
Conveyance
between C.O.
Aryee and
A.K. Quartey.

1947 -
continued.

that piece or parcel of land situate lying and being at Alajo in the Accra District and bounded on the North by A.D. Tagoe's land measuring one hundred feet (100'.0) more or less on the South by Armah-Quaye's land measuring One Hundred feet (100'.0) more or less on the East by Adjua Arthur's land measuring Sixty feet (60'.0) more or less and on the West by Vendor's land measuring Sixty feet (60'.0) more or less comprising an area of .14 acre howsoever otherwise the same may be bounded known described or distinguished and is more particularly delineated on the plan hereto attached and therein edged Red

10

(General words and "all the estate" Clause)

TO HAVE AND TO HOLD the said land and hereditaments hereby granted or expressed so to be unto and to the use of the Purchaser his heirs executors administrators and assigns for Ever

(Full Covenants for Title)

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands and seals the day and year first above-written

20

SIGNED SEALED AND DELIVERED)
BY THE said CHARLES OKOE) (L.S.)
ARYEE in the presence of -)

SIGNED SEALED AND DELIVERED)
by the said ABRAHAM) (L.S.)
KWATELAI QUARTEY in the)
presence of -)

Received from ABRAHAM KWATELAI QUARTEY the sum of Twenty-One Pounds Ten Shillings (£21. 10/-) being full payment of the purchase price herein

30

Witness to Payment:

EXHIBIT "18"JUDGMENT OF M'CARTHY J. IN
COBBLAH v. TETTEY GBEKE & ORS.

Tendered and admitted for Defendants
in re Numo Ayitey Cobblah v. J.W. Armah
and 18 other cases. 15/2/51.

31st May, 1947.

In the Supreme Court of the Gold Coast, Eastern
Judicial Division, Lands Division held at Victoria-
borg Accra on Saturday, the 31st day of May, 1947,
before M'Carthy, J.

Transferred Suit.
No.12/1943.

Ayitey Cobblah, Korle Priest, Plaintiff

versus

Tettey Gbeke, Afum, Adjetey Okai, Tetteh
Asha, Alhaji Salifu Bubumkali, Malam Ada-
braka Baba, Chief Brimah, Mensah, Mensah
Lo, Kwao, J.C. Randolph, Grumah, Tetteh
and Ayi Kwame, Defendants

Philip Tetteh Botchey, Dsasetse of the
Mankralo Stool of Osu, Samuel Sylvanus
Coker, Acting Head of the Nii Ayi Diki
and Nii Nettey Family of Accra, H.C.
Kotey, Head of Kotey Family, Co-Defendants.

JUDGMENT -

In this action the plaintiff as Korle Wulomo
(Priest), claims in his statement of claim a decla-
ration of title to a large tract of land stretching
westward from the Accra-Nsawam Road and £100 damages
for trespass. The land is described in the writ of
summons and statement of claim and delineated in
the plan filed (Exhibit "A"). During the hearing
Counsel for the plaintiff stated that parts of the
land had been alienated. These areas have been
outlined on the plan. The writ of summons was is-
sued in the Ga Mantse's Tribunal on the 29th April,
1943, and the case was transferred to the Divisional
Court by order of the Provincial Commissioner's
Court dated the 19th May, 1943. By virtue of re-
cent legislation it falls within the jurisdiction
of this Court.

Exhibits

"18"

Judgment of
M'Carthy J. in
Cobblah v.
Tettey Gbeke
& Ors.

31st May 1947.

Exhibits

"18"

Judgment of
M'Carthy J. in
Cobblah v.
Tettey Gbeke
& Ors.

31st May 1947
-continued.

Until recently the land was mainly agricultural, although some villages have long been established on it. Of late years the value of the land has increased immensely, and much of it may be regarded as good building land. It is on the outskirts of Accra, the southern boundary being the Ring Road.

As many of the defendants derive title from the first defendant, Tettey Gbeke, the head of the Otukpai quarter of the Gbese Division of Accra, it was agreed that the issue between the Korle Webii and the Otukpai should first be determined.

10

Both the Korle Webii and the Otukpais belong to the Gbese division, the head of which is the Gbese Mantse, the senior Ga Divisional Chief.

The Korle Webii hold a special position among the Accras because they are traditional owners of the Korle Fetish and are responsible for the worship of the Korle spirit, which is regarded as one of the most important Accra deities. The Wulomo who sits on the Korle Stool is the head of the Korle Webii, the members of the extended Korle We family.

20

The writ of summons in its original form contained a claim to a declaration that the lands in dispute belonged to the Korle Webii family of Accra. In its original form the statement of claim contained a claim for a declaration that the Korle Webii family are the owners of the said lands, though in paragraph 1 it is stated that the family hold the lands for the Ga people.

30

On the 12th March, 1947, after much evidence had been given on behalf of the plaintiff, Mr. Sawyerr obtained leave to amend the writ of Summons and the statement of claim. In the former the words "belongs to the Korle We family of Accra" were replaced by the words "as the property of the Korle We family of Accra who hold it for themselves and the Ga Mantse and the Goese Mantse". In the later in paragraph 1 the words "who hold it for the Ga People" were replaced by the words "who hold it for themselves, the Ga Mantse and the Goese Mantse"; also sub-paragraph 4(a) was replaced by the following:-

40

"(a) a declaration that the said land
 "are the property of the Korle Family
 "of Accra who hold it for themselves
 "the Ga Mantse and the Gbese Mantse."

Exhibits

"18"

Judgment of
 M'Carthy J. in
 Cobblah v.
 Tettey Gbeke
 & Ors.

31st May 1947
 -continued.

10 The amendments make little material difference. Counsel for the plaintiff made it clear before and after the amendments that the claim meant that the land belongs to or is the property of the Korle Webii Family in the fullest legal sense of either expression, any rights of property in the Ga Mantse, Gbese Mantse or anybody else being thus excluded. This contention was fully adopted by the Korle Webii witnesses who gave evidence.

20 They indicated something in the nature of a sacred trust to administer lands under their control for the benefit of the Accras, and claimed that this had all along been their practice. They had often acted in association with the Ga Mantse and Gbese Mantse in the disposal of Accra lands, but this was entirely a matter within their own discretion. They could deal with the lands as they thought fit subject to their interpretation of the sacred trust. This view is not shared by Ga Mantse and the Gbese Mantse. On the 13th December, 1946, (before the hearing began) the Court was moved on their behalf for them to be joined as co-plaintiffs, as they wished to assert their rights as absolute owners of the lands in question.

30 The plaintiff filed an affidavit in opposition. It seemed clear that having regard to the conflicting claims, these Chiefs could not be joined as co-plaintiffs. As I thought that the joinder either as co-plaintiffs or co-defendants would further complicate the case, and as Counsel for the plaintiff and the defendant were opposed to it, I did not make them parties to the action. Besides, joinder would have involved further pleadings, and I was pressed for time.

40 At the trial a great amount of evidence was led on each side, as to tradition, dealings with the land, occupation and surrounding circumstances. Witnesses called by the plaintiff told in detail of the Korle We tradition, how in the latter part of the seventeenth century when most of the people now called Accras lived at Ayawaso, a hill about twelve miles north of Accra, forbears of the Korle

Exhibits

"18"

Judgment of
M'Carthy J. in
Cobblah v.
Tettey Gbeke
& Ors.

31st May 1947
-continued.

Webii, a group of hunters made their way to the sea, where Accra now stands. A woman belonging to the group walking by the Korle Lagoon found some sacred pots. She was possessed by the Korle Spirit, which by her mouth told her family group that henceforth they should tend and worship the Korle spirit, and that for this purpose they should hold all the Korle lands extending east and north of the lagoon as custodians for the deity. These lands included the land in dispute. The Korle Wulomo had from time to time made grants of land to individuals or stools often upon payment of customary dues, and the grantees were expected at the time of the annual Korle festival to send customary offerings. Korle became one of the three principal tribal deities.

10

The plaintiff proved many grants, a number made according to native custom, a number by deed, in respect of the land in dispute and of other lands. In some instances the Korle Webii made the grants in association with the Gbese Mantse, or with the Ga Mantse and Gbese Mantse; in some the grants were made by themselves alone. They also received compensation for lands acquired by the Government the money according to Jacobson one of the plaintiff's witnesses, being shared with the Chiefs. Moreover they sued and were sued in respect of these lands.

20

All this it was contended on behalf of the plaintiff proved the ownership of the Korle Webii. The 1st defendant asserts that it is equally consistent with caretakership, but even this is denied.

30

The 1st defendant's tradition is that in 1827 a year after the defeat of the Ashantis in the battle of Akantamansu had saved the Gas from the danger of invasion, the leader of the Otukpais had been rewarded for his military services by the grant of the land in dispute. The land was Ga Stool land, and the grant was made by the senior Ga Chiefs and Priests.

40

The defence is two-fold, (a) proof of the grant in 1827, and (b) repudiation of the Korle Webii claim to ownership.

It is proposed to deal now with the latter. Mr. Dove's main points in this regard may be put three heads:-

- (a) A declaration made by the Korle Webii in 1889 of land belonging to them precludes them from making their present claim
- (b) Evidence as to the form and procedure followed in making the grants relied on by the plaintiff negatives the absolute ownership asserted by him
- (c) Admission by an Acting Korle Wulomo that he held the land as caretaker for the Ga Stool.

Exhibits

"18"

Judgment of
M'Carthy J. in
Cobblah v.
Tettey Gbeke
& Ors.

31st May 1947
-continued.

10

(a) The above declaration which is in writing was made by the Korle Wulomo and his elders on the 18th September, 1898, before the Ga Mantse and the Gbese Mantse. The land the subject matter of the declaration is therein described as Korle land and as being the property of the Onamuroko people, (another name for the Korle Webii) who are stated to have inherited it from time immemorial, and to hold the land in fee simple. The said land appears to be immediately or almost immediately north of the land in dispute.

20

Mr. Dove submits that the land described in the declaration is the only land owned by the Korle Webii. He argues that if the land in dispute were the property of the Korle Webii it would have been included in the declaration.

An attempt has been made by the plaintiff to link up the declaration with a land case Bosumpim v. Martei & Ors. which came before the Divisional Court, Accra, in 1901. In this case the boundary between Akwapim and Accra lands was in issue.

30

It is alleged that although the land in dispute first reached the Divisional Court in 1901, (after the date of the declaration of 1898) the dispute had existed some years before then that the dispute had been referred to arbitration, and that after an award had been made in favour of the Accras the Korle Webii had thought it expedient to obtain a document of title to the land then in dispute, and that it is unreasonable to hold because the declaration was limited to that land that the Korle Webii owned no other lands.

40

Exhibits

"18"

Judgment of
M'Carthy J. in
Cobblah v.
Tettey Gbeke
& Ors.

31st May 1947
-continued.

(b) Mr. Dove submits that it has been proved by the evidence in this case that the plaintiff is neither owner nor caretaker of Accra Stool lands apart from the land covered by the declaration.

Mr. Dove further submitted that even supposing that the evidence established that the Korle Wulomo is customary caretaker of Accra Stool lands this would not entitle him to maintain this action, seeing that a caretaker is not owner. The title would not be in the Korle Wulomo, but in the Ga Mantse and Gbese Mantse and others. The term "caretaker" (it should be stated) is capable of a variety of meanings as is mentioned in the Judgment of Deane, C.J. in Yawah v. Maslieno (1 W.A.C.A. 87,90). But it is clear that no caretaker is absolute owner.

10

(c) In Tetteh Quaye Molai v. Abia Kotey & Ors a case tried in the Ga Mantse's Tribunal, Tetteh Quaye Molai, Acting Korle Wulomo claimed that Akwandoh land (part of the land now in dispute) was the property of the Korle Webii. On the 18th July 1938, he stated in cross-examination "The Korle Webii are caretakers over it (Akwandoh land) for the Ga Mantsemei (chiefs)" - Exhibit "26", page 6.

20

In Ashrifie v. Golightly, trespass action brought in the Ga Mantse's Tribunal in respect of part of the land in dispute, the said Tetteh Quaye Molai made a similar admission. He gave evidence as a witness for the plaintiff who claimed the land through a grant from the Korle Webii.

30

The following questions and answers appear on pages 25 and 26 of Exhibit 22. The evidence was given on the 5th March, 1942:-

"Cross-Examined by Tribunal"

"Q. What is the position of the Korle Webii to the land?"

"A. We are the caretakers of Ga Lands. - We prosecute trespassers and well - The land owner is an authority more than the caretakers.

40

"Q. Do you remember having stated that the lands belonged to the Korle Webii?"

"A. Yes - I did - I do understand now that the Korle Webii are caretakers or hunters on the Ga Lands.

Exhibits

"18"

"Q. Could you tell us the owners of the land in dispute?"

Judgment of
M'Carthy J. in
Cobblah v.
Tettey Gboke
& Ors.

"A. It belonged to the Gas, the Mantsemei and the Korle Webii."

31st May 1947
-continued.

10 These admissions by the official head of the Korle Webii for the long and important period 1913-1945 clearly are of great weight. They are conclusive against the plaintiff unless there is strong evidence to the contrary effect, and the admissions can in some sense be explained away. This is not the position. But for the admission I should have held that the plaintiff had established a prima facie case as regards his capacity to bring the action, which would have been sufficient, seeing that the chiefs are not parties to it. Whether the Korle Webii are absolute owners or caretakers of the lands which are in some sense attached to the Korle Stool I should have treated as an open question. But it seems that the late Acting Korle Wulomo has authoritatively answered it, with special reference to the land in dispute.

20

The evidence of Malam Futa, a witness for the plaintiff, with regard to the allocation of land within the area in dispute for the Hausa Zongo (settlement) is typical of the equivocal nature of much of the evidence on this point.

30 The other two principal Fetish Priests, the Sakumo Wulomo and the Nai Wulomo also gave evidence. The former did not held the plaintiff. He said that he held Ga Lands in the same way as the Korle Wulomo that in practice he consulted the chiefs when disposing of Sakumo lands, but that he never sold any. From time immemorial the Sakumo Wulomo has acted in this way, which presumably has established the custom. Now the present Wulomo hazards the opinion that theoretically he and his elders could do what they liked with the land. It does not sound convincing. The Nai Wulomo was definitely hostile to the plaintiff's claim.

40

One Onyaa who acted for Tettey Quaye Molai when the latter was too ill to function as Acting

Exhibits

"18"

Judgment of
M'Carthy J. in
Cobblah v.
Tetty Gbeke
& Ors.

31st May 1947
-continued.

Korle Wulomo gave evidence in this Court in Odoitso Odci Kwao v. Nii Azuma III & Ors. on the 16th and 17th October, 1945. He stated that land adjacent to the land in dispute was granted to one Odoitei Shishiabo by the Ga Mantse, Gbese Mantse and Korle Wulomo, and that other land has been given to the Brazilians by the Ga Mantse and Korle Wulomo. He also stated that the Korle Webii are the custodians of the Korle lands.

I must confess that I am puzzled by the declaration of 1898 (Exhibit 1). I do not think that it necessarily implies that the Korle Webii did not hold other lands than the land in question. On the other hand it does purport to give the Korle Webii a full title. It may be that there was some special reason for this. Also the document may have been faultily drafted by a layman, and not properly understood by the parties concerned. The Chiefs would probably have agreed that in a loose sense the Korle Webii had inherited the land from their ancestors and that it belonged to them, but the meaning of ownership in fee simple may not have been properly interpreted to them.

Although it appears that the lands held by the Korle Stool are in some sense vested in that Stool, I am of opinion that the admissions made by the Acting Korle Wulomo in the two cases above-mentioned in the Ga Mantse's Tribunal indicate the true position as well as could be expected, and it is significant that the claim to caretakership was accepted without comment by the members of the Tribunal, who would be well-informed on the subject.

In the Asamangkese Arbitration Award (Divl. Court Reports, 1926-29, pp.220, 298-9) the learned Arbitrator, Hall, J. referring to an admission made in a previous case by a representative of one of the parties to the dispute said:-

"it cannot be allowed for a Stool linguist
"to go and swear a certain thing, even if
"it is false, and then when it suits the
"Stool, for his Stool to deny such evidence
"on a late occasion. I am bound to accept
"the aforesaid evidence (to the effect that
"the rival stool was owner of the land in
"dispute)".

The learned Arbitrator thought that this statement precluded the Omanhene concerned from claiming that he was owner of the land in question.

Exhibits

"18"

For my part in this case I hold that the admissions to which I have referred, considered in the light of the other evidence, preclude the plaintiff from making his present claim. If they were without substance I cannot imagine why they were made.

Judgment of
M'Carthy J. in
Cobblah v.
Tettey Gbeke
& Ors.

31st May 1947
-continued.

10 It follows that the plaintiff cannot succeed
in this action. A caretaker is always subject to
control by the owner even though he may have an in-
20 terest in the land. It is inconceivable that the
caretaker is entitled to bring an action even as
caretaker in respect of lands in his charge, knowing
that this is contrary to the wish of the owner or
co-owner, unless it is shown in the case of co-owner-
ship that the co-owners refuse to co-operate for the
protection of the property. But here the plaintiff
does not sue as caretaker, a status which he emphat-
ically repudiates.

As the plaintiff has totally failed to estab-
lish his right to bring this action in the capacity
of absolute owner he will be nonsuited, as against
all the defendants, with costs to be taxed.
£157.10.0 allowed as remuneration for Counsel.

(Sgd) L. M'Carthy,
Judge.

31.5.1947.

30 I concur.
(Sgd) W.M.Q. Halm.
Assessor.

Counsel :-

Mr. A. Sawyerr (with him Mr. E.O. Lamptey) for
Plaintiff.

Mr. Frans Dove (with him Mr. N.A. Ollennu and
Mr. Akiwumi) for Defendants.

Exhibits

EXHIBIT "1"

"1"

NOTICE IN THE AFRICAN MORNING POST

Notice in the African Morning Post.

Tendered in evidence and admitted for Defendant in re Nuno Ayitey Cobblah vs: J.W. Armah and other cases.
29/1/51.

12th July 1947.

AFRICAN MORNING POST

SATURDAY JULY 12 1947.

Fanofa, Kokomlemle, Akraɔe, Kpehegon, Akwando and Calbiawe lands.

It is hereby notified for general information that all the various pieces or parcels of lands at Accra known as Fanofa, Kokomlemle, Akraɔe, Kpehegon, Akwando and Calbiawe are the property of the Onamuroko Korle We Family of Accra.

10

The public is hereby warned that any dealing with any of these lands without the knowledge, consent and concurrence of the Korle Priest and the Elders of the Korle We Family of Accra are null and void.

The public is further warned not to be misled by the Posters and the Publication in the Daily Echo and the Spectator Daily under the Heading "Ga and Gbese Stool lands" in which the Ga Manche and the Gbese Manche claim to be owners of the said lands.

20

The lands above referred to are the exclusive property of the Onamuroko Korle We Family who alone have right to grant, transfer alienate and or in any way deal with same and any person or persons, Corporation or Corporations who accept any grant, conveyance, transfer, licence or permission to occupy any part or portion of such lands from any other person or persons does or do so at his or their risk and peril.

30

Ayitey Cobblah his
KORLE PRIEST. x
mark

Witness to mark

J.N. Plange
SECRETARY.

40

AFRICAN MORNING POST

SATURDAY JULY 12 1947.

Exhibits

O P E N L E T T E R

"1"

3rd July, 1947.

Notice in the
African
Morning Post.T. Hutton-Mills, Esq.,
Barrister-at-Law, Accra.12th July 1947
-continued.

Dear Sir,

10 My client Nii Tettey Gbeke, the present Head to the Atukpai Quarter of Gbese Accra, has called my attention to your Notice under the heading "Ga and Gbese Stool Lands, dated 20th June 1947 and published in the local papers.

I am not quite clear what your Notice means; whether it mean that the lands mentioned are attached to the Ga and Gbese Stool of Accra jointly, or that the Ga Mantse and the Gbese Mantse have joint or separate interests in the lands.

20 It is a matter of common knowledge in Accra that right up to the time of Nii Tackie Oblie, no Ga Mantse ever claimed any interest in the said lands on behalf of the Ga Stool and also that no Gbese Mantse, up to the time of Nii Ayi Bonte, ever claimed any interest in the lands on behalf of the Gbese Stool, and it was proved in the recent case of Tetteh Quaye Molai, Acting Korle Priest, Ayitey Cobblah (Substituted) versus Nii Tettey Gbeke and others that the present Gbese Mantse, Nii Ayitey Adjin III, applied to Nii Tettey Gbeke of Atukpai and obtained from him a grant of portions of the said lands, which portions were sold to pay off the

30 debts which the said Nii Ayitey Adjin III owed.

40 If the Ga and Gbese Stools have a bona fide claim to the said lands the proper course is for them to take the necessary legal proceedings to establish their title and not to publish notices to depreciate the title of the Atukpai people, especially as you well knew that the Korle Webii people had been on the 31st day of May, 1947, non-suited in the Supreme Court, Eastern Judicial Division, in their claim against the Atukpais for a declaration of title to the same lands.

Further, I am instructed that the same notice published in the Local newspapers has been printed

Exhibits

"1"

Notice in the African Morning Post.

12th July 1947,
-continued.

in very large type and distributed all over the country.

I should like to make it clear to you that my client thinks this action very improper and is considering what action should be taken by him in relation thereto.

I am, dear Sir,
Yours faithfully,

(Sgd) Frans Dove

SOLICITOR FOR NII TETTEY GBEKE II.

10

"74"

Affidavit of J.E. Koney exhibiting Court's Order re injunction in E.B. Okai v. J.E. Koney.

28th July 1947.

EXHIBIT "74"

AFFIDAVIT OF J.E. KONEY EXHIBITING COURT'S ORDER RE INJUNCTION IN E.B. OKAI v. J.E. KONEY

Tendered and admitted in re Numo A. Cobblah v. J.W. Armah & Crs. 6/3/51.

IN THE NATIVE COURT "B" OF THE GA NATIVE AUTHORITY, ACCRA - EASTERN PROVINCE

E.B. Okai and another of Accra, Plaintiffs

v.

J.E. Konney of Accra, Defendant.

AFFIDAVIT IN OPPOSITION TO PLAINTIFFS' APPLICATION FOR INTERIM INJUNCTION TO ISSUE HEREIN.

20

I, JEHOSEPHART EBENEZER KONNEY of Accra, make Oath and say as follows:-

1. That I am the defendant in this suit.
2. That I have been served with motion paper of the plaintiffs praying for an Interim Injunction to restrain me from doing any further work on the land the subject-matter of the claim.

