

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA - A.D. 2012

DATE 06-2-2012
1:35 AM/PM
S. NANA
POPAL...

WRIT TO INVOKE THE ORIGINAL JURISDICTION OF THE SUPREME COURT -
ARTICLES 2, 130(1) (a), 132, AND 181 OF THE 1992 CONSTITUTION; RULE 45 OF
THE SUPREME COURT RULES 1996 (C. L 16)

SUIT NO.

BETWEEN:

MARTIN ALAMISI AMIDU
PLOT 355 NORTH LEGON RESIDENTIAL AREA
ACCRA

PLAINTIFF

AND

1. THE ATTORNEY-GENERAL
MINISTRY OF JUSTICE
MINISTRIES,
ACCRA
2. ISOFOTON S.A OF MONTALBAN 9 28014
MADRID, SPAIN PER ANANE-AGYEI FORSON
AS LAWFUL ATTORNEY
HOUSE/NO. 3 OPPOSITE SHABA WAREHOUSE,
PARAKUO ESTATES. DOME, ACCRA
3. ANANE-AGYEI FORSON
HOUSE/NO. 3 OPPOSITE SHABA WAREHOUSE,
PARAKUO ESTATES. DOME, ACCRA

DEFENDANTS

NOTICE OF MOTION FOR PRACTICE AND PROCEDURAL DIRECTIONS: RULE
5 OF SUPREME COURT RULES, 1996 (C. L. 16) INCLUDING THE INHERENT
JURISDICTION FOR PRESERVATION OF STATUS QUO

TAKE NOTICE AND NOTICE IS HEREBY GIVEN, that this Honourable Court shall
be moved by the Plaintiff/Applicant herein praying for an order setting forth the practice
and procedure to be followed in this action to preserve the status quo ante, and ordering
the preservation of the status quo between the parties pending a final determination of the

constitutional issues pending before this Court and for such further or other orders as to this Honourable Court shall seem meet.

COURT TO BE MOVED ON ^{TWS} the ^{5TH} March 2013 at 9 O'clock in the forenoon or so soon thereafter as the Plaintiff may be heard.

DATED AT ACCRA THIS 25TH DAY OF FEBRUARY 2013


MARTIN ALAMISI AMIDU
(PLAINTIFF/APPLICANT)

THE REGISTRAR
SUPREME COURT
ACCRA

AND TO THE ABOVE-NAMED DEFENDANTS OR THEIR SOLICITORS

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA - A.D. 2012



WRIT TO INVOKE THE ORIGINAL JURISDICTION OF THE SUPREME COURT -
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1. THE ATTORNEY-GENERAL
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PARAKUO ESTATES. DOME, ACCRA

DEFENDANTS

**AFFIDAVIT IN SUPPORT APPLICATION FOR PRACTICE AND
PROCEDURAL DIRECTIONS ETC**

I, Martin Alamisi Amidu, of Plot No. 355 North Legon Residential Area, North Legon,
Accra, make oath and say as follows:

1. I am the Plaintiff/Applicant and the deponent herein.

2. The facts I depose to in this affidavit are within my personal knowledge, information and belief.
3. On 24th July 2012, I issued a Writ and Statement of Case in this action against the Defendants herein.
4. The Defendants were served with the Writ and Statement of Plaintiff's Case and the 2nd and 3rd Defendants filed their Statement of Defendants' case on 26th September 2012.
5. The 1st Defendant failed or refused to file his Statement of 1st Defendants case until at 9 O' clock in the forenoon of 21st November 2012 when the case was listed before this Court for hearing, the 1st Defendant rushed to file an application for extension of time to file his Statement of Case out of time without even attaching the intended Statement of Case.
6. The 1st Defendant was granted an extension of time of one week within which to file his Statement of Case by this Court on 20th February 2013 after the Plaintiff/Applicant/Deponent waived his rights to object to all irregularities in the application and its non-service on him to ensure the expeditious trial of this action.
7. At 12:20 O' clock in the afternoon of the next day, 21st February 2013 the 1st Defendant without filing her Statement of Case and, therefore, formally entering appearance in this action purported to file in these proceedings a "Motion for Stay of Execution pending the determination of Writ No. J1/23/2012" in which the 1st Defendant purports to seek to pray this Court "for an order staying execution of the ruling of his Lordship Obimpeh, J. sitting at the High Court 13 on 24th April 2012 and further proceedings in CONSOLIDATED SUITS: H3/566/2012 entitled ISOFOTON S.A. SUING PER ANANE-AGYEI FORSON VRS THE ATTORNEY-GENERAL AND ISOFOTON S. A. SUING PER ANANE-AGYEI FORSON VRS ATTORNEY-GENERAL..."
8. The application for stay of execution filed by the 1st Defendant in this action and in this Court on 21st February 2013 is not even for service on the Plaintiff/Applicant in this action but rather "To the Plaintiff/Respondent or its Solicitor, Owusu-Yeboah, Nyampong & Associates"
9. It is the Plaintiff/Applicant/Deponent's belief after reading the 1st Defendant's application for stay of execution that it is indeed intended to be a repeat application to this Court by the 1st Defendant from a refusal by the High Court and the Court of Appeal to grant a stay of execution pending the determination of an appeal filed in the Court of Appeal on 8th May 2012 against a ruling of the High Court refusing to declare proceedings in the High Court as being null and void for violation of Article 181 (5) of the 1992 Constitution.