30

3. That I purchased the said land from the Otuo-pai people of Accra.

Exhibits

"74"

4. That in the month of September, 1945, I had started building operations on the land when it came to my knowledge that the plaintiffs were claiming interest in the land.

Affidavit of J.E. Koney exhibiting Court's Order re Injunction in E.B. Okai v. J.E. Koney.

10

5. That in an action brought by the Plaintiffs in this case against me in 1945 in the Land Court in respect of this same land, the subject-matter of this present suit, when this Honourable Court the Ga Native Court "B" had not then been constituted, the Plaintiffs prayed for an Interim Injunction against me to restrain me from carrying on building operations on the land.

28th July 1947
-continued.

20

6. That the said Interim Injunction was disallowed by Mr. Justice Coussey, sitting as Land Judge in 1945, and was only subsequently transferred to this Honourable Court when the Ga Native Authority Court "B" first came into existence.

7. That the Interim Injunction which the Plaintiffs are now praying to issue against me is the same as the Interim Injunction which they failed to obtain in the Land Court in December, 1945, as per "A" attached. The positions of the parties have not changed.

30

8. That I am advised and honestly believe that this is a proper case in which this Honourable Court should exercise its discretion, in my favour and refuse to grant the Plaintiffs' prayer.

And I make this Affidavit in opposition to the Plaintiffs' motion herein.

Sworn at Accra this 28th) J.E. Koney.
day of July, 1947. }

Before me,
R.A. Bannerman
COMMISSIONER FOR OATHS.

Exhibits

"A"

"74"

20th December, 1945.

Affidavit of
J.E. Koney
exhibiting
Court's Order
re Injunction
in E.B. Okai
v. J.E. Koney.

In the Supreme Court of the Gold Coast, Eastern
Judicial Division (Land Division) held at Victoria-
borg, Accra, on Thursday the 20th day of December,
1945, before Coussey, J.

E.B. Okai & Another

v.

J. E. Koney

28th July 1947
-continued.

Sawyers for Plaintiff-applicant.

* * * * *

RULING -

In this application for an Interlocutory In-
junction the defendant disputes the legal title
of the Plaintiff but says that if the Plaintiff
is successful in this suit, he is willing to treat
with him for the purchase of the land on which he
is building. He alleged further, but it is un-
necessary to make a finding on the point one way
or the other in this motion, that the Plaintiff was
agreeable to the defendant continuing the building
on the above condition.

10

The course to be followed by the Court on an
application of this nature is indicated in Kerr on
Injunctions, 5th Edition, p.26:

20

"If the defendant disputes the legal title
"of the Plaintiff or denies that fact of
"its violation the Court would seldom, how-
"ever clear the case might, in its opinion
"be, granted an injunction without putting
"the plaintiff to establish his legal right".

The result of this motion must turn upon the
relative convenience or inconvenience which might
result to the parties from granting or withholding
the Injunction and in this case the balance is in
the defendant's favour because the hardship is
greater upon the defendant if the plaintiff fails
to establish his title. Branwell v. Halcomb 40
E.R. p.1110.

30

For these reasons the Injunction must be

withheld on the clear understanding however that the defendant proceeds with the building at his own risk.

Costs in cause.

J. Henley Coussey,
Judge.

This is the Exhibit marked "A" referred to in the affidavit of Jehoshaphart Ebenezer Koney, sworn before me this 26th day of July, 1947.

R.A. Bannerman,
COMMISSIONER FOR OATHS.

Exhibits

"74"

Affidavit of
J.E. Koney
exhibiting
Court's Order
re Injunction
in E.B. Okai
v. J.E. Koney.

28th July 1947
-continued.

10

EXHIBIT "98"

LETTER FROM AKUFO ADDO TO
J.G. SECKEY

COPY.

3rd November, 1947.

Ref. AA/EQS/OF/475/10/47.

Mr. J.G. Seckey,
Head Office
H.M. Prisons,
Accra.

20

Dear Sir,

I write to you on behalf of Madam Obeyea to give you notice to quit the land at Kpehe on which you have unlawfully started building operations.

The land in question was devised to Madam Obeyea by Elias Lamptey alias Afi (deceased) by her Will and it is all that Piece of land situate at Kpehe on the Accra-Nsawam Road and bounded on the North by Mary Aryeetey's property (200 ft) on the South by Yaya's property (200 ft) on the East by Botchway's property (200 ft) and on the West by Accra-Nsawam Road (200 ft.)

30

If you do not quit the land forthwith Madam

"98"

Letter from
Akufo Addo to
J.G. Seckey.

3rd November
1947.

Exhibits

"98"

Letter from
Akufo Addo to
J.G. Seckey.

3rd November
1947 -
continued.

Obeyea will have no alternative but to bring an
action against you for trespass.

Yours faithfully,

Akufo Addo.

EXHIBIT "98"

Tendered in evidence by Mr. Akufo Addo, in
cross-examination, admitted and marked Exhibit "98"
in re Numo Ayitey Cobblah etc. v. J.W. Armah &
other consolidated cases.

B.K.A.
22/3/51

10

"19"

Judgment of
West African
Court of
Appeal in
Cobblah v.
Tettey Gbeke
& others.

13th December
1947.

EXHIBIT "19"

JUDGMENT OF WEST AFRICAN COURT OF APPEAL
IN COBBLAH v. TETTEY GBEKE & OTHERS

Tendered and admitted for Defendant
in re Numo Ayitey v. J.W. Armah & 18
other cases. 15.2.51.

13th December, 1947.

In the West African Court of Appeal, Gold Coast
Session, held at Victoriaborg, Accra, on Saturday
the 13th day of December, 1947: before Their
Honours Sir Walter Harragin, C.J., Gold Coast
(President), Sir John Verity, C.J., Nigeria, and
John Alfred Lucie-Smith, O.B.E., C.J. Sierra Leone.

Civil Appeal
No. 62 of 1947.

20

Ayitey Cobblah, Korle Priest of
Accra, Plaintiff-Appellant

v.

Tettey Gbeke, Afum, Adjetey Okai,
Tetteh Asha, Alhadji Salifu Bukumkali,
Malam Adabraka, Bada, Chief Brimah,
Mensah Lo, Kwao Churu Sackey, Mam,
George Musah Doctor, Akuamoah, J.C.
Randolph, Grumah, Tetteh and Ayi Kwame,
Defendants-Respondents

30

Judgment - Read by the President.Exhibits

In this action the plaintiff claims as Head of the Korle We Family of Accra "and representing such family claims as against the defendants severally and jointly for a declaration of title that the property hereinafter described is the property of the Korle We Family of Accra who hold it for themselves the Ga Mantse and Gbese Mantse."

"19"

Judgment of
West African
Court of
Appeal in
Cobblah v.
Tettey Gbeke
& Others.

10 The land is clearly described in the writ and the plan has been put into evidence.

The plaintiff further claims damages for trespass and for a perpetual injunction against the defendants.

13th December
1947 -
continued.

In the course of the case, at the request of counsel for the plaintiff, the writ of summons was amended

20 (1) by deleting the words "belongs to the Korle We Family of Accra" and substituting therefor the words "is the property of the Korle We Family of Accra who hold it also for themselves, the Ga Mantse and the Gbese Mantse" and to amend the Statement of Claim

(a) by substituting in paragraph 1 for "who hold it for the Ga people" the words "who hold it for themselves, the Ga Mantse and the Gbese Mantse" and (b) by substituting for paragraph (a) the following:

30 "(a) a declaration that the said lands are the property of the Korle We Family of Accra who hold it for themselves, the Ga Mantse and the Gbese Mantse."

This amendment is not without interest in view of the somewhat peculiar manner in which the plaintiff himself alleges that he came into possession of the property and also indicates his uncertainty as to the terms and the conditions under which the property came into his possession.

40 Pleadings were ordered which need not be set out at length save to point out that the defendants in their 2nd paragraph put the plaintiff to strict proof of their title in addition to claiming title themselves by virtue of a gift to them 110 years ago by the Ga Mantse Nii Tackie Komey and the then Korle Priest Numo Ayitey Buafour for services rendered.

Exhibits

"19"

Judgment of
West African
Court of
Appeal in
Cobblah v.
Tettey Gbeke
& Others.

13th December
1947 -
continued.

In order to understand the evidence, it must be realized that the Korle Webii belong to the Gbese Division of the Ga State and their interests are in other respects identified with the Ga State.

The Korle Webii hold a peculiar position amongst the Accra (Ga) people because they are the traditional owners of the Korle Fetish one of the most important Accra deities. The Wulomo is the head (Priest) of the Korle Webii.

The next point to keep clearly before one is that although at first sight the plaintiff might appear by his writ to be representing the Ga Mantse and the Gbese Mantse this is far from the fact, as it was openly stated and appears in the judgment that as soon as this case is finished, it is more than probable (assuming that the plaintiffs are successful) that the Ga Mantse and the Gbese Mantse will issue a writ against them with regard to the same lands. It would therefore appear that there are three claimants for the land in question, the defendants the Ga Mantse and the Gbese Mantse and the plaintiffs all of whom claim title to the land though the last named allege that they hold the land "for themselves the Ga Mantse and the Gbese Mantse" and that was the tangled skein the trial Judge sought to unravel in a case that lasted over two months during which time an enormous amount of evidence was led on each side as to tradition, dealings with the land, occupation etc.

The traditional story of the plaintiffs is fantastic and entertaining and is to the effect that a woman belonging to the Korle Webii family somewhere in the latter part of the 17th century found herself on the land where Accra now stands. Whilst walking near to the Lagoon she found some sacred pots whereupon she became possessed by the Korle spirit who told her and by her mouth, the Korle people, that her family group should henceforth worship the Korle spirit and should hold all the lands to the east and north of the lagoon for the deity; the land at present in dispute being included in this area.

This may at first sight appear a very simple method of acquiring a large area of land and one which in later years was to become of great value. There is however no doubt that the people to a great extent accepted the position of the plaintiffs

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30

40

and their ancestors have made a number of grants in respect to the land in dispute and other lands. On some occasions the Ga Mantse and the Gbese Mantse were joined as co-grantors and on other occasions the grants were made by the plaintiffs alone.

Exhibits

"19"

Judgment of
West African
Court of
Appeal in
Cobblah v.
Tettey Gbeke
& Others.

13th December
1947 -
continued.

10 Had the matter ended there the plaintiffs might well have been in a strong position, but in 1898, for some reason best known to themselves, the Korle Wulomo executed a declaration purporting to grant a certain area of land immediately north of the land now in dispute to the Onamunorkor people another name for the Korle Webii of which the Korle Wulomo was a Chief. This declaration was made before the Ga Mantse and the Gbese Mantse who witnessed the document. In short, this means that in 1898 although the plaintiffs claim to be owners of a huge area in and around Accra, the Wulomo and his elders suddenly decided to give to their people 20 i.c. themselves, a comparatively small portion of the area which they now claim and it should further be noted that this area is a complete transfer in fee simple with no suggestion that it is being held for themselves, the Ga Mantse and the Gbese Mantse. We may state at once that if the plaintiffs' claim in this action is correct, the declaration of 1898 is quite incomprehensible.

30 The next difficulty with which the plaintiff is faced is that during the case for the defence it transpired that first in the case of Tetteh Quaye Molai v. Ablakotey and others in 1938 when giving evidence with regard to part of the land now in dispute, the Acting Korle Wulomo stated as follows:

"The Korle Webii are caretakers over
"it (Akwandor land) for the Ga Mantsemci
"(Chiefs)".

and later the same admission was made by Tetteh Quaye Molai in the case of Ashrifie v. Golightly.

40 It is a recognised principle in land cases and it does not admit of argument that the plaintiff when claiming a declaration of title must succeed on the strength of his case and at the conclusion of this case now on appeal the learned trial Judge was not satisfied that the plaintiff had proved his case. The Plaintiff now suggests in argument that

Exhibits

"19"

Judgment of
West African
Court of
Appeal in
Cobblah v.
Tettey Gbeke
& Others.

13th December
1947 -
continued.

he would be able to explain away these quite damning admissions by his predecessors in office. This may or may not be correct but the fact remains that if the plaintiffs are in fact the caretakers no matter what definition is placed upon that word, they certainly cannot claim to hold the land in what would amount to fee simple.

It is argued that they hold the lands in trust for the Ga people - trust created by the spirit which entered into the woman ancestress of the plaintiffs. Even were it possible to reduce this legend to something more practical and capable of definition, how do plaintiffs accounts for the fact that they suddenly found it necessary in 1898 by Deed to transfer to themselves the large area of land mentioned above. There can be no doubt but that the title of the plaintiffs (if any) is wrapped in mystery and we are of the opinion that the learned trial Judge was perfectly correct to non-suit the plaintiffs rather than dismiss the case thus giving them an opportunity of clarifying their position if it is possible.

10

20

We have given full consideration to the many arguments put forward by Counsel for the appellants when arguing his many grounds of appeal but we are of the opinion that it is unnecessary to go any further into the matter as already we have indicated a sufficient number of reasons why the learned trial Judge rightly hesitated before he granted the Certificate of Title to the Plaintiffs over the area of land which they now claim.

30

The appeal is dismissed with costs assessed at £75. 15. 6.

(Sgd) Walter Harragin
PRESIDENT.

John Verity,
CHIEF JUSTICE, NIGERIA.

J. Lucie-Smith,
CHIEF JUSTICE, SIERRA LEONE.

Counsel:

E.O.O. Lamptey for Appellant.

Mr. Frans Dove (with him Mr. N.A. Ollennu)
for Respondents.

40

EXHIBIT "126"DEED OF GIFT FROM NII TETTEY GBEKE
TO LUCY B. ASHONG

Tendered and admitted for E.B. Ashong
and others in re Numo Ayitey Cobblah
vs: J.W. Armah & Ors. 16.4.51.

DEEDS REGISTRY
No. 190/1948.

Exhibits

"126"

Deed of Gift
from Nii
Tettey Gbeke
to Lucy B.
Ashong.

31st December
1947.

10 THIS INDENTURE made the 31st day of December One
Thousand Nine Hundred and Forty-Seven (1947)
BETWEEN NII TETTEY GBEKE II Dsasetse and Acting
Mankralo of Otuopai for himself and as representa-
tive of the Stool of Otuopai of Accra in the East-
ern Province of the Gold Coast with the consent
and approval of the Elders and Councillors of the
said Stool whose consent and approval is necessary
for the valid grant or alienation in accordance
with native customary law of Stool lands and which
consent and approval is hereby testified by the
20 principal Elders subscribing their names to these
presents as witnesses (hereinafter called the Donor
which expression where the context so admits shall
include his heirs successors personal representat-
ives and assigns) of the One Part AND LUCY BEATRICE
ASHONG a minor by her father Charles Anthony Ashong
of Accra aforesaid (hereinafter called the Donee
which expression where the context so admits shall
include her heirs personal representatives and
30 assigns) of the other part WHEREAS the Donor as
representatives of the said Stool is seised in fee
simple free from incumbrances of the land and
hereditaments hereinafter described and he is de-
sirous of making a free and voluntary gift and dis-
position of the same to the Donee NOW THIS INDENTURE
WITNESSETH that in consideration of the esteem and
affection of the Donor for the Donee and of the sum
of Ten Pounds (£10) paid to the Donor by the Donee
on or before the execution of these presents (the
40 receipt whereof the Donor hereby acknowledges) and
for divers other good causes and considerations he
the Donor as such representative as aforesaid and
as beneficial owner hereby grants and conveys unto
the Donee ALL THAT PIECE OR PARCEL OF land situate
lying and being at Kokomlemle in the Accra District
Eastern Province of the Gold Coast and bounded on
the North by Otuopai Stool measuring Seventy feet

Exhibits

"126"

Deed of Gift
from Nii
Tettey Gbeke
to Lucy B.
Ashong.

(70') more or less on the South by Ring Road measuring Seventy feet (70') more or less on the East by Otuopai Stool land measuring One Hundred and Fifty feet (150') more or less and on the West by Otuopai Stool land and measuring One Hundred and Fifty feet (150') more or less containing an area of .24 acre or howsoever otherwise the same may be known bounded or described and is more particularly delineated on the Plan hereto attached edged Pink

31st December
1947 -
continued.

(General words and "all the estate" Clause)

10

TO HAVE AND TO HOLD the said land and hereditaments hereby granted and to the use of the Donee her heirs personal representatives and assigns for ever

(Full Covenants for Title)

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND)
DELIVERED by the)
said NII TETTEY)
GBEKE II in the)
presence of:-)

Nii Tettey Gbeke II

20

E.T. Addy
J. Adjeteyokai

his
x
mark

M.N. Aryee

M.N. Aryee
M.N. Aryee

30

SIGNED SEALED AND)
DELIVERED by the)
said CHARLES)
ANTHONY ASHONG for)
and on behalf of)
and as the act and)
deed of the said)
LUCY BEATRICE)
ASHONG in the)
presence of:-)

C.A. Ashong

40

?

Received from Lucy Beatrice Ashong the within-mentioned sum of Ten Pounds (£10)

Exhibits

E.P. Addy
J. Adjoteyokai

"126"

Antio Addy his
 x
 mark

Deed of Gift
from Nii
Tettey Gbeke
to Lucy B.
Ashong.

M.N. Aryee

M.N. Aryee
WITNESS TO MARK.

31st December
1947 -
continued.

EXHIBIT "S"

"S"

PROCEEDINGS IN E.J. ASHRIFI
v. H.E. GOLIGHTLY

Proceedings in
E.J. Ashrifi
v. H.E.
Golightly.

Tendered and admitted for Plaintiff
in re Numo Ayitey Cobblah vs: J.W.
Armah and 18 other cases. 2.2.51.

20th April
1948.

20. 4. 48.

In the Supreme Court of the Gold Coast, Eastern
Judicial (Lands) Division, held at V'borg, Accra
on Tuesday the 20th day of April, 1948 before
Coussey, J.

E.J. Ashrifi, A.E. Narh

v.

H.E. Golightly Tettey Gbeke

Mr. Bossman for appellant
Mr. Dove and Mr. Ollennu for respondents.

Mr. Bossman cites Florence Plange & ors. versus
Korkoi Mota & ors.

Judgment of M'Carthy Ag. C.J. dated 3.10.45
Court calls attention to Whittle v. Whittle 1939
1 All E.R. 374-378 and Fulker v. Fulker 1936 3 All
E.R., p.636.

Mr. Bossman adopts reasoning of these cases.

Mr. Dove in answer.

Calls as to Grounds 1 and 2.

ExhibitsJOSEPH ROBINSON ASHALEY OKOE s.c.b.

"S"

Proceedings in
E.J. Ashrifi
v. H.E.
Golightly.

I live at Accra. Am now a trader. I was the Recorder of the Tribunal of the Paramount Chief of the Ga State during the time of Mantse Tackie Oblie, when the suit of Ashrifi & Narh v. Golightly and Tettey Gbeke was heard.

20th April
1948 -
continued.

The Book produced was used by me for that suit. The Judgment Exhibit "B" may have been typed by me or a typist named Odoi. There was one typewriter in the office. I had a typewriter in my house of my own on which I sometimes typed office work. Exhibit "B" was typed on the office typewriter. Exhibit "B" bears the signature of the then Ga Manche Nii Tackie Oblie. I was present when he signed it. He signed it sometime after the Judgment was delivered.

10

In the Native Tribunal the Linguist delivered the Judgment of the Tribunal in the case openly on the 19th July, 1943. I was present - Then Odoi or I typed the Judgment and it was submitted to the Ga Manche who signed it.

20

The minutes in the Record Book under date 19th July was written by me. It is not usual for entry of Judgment in the Record Book to be signed. The Linguist who pronounced Judgment was E.A. Mensah.

Cross-examined by Mr. Bossman.

I have purchased land from the Atukpais (Gbeke) I started paying in 1938 and obtained a Deed of Conveyance in 1947.

My brother Ashie also had a plot. My plot and his are in Kokomlemle and involve the same title and issues as the land in dispute in this case. My brother Koteyfio, Ga Headman at Nsawam also had a plot. J. Robinson Kotey Okaoe had a plot in the same area. He was a member of the Tribunal in this case but did not sit throughout to Judgments.

30

Looking at the proceeding in the Record Book Exhibit "A" under date 21st July, 1941 and comparing it with the certified copy proceedings supplied to the Court I see that three names appear in the copy which do not appear in the Record, namely Ayitey Bruce Teiko Armah and R.J. Nunoo.

40

The Judgment Exhibit "B" was written by me. The Ga Mancho Tackie Oblie could sign his name but he is illiterate. I was present when he signed Exhibit "B". He does sign the Record Book. In this case he did not sign the entry of the Judgment - That is not the practice. The Record book does not show these who attended when Judgment was delivered.

Exhibits

"S"

Proceedings in
E.J. Ashrifi
v. H.E.
Golightly.

10 There was no disagreement about the Judgment. The Ga Manche did not decline to sign. I did not witness his signature because I never witnessed his signature to a Judgment.

20th April
1948 -
continued.

Re-examined by Mr. Dove.

Looking at the Record Book, dated 22nd October 1942 when it was agreed the proceedings be read over, no names of Councillors appear.

Q. Where did you get the names of the Councillors to put in the certified copy.

A. I took the names from those who sat on the first day.

20 Q. You said something about a small book.

A. I cannot trace it now. I typed the appeal Record now before the Court. At that time the small book was in existence. I do not know what has happened to it. No Record of Councillors appear for the 23rd October, 18th December or 19th July 1943.

I got the particulars of the councillors present from the small book.

To Mr. Bossman through the Court:

30 In the Record Book under date 22nd October 1942 there is no entry. Parties agree that the evidence be read &c.

At this stage Mr. Dove states he cannot support the Judgment in view of the evidence of the last witness.

By Court -

The Appeal is allowed on the two grounds of Appeal argued by Mr. Bossman. The Judgment of the

Exhibits

"S"

Native Tribunal is set aside and this Court orders trial de novo which, by consent, shall be by the Land Court. Costs for appellants.

Proceedings in
E.J. Ashrifi
v. H.E.
Golightly.

(Sgd) J. Herley Coussey,
JUDGE.

CERTIFIED TRUE COPY

20th April
1948 -
continued.

R. Bannerman,
REGISTRAR, DIVISIONAL COURT, ACCRA.

"T"

EXHIBIT "T"

Chiefs' List,
p.281.

CHIEFS' LIST p.281.

10

Tendered and admitted for Plaintiff in
re Numo Ayitey Cobblah v. J.W. Armah &
18 other cases. 9/2/51.

Page 281 of Chiefs' List

(Reference Tetch Tsuru
and Tette Kwamin)

(Transmitted in original)

"78"

EXHIBIT "78"

Deed of Con-
veyance from
T. Gbeke to
E.K. Ngmeter.

DEED OF CONVEYANCE FROM T. GBEKE TO E. K. NGMETER

3rd May 1948.

Tendered and admitted by consent
in re N.A. Cobblah v. J.W. Armah
& Ors. 7/3/51.

20

2148/48

THIS INDENTURE made the 3rd day of May in the
year of Our Lord One Thousand Nine Hundred and
Forty-Eight (1948) BETWEEN NII TETTEY GBEKE II
Dsasetse and Acting Mankralo of the Otuopai Stool

of Accra in the Eastern Province of the Gold Coast acting on behalf of himself and as representative of all the principal members of the said Otuopai Stool whose consent to or concurrence in these presents is for more perfect assurance of the provisions hereof requisite and desirable according to native customary law or custom of the said Stool which consent or concurrence is sufficiently signified by the attestation of these present by some of the said principal members (hereinafter called the

10 VENDOR which expression where the context so requires or otherwise admits shall include besides the said Nii Tettey Gbeke II his successors and assigns) of the one part AND EMMANUEL KOPI NGMETER also of Labadi Accra aforesaid (hereinafter called the PURCHASER which expression where the context so requires or otherwise admits shall include his heirs personal representatives and assigns) of the other part WHEREAS the VENDOR is seised for himself

20 and on behalf of the Stool and people of the Otuopai Quarter of Accra aforesaid and is otherwise well truly and properly entitled to and possessed of the land hereditaments and premises described in the Schedule hereto and intended to be hereby granted and conveyed and has agreed with the PURCHASER for the absolute sale to him of the said land - and hereditaments for the sum of ONE HUNDRED AND TWENTY-FIVE POUNDS (£125) NOW THEREFORE THIS INDENTURE

30 WITNESSETH that in pursuance of the said agreement and in consideration of the said sum of ONE HUNDRED AND TWENTY-FIVE POUNDS (£125) paid by the PURCHASER to the VENDOR on or before the execution of these presents (the receipt whereof the VENDOR doth hereby acknowledge and from the same doth hereby acknowledge and from the same doth hereby release the PURCHASER) the VENDOR as BENEFICIAL OWNER hereby grants and conveys unto the PURCHASER his heirs personal representatives and assigns ALL THAT PIECE

40 OR PARCEL OF LAND situate lying and being at Kokomlemle Accra aforesaid described in the Schedule hereto which said piece or parcel of land is more particularly delineated on the Plan attached hereto and thereon edged with PINK COLOUR

(General words and "all the estate" Clause)

TO HAVE AND TO HOLD the said hereditaments and premises hereby granted or expressed so to be unto and to the use of the PURCHASER his heirs personal representatives and assigns forever

Exhibits

"78"

Deed of Conveyance from T. Gbeke to E.K. Ngmeter.

3rd May 1948
-continued.

Exhibits

(Full Covenants for Title)

"78"

THE SCHEDULE ABOVE REFERRED TO

Deed of Con-
veyance from
T. Gbeke to
E.K. Ngmeter.

3rd May 1948
-continued.

ALL THAT PIECE OR PARCEL OF LAND situate lying and being at KOKOMLENLE Accra aforesaid bounded on the North by property of Susuana Mills measuring One Hundred and Twenty-five feet (125'-0") on the South by Purchaser's land measuring One Hundred and Twenty-five feet (125'-0") on the East by a Proposed Road measuring Eighty feet (80'-0") and on the West by Otuopai Stool land and measuring Eighty feet (80'-0") containing an approximate area of .229 acre be those several dimensions little more or less or howsoever otherwise the samemay be bounded known described or distinguished and is more particularly delineated on the Plan attached hereto and thereon edged with PINK COLOUR:

10

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED)
BY THE WITHIN-NAMED VENDOR)
NII TETTEY GBEKE II Dsaset-)
se and Acting Mankralo of)
the Otuopai Stool of Accra)
in the presence of the)
following Principal.)
Witnesses:)

Nii Tettey Gbeke II
(L.S.)

20

(Sgd) J. Addy Okai
(Sgd) M.T.T.Q. Aryee

SIGNED SEALED AND DELIVERED)
BY THE WITHIN-NAMED)
PURCHASER EMMANUEL KOFI)
NGMETER in the presence of)
the following witnesses -)

E.K. Ngmeter
(L.S.)

30

RECEIVED from EMMANUEL KOFI NGMETER (Purchaser herein) the within-mentioned consideration of the sum of ONE HUNDRED AND TWENTY-FIVE POUNDS (£125)

Dated at Accra this day of February, 1948.

Nii Tettey Gbeke II
VENDOR.

Witness to payment:
(Sgd) J. Adjetey Okai
(Sgd) M.T.T.Q. Aryee.

40

EXHIBIT "127"CONVEYANCE FROM E.P. LUTTERODT
TO A. A. ALLOTEY

Tendered and admitted for A.A.Allotey
in re Numo A. Cobblah vs: J.W. Armah
and Ors. 17.4.51.

Deeds Registry
No. 595/1948.

Exhibits

"127"

Conveyance
from E.P.
Lutterodt to
A.A. Allotey.

8th May 1948.

10 THIS INDENTURE made the 8th day of May One Thousand
Nine Hundred and Forty-Eight (1948) Between ERICK
PERCHARDT LUTTERODT of Accra in the Eastern Province
of the Gold Coast Colony as Head of the Lutterodt
Family of Accra aforesaid with the consent of the
Principal members of the said LUTTERODT Family which
consent is testified and expressed by some of such
principal members of the said Lutterodt Family
concurring in by subscribing their names and marks
to these presents as Witnesses acting for himself and
as representing all other the members of the said
20 Lutterodt Family whose consent is by Native Customary
Law and Custom of the said Family essential for
the valid transfer alienation sale or otherwise
disposing of land of such Family of the nature here-
inafter described (hereinafter called the VENDOR
which expression shall where the context so re-
quires or admits include his successors in title
and assigns) of the one part and ABRAHAM ADOTEI
ALLOTEY also of Accra aforesaid (hereinafter called
the Purchaser which expression shall where the con-
30 text so requires or admits include his heirs execu-
tors administrators and assigns) of the other part
WHEREAS the Vendor as Head of the said Lutterodt
Family is seised in fee simple in possession free
from incumbrances of the hereditaments intended to
be hereby granted and conveyed and hereinafter
fully described AND WHEREAS the VENDOR has agreed
with the Purchaser for the absolute sale to him for
the sum of THREE HUNDRED POUNDS (£300) of the here-
ditaments hereby granted in fee simple in posses-
40 sion free from incumbrances NOW THIS INDENTURE made
in pursuance of the said Agreement WITNESSETH that
in consideration of the sum of THREE HUNDRED POUNDS
(£300) to the Vendor paid by the Purchaser on or
before the execution of these presents (the receipt
whereof the Vendor doth hereby acknowledge and from
the same doth hereby release the Purchaser) the

Exhibits

"127"

Conveyance
from E.P.
Lutterodt to
A.A. Allotey.

8th May 1948
-continued.

VENDOR as such Head of the said Lutterodt Family
and with the consent aforesaid doth hereby GRANT
AND CONVEY UNTO the Purchaser his heirs and assigns
ALL THAT PIECE OR PARCEL OF LAND more particularly
described in the SCHEDULE hereto

(General words and "all the estate" Clause)

TO HAVE AND TO HOLD the land and hereditaments
hereby granted or expressed so to be UNTO AND TO
THE USE of the Purchaser his heirs and assigns for
ever

10

(Full Covenants for Title)

THE SCHEDULE ABOVE REFERRED TO

ALL THAT PIECE OR PARCEL OF LAND situate lying and
being at Accra KOKOMLEMLE layout extension and
bounded on the North by a Proposed Road measuring
Five Hundred and Twenty feet (520'-0") more or less
on the South by Proposed Road measuring Five Hun-
dred and Twenty feet (520'-0") more or less on the
East by Vendor's land measuring Two Hundred and
Twenty feet (220'-0") more or less and on the West
by Vendor's land and measuring Two Hundred and
Twenty feet (220'-0") more or less comprising an
area of Two decimal Four Nought (2.40) Acre which
said piece or parcel of land is more particularly
for the purpose of identification but not of limi-
tation delineated on the plan hereto attached and
thereon shown edged Pink

20

IN WITNESS WHEREOF the parties hereto have
hereunto set their hands and seals the day and
year first above written

30

SIGNED SEALED AND DELIVERED)
by the said ERICK PERCHARDT) E.Perchardt Lutterodt
LUTTERODT in the presence)
of:-

S. Solomon
R. Lutterodt
SECRETARY (LUTTERODT FAMILY)
C.M. Lutterodt
R. Lutterodt
TREASURER (LUTTERODT FAMILY)

40

SIGNED SEALED AND DELIVERED)
by the said ABRAHAM ADOTEI) A. A. Allotey
ALLOTEY in the presence of:)

E. Mensah
(LINGUIST) GBESE STOOL

Exhibits

"127"

?
his
Tawiah Tettey x
mark

Conveyance
from E.P.
Lutterodt to
A.A. Allotey.

C.R. Adjaye
? Nartey
S.V. Osabutey

8th May 1948
-continued.

10 Witness to mark
Ed. Mensah.

Received the within-named Purchase Money of
Three Hundred Pounds (£300) Sterling.

Percharadt Lutterodt
VENDOR.

Witnesses:-
Solomon
Lutterodt
Rutterorod
?

20

I attach that my principal Elders and I approved
of the Seal before the Seal Wax executed on the
8th day of May, 1948.

Ayikai Teikae
king ? of Gbese ? GBESE DIVISION
? 14/7/48.
Ed. Mensah
(Linguist)

EXHIBIT "102"

"102"

30 CONVEYANCE BETWEEN NII TETTEY GBEKE AND S.K.DODOO

Conveyance
between Nii
Tettey Gbeke
and S.K. Dodoo.

Tendered and admitted for Defendant as 41/50
in re Numo Ayitey Cobblah v. J.W. Armah &
Ors. 30/3/51.

8th November
1948.

DEEDS REGISTRY No.1109/1948.

THIS INDENTURE made the 8th day of November in the
year of Our Lord One Thousand Nine Hundred and

Exhibits

"102"

Conveyance
between Nii
Tettey Gbeke
and S.K.Dodoo.

8th November
1948 -
continued.

Forty-Eight (1948) Between NII TETTEY GBEKE II
Dsasetse and Acting Mankralo of Otuopai Accra in
the Accra District in the Eastern Province of the
Colony of the Gold Coast with the consent and con-
currence of his Elders and Councillors whose con-
sent and concurrence are by Ga Native customary
law necessary or expedient for the purpose of giv-
ing effect to these presents which consent and
concurrence are testified by some of such elders
and councillors subscribing their names to these
presents as witnesses acting for themselves and as
representing all others the people of Otuopai Accra
aforesaid (hereinafter called the Vendor which ex-
pression shall where the context so requires or
admits include his successors in title) of the one
part AND SAMUEL KOJOE DODOO also of Accra afore-
said (hereinafter called the Purchaser which ex-
pression shall where the context so requires or
admits include his heirs successors executors
administrators and assigns) of the other part
WHEREAS the Otuopai Stool of Accra aforesaid is
seised in unincumbered fee simple in possession
of the hereditaments intended to be hereby granted
and conveyed and hereinafter fully described AND
WHEREAS the Vendor has with the consent and con-
currence of his elders and councillors agreed to
sell the unincumbered fee simple in the heredita-
ments in possession to the purchaser at the price
of SEVENTY-FIVE POUNDS (£75) NOW THIS INDENTURE
WITNESSETH that in pursuance of the said Agreement
and in consideration of the said sum of Seventy-
five Pounds (£75) sterling to the Vendor paid by
the Purchaser on or before the execution of these
presents (the receipt whereof the Vendor doth
hereby acknowledge and from the same doth hereby
release the Purchaser) the Vendor as Dsasetse and
Acting Mankralo of Otuopai Accra aforesaid doth
hereby convey unto the Purchaser his heirs succes-
sors executors administrators and assigns ALL THAT
PIECE OR PARCEL OF LAND situate lying and being at
East Kokomlemle Accra aforesaid and bounded on the
North by a Proposed Road measuring Seventy-five
feet (75') more or less on the South by the prop-
erties of Robert Okai Aryee and Andrew Kodzo Tawia
measuring Seventy-five feet (75') more or less on
the East by the property of Samuel Commey Tetteh
measuring One Hundred and Twenty-five feet (125')
more or less and on the West by the property of
M.B. Addy and measuring One Hundred and Twenty-
five feet (125') more or less be the same several
dimensions little more or less and covering an

10

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approximate area of decimal two one five (0.215) acre as the same premises are more particularly delineated on the plan attached hereto and thereon edged with Pink colour

Exhibits

"102"

Conveyance between Nii Tettey Gbeke and S.K. Dodoo.

8th November 1948 - continued.

(General words and "all the estate" Clause)

TO HAVE AND TO HOLD the hereditaments hereby conveyed or expressed so to be UNTO AND TO THE USE of the Purchaser his heirs successors executors administrators and assigns in fee simple absolutely

10 (Full Covenants for Title)

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED }
by the within-named NII }
TETTEY GBEKE II as Dsasetse } (Sgd) Nii Tettey Gbeke
and Acting Mankralo of } (L.S.) II
Otuopai Stool of Accra in }
the presence of:- }

20 (Sgd) E.T. Addy
" J. Adjetey Okai
" ? Aryce
" ? Quaynor
" ? Quaye.

RECEIVED the within-mentioned Consideration Money of Seventy-five Pounds (£75) sterling.

30 (Sgd) E.T. Addy (Sgd) Nii Tettey Gbeke
" J. Adjetey Okai VENDOR. II
" ? Aryee
" ? Quaynor
" ? Quaye

SIGNED SEALED AND DELIVERED }
by the within-named SAMUEL }
KODJOE DODOO in the } (Sgd) Sam K. Dodoo
presence of: } (L.S.)

(Sgd) K. Quartey Ofori
" Robert Aryee
" ? ?

Exhibits

EXHIBIT "96"

"96"

AFFIDAVIT OF G.A. TETTEY IN
SUITS 1/1944 AND 23/1944

Affidavit of
G.A. Tettey in
Suits 1/1944
and 23/1944.

Tendered and admitted for Nii Tettey
Gbeke in re Numo A. Cobblah vs: J.W.
Armah & Ors. 19/2/51.

19th March
1949.

IN THE SUPREME COURT OF THE GOLD COAST
EASTERN JUDICIAL DIVISION
LAND COURT, ACCRA.

CONSOLIDATED TRANSFERRED SUIT NO.1/1944

10

H.C. Kotey of Accra	Plaintiff
v.			
J.W. Armah of Accra	Defendant
Nii Tettey Gbeke			
also of Accra	Co-Defendant

Transferred Suit No. 23/1944

H.C. Kotey as Head and Representative of Nii Kotey Family of Korle We Gbese Accra all of Accra,		Plaintiffs
--	--	------------

v.

1. Nikoi Kotey:	2. Kwaku Aponsah	
3. Solomon and E.P. Lutterodt		
all of Accra		Defendants

20

AFFIDAVIT OF GEORGE ADJIN TETTEY

I, GEORGE ADJIN TETTEY of Ussher Town Accra in the
Gold Coast hereby make Oath and say as follows :-

1. That I am one of the Elders of the Paramount
Stool of the Ga State.
2. That I have been authorised and deputed by
the Ga Mantse Nii Tackie Comney II of the
Paramount Stool of the Ga State to depose
to the facts herein on his behalf in sup-
port of an application for joinder as a
party in the above consolidated transferred
suit.

30

3. That I am informed by the said Applicant and verily believe that he is aware of the consolidation of the above transferred suit pending before this Honourable Court and desire to be joined as a Co-Defendant and/or Co-Plaintiff herein because any Judgment which may be given herein will affect the interest of his aforesaid Paramount Stool of in that all the Plaintiffs Co-Defendant and Defendants herein who are claiming the various lands in dispute as their own have been doing so as their individual properties irrespective of his aforesaid Stool's interest in them as the recognised bona fide and absolute owner of the whole area of the land attached to his said Stool including and/or embracing all the lands which the above parties claiming herein as their individual properties.
- 10
4. That in the above-named consolidated suit now pending for hearing before this Honourable Court in which pleadings have been recently ordered the claim of all the above parties against each other is for a Declaration of Title that the lands described in their respective Writ of Summons belong to each of them.
- 20
5. That all the above parties claim or alleged that they derive their title to the said lands from the said Applicant's Paramount Stool through his aforesaid Principal subordinate Stool and their Caretakers the Korley Priest and their Elders.
- 30
6. That I am further informed by the said Applicant and verily believe that all the lands alleged to be owned by the above parties and/or their Predecessors as their individual properties overlap each other.
7. That I am informed by the Applicant and verily believe that the whole of this land is situate lying and bounded on the North by the Gold Coast Railway line and Okaikwei's Hill on the South by Ngoi Faa Drain and Farrar Avenue; on the East by the property of the Gold Coast Government and the Osu Stool lands and on the West by the Asere Stool lands.
- 40

Exhibits

"96"

Affidavit of
G.A. Tettey in
Suits 1/1944
and 23/1944.

19th March
1949 -
continued.

Exhibits

"96"

Affidavit of
G.A. Tettey in
Suits 1/1944
and 23/1944.

19th March
1949 -
continued.

8. That the said Applicant's Paramount Stool through his aforesaid Gbese Stool and their Caretakers and Elders have been in an undisturbed possession and occupation of the whole area of the aforesaid land and have always exercised acts of ownership over the said land including the lands in dispute and others for the past 200 years but have never at any time granted or conveyed any of the said lands to any of the above parties.

10

9. That I am also informed by the aforesaid Applicant and verily believe that the interest of his Stool and people or subjects of the said Ga State will be greatly affected by the result, decision or judgment which may be given herein by this Honourable Court if he is not made a party to the present suit.

I therefore on behalf of the Applicant herein swear to this Affidavit in support of Motion Paper filed herein for an Order of this Honourable Court for Joinder of the said Applicant as Co-Defendant and/or Co-Plaintiff herein and for such other Order or Relief as to this Honourable Court may deem fit.

20

Sworn at Accra this)
19th day of March 1949) (Sgd) G.A. Tettey.

(Sgd) R.A. Bannerman
COMMISSIONER FOR OATHS.

"85"

EXHIBIT "85"

30

Deed of Con-
veyance between
Nii Tettey
Gbeye and J.S.
Abbey.

1st April 1949.

DEED OF CONVEYANCE BETWEEN
NII TETTEY GBEKE AND J.S. ABBEY

Tendered in evidence by Counsel admitted
and marked Exhibit "85" in re Numo A.
Cobblah vs: J.W. Ammah & 18 Ors. 9/3/51.

This is the Instrument marked "A" referred to
in the Oath of the within-named Sworn before
me this day of 194 .

THIS INDENTURE made the 1st day of April, in the
year of Our Lord One Thousand Nine Hundred and

40

Forty-Nine (1949) BETWEEN NII TETTEY GBEKE II
 DSASETSE and Acting Mankralo of the Otuopai Stool
 of Accra in the Eastern Province of the Gold Coast
 acting on behalf of himself and as representative
 of all the principal elders and members of the
 said Otuopai Stool whose consent to or concurrence
 in these presents is for more perfect assurance of
 the provisions hereof requisite and desirable ac-
 10 cording to native customary law or custom of the
 said Stool and which consent and concurrence is
 sufficiently signified by the attestation of these
 presents by some of the said principal elders and
 members (hereinafter called the Vendor which ex-
 pression where the context so requires or otherwise
 admits besides the said Nii Tettey Gbeke II his
 successors and assigns) of the one part AND JACOB
 SAMUEL ABBEY of Labadi Accra aforesaid (herein-
 after called the Purchaser which expression where
 the context so requires or otherwise admits shall
 20 include his heirs personal representatives and as-
 signs) of the other part WHEREAS the Vendor as
 Dsasetse and Acting Mankralo of the Otuopai Stool
 aforesaid is seised for himself and the people
 thereof in fee simple in possession free from all
 incumbrances and is otherwise well truly and pro-
 perly entitled to and possessed of the land here-
 ditaments and premises described in the Schedule
 hereto intended to be hereby granted and conveyed
 and has agreed with the Principal elders and mem-
 30 bers of the said Stool for the absolute sale to
 him of the said land hereditaments and premises
 for the sum of One Hundred and Twenty Pounds (£120)
 NOW THEREFORE THIS INDENTURE WITNESSETH that in
 pursuance of the said agreement and in considera-
 tion of the said sum of One Hundred And Twenty
 Pounds (£120) paid by the Purchaser to the Vendor
 on or before the execution of these presents (the
 receipt whereof the Vendor hereby acknowledges and
 from the same hereby release the Purchaser) the
 40 Vendor as BENEFICIAL OWNER hereby grants and con-
 veys unto the Purchaser his heirs personal repre-
 sentatives and assigns ALL THAT PIECE OR PARCEL OF
 LAND situate lying and being at SOUTH EAST KOKM-
 LEMLE Accra aforesaid described in the Schedule
 hereunder which said piece or parcel of land is
 more particularly delineated on the Plan attached
 hereto and thereon edged in Pink Colour

(General words and "all the estate" Clause)

50 TO HAVE AND TO HOLD the said hereditaments and
 premises hereby granted or expressed so to be unto

Exhibits

"85"

Deed of Con-
 veyance between
 Nii Tettey
 Gbeke and J.S.
 Abbey.

1st April 1949
 -continued.

Exhibits

"85"

Deed of Con-
veyance between
Nii Tettey
Gbeke and J.S.
Abbey.