10. The Notice of Appeal, and the Additional Grounds of Appeal filed in the Court of Appeal on 1st June 2012 raised constitutional issues of whether or not "the Court erred in declaring that the contract entered into by the Plaintiff/Respondent with the Ministry of Agriculture and the Ministry of Energy was not an "international business or economic transaction" so as to require Parliamentary approval." amongst other fundamental constitutional issues, which are amenable only to the exclusive and original jurisdiction of this Court.
11. Somehow the Court of Appeal dismissed the 1st Defendant's repeat application for a stay of execution pending the determination of the fundamental constitutional issues of interpretation on 10th October 2012 by stating simply that: "We have carefully read the motion paper and the supporting Affidavit as well as the affidavit in opposition and exhibits attached to the various affidavits and we say that there is no merit in the application. We say so because, the judgments which culminated in the garnishee proceedings are still subsisting and have not been appealed against. Consequently, we do not see the arguable points the applicant intends to canvass on appeal. In the circumstances the application is dismissed. No order as to cost.", without considering the fact that in view of the constitutional issues disclosed by the appeal before the Court of Appeal that Court was most likely to refer to this Court the constitutional interpretative issues raised therein should the appeal eventually come on for hearing before it.
12. There are no indications or reasonable grounds to believe that the 1st Defendant has taken any diligent steps as the Attorney General to ensure the expeditious hearing of the substantive appeal against the ruling of the High Court by the Court of Appeal for almost five months after the dismissal of the 1st Defendants application for stay of execution in that Court.
13. The Plaintiff/Applicant/Deponent believes that the period of time within which the 1st Defendant could have applied to this Court for certiorari to quash the ruling of the High Court for usurping the interpretative jurisdiction of this Court in interpreting the word "Government" in Article 181 (5) of the Constitution to exclude the Ministry of Food and Agriculture have also long lapsed within the nine months since the Court of Appeal ruling of 10th October 2012.
14. The Plaintiff/Applicant/Deponent herein also believes that the 1st Defendant as principal legal advisor to the Government of Ghana, (representing the sovereignty of the people of Ghana under Articles 1 and 88 of the Constitution) knew that the refusal and failure to act diligently and timeously on behalf of the Republic of Ghana will lead to the enforcement of the judgments and processes of the High Court in which the 1st Defendant sought declarations of nullity in the High Court on Constitutional grounds.
15. The Plaintiff/Applicant herein further believes that the 1st Defendant knew or ought to have known as an Attorney General that the stay of execution application filed by the 1st Defendant was not and is not made in good faith as it cannot be

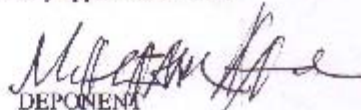
properly and sincerely be made in this action in which the 1st Defendant has not even formally entered appearance and filed the Statement of Case nor sought extension of time in this Court to file the application for stay of execution out of time in the appeal properly pending before the Court of Appeal.