1st April 1949
-continued.

and to the use of the Purchaser his heirs personal
representatives and assigns FOREVER

(Full Covenants for Title)

THE SCHEDULE ABOVE REFERRED TO

ALL THAT PIECE OR PARCEL OF LAND situate lying and
being at SOUTH EAST KOKOMLEMLE ACCRA aforesaid and
bounded on the North by a Proposed Road measuring
Seventy-five feet (75' 0) on the South by property
of One Addison measuring Seventy-five feet (75' 0)
on the East by Otuopai Stool land measuring One
Hundred and Fifty feet (150' 0) and on the West
by Otuopai Stool land and measuring One Hundred
and Fifty feet (150' 0) containing an approximate
area of decimal two five eight (.258) Acre be those
several dimensions little more or less or howsoever
otherwise the same may be bounded known described
or distinguished and is more particularly delineated
on the Plan attached hereto and thereon edged in Pink
Colour:

10

IN WITNESS WHEREOF the parties hereto have
hereunto set their respective hands and seals the
day and year first above written.

20

SIGNED SEALED AND DELIVERED)
BY THE WITHIN-NAMED VENDOR)
NII TETTEY GBEKE II)
Dsasetse and Acting)
Mankralo of the Otuopai)
Stool of Accra in the)
presence of the following)
witnesses:-)

(Sgd) Nii Tettey
Gbeke II
(L.S.)

(Sgd) E.T. Addy
" ? ?
" ? Aryee

30

SIGNED SEALED AND DELIVERED)
BY THE WITHIN-NAMED)
PURCHASER JACOB SAMUEL)
ABBEY in the presence of)
the following witnesses:-)

(L.S.)

RECEIVED from JACOB SAMUEL ABBEY the within-men-
tioned consideration of the sum of One Hundred and
Twenty Pounds (£120).

40

DATED AT ACCRA THIS DAY OF 194 .

(Sgd) E.T. Addy (Sgd) Nii Tettey Gbeke II
" ? ? VENDOR.
" ? Aryee
WITNESSES TO PAYMENT.

EXHIBIT "52"JUDGMENT OF LAND COURT IN
R.O. AMMAH v. D.O. WUREDU

Tendered and admitted for Defendant
in re Numo A. Cobblah v. J.W. Armah
& Ors. 22/2/51.

17th August, 1949.

10 In the Supreme Court of the Gold Coast, Eastern
Judicial Division, Land Division, held at Victoria-
borg, Accra, on Wednesday the 17th day of August,
1949, before Mark Wilson, C.J.

Civil Appeal
No.L.12/1948.

R. O. Ammah, Plaintiff-Appellant

v.

D. O. Wuredu, Defendant-Respondent.

JUDGMENT -

20 The piece of land in dispute in this appeal
from the decision of the Ga Native Court "B" forms
part of a plot of land sold to the plaintiff-
appellant for £100 on the 14th June, 1944, by one
H.C. Kotey, head of the Kotey family of Accra, who
in evidence claimed that it is part of a large
tract of land granted to his family many years ago
by the Korle family, who are said to have been from
primitive times the caretakers of the Ussher Town
lands of Accra. But on the 1st August, 1946, the
plot of land now in dispute, forming part of that
sold to the plaintiff, was sold to the defendant
30 also by the Korle Priest, who is apparently entitled
with the consent of his elders to make grants of
land on behalf of the Korle family of which he is
the head. The price paid was £75.

40 The suit in the lower Court was one for (a)
declaration of title (b) damages for trespass and
(c) an injunction. The only direct issue which
the trial Court had to try was whether the plain-
tiff could prove his title to the land in dispute
and it found against him on this issue. As he had a
conveyance of the land (Exhibit "A") from H. C.
Kotey (who is his grand father), the validity of

Exhibits

"52"

Judgment of
Land Court in
R.O. Ammah v.
D.O. Wuredu.

17th August
1949.

Exhibits

"52"

Judgment of
Land Court in
R.O. Ammah v.
D.O. Wuredu.

17th August
1949 -
continued.

which is indisputable if H.C. Kotey had a good title to the land in question, the real issue in the case was whether the land sold to the plaintiff H.C. Kotey was in fact land which has been granted to the Kotey family by the Korley family in the remote past.

The evidence in support of that version of the ownership of the land (which was of course opposed by the defendant) was (i) a document Exhibit "C" put in by the plaintiff which appears to be a unilateral declaration dated the 18th January, 1922 of the ownership by the Kotey family of a large, roughly rectangular tract of land measuring about $268\frac{1}{2}$ acres at Akwador, Ussher Town, Accra and (ii) the evidence at the trial of the plaintiff's witnesses and especially of H.C. Kotey, who sold the land to the plaintiff on the 14th June, 1944.

10

The unilateral declaration of ownership (Exhibit "C") based on undisturbed use and occupation of the land for a period of over forty years, as alleged in the declaration, is of course in no way binding on the defendant or anyone else who was not a party to it. Its only value in this case, and it is slight, is to show that in 1921 the Kotey family was claiming ownership of land at Akwador as described above. The Korle Priest of that period was not asked to join (or at any rate did not join) in the declaration of ownership by J.A. Kotey on behalf of the Kotey family.

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As regards the evidence of H.C. Kotey at the trial, the Court characterised it as unreliable and stated they disbelieve it as a whole and would not attach any importance to it. They stated later in the judgment that the plaintiff and his witnesses had failed to impress them and said the evidence for the plaintiff was conflicting and inadequate to establish his case. On the other hand they stated themselves to be "immensely satisfied and impressed by the evidence of the defendant and his witnesses" which they regarded as reliable. One other thing which seems to have weighed heavily with the Court was an alleged admission by the witness H.C. Kotey that the Korley were the overlords of the whole area of land, including the tract claimed by the Koteys to have been granted to them by the Korles, and that accordingly the Korles would know what

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land they had or had not parted with to the Koteys. For these reasons they dismissed the plaintiff's claim with costs.

Exhibits

"52"

10 An examination of the evidence of H.C. Kotey at the trial shows that he did make a slip early in his evidence as to the dimensions of the land he sold to the plaintiff, but I find it difficult to lay on this slip all the weight the Court below attached to it. It seems to me no more than a slip, for I cannot see what possible object the witness could have in making a deliberately false statement on this point, which was plainly inconsistent with the conveyance (Exhibit "A") and the plan attached to it. Also, there is no doubt that the Plaintiff's representative and H.C. Kotey had a difference of opinion as to whether the area of land sold to the former by the latter included the strip of land 45 feet wide marked "Proposed Road" which is marked on the plan. Again, I think excessive significance was attached by the Court to this difference of opinion, of which a reasonable enough explanation was given by the witness Kotey at page 9 of the record and by the surveyor at page 10. Moreover, I think an entirely unjustified inference was drawn by the Court from the so-called admission by Kotey which is referred to above. The fact that the Korles were the overlords of the area and should therefore be expected to know what land they had or had not already alienated is no proof that they were not now indulging in the practice, which seems to be not unknown in this part of the world, of selling land a second time which they had already sold or granted to someone else in the past. It is obvious that there is a great temptation to do this nowadays when land which was sold for a song or given away on payment of the customary "drink" has become so sought after for buildings or agricultural purposes that it realises large sums of money when sold.

Judgment of
Land Court in
R.O. Ammah v.
D.O. Waredu.

17th August
1949 -
continued.

30
40 In my opinion therefore the reasons given by the Court below, in so far as they concerned the evidence of the plaintiff and his witnesses were anything but sound. But there still remains the point which respondent's Counsel made one of the main planks of his argument - the plaintiff's alleged failure to identify the land he bought from H. C. Kotey with the land said to have been granted by the Korles to the Koteys. I shall now discuss this aspect of the appeal.

Exhibits

"52"

Judgment of
Land Court in
R.O. Ammah v.
D.O. Wuredu.

17th August
1949 -
continued.

In support of his assertion that there was a grant of land at Akwandor (or Akwandoh) to the Koteys by the Korles the plaintiff referred back to litigation between the Korles and the Koteys in 1937 and subsequent years in which the Korles claimed some land at Akwandor against the Koteys. The Native Court's judgment on 20th October, 1939, by way of a compromise ordered a division of the land between the parties, but on appeal to the Provincial Commissioner the case was referred back to the Native Court for a decision on the merits. This time the Court found for the Korles, but the Provincial Commissioner on appeal non-suited them and this decision was upheld on appeal to the West African Court of Appeal, which however granted the Korles the right to file a fresh suit if they so desired. That was in 1943. No fresh action was brought by the Korles to establish their title to the Akwandor land and in 1944 H.C. Kotey sold to the plaintiff the land, part of which is now in dispute, that part having been sold to the defendant in 1946 by the Korles.

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This litigation does not of course establish the title of the Koteys to the land which was the subject of the litigation, for the litigation was indecisive and did not give the title to anybody. And in any event the land now the subject matter of this suit has not as far as I can see been identified with the Akwandor land which was the subject matter of the 1937 litigation between the Korleys and the Koteys.

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When I raised this point with Counsel for the appellant during the hearing he conceded, as I understood him, that the identification was not as clear as one would like, but that the reason for this was that his client had been frustrated in his efforts to identify the land by the Court's repeated refusal to allow him to ask relevant questions of the defendant's witnesses. He gave several instances of this. For example at p.12 of the proceedings the Court undoubtedly put a stop to questions asked by the plaintiff's representative which seem to me to have been relevant in that they were direct to finding out the extent and location of the original grant of land at Akwandor to the Koteys by the Korles. (It is to be noted in this connection that the head of the Korle family, Nuno Ayitey Kobblah, the fetish priest, admitted that some land had been granted to the Koteys in this

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area: it was therefore important to discover where it was and whether the land in dispute could be identified with it). Again at p.13 it is recorded that "the Court overruled question" when the question was one seeking to determine the boundaries of the alleged original Kotey grant. A similar question at p.8 was similarly over-ruled. I think it is necessary to say that in a case like this where in any event very little precise evidence is likely to be available in regard to the matters in issue the parties should be allowed reasonable latitude in the asking of questions which are even remotely relevant. I do not think that was done here, at any rate where the plaintiff was concerned. In another aspect the Court seems to have been more tolerant: at page 13 the plaintiff's representative had to explain that the principal witness for the defendant was evading his questions and at page 14 one of the defendant's witnesses, Plange, flatly declined to answer any questions put to him on a certain subject which might well have produced some information of value to the plaintiff's case.

The conclusion to which I am irresistibly led in considering this appeal as a whole are (i) that while the plaintiff did not succeed in satisfactorily identifying the land in dispute with the land he alleged had been granted to the Kotey family in the past, his failure to do so may well have been due to the attitude of the Court which unreasonably limited the range of his questions on the ground of irrelevancy, and (ii) that on the issue as to whether a grant of land ever had been made by the Korles to the Koteys the reasons given by the trial Court for disbelieving the plaintiff's witnesses and preferring the evidence of the defendant's witnesses are quite unconvincing and insufficient to justify the Court's findings.

For these reasons I think the Judgment of the Court below must be set aside and there must be a re-trial of the suit in order to give the plaintiff the opportunity to prove his claim, if he can. At the re-trial the Court below should keep clearly before it the issues in the suit which are indicated in the next paragraph and the parties should be given every reasonable opportunity to elicit information on those issues by questioning the witnesses called to give evidence, and a question should not be dismissed as irrelevant without giving the questioner an opportunity to explain how it is relevant.

Exhibits

"52"

Judgment of
Land Court in
R.O. Ammah v.
D.O. Wuredu.

17th August
1949 -
continued.

Exhibits

"52"

Judgment of
Land Court in
R.O. Ammah v.
D.O. Wuredu.

17th August
1949 -
continued.

At the new trial all relevant evidence should be admitted and fully considered.

The appeal is accordingly allowed and the judgment of the Court below is set aside and a new trial ordered before a different panel of the Ga Native Court "B" on the following issues:

- (i) Whether there ever was a grant of land by the Korles to the Koteys in the area in question, and
- (ii) if so, whether the plot of land in dispute between the parties to the present suit forms part of that land. 10

Court below to carry out.

The appellant will have his costs of this appeal assessed at £16.18.0 including ten guineas for Counsel's fees. The costs of the original trial will follow the event of the new trial in the Court below.

(Sgd) Mark Wilson
CHIEF JUSTICE. 20

17. 8. 49.

Counsel -

Mr. T.J. Whitaker (for Mr. K. Adumua-Bossman)
for appellant.

Mr. J. Quist-Therson (for Mr. N.A. Ollennu)
for respondent.

"91"

EXHIBIT "91"

Injunction
Order in Nii
Tettey Gbeke
II v. E.
Lutterodt &
Others.

23rd August
1949.

INJUNCTION ORDER IN NII TETTEY GBEKE II
v. E. LUTTERODT & OTHERS

Tendered and admitted by consent of
Counsel, in re Numo Ayitey Cobblah
v. J.W. Armah & Ors. 16.3.51.

23rd August, 1949.

In the Supreme Court of the Gold Coast, Eastern

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Judicial Division (Land Division) held at Victoria-
borg, Accra, on Tuesday the 23rd day of August,
1949, before Quashie-Idun, J.

Nii Tettey Gbcke II

v.

Eric Lutterodt & Ors.

Motion by defendants for order for interim injunc-
tion.

Parties in person.

Motion and affidavit read.

10 By the Court -

Upon reading motion paper and affidavit I grant
the application and order that parties to this suit
and their agents should not dispose of any portions
of the land pending the hearing of the suit. Build-
ing already commenced should be continued but no
new buildings should be constructed. Persons who
claim to have bought portions of the land are not
to place any building materials on the same.

No order as to costs.

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(Sgd) S.O. Quashie-Idun,
J.

EXHIBIT "86"

BUILDING PERMIT IN FAVOUR OF J.S. ABBEY

Tendered and admitted by consent in
re Numo A. Cobblah vs: J.W. Armah &
15 Ors. 9/3/51.

B.P. No. 327 dated 30. 8. 50

T.B.P. No. dated

Application No. 794.

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ACCRA TOWN COUNCIL

ACCRA BUILDING REGULATIONS, 1944
(Regulation 4)

TO THE TOWN ENGINEER,
ACCRA.

I, MR. J.S. ABBEY of Labadi, Accra hereby apply for
permission to construct a building viz:- One Two

Exhibits

"91"

Injunction
Order in Nii
Tettey Gbcke
II v. E.
Lutterodt &
Others.

23rd August
1949 -
continued.

"86"

Building
Permit in
favour of
J.S. Abbey.

29th December
1949.

Exhibits

"86"

Building
Permit in
favour of
J.S. Abbey.

Storey Building and Outhouses on my land situate at South-East Kokomlemle (Accra) subject to the provisions of the Accra Building Regulations, 1944, and in accordance with the particulars herein set forth and drawing hereto attached.

Dated this 24th day of December, 1949.

Signature?.....

for

29th December
1949 -
continued.

DESCRIPTION OF MATERIALS ETC. TO BE USED IN
THE WORK

10

(Not reproduced)

ACCRA TOWN COUNCIL

EXTRACTS FROM ACCRA BUILDING REGULATIONS, 1944.

(Not reproduced)

"135"

EXHIBIT "135"

Judgment in
Dr. C. E.
Reindorf v.
Malam Futa in
the Ga Native
Court "B".

JUDGMENT IN DR. C.E. REINDORF v. MALAM FUTA
IN THE GA NATIVE COURT "B"

Tendered and admitted for Odoitso Odoi Kwao
in re Numo Ayitey Cobblah vs: J.W.Ammah & Ors.

17. 4. 50.

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17th April
1950.

In the Native Court "B" Division 3 of Ga Eastern
Province Gold Coast Colony, held at Labadi on Mon-
day the 17th April, 1950, before :-

Asafoatse Tutuani II (President)
S.H. Tagoe, Esq.,
L.B. Borquaye, Esq. } Members.

Suit No.304/46.

Dr. C.E. Reindorf alias Teiko Abonua II

for and on behalf of the family of late
Reverend Carl C. Reindorf

v.

Malam Futa & Nikoi Olai representing
The Odoitso Odoi Kwao Family.

* * * * *

Exhibits

"135"

Judgment in
Dr. C. E.
Reindorf v.
Malam Futa in
the Ga Native
Court "B".

JUDGMENT -

In this case the plaintiff sued the defendants
jointly and severally for -

17th April
1950 -
continued.

- 10 (1) Declaration of title to a piece of land
situate between Karlbiawe and Mamobi Hill
and lying on south-eastern portion of
Niiman village.
- (2) £50 damages for trespass committed on the
said piece of land; and
- (3) Injunction.

The particulars of claim read as follows:-

"The Plaintiff's claim against the defendants
"jointly and severally is

- 20 "(a) for declaration of title to that piece
"or parcel of land situate between
"Karlbiawe and Mamobi Hill and lying
"on south-eastern portion of Niiman
"village and measuring 2,610 feet
"more or less.
- "(b) for £50 damages for trespass committed
"on the land by breaking down twice the
"two southern pillars and for having
"erected and still erecting swish
"houses within that area.
- 30 "(c) for an Injunction restraining the
"defendants or their agents, servants
"and workmen from entering or erecting
"houses on that portion of the land in
"dispute until the final determination
"of the case".

During the preliminary stages of the hearing, the

Exhibits

"135"

Judgment in
Dr. C. E.
Reindorf v.
Malam Futa in
the Ga Native
Court "B".

17th April
1950 -
continued.

defendants called attention to the vagueness of clause (b) of the particulars of claim and argued that the omission of dimensions of the area in the clause renders the position obscure and prayed that something be done to make the clause more comprehensible. Motivated by the arguments set forth by defendants, the plaintiff was compelled to make the following amendment :-

"The plaintiff's claim against the
"defendants jointly and severally is :- 10

"(a) For a declaration of title to all that
"piece or parcel of land situate
"between Karlbiawe and Mamobi Hill
"and lying on south-eastern portion
"of Niiman village and measuring
"2,610 feet more or less;

"(b) for £50 damages for trespass
"committed on the land by breaking
"down twice the two southern pillars
"and for having erected and still 20
"erecting swish houses within that
"area, the trespass area measuring
"on the north 1,090 feet more or less;
"on the south 1,800 feet more or less,
"on the east 490 feet more or less
"and on the west 650 feet more or less
"coloured green;

"(c) for an injunction restraining the
"defendants or their agents, servants 30
"workmen from entering or erecting
"houses on that portion of the land in
"dispute until final determination of
"the case."

The plaintiff who was sworn in his house upon commission was represented through the hearing by one John Randolph and Nii Kpakpo Moffat, Dsasetse of Sempe, Accra upon an authority signed by plaintiff himself dated 2nd September, 1947. This authority is supported by an affidavit sworn to by John Randolph who claimed to be cousin to plaintiff. The plaintiff's story in brief is that the land in dispute including other adjacent ones was bought by plaintiff's late father the Reverend C.C. Reindorf in 1891 from the late Nii Yebuah Kwamri the then Mankralo of Osu for a consideration of £8 sterling. 40

A document (Exhibit "A") was then executed on 9th October of the same year. A cottage was built on a portion of this land and named "Karlbiawe". Edible trees were planted on this land in or around the Lodge. The plaintiff's father later removed to Hebron near Adenkrebi during severe harmattan weather and Karlbiawe Lodge was deserted or abandoned. The trees withered away and in 1917, twenty-six years after the alleged purchase the purchaser died.

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Judgment in
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Malam Futa in
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Court "B".

10 The plaintiff made a farm on the land in 1920 but no endeavour was either made to rebuild the Lodge or to build new village anywhere on the land. Farming on this land was stopped by plaintiff in 1921 and he removed to Kumasi in 1934 until 1944 when plaintiff returned and found that a village known as Niiman had sprung up on a portion of the land that belongs to him. During investigation by plaintiff, he learnt that the village was made with the permission of defendant, who has rented the land from the second defendant after having paid necessary customary rum in connection therewith. Plaintiff further alleged that there were old pillars made of stone and white lime on the trespassed southern portion, but these pillars had been razed to the ground hence this action for declaration of title, damages for trespass and Injunction.

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17th April
1950 -
continued.

30 The defendants' version summarised is that the first defendant is a tenant in fee simple to second defendant who is a representative of the head of a family commonly known and called Odoi Kwao family of Accra and Christiansborg, and whose ancestor Odoitei Shishiabo obtained the land including the portion in dispute from the then Ga Mantse, Gbese Mantse and Korle Wulomo after having paid 32 head-loads of cowries, one bullock, case of gin, one goat and one piece of white shirting as custom then prevalent demanded. The land was named Akanetso lands or Odoi Kwao family land. The land or rather the family was named after Odoi Kwao the son of the original grantee, because in his time he improved the village founded by his late father on the Akanetso lands, and raised the prestige of the family. During the Osu Bombardment many homeless people from Christiansborg went to live or seek shelter in the village made by Odoi Kwao. The defendants alleged that they had since remained or lived on this land in undisturbed possession for many years.

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Exhibits

"135"

Judgment in
Dr. C. E.
Reindorf v.
Malam Futa in
the Ga Native
Court "B".

17th April
1950 -
continued.

Now comes the vital conflict of facts as alleged by respective parties.

The Plaintiff on one hand claims his title by purchase from a Mankralo of Osu as far back as in 1891 and has produced an Indenture executed in the same year and marked Exhibit "A". Enclosed in this document (Exhibit "A") is a site plan of the alleged purchased plot, unsigned by the surveyor or draughtsman who prepared it. Although this document is a certified copy obtained from the Deeds Registry, it was not stamped, nor is this Court able to discover why the original was not in plaintiff's possession.

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The first question for this Court to decide is :-

Did the Mankralo and his elders really sign this document (Exhibit "A") in the honest belief that in the ordinary course of events is usually observed in persons of such customary position in execution of such documents? It is hard in the circumstances to recognise that the plaintiff's father, a most outstanding literate figure of his time, should have had what is called "independent professional advice" in this matter, to act for both sides in such a case, and permit no one to witness to the marks of stark illiterates executing a document of such importance, a position in which no outstanding literate figure like himself would allow himself to be placed.

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The second witness for plaintiff, Nanh Yebuah, the Acting Mankralo of Osu said inter alia :-

"It is illegal for a grantee's son or relative to sign for or witness to signatures (or marks) of members of grantors of land for a Stool".

A.C.J. Reindorf who proved the testimony of this Instrument to be the deed of Yebuah Kwamri in 1891 is a son to the Plaintiff's father. This man was never brought before this Court to give evidence, nor was his act deemed to be in consonance with the established customary law and procedure, considering the evidence of the Acting

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Mankralo mentioned supra. It is not difficult therefore to surmise that this document can hardly invoke equity to assist the Plaintiff.

Exhibits:

"135"

There is no real evidence that this transaction was governed by native custom. Obviously this was altogether improper and a gross abuse of plaintiff's father's dominant position over these illiterates natives.

Judgment in
Dr. C. E.
Reindorf v.
Malam Futa in
the Ga Native
Court "B".

10 There is also an Exhibit "B" a site plan of
the whole plot of land granted to plaintiff's father
by Osu Mankralo and his elders or Councillors, pre-
pared by a G.D. Plange, Licensed Surveyor, and who
gave evidence for plaintiff in this case. This
witness' evidence was totally discredited by defen-
dants and at a stage when he was ordered by Court
to produce his field book for inspection, he failed
to do so and was subsequently dismissed. The de-
fendants argued that this witness did not go to the
20 field at all to carry out his survey work, but
simply copied on a large scale from the site plan
contained in Exhibit "A". This piece of argument
is unhesitatingly upheld by this Court. It is no
gainsaying the fact that both Exhibits "A" and "B"
were prepared by plaintiff to suit his own interests.

17th April
1950 -
continued.

In approaching these points it is first necessary to state a few important and admitted facts so as to have a proper back-ground against which to consider this Indenture (Exhibit "A") and the evidence about it.

30 It appears wonderful that the plaintiff is quite ignorant of the dimensions and extent of the land as claimed by himself and alleged to have been granted to his father in 1891 and in respect of which a document has been executed. In Exhibit "A" the dimensions are as follows:-

North	1,850 feet
South	2,610 "
East	2,178 "
West	3,332 "

40 According to Plaintiff the land was acquired in 1891 (as in Exhibit "A") and the grant was made by the Accra Chiefs and priests but not by an Osu Mankralo as Exhibit "A" tends to show and as stressed in evidence by plaintiff.

Exhibits

"135"

Judgment in
Dr. C. E.
Reindorf v.
Malam Futa in
the Ga Native
Court "B".

17th April
1950 -
continued.

The dimensions published in the Spectator
Daily of 5th March, 1943 (Exhibit "5") are:-

North	2,280 feet
South	2,300 "
East	2,200 "
West	2,200 "

In another publication by Plaintiff in the
Daily Echo of 11th March, 1944, (Exhibit "6")
there also appear different dimensions of the
same land in dispute. Here they are:-

North	1,816 feet
South	2,645 "
East	2,892 "
West	2,536 "

It is extremely difficult for this Court to
comprehend the creation of this story which viol-
ates all propriety, as well as regularity.

It was vividly argued to the satisfaction of
this Court that if demarcation to locate the al-
leged plot given to plaintiff's late father is
commenced or based on point 162 East from the out-
side corner of Karlbiawe Lodge, there would have
been no plot or piece or parcel of land which the
defendants would have been charged to have tres-
passed upon. This starting point was clearly men-
tioned in plaintiff's alleged document (Exhibit
"A").

In consonance with this assertion, the Court
is deeply impressed with the evidence of defendants'
first witness Frank Simpson, a licensed surveyor
who was given a signed instructions by parties here-
in (Exhibit "7") to carry out the demarcation survey.
Other surveyors privately engaged by plaintiff neg-
lected or rather ignored to commence their demar-
cation survey work on this 162 point. Why plain-
tiff's privately engaged surveyors ignored this
starting point appears obscure to this Court, nor
was any of these surveyors for plaintiff able to
clear that hanging cloud. The position became
most confounded on behalf of plaintiff.

The land in question was inspected by this
Court on 29th November, 1947, and marks and spots
showed to Court by defendants go to discredit any

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claim put forth by any other person. The Plaintiff in his claim asserted that his land lies on "South-Eastern portion of Niiman village". This was found incorrect when the land was inspected by Court. It lies rather to the north-west of Niiman village. This goes to show that plaintiff himself does not know where his land lies. On 21st May, 1949, upon application by defendant the Court again inspected an old cemetery site belonging to defendants. The cemetery was made within the land which the plaintiff alleges or claims to be his own. It was asserted by defendants that the cemetery was made in 1908 when the Plaintiff's late father from whom plaintiff derives his title was then alive. No protest was lodged against the defendants or their predecessors for making a cemetery on a land which is not their own. About nine old tombs were showed to the Court during this inspection. The cemetery became dis-used in 1944.

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The facts of the present case appear to this Court to be even more favourable to the defendants. The plaintiff may own a piece or parcel of land far away from the disputed area and more particularly where the Karlbiawe Lodge was made. It is highly unbelievable that the plot belonging to Plaintiff extends to where he is now laying a claim.

30

There are a number of authorities or cases which have been put in by defendants and which have made this Court to refuse relief by way of decreeing possession to a plaintiff who has slept upon his rights, where in a dispute as to ownership of land, long undisturbed possession has been accepted as evidence of title. This Court accepts as a fact, considering the evidence adduced both orally and documentarily before it, that the defendants' land extends over and beyond West of the old cemetery site pointed out to the Court, running in a parallel line from old Blakpa tree on the South to a Tunyo tree on the North and far beyond the main anti malarial drain.

40

This Court can find no evidence establishing that the plaintiff is entitled to the declaration he seeks or any claim for damages for trespass. There will therefore be judgment for defendants with costs to be taxed.

(Sgd) Asafoiatse Tutuani II
PRESIDENT.

(Sgd) C.S. Komey
REGISTRAR.

Exhibits

"135"

Judgment in
Dr. C. E.
Reindorf v.
Malam Futa in
the Ga Native
Court "B".

17th April
1950 -
continued.

ExhibitsEXHIBIT "53"

"53"

JUDGMENT OF GA NATIVE COURT "B"
IN R.O. AMMAH v. D.O. WUREDU

Judgment of Ga
Native Court
"B" in R.O.
Ammah v. D.O.
Wuredu.

Tendered and admitted for Defendants
in re Numo A. Cobblah v. J.W. Armah
& Ors. 22/2/51.

21st April
1950.

In the Ga Native Court "B" Division 1 sitting at
Azuma House on Friday the 21st day of April, 1950
at 9.30 a.m. before Messrs. A.A. Allotey President,
J.E. Armah, Member, R.N. Amui, Member. Record
taken by E.A.M. Sackey, Recorder.

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Suit No.953/47.

R.O. Armah

v.

D.O. Wuredu.

JUDGMENT -

The plaintiff in this case sued the defendant
for a declaration of title to land situate lying
and being at Akwandoh in the Accra District. (2)
Damages for trespass in entering upon the said land
and making cement blocks on the said land and for
perpetual Injunction restraining the said defendant
from further trespass. The said land is bounded on
the North and South by Kotey family land, on the
East by Danso land and on the West by C.O. Aryee
land measuring 200 square feet.

20

This case was tried by another panel members
in this Native Court and judgment was on the 3rd
day of December, 1948 given in favour of the defen-
dant. The plaintiff appealed against that decision
to the Land Court and on the 17th day of August,
1949 the Chief Justice ordered that the case should
be retried by another panel members with particular
reference to:-

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- (1) "Whether there ever was a grant of land
"by the Korles to the Koteys in the area
"in question.
- (2) "If so whether the plot of land in dis-
"pute between the parties in the present
"suit forms part of that land. Court
"below to carry out."

40

This Court started hearing the case "de novo" on the 16th day of September, 1949 and the land was viewed on the 16th day of September, 1949.

Exhibits

"53"

The case of the Plaintiff is that he bought the land in dispute from the Kotey family of which H.C. Kotey (his father in this case) is the head and produced Exhibit "A" his title deed given him by the Kotey family.

Judgment of Ga
Native Court
"B" in R.O.
Ammah v. D.O.
Wuredu.

21st April
1950 -
continued.

10 In land cases (Declaration of Title) the general rule is for a Plaintiff to succeed on the strength of his own Title and not on the weakness of the defence.

20 Let us therefore examine the Title of the Plaintiff's Vendors (the Koteys' family) that being the root of the whole matter, Exhibit "C" was placed in evidence by the plaintiff as the Title Deed for the Kotey Family land and, according to this Exhibit "C" this land was granted to the Koteys' family ten years before the "Bombardment" of Christiansborg in 1854, therefore the land was actually granted to the Koteys family in 1844.

30 There was no document given neither plan showing the locality and dimensions of the land made for the Koteys' family. But, in 1921, 77 years after the grant the Koteys' family prepare Exhibit "C" (Declaration of Title and Plan of the land) for themselves without the knowledge and consent of the Korle Webii who granted them their land to enable them getting the proper demarcations and the extent of the land granted them. The Chief Justice in his judgment the defendant or any one else who was not a party to it.

The Korley Webii never signed the Exhibit "C".

The 3rd witness for the Plaintiff (C.O. Aryee by name) a Surveyor who assisted in making this plan (Exhibit "C" enclosure) was asked the following questions and his answers thereto:-

40 Q. Is it lawful that if a Land had been granted to some one without Deed if the Grantee wants to survey the land after

Exhibits

"53"

Judgment of Ga
Native Court
"B" in R.O.
Ammah v. D.O.
Wuredu.

21st April
1950 -
continued.

40 years, he alone should go and survey it with a surveyor?

- A. No. The custom is that you the Grantor should be informed and when given rum you go with him on to the land and have the boundaries re-demarcated before surveying it for plan to be made.
- Q. Do you think it will be an accurate plan if the Grantee goes to the land without the grantor and have it surveyed and Plan made thereon? 10
- A. No. It is not custom and such plan will never be accurate one if it was made without the Grantor or his relative.

This Exhibit "C" was therefore disregarded as genuine, so far as it was made without the knowledge and consent of the Korlewebii. It is interesting to note that the Chief Justice stated in his judgment (after having heard the argument on both sides regarding the various litigations from the Ga Mantse's Tribunal, The C. E. P's and W.A.C.A. between the Korleys and Koteys about this very land) that: 20

"This litigation does not of course establish the title of the Koteys to the land which was the subject of the litigation was indecisive and did not give title to anybody."

It is therefore clear that up to the time of sending this case back to this Court for retrial there was no title to the land in anybody. During the inspection of the land it was discovered that most of the surrounding buildings of the "Locus in Quo" belongs to various people who derived their title from the Korlewebii; The Koteys also sold about two plots of land to some people in the neighbourhood one of whom was his own witness C.O. Aryee. 30

The defence is that he derived his title from the Korlewebii who are the land overseers for the Gas (Ussher Town Lands). He supported this evidence by Exhibit "E". He called witness Okai Tokota from the Korlewe and the Korle Priest himself, all of whom testified that the land in dispute is no portion of the land granted to the Korleys' family 40 sic

by the Korlewcbii. The second and third witnesses called by the defendant were Ardaye and Aryitey Mensah who are all direct descendants were grandchildren of the said Yomo Dei the original Grantee of the said Kotey Family land, these witnesses gave vivid testimony of the land granted to their grand mother Yomo Dei as one situated on the Northern part of the Ring Road and distant from the one now in dispute which is situated on the Southern part of the Ring Road and is no portion of the land in dispute. Each of them added that they have been on the land of their grand mother Yomo Dei on several occasions till she died and which land of late they found had been built upon by some one.

10

Exhibits

"53"

Judgment of Ga
Native Court
"B" in R.O.
Ammah v. D.O.
Wuredu.

21st April
1950 -
continued.

That during the hearing of this case the defendant moved the Court that as there is a case in the Land Court about a large portion of land called Akwandoh of which one in dispute is involved between the plaintiff's Vendors of the present case and the Atukpais. Lutterodts and Odoi Kwao family, this case should be postponed "SINE DIE" until judgment is delivered in that suit, but the plaintiff refused.

20

That as stated by the Chief Justice in his Judgment there is no connection whatsoever with this land in dispute with the litigation of the Akwandor land which was the subject matter of the 1937 litigation. For both the defendant and his witnesses admitted that the Korleys granted a land to the Koteys family on the North of Ring Road.

30

As the Plaintiff has failed to satisfy us (the Court) with Vendors Title to the land, the proper verdict ought to be judgment for Defendant but as plaintiff's Vendors are in the Lands Court fighting to establish their title to the Akwandoh land in which the one now in dispute is involved we think the best cause to take is to non-suit the plaintiff with liberty to take fresh action should his Vendors succeed in the Land Court.

The Court's answer to the Reference is

40

(1) No.

(2) No.

Cost of Defendant to be taxed as against the Plaintiff.

Recorder
21/4/50

.....
President.

Exhibits

EXHIBIT "36"

"36"

LETTER FROM GA MANTSE TO
DISTRICT COMMISSIONER, ACCRA

Letter from Ga
Mantse to
District Com-
missioner,
Accra.

Tendered and admitted for Defendants
in re Numo A. Cobblah v. J.W. Armah
& Ors. 20/2/51.

17th May 1950.

Mantse We,
Accra.

Ref. KT.37/33/1950.

17th May, 1950.

My Good Friend,

10

Testing Box in Nima Village

I am in receipt of your letter No.023/SF. 1
dated 18th April, 1950, and requested the name and
address of the owner of the land in question is as
follows:-

Naa Odoitso Odoi Kwao,
Head of Nii Odoi Kwao Family
of Christiansborg-Accra,
c/o Hon. E.C. Quist, B.L., O.B.E.
P. O. Box 113,
Accra.

20

I am
Your Good Friend,

Tackie Kome II
PRESIDENT
GA NATIVE AUTHORITY.

THE AG. SENR. DISTRICT COMMISSIONER,
A C C R A.

EXHIBIT "44" - RECEIPTS for annual rents
from NII ODOI KWAO FAMILY
to MALAM FUTA.

Exhibits

"44"

Tendered and admitted for Odoitso Odoi Kwao
Family in re Fumo A. Cobblah v. J.W. Armah
& Ors.

22/2/51.

Receipts for
annual rents
from Nii Odoi
Kwao Family to
Malam Futa.
31st May, 1950.

10 Received from Registrar Exhibit 'I' Receipt
issued to Malam Futa for £30 dated 28/3/31 from
Odoitso Odoi Kwao Family in respect of Nima Village
tendered in re Muffti & Futa v. Malam Futa & Ors.

(Sgd.) Alhaji Amadu Futah

? ? ?

Accra
31/5/50.

O.S./O.K.F. No.1/32

NII ODOITEI SHISHIABO ALIAS NII ODOI KWAO
FAMILY OF OSU ANUMANSAH AND GA MASHIE ETC. ACCRA

Receipt to be handed to Payer.

11th August, 1932.

20 RECEIVED from Malam Amadu Futa the sum of One
Pound Twelve Shillings and (One Sheep etc.) being
annual occupation due or rent for the year 1932
paid by him for occupying part of Nii Odoi Kwao
Family Land known as Akanetso situate and being at
North East Adabraka - Accra.

£1. 12. Od.

(Sgd.) ? Kote

" I.A. Mensah
for Head of the Family.

Payer's signature (Sgd.) Malam Amadu Futah

30 N.B. Payers must obtain printed receipts. All
receipts without the signature of the family
recognised representatives are not valid. Spot
cash must be paid before the execution of any
documents or Certificate of Title in respect of

Exhibits

"44"

Receipts for
annual rents
from Nii Odoi
Kwao Family to
Malam Futa.
31st May, 1950
- continued

any land required either by lease or otherwise. Six calendar months instalments only allowed by the family. Any person who is not regular in his or her monthly payments aforesaid plot will be sold for spot cash and to return what is due to that person.

(Note. This Exhibit contains receipts in similar form as follows:

<u>Date</u>	<u>Year</u>	<u>Amount</u>	
10th July 1933	1933	£1.12.0 & 1 Shoep	10
16th July 1934	1934	Ditto	
26th July 1935	1935	£1.18.0 & 1 Sheep	
24th July 1936	1936	Ditto	
26th July 1937	1937	Ditto	
26th July 1938	1938	Ditto	
25th July 1939	1939	£2.10.0 & 1 Sheep	
17th July 1940	1940	Ditto	

O.S./O.K.F. No.10/41

NII ODOITEI SHISHIABO ALIAS NII ODOI KWAO
FAMILY OF OSU ANUMANSAH AND GA MASHIE ETC. ACCRA 20

Receipt to be handed to Payer.

23rd July, 1941.

RECEIVED from Alhaji Amadu Futa and his followers at Niima Village the sum of Three Pounds Ten Shillings being part payment of annual occupation rent due collected by him for the year 1941 from the occupiers of the portion of land known as Akantseo or Odoi Kwao land belonging to Nii Odoi Kwao Family situate at North East Adabraka Accra.

£3.10/- (Sgd.) ? ? Kotey 30
" I. A. Mensah
for Head of Nii Odoi Kwao Family.
2d Stamp.

Payer's signature (Sgd.) Malam Amadu Futa.
(Same note as on previous receipts)

(Note. This receipt is followed by receipts in similar form as follows :-

<u>Date</u>	<u>Year</u>	<u>Amount</u>	
14th July 1942	1942	£4	
19th July 1943	1943	£5 and 1 Sheep	40
18th July 1944	1944	£10	

EXHIBIT "55" - JUDGMENT of the GA NATIVE COURT in T.R. ABBEY AND OTHERS v. QUARSHIE

Exhibits
"55"

Tendered and admitted for Defendants in re Numo Ayitey Cobblah v. J.W. Armah & Ors.

23/2/51.

Judgment of the Ga Native Court in T.R. Abbey and Others v. Quarshie.
3rd June, 1950.

10 IN THE NATIVE COURT "B" DIVISION 2 OF THE GA STATE sitting at the JAMES TOWN COURT ACCRA on SATURDAY the 3rd day of JUNE 1950 at 10.30 a.m.

BEFORE - RE SUMO ATTUQUAYEFIO, President
G.T. AHINAKWA, Esq., Member
LAMPTEY BLANKSON, Member
Record taken by I.S.T. Otchie, Registrar.

Suit No. 1095/48

T.R. ABBEY, ANDREWS IDRISU COFIE
and ELIAS ATEKUCHE, Plaintiffs

H.C. KOTEY as Head of Afutu Kotey
Family of Accra, Co-Plaintiff

20 v.

QUARSHIE of U.A.C. Lighterage,
Accra, Defendant

NII TETTEY GBEKE II, Co-Defendant

J U D G M E N T -

30 The Plaintiff's claim in this action is (1) Declaration that they are the owners of the parcel of land with shed thereon (2) Fifty pounds damages for the defendant's trespass by entering wrongfully on the said parcel of land (3) Perpetual Injunction to restrain the defendant his agents servants and people from further trespass on the said land and from further making of the said cement blocks on the said land. And the land is all that piece or parcel of land situate lying and being at Akwador Adabraka, Accra and bounded on the North by proposed road measuring 360 feet on the North East by proposed road measuring 300 feet on the South by Ring Road measuring 570 feet on the East

Exhibits

"55"

Judgment of the
Ga Native Court
in T.R. Abbey
and Others v.
Quarshie.

3rd June, 1950
- continued.

by proposed Road measuring 305 feet and on the
West by proposed Road measuring 520 feet

The Plaintiffs' statement in brief is that in
October 1943, they bought a land with the above
dimensions from the co-Plaintiff H.C. Kotey for
£200 and he gave them a deed of conveyance dated 3rd
November, 1943.

That after the registration of their convey-
ance Exhibit "A" they erected zinc shed on it, and
since then no person has interfered with their
right or title until 1948 when the defendant tres-
passed on the land hence this action.

10

They tendered in evidence copy of Judgment in
re T.R. Abbey versus N.A. Mettle and marked Exhibit
"B". That this suit was originally against the
defendant Quarshie only, but on the 13th day of
February, 1950, and on his application Nii Tettey
Gbeke II was joined as Co-Defendant. The Co-
Plaintiff also states in brief that the land in
dispute is called Akwandoh land, and it is his
family land which was given them by Korle Webii
about ten years after the bombardment of Christians-
borg in 1854. That after the grant, they performed
the following custom: i.e. giving of 32/- cash, one
sheep and flask of rum. That a portion of this
land was sold to the Plaintiff by him as Head of
Kotey family. That in 1916 there was a litigation
between one Samuel Tetteh Addy who represented
Atuopai Stool and J. Afutu Kotey for Kotey family
before the Gbese Tribunal and the Kotey Family won,
Exhibit "C".

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30

In the year 1943, Nii Tetteh Kwei Molai, Act-
ing Korle Priest took action against Kotey family
for this same land before the Ga Mantse's Tribunal,
which case went in favour of Co-Plaintiff's family
on appeal to C.E.P.'s, and confirmed by West
African Court of Appeal. Copy of West African
Court of Appeal Judgment tendered in evidence and
marked "D". He called witnesses and tendered
various Judgments and Documents in evidence in
support of his case. The defendant Quarshie states
in brief that he bought the land in dispute (por-
tion) 80 x 120 from the Co-Defendant Nii Tettey
Gbeke II for £125 and he had a Deed of Conveyance
from them (Exhibit "O"). That after he obtained
building permit from Town Council he started making
blocks on the land when he had this Writ of Summons
for trespass from the Plaintiffs and that he

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Exhibits

"55"

Judgment of the
Ga Native Court
in T.R. Abbey
and Others v.
Quarshie.

3rd June, 1950
- continued.

bought the land after the Judgment in the case of Korle Webii versus Atuopai people had been delivered and was satisfied that the Atuopais defeated Korle Webii in that case. On the other hand the Co-Defendant's statement in brief is that the land known as Akwandoh which he has sold 80 x 120 to the Defendant is Atuopai Stool land. That they got this land from the then Ga Mantse Nii Tackie Komney I after the Katamanso War in 1827, and that after the grant the sum of £5.10 (Ohadu) piece of one Shirting, one Sheep and Demi John's rum were given by them to the Ga Mantse in consideration. That the land granted to the Atuopai Stool is bounded on the North by Blakpatse, on the South from Fanofa to Kladsii Abu, on the East by Osu Stool land and on the West by Kwabonya footpath now known as Nsawam Road. That since the grant they have founded several villages on the land and that they have lived on this land undisturbed and that the Ga Mantsemei know that they possessed this land, and that they have even granted portions of this land to the Gbese Mantse or the Gbese Stool (Exhibit "Q") in 1945.

They called witnesses to support their case, one from the Ruling house of the Ga Mantse, and a senior linguist of Gbese. That in 1942 the Korle Webii instituted action against them for a declaration of title of all Kokomlemle lands including the land in dispute and the Korle Webii were non-suited (Exhibits "R" and "S"). The Co-Defendant emphasised the point that the land in dispute is the property of the Atuopai Stool land which forms part of their large track of land. Various plans, Documents and Judgments were tendered in evidence by both parties. But the Document on which the Co-Plaintiff relies mostly is the 1916 Judgment between one Djarnie Nukpa and Ors. versus Tetteh Addy before the then Gbese Tribunal for trespass on the Plaintiff's property situate at Akwandoh in which case Judgment went against the Defendant. The Co-Plaintiff contends that the land in dispute in that case was the same Akwandoh as the one in dispute now, and that as the Plaintiff who was the Head of his family in that case obtained Judgment against the defendant, who was also representing the Atuopai Stool, and there was no appeal, the Judgment is binding on the present Head of Atuopai.