16. I was served with the 1st Defendant's application for stay of execution on 22nd February 2013 even though I am not listed on the application as a party to be served with that application.
17. Upon reading the application it came to my notice for the first time that while this action was pending before this Court the 2nd Defendant, a foreign registered company, who is not registered as an external company in Ghana nor resident in Ghana is proceeding with taking expeditious steps at the High Court to compel the payment of sums of money allegedly arising from the transaction between the 2nd Defendant and the Government of Ghana to the 2nd Defendant through the continued acts and conduct of the 3rd Defendant before this Court can make a final determination of the constitutional issues.
18. The Plaintiff/Applicant/Deponent believes that this Court can and should take judicial notice of the fact that the pendency of this action before this Court is a fact of notorious public interest known to the Ghanaian public, is available on the worldwide web, and on all aspects of the electronic media, in addition to the parties in this action, and superior courts below this Court are deemed to have public and judicial notice of.
19. Nonetheless, it appears that every effort is being made by the 2nd and 3rd Defendants and their lawyers aided by the indolence of the 1st Defendant to ensure that whatever decision this Court may give on the interpretative constitutional issues is made only after the 2nd Defendant has enforced payment on the unconstitutional transactions alleged by the Plaintiff/Applicant/Deponent herein as international business or economic transactions on a true and proper interpretation of Article 181 (5) of the 1992 Constitution.
20. The Plaintiff/Applicant/Deponent believes that even though the Plaintiff/Applicant/Deponent did not seek a relief of perpetual injunction against the Defendants in this action this Honourable Court has jurisdiction under Article 2 (2) of the Constitution and also an inherent jurisdiction to order the maintenance of the status quo until the final determination of the constitutional interpretative and enforcement disputes in this action by this Court.
21. The Plaintiff/Applicant/Deponent also believes that such an order by this Court will restrain the Defendants from taking any further steps concerning this matter likely to render any decision of this Court in this action to be nugatory before this Court is able to do justice between the parties.

22. In view of the fact that the Plaintiff/Applicant/Deponent is not properly a party to the 1st Defendant's application for stay of execution before this Court the Plaintiff/Applicant is compelled to go to the expense of making this application and annexing herewith a photocopy of the 1st Defendant's application for stay of execution filed in this action and in this Court on 21st February 2013 and marked as Exhibit "MAASI" for ease of reference by this Court.

WHEREFORE I swear to this affidavit in verification of my application herein.

SWORN AT ACCRA THIS
26th DAY OF FEBRUARY 2013


DEPONENT

BEFORE ME



COMMISSIONER OF OATHS

REGISTRAR
SUPREME COURT

Writ "MASE"

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA - A.D. 2012

21-2-2013
12:25

DATE *06-2-2013* TIME *12:25* AM/PM
SUIT NO. J1/23/2012
REGIS
SUPREME COURT OF GHANA

MARTIN ALAMISI AMIDU
PLOT 355 NORTH LEGON RESIDENTIAL
AREA, ACCRA

PLAINTIFF

VRS

1. THE ATTORNEY-GENERAL
MINISTRY OF JUSTICE
ACCRA 1ST DEFENDANT

2. ISOFOTON S. A OF MONTALBAN 928014
MADRID, SPAIN PER ANANE-AGYEI FORSON
AS LAWFUL ATTORNEY
HOUSE/ NO. 3 OPPOSITE SHABA WAREHOUSE,
PARAKUO ESTATES, DOME, ACCRA 2ND DEFENDANT


3. ANANE-AGYEI FORSON
HOUSE/ NO. 3 OPPOSITE SHABA WAREHOUSE,
PARAKUO ESTATES, DOME, ACCRA 3RD DEFENDANT

MOTION FOR STAY OF EXECUTION PENDING THE DETERMINATION OF WRIT
NO J1/23/2012

TAKE NOTICE that Counsel for and on behalf of the Defendant/Appellant/Applicant herein will move this Honourable Court praying for an order staying execution of the ruling of his Lordship Ommpeh, J. sitting at the High Court 13 on 24th April, 2012 and further proceeding in CONSOLIDATED SUITS: - H3/566/2012 entitled ISOFOTON S.A. SUING PER ANANE-AGYEI FORSON VRS THE ATTORNEY-GENERAL AND ISOFOTON S.A. SUING PER ANANE-AGYEI FORSON VRS THE ATTORNEY-GENERAL upon grounds set forth in the accompanying affidavit and for such further order(s) as this Honourable Court may deem fit, pending the determination of Writ No. J1/23 /2012.

TUES 5TH MAR 2013
court to be moved on Day of 2013 at o'clock in the forenoon or
soon thereafter as Counsel may be heard.

DATED AT THE ATTORNEY-GENERAL'S CHAMBERS, ACCRA, THIS 20th DAY
OF FEBRUARY, 2013.


SYLVIA ADUSU (MRS.)
PRINCIPAL STATE ATTORNEY
FOR: THE ATTORNEY-GENERAL &
SOLICITOR FOR THE DEFENDANT/APPELLANT/APPLICANT

THE REGISTRAR
SUPREME COURT
ACCRA.