The Co-Defendant refused to accept this contention and maintains that Tetteh Addy was not representing the Atuopai Stool in that case and

Exhibits

"55"

Judgment of the
Ga Native Court
in T.R. Abbey
and Others v.
Quarshie.

3rd June, 1950
- continued.

that the Stool knew nothing of that case. We are inclined to accept the contention of the Co-Defendant, that Tetteh Addy was not representing the Atuopai Stool as contended by the Co-Plaintiff, for at page 6 of the Judgment in question (Exhibit "C") the following appear: "Defendant stated that from Okaishie to Akwandoh hill belongs to the people of Atuopai whom he is representing but this statement is not admitted because of his not being in unity with them."

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It is clear from this excerpt that Tetteh (sic) Addy was not accepted by the Tribunal as representing the Atuopai Stool, and in consequence, the Judgment referred to cannot and is not binding on the Stool. The Co-Defendant tendered in evidence the Writ of Summons between Ayitey Cobblah, Korle Priest versus Tettey Gbeke and Ors. (Exhibit "R").

In reading this Exhibit the undermentioned sentence occur :-

"All that piece or parcel of land situate lying and being in the Ga State known as Akradi, Kokomlemle Akwandoh Fanofa etc." It is evidence from this excerpt also that the land known as Akwandoh part of which is in dispute was included in the claim of Korlewebii versus Atuopai Stool and that any Judgment in that case affects the land in dispute.

20

It must be mentioned that Korlewebii are the grantors of the Co-Plaintiff. The Co-Plaintiff however put in evidence Exhibit "D" a consent Judgment of the West African Court of Appeal dated 4th June 1943 in the case of Tetteh Quaye Molai Acting Korle Priest versus Grace Kotey and ors. in which the Co-Plaintiff herein obtained Judgment against Korle Webii for this land, but liberty was given for fresh action to be taken, and which liberty still holds.

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The Exhibit "C" is tendered by the Co-Plaintiff to prove to the Court that he holds title to the land in dispute by his Judgment against the Korle Webii (his grantors) but the Co-Defendant again tendered in evidence Exhibit "X", Judgment of the Supreme Court by Chief Justice Mark Wilson in the case R.O. Ammah versus D.O. Wuredu, in which the Co-plaintiff H.C. Kotey sold plot of land at Akwandoh to the Plaintiff in that case.

40

In this Exhibit also the Chief Justice referred the case back to be retried on the following points :-

- (1) "Whether there ever was a grant of land by the Korles to the Koteys in the area in question.
- (2) "If so, whether the plot of land in dispute between the parties to the present suit forms part of that land."

Exhibits

"55"

Judgment of the
Ga Native Court
in T.R. Abbey
and Others v.
Quarshie.

3rd June, 1950
- continued.

10 It is patent from this reference, that the position of Co-Plaintiff (H.C. Kotey) in respect of the part of Akwandoh lands to his family, by the Korle Webii under examination and in consequence, his title to the said land is unsettled.

The Co-Defendant again put in evidence, Judgment of the W.A.C.A., 13th day of December, 1947, (Exhibit "S") in the case Ayitey Cobblah, Korle Priest versus Nii Tettey Gbeke and Ors. and in this Judgment also the following appears :-

20 "There can be no doubt that the title of the Plaintiffs (if any) is wrapped in mystery and we are of the opinion that the learned trial Judge was perfectly correct to non-suit the Plaintiffs"

We may mention again that the claim concerned by this Judgment is a large track of land known as Kokomlemle lands including the Akwandoh lands (portion of which is in dispute).

30 The Co-Defendant again tendered in evidence an indenture dated the 27th day of December, 1941, between the Atuopai Stool and the Government of the Gold Coast (Exhibit "I") empowering Government to enter upon and use Kokomlemle lands for the purpose of effecting layouts and constructing roads, dustbins, latrines, incinerators, wash houses etc., and this indenture is tendered to prove to the Court that the Co-Defendant owns and possesses the Kokomlemle lands including Akwandoh.

40 We have given full consideration to the evidence and arguments of the parties herein, and by virtue of Exhibits "R", "X" and "S" above referred to, Judgment is given for the Defendants with costs to be taxed.

(Sgd.) Re Sumo Attuquayefio
PRESIDENT.

(Sgd.) I.S.T. Otchie,
REGISTRAR.

Exhibits

"138"

Judgment of the
Privy Council
in Dr. F.V.
Nanka-Bruce v.
Tettey Gbeke.
11th July, 1950.

EXHIBIT "138" - JUDGMENT of the PRIVY
COUNCIL in DR. F.V. NANKA-BRUCE
v. TETTEY GBEKE.

Tendered and admitted for Atukpai in re Nuno
Ayitey Cobblah etc. v. J.W. Armah & other
consolidated cases.

3/5/51.

PRIVY COUNCIL APPEAL No.56 of 1948

FREDERICK VICTOR NANKA-BRUCE, Appellant

v.

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TETTEY GBEKE AND ANOTHER Respondents

From

THE WEST AFRICAN COURT OF APPEAL

JUDGMENT OF THE LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL, DELIVERED
THE 11TH JULY, 1950.

Present at the Hearing -

Lord Porter
Lord Oaksey
Lord Radcliffe
Sir John Beaumont
Sir Lionel Leach

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(Delivered by Sir Lionel Leach)

This is an appeal from a judgment of the West
African Court of Appeal, dated the 7th March, 1944,
dismissing an appeal by the appellant from a
judgment of the Supreme Court of the Gold Coast,
dated the 1st December, 1942. The suit out of
which the appeal arises was instituted on the 24th
March, 1942, in the Tribunal of the Paramount
Chief of the Ga State. The reliefs sought were
(I) a declaration that certain land situate some
three miles from Accra on the Accra-Nsawam Road
belonged to the family of one Okai Tiseh, of which
the Plaintiff claimed to be the head and (II) an
Injunction restraining the Defendants (the

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Respondents in the appeal), their servants and agents from trespassing on the land. The suit was transferred to the Supreme Court of the Gold Coast, Eastern Province, for hearing and determination.

Exhibits

"138"

Judgment of the
Privy Council
in Dr. F. V.
Nanka-Bruce v.
Tettey Gbeke.
11th July, 1950
- continued.

10 There were no pleadings, but from statements made at the trial the Plaintiff's case may be summarized as follows:- Sometime in the 1850's or 1860's Nii Addu, the then Korle Priest, who was the head of the Korle Webli or Korle family, acting within his powers, made an oral grant of the land to Okai Tiseh, the son of one Tego Churu. Okai Tisch died in the 1860's having founded a separate family, which is now represented by the Plaintiff, who is the grandson of Aranyo Dede, a brother of Okai Tiseh. The grantee was in possession of the land and exercised rights of ownership up to the time of his death. Thereafter possession and enjoyment remained with the members of his family without any attempt at interference until 1926. In that year Tetteh Kwei Molai, who was then acting as the Korle Priest, brought an action against the Plaintiff for the recovery of the land. The action failed, Tetteh Kwei Molai being non-suited. There was no further interference with the rights of the Okai Tiseh family until 1938 when someone removed from the land a watchman employed by them. Later the erection of a modern building was commenced on the land claimed by the second Defendant and this precipitated the present action.

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40 The land claimed by the Plaintiff lies partly on one side of the Accra-Nsawam Road and partly on the other side. The Defendants made no resistance to the claim made in respect of the land to West of the road, but denied that the Plaintiff had any right to the part on the East. The first Defendant, who is the representative of the Atukpai family of Accra, maintained that the disputed land is part of a larger area belonging to the Atukpai Stool and that consequently any grant made by the Korle Priest to Okai Tiseh was invalid. Some of the disputed land had been granted by the Atukpai Stool to one Adams, through whom the second Defendant claimed. The second Defendant denied that the Plaintiff was the head of the Okai Tiseh family and denied that Okai Tiseh or his successors had ever been in occupation of the land. He based his own title on that of the Atukpai Stool.

Exhibits

"138"

Judgment of the
Privy Council
in Dr. F. V.
Nanka-Bruce v.
Tettey Gbeke.
11th July, 1950
- continued.

The action was tried by Mr. Justice Lane, who held that at the time of the alleged grant to Okai Tiseh the land was covered with forest and that the Korle Webii were in charge of it under the Gbese Stool. In practice the Korle Priest as the head of that family made dispositions of land, but there was no evidence of a grant to Okai Tiseh, and the Plaintiff had failed to prove use and occupation of the land by the family of which he claimed to be the head. The Plaintiff had also failed to prove that Okai Tiseh had formed a separate family. The learned Judge accepted the evidence of Tetteh Kobblah, the headman of Avonor, a village in the neighbourhood. Tetteh Kobbla who was said to be 90 years of age and is a relative of Okai Tisch, stated that Okai Tiseh's properties had devolved on Asere Teiko, the present head of the family of Tego Churu, the father of Okai Tiseh. This accords with the evidence of Nii Ayi Ansah, an expert in native law called by the Plaintiff, who said that any property acquired by the offspring of a man and his female slave became the property of the man's family and when the child of the union died all his property became his father's family property. Okai Tiseh's mother was a slave. The result was that the learned Judge non-suited the Plaintiff and dismissed the action with costs as regards his claim to the land on the East of the Accra-Nsawam Road. The West African Court of Appeal agreed with the findings of the Supreme Court and dismissed the appeal, but amended the judgment of the Court below by deleting therefrom the words "and the action dismissed". No objection has been taken to this amendment. The learned trial Judge was far from being impressed by the title set up by the Defendants, but he rightly observed that the Plaintiff must succeed on the strength of his own title and not on the weakness of that of the Defendants. The position in such cases as this was aptly stated by the West African Court of Appeal in J.M. Kodilinye v. Mbanefo Odu (2 W.A.C.A. 336), where the Plaintiff sued for a declaration of title to a piece of land in the Onitsha Province. In the course of his judgment in that case Webber, C.J. said - "The onus lies on the Plaintiff to satisfy the Court that he is entitled on the evidence brought by him to a declaration of title. The Plaintiff in this case must rely on the strength of his own case and not on the weakness of the Defendant's case. If this onus is not discharged, the weakness of the Defendant's case will not help him and the proper judgment is for the Defendant. Such a judgment decrees no

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title to the Defendant, he not having sought the declaration. So if the whole evidence in the case be conflicting and somewhat confused, and there is little to choose between the rival traditional stories the Plaintiff fails in the decree he seeks, and judgment must be entered for the Defendant." On behalf of the appellant it has been argued that the learned trial Judge misdirected himself, that on a proper appreciation of the evidence there should have been judgment for the plaintiff, and that consequently the Appellate Court erred in concurring in the findings of the Court below. Their Lordships have been taken through the record and can find no indication whatever of misdirection; on the other hand they find that there is evidence which gives direct support to the learned Judge's conclusions. His findings are findings of fact and as they were accepted by the Appellate Court their Lordships must follow their usual practice and decline to review the evidence for a third time unless there are some special circumstances which would justify a departure from that practice. It is manifest that there are no special circumstances here and therefore the concurrent findings of the African Courts must be accepted as being conclusive.

It was suggested by Mr. Ramsay that the Supreme Court had wrongly allowed the second Defendant to set up a jus tertii in that it had admitted the evidence of Tetteh Kobla with regard to Okai Tiseh's property devolving on Asere Teiko. This evidence was given in the cross-examination of Tetteh Kobla on behalf of the second Defendant, but the questions were not put with the object of setting up a title in a third person. They were put with the object of disproving the plaintiff's allegation that he was the head of a separate family founded by Okai Tiseh and that Okai Tiseh's property had devolved on him. In this the second Defendant succeeded, but it is certainly no basis for a suggestion that the Court had allowed the second Defendant to set up a jus tertii.

For the reasons indicated their Lordships will humbly advise His Majesty that the appeal should be dismissed. The appellant must bear the costs of the appeal.

Exhibits

"138"

Judgment of the
Privy Council
in Dr. F. V.
Nanka-Bruce v.
Tettey Gbeke.

11th July, 1950
- continued.

Exhibits

"46"

EXHIBIT "46" - JUDGMENT in TETTEY GBEKE II
v. NII AZUMA III

Judgment in
Tettey Gbeke II
v. Nii Azuma III.
6th November,
1950.

Tendered for Defendant as Exhibit "46" in
re Ayitey Cobblah v: J.W. Armah & Ors.
22/2/51.

IN THE GA NATIVE COURT "B" DIVISION 1 sitting at
AZUMAH HOUSE on MONDAY the 6th day of NOVEMBER,
1950 at 9 o'clock a.m.

BEFORE -

Messrs. RE SUMO ATTUQUAYEFIO	President	10
G. T. AHINAKWA	Member	
LAMPTEY BLANKSON	Member	

Record taken by E.A.M. Sackey.

Suit No. 452/50.

NII TETTEY GBEKE II, Dsasetse
and Acting Mankralo of Atukpai,
Accra, Plaintiff

v.

NII AZUMAH III, P.Q. FISCIAN,
MARY AKUA FISCIAN, OWUSU, 20
OKATAL, ODOI-KAI, ABA CHOCHOE
and AGNES TAGOE, Accra, Defendants

JUDGMENT -

This is a case in which the Plaintiff claims:

"(a) Fifty Pounds damages (£50) for unlawful
encroachment litigating among themselves by
Suit No.404/49 pending in Native Court "B"
Division 2 of Plaintiff's land situate lying
and being at South East Kokomlemle, Accra, 30
and bounded on the North West by Big Drain
measuring 1,780 feet more or less, on the
South-West by (late Afutu Kotey and Annan
Mettle's lands) now occupied by Amusudie
Brazilians measuring 2000 feet more or less
on the North East by old foot path measuring
1,410 feet more or less and on the South East
by Osu Stool land now occupied by Odoi Kwao
Family measuring 652 feet more or less (b)
That since Tetteh Kwei Molai Acting Korle

Priest instituted an action against the Plaintiff and others in 1943 for Kokomlemle lands including the land in dispute of which the judgment went against the Korle Priest Ayitey (substituted) in lands Court on the 31st May, 1947 and in the West African Court of Appeal on 13th December, 1947 and the Defendants in no reason failed to join either parties in said action they were wrong in law and custom to litigate against each other in respect of said land (c) That 4th, 6th, 7th and 8th herein forcibly erected or erecting building on portions of the land after several warnings by the Plaintiff. (d) Recovery of possession of the portions thereof wrongly occupied by the Defendants (e) Interim Injunction against both Defendants, their Agents, Privies and Servants from further commission of any form of trespass on the said land the subject matter of this suit".

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The Plaintiff's statement in brief is that after the Katamanso War, the then Ga Mantse Nii Tackie Komme I granted a large track of land to his ancestors by their request for bravery exhibited during the war in 1927, after performing all necessary custom appertaining to the said grant.

That since this grant they have been in occupation of the land, cultivating and founded villages thereon, and that they have lived on it up to the present time. That in the year 1927, they granted portion of this land to the late Ex Ga Mantse II Tackie Yarboi, Exhibit "E" and in 1942, the Gbese Mantse Nii Ayitey Adjin III, being in need of money to liquidate a Stool debt, approached them for a similar grant, which they did, Exhibit "F". That the late Korle Priest Nii Tetteh Kwoi Molai knew the Atukpai Stool land in this area as shown in his affidavit Exhibit "G".

The Plaintiff further states that he gave portions of this land to one Kofi Congo, Ashong Dsata and Odartei who are now dead to farm thereon, and has executed a Deed of Gift to the late Kofi Congo. He is aware of the fact that there is a litigation between the Defendant and Odoitso Odoi Kwao family over the land in dispute but as the land did not belong to either of the claimants he did not join as a party to that case. That he has given several warnings to the 1st Defendant but he gave no heed to them hence this action; Plaintiff

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called several witnesses and tendered several Documents later, Judgments and Plans in evidence in support of his case.

The Defendants on the other hand state that the Brazilians arrived in Accra in the year 1836 and lodged with the then Otooblohum Mantse Nii Ankrah through whom they were granted land by the Ga Mantse Nii Tackey Kome I. during that year for farming purposes. The land granted is at North Adabraka, from Adjabeng valley to Fanofa valley and bounded on the North East by Odoitso Odoi Kwao family and which was and is being possessed physically by the earliest Brazilians as well as their descendants of which the 1st Defendant herein is the Head. 10

Defendants also called witnesses and tendered several Exhibits in support of their case.

It is worthy of note that the witnesses called by the Plaintiff in this case are mostly young persons who testify that their father farmed on the land in dispute by the permission of the Atuo-pai people, whereas the Defendants' witnesses are old men between 70 to 90 years who assert that they have farmed on this land as Brazilians and by the authority of the Brazilian Heads. 20

The most important record tendered in evidence is Exhibit "P" being a NON-SUIT Judgment of the Supreme Court dated the 15th July, 1946, in Re Odoitso Odoi Kwao v. Nii Asuma III, and ors. (Defendants herein) in respect of this very land in dispute in their favour, and this judgment was appealed against by the said Odoitso Odoi Kwao family when the West African Court of Appeal rather gave them full judgment vide Exhibit "P" 1. 30

That in the Non Suit Judgment of the Supreme Court Exhibit "B" the following extracts appear -

"I am satisfied on the evidence that the Brazilians have been cultivating the land for very many years, long before 1900 without permission of the Plaintiff's family and that they have occupied it preponderantly without payment of tolls" 40

We have carefully examined the evidence of both parties in this case, and given full

consideration to the various Documents, Letters and Judgments tendered in evidence and whilst we are highly impressed by the evidence of the Defendants' witnesses and by virtue of their age and demeanour in view of the extract quoted above in Exhibit "P1" and in as much as the Plaintiff admits that the Defendants contested with the Odoitso Odoikwao about the land in dispute but they did not join to protect their interests, and again as the Defendant won that case on appeal at the West African Court of Appeal reference Exhibit "P1" in respect of this very land, we have no alternative than to give judgment for the Defendants as against the Plaintiffs with costs to be taxed.

10

(Sgd.) Re Sumo Attuquayefio
President.

(Sgd.) E.A.M. Sackey
Recorder.

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EXHIBIT "28" - MOTION and AFFIDAVIT of
E. L. NIKOI OLAI KOTEY in
NII TETTEY GBEKE v. NII
ADUMUAH NORTEY & ORS.

"28"

Motion and
Affidavit of
E.L. Nikoi Olai
Kotey in Nii
Tettey Gboke v.
Nii Adumuah
Nortey & ors.

Tendered and admitted for Defendant in re
Numo A. Cobblah v. J.W. Armah & ors.
19/2/51.

IN THE NATIVE COURT "B" DIVISION 1 OF THE GA STATE
EASTERN JUDICIAL DIVISION
ACCRA ~ A.D. 1950.

21st December,
1950.

Suit No. 851/40.

30

NII TETTEY GBEKE II, Dsasetse of Otuopai
for and on behalf of the Otuopai Stool,
Plaintiff

vs.

NII ADUMUAH NORTEY as Head of Nortey
Agbeti Family and on behalf of Agbeti
of Christiansborg, Accra, and NII
ANYETEI KWAO, ODOITSO ODOI KWAO and
JOHANNES MENSAH AMARTEI, Defendants

40

Motion on Notice by Na Odoitso Odoi Kwao the present Lawful Head of the Nii Odoi Kwao Family of

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Motion and
Affidavit of
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Kotey in Nii
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Christiansborg and Accra and one of the defendants in the above cause the other defendants, namely Nii Adumuah Nortey, Nii Anyetey Kwao and Johannes Mensah Amartey having died, for an order of this Native Court for continuation of the suit herein which was pending when the Native Courts (Colony) Ordinance, 1944, was commenced and for an Order for substitution of the names of Nortey Narh, John Amah-Cofie Mensah and Edmund Laud Nikoi O'lai Kotey for and in the place of the names of Nii Adumuah Nortey, Nii Anyetey Kwao and Johnson Mensah Amartey all of whom are now dead, or, for such order or further order or orders as to this Native Court may seem fit to make.

10

Court to be moved on Thursday the 4th day of January, 1951, at 8.30 of the clock in the forenoon or so soon thereafter as the Applicants can be heard.

Dated at Accra this 22nd day of December, 1950.

E. Laud Nikoi O'lai Kotey,
for Applicants.

20

The Registrar,
Native Court "B1", Accra.

And to the above-named Nii Tettey Gbeke II,
Dsasetse of Otuopai for and on behalf of the
Otuopai Stool, Accra.

IN THE NATIVE COURT "B" DIVISION 1 OF THE GA STATE
EASTERN JUDICIAL DIVISION
ACCRA - A.D. 1950

NII TETTEY GBEKE II, Dsasetse of Otuopai
for and on behalf of the Otuopai Stool,
Plaintiff

30

v.

NII ADUMUAH NORTEY as Head of Norty Agbeti
Family and on behalf of Agbeti of
Christiansborg, Accra, and NII ANYETEI
KWAO, ODOITSO ODOI KWAO and JOHANNES MENSAH
AMARTEI,
Defendants

I, EDMUND LAUD NIKOI O'LAI KOTey, Senior Headman
of the Nii-Man village on Akanetso land North East

40

Adabraka and West of Dodowah Road Accra and one of the principal members of the Nii Odoi Kwao family and representative of the lawful head of the Nii Odoi Kwao family, hereby make oath and say as follows:-

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- continued.

- 10 1. That I represent Na Odoitso Odoi Kwao who is the present lawful Head of the Nii Odoi Kwao family of Christiansborg and Accra and the only person now alive out of the defendants Nii Adumuah Nortey, Nii Anyetoi Kwao and Johannes Mensah Amartei all of whom are now dead.
2. That I have the requisite authority of the said Na Adoitso Odoi Kwao to swear to this affidavit on her behalf as Head of the Nii Odoi Kwao family aforesaid.
- 20 3. That the above suit was commenced by the plaintiffs on the 31st of December, 1940, in the defunct Native Tribunal of the Paramount Chief of the Ga State, and made returnable on the 16th of January, 1941.
4. That since the commencement of the said suit, three of the last four defendants namely Nii Adumuah Nortey, Nii Anyetoi Kwao and Johannes Mensah Amartei had died, remaining Na Odoitso Odoi Kwao.
5. That the said suit was pending at the time of the commencement of the Native Courts (Colony) Ordinance 1944.
- 30 6. That it is now desired that the said suit be continued and concluded in this Native Court, as a pending cause in accordance with section 17 of the Native Courts (Colony) Ordinance, 1944, and for an Order substituting the names of Nortey Narh, John Amarcovie Mansah and Edmund Laud Nikoi O'lai Kotey for and in the place of Nii Adumuah Nortey, Nii Anyetoi Kwao and Johannes Mensah Amartei all of whom are now dead.
- 40 Sworn at Accra this 22nd day) E. Laud Nikoi O'lai
of December, 1950.) Kotey.

Before Me:

Alfonso Brown,
Commissioner for Oaths.

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Judgment of Jackson J. in Marbell v. Akwei.

12th February, 1951.

EXHIBIT "137" - JUDGMENT of JACKSON J. in MARBELL v. AKWEI.

Tendered and admitted for Odoitso Odoi Kwao in re Numo Ayitey Cobblah etc. vs; J.W. Armah & other consolidated cases. 2/5/51

12th February, 1951.

IN THE SUPREME COURT OF THE GOLD COAST, EASTERN JUDICIAL DIVISION, LAND DIVISION, held at VICTORIABORG, ACCRA, on MONDAY the 12th day of FEBRUARY, 1951, BEFORE JACKSON, J.

10

Transferred Suit
No. L.27/1950

ISAAC STEPHEN NETTEY MARBELL, Plaintiff

v.

RICHARD AKWEI Defendant

Transferred Suit
No. L.29/1950

RICHARD AKWEI Plaintiff

v.

EMELIA CHICHER COFIE, Defendant

20

- Consolidated -

JUDGMENT -

On the 19th November, 1948, the Plaintiff, Marbell, issued out of the Ga Native Court a Writ of Summons claiming as against the Defendant, Richard Akwei, £50 damages for trespass to land.

On the 6th October, 1949, the Plaintiff, Richard Akwei, issued out of the same Court a Writ claiming as against the Defendant Emelia Chicher Cofie, a declaration of title to land situate at Farrar Avenue, Accra, and an injunction.

30

These two actions were transferred to this Court by Orders made by Smith Ag. C.J. on the 2nd May, 1950. These actions came before the learned Acting Chief Justice on the 18th May, 1950, when he ordered that pleadings be filed.

Pleadings were duly filed.

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When the two suits came before me for trial on the 19th January last Mr. Bossman appeared for Richard Akwei, whilst the other parties, namely, I.S.N. Marbell and E.C. Cofie were unrepresented by Counsel and appeared in person. As it then appeared to me to be convenient that the two actions should be consolidated for trial, I did so order.

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- continued.

10 After Marbell has been in the Witness Box for some 20 minutes or so Mr. Sarkodee Adoo, his Counsel, appeared, having been sick, it would appear, and not having made other arrangements for Counsel to watch his client's interest.

20 At the resumption of the trial on the 22nd and after Mr. Sarkodee Adoo had become aware of my order consolidating the action, he asked leave to argue his plea of estoppel as raised by him in paragraph 7 of the statement of defence filed in the Suit L.29/50 - Akwei v. Cofie. As Mr. Bossman said he had no objection I granted the indulgence to Mr. Sarkodee Adoo and heard the arguments.

30 Now the two actions before me relate to two adjacent plots of land each with their frontage along Farrar Avenue. The Western plot had been sold by Akwei to one S.Y. Faris in October, 1947, when as a result Emelia Chicher Cofie sued Faris and one MacDonald for trespass when Faris started building operations. That action was heard before Smith, J., and who delivered the judgment, (admitted and marked as Exhibit No. "8") on the 30th June, 1949.

40 In that action Faris claimed his title by reason of a Deed of Conveyance executed by Richard Akwei on the 7th October, 1947, and registered in the Lands Registry on the 30th October, 1947. In that Deed the Vendor (Akwei) purported to be seised in an estate in fee simple by reason of a sale to him of that estate by the Nii Odoi Kwao Family of Christiansborg, Accra.

That latter deed dated the 31st October 1936, is the one admitted and marked "B" and which conveyed a large area of land including the two portions of land which are in dispute in this consolidated action and which cover a part of the 200

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feet frontage, and to the East of which is situate the larger plot of land upon which stands a building known as Thelma Lodge.

In that action last year before Smith, J. the Defendant in one of the present suits, namely, Emelia Chicher Cofie, was the Plaintiff and she claimed the legal estate in an estate in fee simple, derived from the executors of the late Vidal James Buckle.

The issue before the learned Judge was one of conflicting titles, namely, was the title of Akwei as derived through the Nii Odoi Kwao Family the good title, or was that of Emelia Cofie good as having been derived through the executors of the late Buckle. 10

In that action it is admitted that Richard Akwei gave evidence in support of Faris title and it is manifest that he was in a class of persons "who may be likely to be affected by the result" (Order 3 Rule 5) namely by being liable to refund to Faris the sum he had received as purchase money together with certain other costs if Faris could not successfully defend his title as against Emelia Chicher Cofie. Of this effect Richard appears to have been fully aware since in paragraph 4 of the statement of defence it is pleaded:- 20

"Plaintiff applied to be made a party to the suit in which the Defendant sued Faris, but the Defendant opposed and objected to the joinder and the Court therefore refused the said Plaintiff's application and made no order to join the Plaintiff in the said proceedings, wherefore the said plaintiff is unaffected by the said proceedings and judgment", 30

By paragraph 6 of the Statement of Defence the Defendant Cofie, pleaded that this plea was wholly untrue and before me Mr. Bossman, Counsel for Akwei, admitted that it was untrue, and said the truth was that Richard Akwei had wished to be joined but was advised against that cause by his Counsel. 40

Now the issue before Smith, J., was quite clear - it was in effect "had the Nii Odoi Kwao Family or had the executors of the late James Vidal Buckle the legal estate in that Western portion of the land? and which is now in issue in one of the two consolidated actions before me.

The learned trial Judge found that the land upon which Thelma Lodge stands is the one half of land conveyed to one Ayele Akua by the then Korle Priest in 1910 and that the two hundred feet frontage of land to the West of Thelma Lodge and which included the land upon which Faris commenced to build had been conveyed by Ayeley Akua to one Adjua Fio and that the said Adjua Fio had conveyed that land in turn to the late James Vidal Buckle.

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10 That is a hard finding of fact namely that the land now in issue is the same piece of land in respect of which Richard Akwei now prays that this Court will grant to him a declaration of title as owner as against the same woman Emelia Chicher Coffie.

20 Quite clearly Richard Akwei is estopped from further litigating this matter. Apart from decision in the English Courts in the cases of Wytcherly v. Andrews (1872) L.R. p.327 and Wilkinson v. Blades (1896 L.R. C.R. 788) I am bound by the decision given by the West African Court of Appeal in the case of Yode Kwao v. Kwasi Coker (1 W.A.C.A.) where at page 168 Deane, C.J. said -

30 "But if Odonkor Nmate is estopped so is the present plaintiff because his interest, as I have pointed out, are conterminous with Odonkor Nmate's: and a person may be bound by a judgment though not a party to it if he is in the same interest as a party thereto and might, if he had chosen to take the necessary steps, have been admitted as a party (Farquharson v. Seton 5 Ruse. 45)"

and I did accordingly rule that in his action against Emelia Chiecher Coffie (Suit L.29/50) the Plaintiff Richard Akwei was estopped and I do dismiss his claim as set out in the writ with costs.

40 Now in the suit No.27/50 the Plaintiff is I.S.N. Marbell claims to be the owner of the eastern portion of this land and the portion immediately adjacent to this plot upon which Thelma Lodge stands; he set up no plea by way of estoppel as against the Defendant Richard Akwei and I then heard the evidence and on the 3rd and 10th instant I viewed the land accompanied by the parties and their Counsel. This plot has an 80 feet frontage adjacent and to the West of Thelma Lodge.

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Several deeds of conveyances were tendered in evidence and the issue before me ultimately resolved itself into this question:

"What is the identity of the land which was conveyed by Ayetey Tawiah the Korle Priest of Accra to Ayeley Akua on the 14th May, 1910? (deed admitted and marked as Exhibit No."4").

The case for the Plaintiff Marbell is that it was that piece of land with a frontage of approximately 400 feet of which the plot upon which Thelma Lodge now stands is the eastern portion with a 200 feet frontage, and that the western portion contains that plot conveyed to him by the executors of Buckle's estate together with that portion sold by the same Vendor to Emelia Chicher Cofic. 10

The case for the defence Richard Akwei is that Thelma Lodge stands upon the western portion of the land originally conveyed to Ayele Akua and that the two plots in issue in the present consolidated trial were never purchased by the late Buckle so as to enable his executors to deal with them as a part of his estate. 20

I have heard that evidence, viewed the sites of all the conveyances put in evidence, heard the arguments advanced by learned Counsel, and I now propose to sum up the evidence.

The earliest deed is the one made between the Korle Priest as Vendor and Ayeley Akua the Purchaser and dated the 14th May, 1910. 30

This deed and the plan annexed shows that a piece of land 400 feet (more or less) by 270 feet (more or less) was conveyed "to the use of the said Madam Ayeley Akua her heirs and assigns absolutely and for ever".

The lands on the four sites of the land conveyed are described as being "open lands" and no mention is made whatsoever of any building being upon either the land so conveyed or upon the contiguous lands. 40

Seven days later by a deed dated the 21st May, 1910, Ayeley Akua conveyed to Adjua Fio the Western half of this land and again there is no mention or suggestion that there were any buildings upon the land conveyed to Adjua Fio.

The next dealing with this land is evidenced some two years later when on the 18th May, 1912, this same Adjua Fio conveyed this Western portion of the land to Vidal James Buckle (Exhibit 9). Now it will be noticed that what had been described as land only two years previously is now conveyed together with "building garden, farm and plantation" and it is quite clear that during these two years there has been some form of development of the land whilst it was in the hands of Adjua Fio. Again the land to its West is described as open land, and to the East as being Ayeley Akua's land i.e. the half retained by her when she sold one half to Adjua Fio in 1910.

10

It will now be observed that at this date in 1912 Buckle owns not only land but also a building on that land.

Now about nine (9) months later, namely the 10th January, 1913, the late Buckle makes another purchase of land (as evidenced by Exhibit No.10) when he buys from Ayeley Akua a piece of land measuring approximately 200 feet frontage by 270 feet in depth and by the description of that land it clearly refers to that plot of land adjacent to the East of the plot which Buckle bought from Adjua Fio. Now what is the description of the property sold by that deed? It clearly relates to land alone and there is no suggestion that any building was conveyed with this piece of land.

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Now whatever land Ayeley Akua may have hold by reason of any other conveyance to her the sale by her to Adjua Fio in 1910 and now to Buckle in 1913 certainly disposed of her whole frontage (now Farrar Avenue of 400 feet and the land described on the South-East as belonging to Ayeley Akua - clearly must have belonged to her by reason of another root of title i.e. another sale to her by the Korle Priest - that is if she had any title at all.

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The situation in January 1913 was that Buckle was then the owner of a piece of land with a frontage of 400 feet and upon which was a building standing upon the Western portion of that land.

Mrs. Ellen Buckle, who is one of the surviving executors of the Estate of the late James Vidal Buckle gave evidence on behalf of the Plaintiff Marbell. In reply to me she said:-

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"When we bought the land in 1912 on which Thelma Lodge stands there was only a swish building - my husband improved that building and made Thelma Lodge and which house was named after my daughter".

Under cross-examination by Mr. Bossman this witness admitted that the land sold to Marbell was open land.

Now it is abundantly clear that the only building in existence in 1912 was that one which had been built upon the plot purchased by Adjua Fio and which was the plot sold to Buckle with the building on the 18th May, 1912, (Exhibit 9) and that it is this building which was improved upon and subsequently became known as Thelma Lodge.

10

Apart from any other evidence it is quite clear to me that the late Vidal Buckle never purchased any land to the West of the land once owned by Adjua Fio and that it follows her executors had no Estate vested in them to the West of the land of the plot upon which Thelma Lodge now stands.

20

That this is the true view I think finds corroboration in subsequent dealings with land in that vicinity when on the 1st September, 1916 Ayeley Akua sold another piece of land to the late Vidal James Buckle (evidenced by the deed exhibited and marked as No."11") where another plot of land with a frontage of 200 feet also in Farrar Avenue and Buckle thus acquired by purchase upon the road now known as Farrar Avenue a frontage in all of 600 feet and in that last deed it is shown that the land then conveyed to him West up to the land sold to Messrs. Thomas Morgan & Sons.

30

When I inspected the land I had a tape run over the land from the Western limit of the plot upon which Thelma Lodge stands to the Western boundary of the plot formerly owned by Messrs. Thomas Morgan & Sons and it measured approximately 600 feet.

The Eastern part of the plot purporting to be owned by Ayeley Akua and which had been purchased by Buckle by the deed dated the 1st September, 1916 (Exhibit No."11") was sold by Buckle on the 18th December, 1917, to Messrs. Anglo Guinea Produce Company (Exhibit "12") whilst lands to the West of this plot and which was the Eastern

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portion of the plot owned by Ayeley Akua by reason of her purchase on the 14th May, 1910, became the subject of conveyance to the Revd. Martinson and it appears to a Mr. Papafio, (a legal practitioner of this Court).

All these further facts tend to show that the Western end of the plot upon which Thelma Lodge now stands was the Western limit of the land purchased from Ayeley Akua by Buckle.

10 Apart from this extremely cogent documentary evidence, there is other evidence which tends to show that the hedge along the land on the Western side of Thelma Lodge was the Western limit of the land acquired by Buckle. The plot on which Thelma Lodge stands and the plots to its East are all situate on good level land, eminently suitable for building, and I think certainly no less suitable in 1912 when the late Buckle bought land upon which to build and which Ayeley Akua had bought from the
20 Korle Priest in 1910.

Now from that Western limit of the Thelma Lodge plot the land commences to run gently down-hill and in addition falls away rapidly down-hill in depth leaving Thelma Lodge, as it were, on the top and edge of a plateau.

I cannot imagine anyone buying a plot 400 by 270 feet of which one half was far less suitable for building - when clearly there was available at that time open land, highlands and lands owned by
30 Ayeley Akua to the East of Thelma Lodge plot.

The physical nature of the remains tends to corroborate, if corroboration were needed, the description of the lands in the deeds and especially the fact, as I have emphasized before, that the only building in existence as evidence by these deeds was the one purchased with the land from Adjua Fio in 1912, and which house was subsequently improved to become the present Thelma Lodge. This plot was the Western half of the original building
40 of Ayeley Akua in 1910.

It follows that the execution of the late Vidal James Buckle have sold to Marbell land which was never a part of the estate of the late Buckle and to which the executors had no title.

It then follows that to some extent, upon a

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question of fact, I have arrived at an opposite conclusion to the one found by my learned brother Smith, Ag. C.J. on the 30th June, 1950.

The Defendant, Richard Akwei, is on the other hand entitled to possession of the land by reason of a sale made to him by the Nii Odoi Kwao Family whose title has not been challenged other than by the executors of the late Buckle. Clearly as against Marbell the Defendant Richard Akwei has the better possessory title and I do dismiss the Plaintiff's claim for damages for trespass and do dismiss the other claims added later in this trial namely for an Injunction and an Order for the Defendant to remove certain cement blocks from the land.

10

The Defendant is entitled to his costs in respect of Suit No. 27/50 but must pay to E.C. Cofie, the costs in Suit 29/50 and in which the Defendant Cofie, successfully set up the plea estopping the Plaintiff from pressing his action.

20

In suit No. 29/50 I assess the costs at 15 guineas. The costs in Suit 27/50 are to be taxed.

(Sgd.) J. Jackson
JUDGE.

Counsel -

Mr. J. Sarkodee Adoo for Isaac Stephen
Nettey Marbell and Emelia Chicher Cofie.

Mr. K. Bossman for Richard Akwei.

EXHIBIT "112" - JUDGMENT of COUSSEY J. in
DR. C.E. REINDORF v. MALAM
FUTA & ORS.

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Tendered and admitted for Osu Stool in re
Numo A. Cobblah v. J.W. Armah & Ors.
10/4/51.

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Coussey J. in
Dr. C. E.
Reindorf v.
Malam Futa &
ors.

30th March, 1951

30th March,
1951.

10 IN THE SUPREME COURT OF THE GOLD COAST, EASTERN
JUDICIAL DIVISION (LAND DIVISION) held at
VICTORIABORG, ACCRA, on FRIDAY the 30th day of
MARCH, 1951, BEFORE COUSSEY, J.

Land Appeal No. 53/50

DR. C.E. REINDORF alias TEIKO
ABONU A II for and on behalf of
the family of late Reverend
Carl C. Reindorf, Plaintiff-Appellant

v.

20 MALAM FUTA & NIKOI OLAI representing
the Odoitso Odoi Kwao family,
Defendants-Respondents

JUDGMENT -

30 This is an appeal from the Judgment of Ga
Native Court held at Labadi in which Plaintiff
claimed a declaration of title of a piece of land
situate between Karlbiewe and Mamobi Hill on the
outskirt of Accra, and damages for trespass by the
1st Defendant upon that portion of the land on
which the village of Niimah has grown up in recent
years, and an injunction restraining the Defendants
and their agents etc. from entering or erecting
houses on the portion of land in dispute pending
the final determination of the suit.

40 The Plaintiff, who sues for the family of the
late Revd. C.C. Reindorf, bases his title on a
Deed of Conveyance dated the 9th October, 1891 from
Mankralo Yeboa Kwamri of Ashanti quarter, Osu. It
is not disputed that Mankralo Yeboa Kwamri was the
occupant of the Osu Mankralo Stool and the Plain-
tiff avers that the land in dispute was conveyed
as Osu Mankralo Stool land. The Plaintiff's case

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is that the Purchaser, the Revd. Mr. Reindorf, built a cottage, lodge or village on the land and made a farm near the village and experimented with economic trees on the land but, owing to its nature, he eventually abandoned the unequal contest with nature and removed to another property. A recital in the Deed of Conveyance is to the effect that the purchaser had built his lodge, known as Karlibiawe, on the land before the deed was actually executed. At the time of the Revd. Mr. Reindorf's death in 1917 the lodge or cottage was deserted and farming on the land had ceased.

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The Plaintiff, who is a Medical Practitioner says that in 1920 he made a farm on the land, but in 1921 he gave it up. In 1934 he says he removed from Accra to Kumasi and when he returned to Accra ten years later in 1944 he found that a large village called Niiman had sprung up on the Southern part of the land. It is erroneously described in the Writ of Summons as the South-Eastern portion.

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A plan, prepared by the Plaintiff's Surveyor, Mr. Plange, Exhibit "B", shows the area of the trespass which is the area for which the Plaintiff claims a declaration of title, edged green thereon. It is an area South of the main anti-malaria drain shown on this plan, and according to the Plaintiff's Writ of Summons, measures 1090 feet more or less on the South 1800 feet more or less on the East (or North-East) 490 feet more or less and on the West 650 feet more or less.

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The plan, made in 1945 shows this area in dispute to be studded with permanent buildings.

On hearing that these buildings had been erected with the licence of the 1st and 2nd Defendants, this action was commenced.

The Defendants' case is that the 1st Defendant is the tenant or licensee of the 2nd Defendant who represents the Odoi Kwao family whose ancestor, Odoitei Shishiabo, obtained a grant of an extensive area of land including the land in dispute from the Ga Stool and that this family have been in possession of the land for over 140 years. They dispute that the Osu Mankralo Stool had title to the land.

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The trial Court came to the conclusion that

there was no evidence establishing that the Plaintiff is entitled to the declaration sought for or to damages for trespass.

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10 Firstly it is argued on this appeal that the Plaintiff established conclusively that, at the request of the Defendants, the parties submitted the matters in issue to arbitration according to Native Customary law; and that after due enquiry there was an award in the Plaintiff's favour which the trial Court wrongly ignored.

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The record shows that one week after the return date of the Writ of Summons, application was made on the Defendants' behalf for an adjournment for the case to be settled out of Court, before the Ga Mantse.

20 It is not clear who the alleged arbitrators were to whom the matters in difference were submitted, but, on the 19th February, 1947, there is a written report after inspection of the locus in quo which refers to five representatives of arbitrators. These of course are not the arbitrators. Benjamin Tettey, one of the representatives, states in evidence that the decision of the arbitrators was in the Plaintiff's favour upon the inspection award.

30 If there were clear evidence firstly of a submission and secondly as to who the so called arbitrators were I would still be obliged to hold that the award was not properly proved by the representative of the arbitrators. The view I have taken however is that there was no arbitration, but an attempt to promote a settlement. After the inspection and report, I think the Ga Mantse was impressed in the Plaintiff's favour and suggested a settlement which the Plaintiff would not accept. This was probably about the end of February, 1947. When the settlement failed the case was again called on in the Native Court in July, 1947 and, in due course, the hearing proceeded. There was therefore no award binding on the parties.

40 As to the facts I have to bear in mind that the function of the Land Court, as the Appellate Court, is to consider whether the conclusions of the trial Court are warranted by the evidence and whether, on a consideration of all that evidence, it arrived at a right decision.

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Dealing firstly with the Plaintiff's title deed, the Court asked itself the question; Did the Mankralo and his elders really sign this document in the honest belief - and there follows a passage, the effect of which I understand to mean; Did they intelligibly know what they were signing.

In a later passage the Court finds that there is no real evidence that this transaction was governed by Native Custom and later, that the Deed of Conveyance and the plan (Exhibit "B") were prepared by the Plaintiff to suit his own interest.

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This latter finding is unwarranted. The Plaintiff in fact tendered in evidence, without objection by the Defendants, a copy of the Deed certified by the Registrar of Deeds on the 26th May, 1945. It bears a certificate signed by William B. Hagan, Registrar that the Instrument was proved on the 17th October, 1891 by the testimony of C.J. Reindorf, clerk, to be the Deed of Yeboa Kwamri.