THE REGISTRAR
HIGH COURT
ACCRA

AND TO THE PLAINTIFF/RESPONDENT OR ITS SOLICITOR, OWUSU-YEBOA,
NYAMPONG & ASSOCIATES

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA - A.D. 2012

SUIT NO. J1/23/2012

MARTIN ALAMISI AMIDU
PLOT 355 NORTH LEGON RESIDENTIAL
AREA, ACCRA

PLAINTIFF

VRS

1. THE ATTORNEY-GENERAL
MINISTRY OF JUSTICE
ACCRA

1ST DEFENDANT

2. ISOFOTON S. A OF MONTALBAN 928014
MADRID, SPAIN PER ANANE-AGYEI FORSON
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HOUSE/ NO. 3 OPPOSITE SHABA WAREHOUSE,
PARAKUO ESTATES, DOME, ACCRA

2ND DEFENDANT

3. ANANE-AGYEI FORSON
HOUSE/ NO. 3 OPPOSITE SHABA WAREHOUSE,
PARAKUO ESTATES, DOME, ACCRA

3RD DEFENDANT

AFFIDAVIT IN SUPPORT

I, ANNA PEARL AKIWUMI SIRIBOE of House E21, Lashibi Accra, make oath and say as follows:

1. That I am the Deponent herein.
2. That I am a Principal State Attorney at the Attorney-General's Department, Accra, and the Deponent herein.
3. That I have the consent and authority of the Attorney-General to depose to this Affidavit the facts of which have come to my knowledge during the normal course of my work.

That at the hearing of this application Counsel will seek leave of this Honourable Court to refer to all the processes filed in this matter.

5. That the Plaintiff issued two Writs and Statements of Claim on 16th October 2008, which were subsequently consolidated and on or about 21st November, 2011 served a Garnishee Order Nisi on the Bank of Ghana and the Attorney-General. Copies of the Writs are exhibited and marked AG1.
6. That On 29th November, 2011 the Attorney-General filed a Motion to Set Aside Proceedings and the Garnishee Order Nisi. A copy of the Motion and Affidavit in support is attached hereto and marked as 'Exhibit AG 2'.
7. That on 24th April, 2012 the High Court gave its ruling dismissing the Attorney-General's application to Set Aside proceedings and the Garnishee Order Nisi. A copy of the ruling is attached as 'Exhibit AG 3'.
8. That dissatisfied with the said ruling, the Attorney-General filed a Notice of Appeal. A copy of the Notice of Appeal is attached herewith as Exhibit 'AG 4'.
9. That on the 1st of June, 2012 the Attorney-General filed additional grounds of appeal upon receipt of the Court's ruling. A copy of the additional grounds of appeal is annexed hereto as 'Exhibit AG 5'.
10. That on the 22nd day of May, 2012 the Attorney-General filed in the High Court a Motion for Stay of Execution of the ruling delivered on 24th April, 2012 by the High Court. A copy of the Motion for Stay of Execution of the ruling is annexed hereto as 'Exhibit AG 6'.
11. That on the 17th of July, 2012 the High Court dismissed the Attorney-General's application for Stay of Execution. A copy of the ruling is attached as 'Exhibit AG7'.
12. That on 20th July, 2012 the Attorney-General repeated the application for Stay of Execution in the Court of Appeal. A copy of the Attorney-General's application for Stay of Execution before the Court of Appeal is attached as 'Exhibit AG8'.
13. That on the 10th of October, 2012 the Court of Appeal dismissed the Attorney-General's Application for Stay of Execution pending Appeal. A copy of the Court of Appeal's ruling is attached as 'Exhibit AG 9'.
14. That the Plaintiff in the said consolidated suit has filed an application in the High Court praying the Court for an order appointing time for payment of judgment debt into court. A copy of the said Application is exhibited and marked AG10.

That in opposing the Garnishee proceedings the Defendant therein raised constitutional issues and therefore the Hon. Court should have stayed proceedings and referred the matter to the Supreme Court for determination.

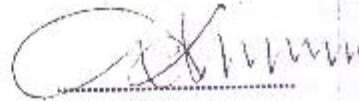
16. That if this Hon. Court in the suit herein rules in favour of the Plaintiff it would have the effect of rendering nugatory all the proceedings in the High Court including the Order directed at Bank of Ghana to pay the Judgment debt out of the garnisheed account.
17. That in the interest of justice we pray that the Hon. Court grant our motion for Stay Of Execution to enable all matters to be determined between the parties.

WHEREFORE I swear to this Affidavit in Support of the Motion for Stay of Execution Pending Appeal.

Sworn In Accra


This 28th Day

of February, 2013.



Deponent

BEFORE ME



REGISTRAR
ADRENAL COURT

COMMISSIONER FOR OATHS