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It cannot be disputed therefore that the original deed was duly registered. The original has not been proved to be a forgery. It was a valid deed, a certified copy of which the Plaintiff relies on, as he is entitled to do, in the absence of the original. The Mankralo alone appears as the Vendor, but the judgment accepts that some of the elders of the stool are witnesses. The members of the stool did not move to set aside the grant when the purchaser went into possession or after. It is unfortunate that the trial Court accepted the bare allegation of the 2nd Defendant that the names of some of the witnesses were forged. If this action had been between the Plaintiff and the Osu Mankralo Stool it might have been open to the Stool to allege as a defence that some of the signatories did not sign or make their marks to the Deed or that the Mankralo had not the consent of his elders for the sale, but these are strange contentions coming from the 2nd Defendant whose case is that the Osu Mankralo Stool had no land whatever in the vicinity. Neither the Osu Mankralo Stool, the Osu Stool nor any Ga Stool are parties to this suit. The adverse comments on the Plan, Exhibit "B", of Mr. Plange are also underserved. It is true Mr. Plange did not produce his field book when challenged, but his plan pretends to be only an enlargement of the plan annexed to the

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Deed of Conveyance and which is referred to in the body of the deed and it serves a useful purpose in showing the area actually claimed in this suit. The physical presence of the pillar at the North Eastern corner of land is not disputed.

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10 It is not difficult to determine that the land granted by the Deed of Conveyance lies between the village of Okako on the East, the village of Kotobabi on the North and Mamobi hill on the South. If the main road from Christiansborg to Kotobabi which is described as the Western boundary were now in existence, the task of locating the land might be simplified but it is only hatched in on Mr. Plange's plan as the approximate position of the old road. No physical feature apart from the road is referred to in the deed or in the plan annexed which could be taken as a datum point. Two surveyors have attempted to locate the land. I consider the report of Mr. Asante preferable to that of Mr. Simpson. Mr. Asante took an old pillar on the North-Eastern corner of the land and, measuring from it, according to the dimensions of the Deed reported to the Native Court or the Ga Mantse that the area green on Plange's plan was included in the Plaintiff's land. Mr. Simpson on the other hand measured a distance of 162 feet from the South-Eastern corner of the cottage ruins due East to a point on the Eastern boundary of the land in accordance with the Deed, but then to find the North-Eastern point of the land, he ignored the old pillar referred to and took a line on a bearing of 249 degrees 30' for a distance of 530 feet and, from a point then made, he demarcated the land in accordance with the dimensions in the Plaintiff's deed.

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40 As far as the record goes Mr. Simpson did not explain satisfactorily, why he went off on this bearing, the effect of which is to swing the land farther North of the old pillar and thereby to demonstrate that there had been no trespass on the Plaintiff's land. Mr. Simpson's evidence on this point confused the trial Court as is clear from the manner in which the judgment treats it.

The 2nd Defendant, in a defence which is inconsistent, says that Oklu who, he claims as his head man at Okako village, granted Mr. Reindorf land measuring 200 feet on each side in 1890. Later, in his evidence, the 2nd Defendant says the

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Plaintiff's land does not go beyond the main drainage neither does it extend to the Niiman village. The drain referred to is the Earth anti-malaria drain shown immediately to the North-West of the area green on Plange's plan. In other words, this Defendant admitted that the Plaintiff's Southern boundary ends just short of the area which is claimed as the trespass.

It is interesting to observe that while the 2nd Defendant insists that the Ashanti Blohum Stool did not own the land in dispute in order to grant it to the Plaintiff's predecessor, nor the neighbouring land, his witness Korle of Kokotobabi flatly contradicts him. He says the land on the Southern side of Kotobabi belonged to the Osu Mankralo Stool thus agreeing with the Plaintiff's witnesses.

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But, in the state of uncertainty that arises as to the extent of the land which was actually occupied by the Plaintiffs under their conveyance, it is necessary to consider the circumstances as to possession following the execution of the Deed - Renner v. The Fanti Consolidated Mines - Privy Council Reports page 53.

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There is clear evidence that the Northern portion of the land was occupied under the conveyance. The village and the old pillar, testified to as it is by a neighbouring headman called by the Plaintiff, confirm this. The evidence as to the South pillar on the contrary is unsatisfactory and inconclusive in my opinion and there is no evidence that the Plaintiff or his predecessor occupied the portion in dispute. But the contradictory measurements and description given by the Plaintiff or members of his family are against the Plaintiff's claim in this suit. In a publication of 1st March, 1944, Exhibit "6", to refer to only one of them, the land is described as bounded on the South by a dry water course (which can only refer to the anti-malaria drain) and Niiman village. This would exclude the area described in the amended Writ of Surmons as the area of trespass. Further, if the Plaintiff or his family had ever occupied this disputed area under the Deed of Conveyance, his absence in Kumasi alone would not explain the inactivity of other members of his family to assert title when from years to years the Defendants licences were building on the land.

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While, therefore, I am unable to agree with the view the trial Court took as to the Plaintiff's deed and plans and of Mr. Simpson's evidence, and while I consider the finding that the Defendants' land extends over and beyond West of the old cemetery site x x x x x and far beyond the main anti-malaria drain is incorrect because it is in conflict with the 2nd Defendant's admission already referred to, and also because it was unnecessary for the decision, I agree with so much of the judgment appealed from as decision that the Plaintiff has failed to establish a right to a declaration of title to the area green on Plange's plan Exhibit "B" and that the claims for trespass and injunction were also rightly dismissed.

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- continued.

The appeal is accordingly dismissed with costs £28.18. 6d inclusive of Counsel's fee.

Court below to carry out.

(Sgd.) J. Henley Coussey,
JUDGE.

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Counsel -

Mr. K.A. Bossman for Plaintiff-Appellant

Mr. Quist-Therson for Defendants-Respondents.

EXHIBIT "113"

"113"

Tendered in evidence by Counsel for C.O. Aryee admitted and marked Exhibit "113" in re Numo Ayitey Cobblah v. J.W. Armah & Ors.

11/4/51.

30

GENEOLOGICAL TREE OF AYI DIKI FAMILY.

(Tendered in original)

EXHIBIT "116"

"116"

Tendered by J.J. Ocquaye admitted and marked Exhibit "116" in re Numo Ayitey Cobblah v. J.W. Armah & Ors.

11/4/51.

LETTER (IN PENCIL) from C.O. ARYEE FOR CAPTAIN NETTEY TO COMMISSIONER OF LANDS, LANDS DEPARTMENT, ACCRA.

(Transmitted in original)

ORIGINAL INDEX TO EXHIBITS
as sent from Ghana

KOKOMLEMLE
CONSOLIDATED LAND CASES

IN THE PRIVY COUNCIL

ON APPEAL FROM
THE WEST AFRICAN COURT OF APPEAL
GOLD COAST SESSION, ACCRA

Part III

E X H I B I T S

E.J. Ashrifi, A.E. Narh and
Charles Pappoe Allotey: Plaintiffs:
(Respondents to Privy Council)

- v -

H.E. Golightly and Tettey Gbeke
II, Defendants: (Appellants to Privy Council)
and 15 other Cases generally
known as Kokomlemle Land Cases.

I N D E X

Description of Document	Date	
"A" - Plan of area of land in dispute	-	-
"B" - Plan of area showing plots marked in biscuit colour	-	-
"C" - Deed of Gift between Nii Ayi Bonte and E.B. Okai	10.12.36	
"D" - Deed of Gift between Ayi Quarmin and J.H. Adams	16. 2.1901	
"E" - Deed of Gift between Nii Tettey Gbeke II and A.A. Allotey	24.10.39	
"F" - Mortgage re Ashong Quartey's property	14. 3.21	

Description of Document	Date	
"G" - Deed of Gift between J.N. Okofio and O.M. Anteh	31. 7.35	
"H" - Will and Probate of Madam Elizabeth Lamptey	13. 2.43	
"J" - Deed between Tettey Quaye Molai and Elizabeth Lamptey	11. 6.24	
"K" - Deed of Gift between Nii Tetteh Quaye Molai and K.G. Konuah	14.11.36	
"L" - Judgment and proceedings in Djane Nukpa v. Tetteh Addy	22. 5.16	
"M" - Deed of Gift between Tetteh Kwei Molai and R.A. Bannerman	28. 9.43	
"N" - Deed of Gift between Tetteh Kwei Molai and Charles Adom Tettey	13.12.20	
"O" - Deed of Gift between Tetteh Kwei Molai and Ayi Bonte	27.12.13	
"P" - Certificate of Purchase in Darku Mante v. Tettey Q. Molai	16.12.36	
"Q" - Deed between Tettey Quaye Molai and S.A. Dsane	28. 1.19	
"R" - Deed between Joseph Allotey and S.A. Dsane	14.12.37	
"S" - Proceedings in E.J. Ashrifi v. H.E. Golightly	20. 4.48	
"T" - Page 281 of Chiefs' List (Reference Tete Tsuru and Tette Kwamin)	-	Original
"U" - Deed of Gift between Tetteh Quaye Molai and Salifu Ibne Abubakare	21. 7.37	
"1" - Notice in the African Morning Post	12. 7.47	

Description of Document	Date	
"2" - Agreement between Nii Tettey Gbeke and Military Authorities	4.11.41	
"3" - Title Deed between Nii Tettey Gbeke and Government (Plan No. GC/B.1577 attached)	-	
"4" - Copy of letter of request between Gbese Mantse and his Elders and Nii Tettey Gbeke	1. 5.45	
"5" - Deed of Conveyance between Nii Tetteh Churu and Ch. Abudu K. Brimah	28.12.37	
"6" - Affidavit of Tetteh Quaye Molai		
"7" - Deed of Gift between Nii Tetteh Churu and Alhaji S. Bumbabakari	30.12.37	
"8" - Agreement between Salifu Bumbabakari & Free French Mission	10. 2.42	
"9" - Declaration by the Onamunorkor Family	10. 9.1898	
"10" - Writ of Summons in Tetteh Quaye Molai v. A. Kotey & Ors.	2. 2.37	
"11" - Writ of Summons in Tetteh Quaye Molai v. Dr. Nanka Bruce and Judgment	21. 1.27	
"12" - Page 5 of record of proceedings in Tetteh Quaye Molai v. Ablah Kotey	14. 1.38	
"13" - Proceedings of the Ga Native Court in Taylor v. Nii T. Churu	22. 9.38	
"14" - Conveyance from G.A. Agyare to Alice Ainooson	5. 3.46	
"15" - Deed of Conveyance between G.A. Agyare and Mary Villars	-do-	

Description of Document	Date	
"16" - Deed of Conveyance between Nii Tettey Gbeke and G.A. Agyare	20. 7.43	
"17" - Writ of Summons, Order and Statement of Claim in Tetteh Quaye Molai -	29. 4.43	
"18" - Judgment of M'Carthy, J. in Numo A. Cobblah v. Tettey Gbeke & Ors.	31. 5.47	
"19" - Judgment of W.A.C.A. in Numo A. Cobblah v. Tettey Gbeke & Ors.	13.12.47	
"20" - Page 3 of Daily Echo - Public Notice	2. 3.43	
"21" - Judgment and Plan of European Residential Area Acquisition	19.12.31	
"22" - Proceedings in European Residential Area Acquisition	15. 9.31	
"23" - Receipt for £380/10/-	11. 5.45	
"24" - Proceedings and Judgment in Residential Area Acquisition (Plan attached)	11. 2.31	
"25" - Plan of land in Odoitso Odoi Kwao v. Eric Lutterodt & Ors.	-	
"26" - Judgment of the Ga Mantse's Tribunal in E. Nortei Ababio v. Nii Anyetei Kwao	22. 4.38	
"27" - Judgment of C.E.P's Court in E. Nortei Ababio v. Nii Anyetei Kwao	2. 6.39	
"28" - Motion and Affidavit of E.L. Nikoi Olai Kotey in Nii Tettey Gbeke, etc. v. Nii Adumuah Nortey etc. & Ors.	21.12.50	
"29" - Indenture between Odoi Kwao Family and Richard Akwei	31.10.36	

Description of Document	Date	
"30" - Indenture between Odoi Kwao Family and Mary A. Laryea	31.10.36	
"31" - Indenture between Ako Odoi & Ors. and John William Appiah	29. 9.27	
"32" - Indenture between Odoi Kwao Family and A.M. Akiwumi	2. 9.37	
"33" - Indenture between Augustina A. Owoo and J.H. Adams	21. 5.29	
"34" - Indenture between Augustina A. Owoo and J.H. Adams	4.10.29	
"35" - Plan of land in H.C. Kotey v. Nikoi Kotey	-	
"36" - Letter from Ga Mantse to District Commissioner, Accra	17. 5.50	
"37" - Indenture between Odoi Kwao Family and E.A. Quaye	30.10.41	
"38" - Receipt for £6 from Acting Korle Priest	24. 3.43	
"39" - Receipt for £6 from Odoi Kwao Family	-do-	
"40" - Deed of Conveyance between Odoi Kwao Family and Sarah Vanderpuye	29. 8.38	
"41" - Receipt for £30 from Odoi Kwao Family to Mallam Futa	28. 2.31	
"42" - Proceedings of the Asere Tribunal in J.W. Appiah v. J.M. Amartei	7. 4.38	
"43" - Plan in re Odoi Kwao for J.W. Appiah (attached to Ex. "31")	-	
"44" - Receipts for annual rents from Nii Odoi Kwao Family to Mallam Futa (A - O)	31. 5.50	

Description of Document	Date	
"45" - Plan in Nii Anyetei Kwao etc. v. Nii Azuma III & Ors.	-	
"46" - Judgment in Tettey Gbeke II v. Nii Azuma III	6.11.50	
"47" - Plan in Kotey Family land	-	
"48" - Claim in Tetteh Kwei Molai v. Ablah Kotey & Ors.	2. 2.37	
"49" - Judgment of Ga Mantse's Court in T.K. Molai v. Abblah Kotey	20.10.39	
"50" - Judgment of C.E.P. in T.K. Molai v. Abblah Kotey	12. 5.42	
"51" - Judgment of W.A.C.A. in T.K. Molai v. Abblah Kotey	4. 6.43	
"52" - Judgment of Land Court in R.O. Ammah v. D.O. Wuredu	17. 8.49	
"53" - Judgment of Ga Native Court "B" in R.O. Ammah v. D.O. Wuredu	21. 4.50	
"54" - Proceedings in T.K. Molai v. Abblah Kotey	2. 2.37	
"55" - Judgment of the Ga Native Court in T.R. Abbey & Ors. v. Quarshie	3. 6.50	
"56" - Declaration by J.A. Kotey (Plan attached)	18. 1.22	
"57" - Indenture between Afiyee and Akua and J.T. Morton	6.12.29	
"58" - Letter from Kojo Thompson to Nii Tetteh Tsuru	1. 2.39	
"59" - Burial Certificate of Okaikor Churu	2. 2.45	
"60" - Plan in Dr. F.V. Nanka-Bruce v. Tettey Gbeke & Ors.	-	

Description of Document	Date	
"61" - Indenture between Tettey Gbeke and Moses Klu Sowah	26. 9.42	
"62" - Plan of land in E.B. Okai v. Ashanti	-	
"63" - Deed of Conveyance between E.B. Okai and C.W.M. Yarnie	19.12.38	
"64" - Letter from Commissioner of Lands to Nikoi Olai Kotey	22. 8.44	
"65" - Letter from Gbese Mantse to Commissioner of Lands	20. 7.43	
"66" - Letter from Gbese Mantse to Commissioner of Lands	26. 4.45	
"67" - Letter from Gbese Mantse to Commissioner of Lands	20. 7.44	
"68" - Deed of Conveyance between Nii Tettey Gbeke and Mary Duncan	8. 9.43	
"69" - Deed of Conveyance between Nii Tettey Gbeke and E.A.A. Amamoo	9.12.43	
"70" - Building Permit to J.E. Koney	12. 5.44	
"71" - Deed of Conveyance between Tettey Gbeke and J.E. Koney	1. 5.45	
"72" - Letter from A. Sawyerr to J.E.Koney	30.11.45	
"73" - Letter from J.E. Koney	5.12.45	
"74" - Affidavit of J.E. Koney and Court's Order re injunction in E.B. Okai v. J.E. Koney	28. 7.47	
"75" - Building Permit to Mary Duncan	13. 5.44	
"76" - Deed of Conveyance from T. Gbeke to E.K. Ngmeter	1. 5.45	
"77" - Approved plan to E.K. Ngmeter	-	

Description of Document	Date	
"78" - Deed of Conveyance from T. Gbeke to E.K. Ngemeter	3. 5.48	
"79" - Deed of Conveyance from T.K.Molai to Rt.Rev. W.T. Porter	30. 9.39	
"80" - Deed of Conveyance from Tettey Gbeke and T.W. Armah	30. 4.45	
"81" - Letter from Giles Hunt & Co. to Korle We Family	18.12.45	
"82" - Letter from Commissioner of Lands to R.A. Bannerman	1.10.45	
"83" - Plan of land claimed by R.A. Bannerman	-	
"84" - Building Permit in favour of H.B.K. Gimba	23. 2.45	
"85" - Deed of Conveyance between Nii Tettey Gbeke and J.S. Abbey	1. 4.49	
"86" - Building Permit in favour of J.S. Abbey	29.12.49	
"87" - Plan of land re Tettey Gbeke Lutterodt & Ors.	-	
"88" - Document from Otuopai to W.A. Lutterodt	20.9.1871	Original
"89" - Memorandum attached to Exhibit "88" (not signed)	-	Original
"90" - Evidence of Nathaniel Addy in the European Residential Area Acquisition Case 1931	30. 1.31	
"91" - Injunction Order in Nii Tettey Gbeke II v. E. Lutterodt & Ors.	23. 8.49	
"92" - Affidavit of Eric Lutterodt in Nii Tettey Gbeke v. E. Lutterodt	23. 8.43	

Description of Document	Date	
"93" - Plan of land granted to Commissioner of Lands	-	
"94" - Deed of Conveyance between A.M. Akiwumi and Government	9.10.39	
"95" - Trading Account of W.A.Lutterodt with King Tackie & Ors.	-	Original
"96" - Affidavit of G.A. Tettey in H.C. Kotey v. Armah & Ors.	19. 3.49	
"97" - Conveyance between E.T. Addy and J.G. Sackey	27. 7.43	
"98" - Letter from Akufo Addo to J.G. Sackey	3.11.47	
"99" - Receipt for 10/- in favour of J.T. Odametey on account of Stamp Duty	7. 8.46	
"100" - Plan of land in T.Q. Molai v. Tettey Gbeke & Ors.	-	
"101" - Affidavit of A.Q. Ofori in H.C. Kotey v. Nikoi Tettey & Ors.	5. 1.46	
"102" - Conveyance between Nii Tettey Gbeke & S.K. Dodoo	8.11.48	
"103" - Conveyance between Tetteh Quaye Molai and Thomas Kodjo Halm-Owoo	24. 4.44	
"104" - Conveyance between Tettey Quaye Molai & Ors. & Thomas Kojo Halm-Owoo	13. 2.45	
"105" - Plan of land showing Osu Stool boundary	-	
"106" - Opening of Quist, Counsel for Osu Stool in Land Acq. re Achimota College Area	21.10.30	
"107" - Writ of Summons in Nii Adumua Nortey v. Nii Anyetei Kwao & Ors.	12.10.40	

Description of Document	Date	
"108" - Claim and Proceedings in Nortel Ababio v. Nii Anyetei Kwao & Ors.	24. 1.38	
"109" - Plan of land in Odoitso Odoi Kwao v. Lutterodt	-	
"110" - Document between Chief Yeboa Kwamin & C.C. Reindorf	9.10.1891	
"111" - Plan of late Carl Reindorf's land	-	
"112" - Judgment of Coussey, J. in Dr. C.E. Reindorf v. Malam Futa & Ors.	30. 3.51	
"113" - Geneological tree of Ayi Diki Family	-	Original
"114" - Plan of portion of Atukpai land surveyed by C.O. Aryee	-	
"115" - Agreement between Korle We people to Ayidiki Ayitey	8.4.1908	Original
"116" - Letter (in pencil) from C.O.Aryee for Captain Nettey to Commissioner of Lands	-	Original
"117" - Letter from Principal, Achimota College to C.O. Aryee	30. 4.36	
"118" - Various miscellaneous correspondence re land at Achimota required for Tile industry	-	
"119" - Conveyance between C.O. Aryee and A.K. Quartey		
"120" - Document removing S.S. Coker and substituting C.O. Aryee as Head of Ayi Diki Family	. 9.46	
"121" - Conveyance from Halm-Owoo to Mustapha Thompson	26. 4.44	
"122" - Conveyance from J.K. Parry to M. Thompson	3. 5.44	

Description of Document	Date	
"123" - Conveyance from J.K. Parry to M. Thompson	29. 3.45	
"124" - Conveyance from T.Q. Molai to J.K. Parry	2. 5.44	
"125" - Conveyance from T.K. Halm-Owoo to J.K. Parry	13. 5.44	
"126" - Deed of Gift from Nii Tettey Gbeke to Lucy B. Ashong	31.12.47	
"127" - Conveyance from E.P. Lutterodt to A.A. Allotey	8. 5.48	
"128" - Letter from Nii Tetteh Churu to Ashrifie	9. 3.39	
"129" - Conveyance from Nii Tettey Gbeke to H.E. Golightly	20. 1.40	
"130" - Deed of Conveyance from Nii T. Gbeke to W.B. Marbell	10. 5.40	
"131" - Deed of Conveyance from Nii A. Cobblah to D.A. Wuredu	21. 8.46	
"132" - Evidence of King Tackie before Sir B. Griffiths	24. 5.02	
"133" - Proceedings and Judgment by Asere Tribunal in J.W. Appiah v. J. Mensah	13.10.39	
"134" - Judgment in J.W. Appiah v. J.M. Amartei	14.10.39	
"135" - Judgment in Dr. C.E. Reindorf v. Malam Futa in the Ga Native Court "B"	17. 4.50	
"136" - Plan of Otuopai Stool lands made by E.F. Engman	1890	
"137" - Judgment of Jackson, J. in Marbell v. Akwei	12. 2.51	

Description of Document	Date	
"138" - Judgment of the Privy Council in Dr. F.V. Nanka-Bruce v. Tettey Gbeke	11. 7.50	
"139" - Judgment of Lane, J. in Dr. F.V. Nanka-Bruce v. Tettey Gbeke	1.12.42	
"140" - Judgment of M'Carthy, J. in Odoitso Odoi Kwao v. Nii Azuma III	15. 7.46	
"141" - Judgment of W.A.C.A. in Odoitso Odoi Kwao v. Nii Azuma III	29.11.46	
"142" - Plan of area with each claim shown on it	-	