

# **Denkyira Ayanfuri Gyamanhene Wins Legal Battle**

DR. ISAAC K. DAMOAH

IN THE SUPERIOR COURT OF JUDICATURE, IN THE CIRCUIT COURT OF JUSTICE,  
CENTRAL REGION HELD AT DUNKWA. ON THE 13TH DAY OF DECEMBER,  
2002, CORAM HIS WORSHIP MR. R. ADJEI DJAN, MAGISTRATE

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**SUIT NO. 240/2002**

**NANA KWAME NISIAH HEAD  
OF KONA STOOL FAMILY  
OF AYANFURI GYAMAN**

) .. .. PLAINTIFF

**Vrs**

**1. EDWARD KWADWO DONKOR  
KWADWO SIKA OF AYANFURI**

) .. .. DEFENDANT

**2. ABUSUAPANIN KOFI MENSAH**

) .. .. CO-DEFENDANT

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To begin with the plaintiff summoned the defendant only for assertion of title to piece of land rampantly known as Gyaman Dadaa on Gyaman Stool Land limited to the properties of A.G.C Ltd, the Subin stream and parts of Gyaman Stool Land.

Later Abusuapanin of Ayanfuri Stool applied and linked as Co-defendant to protect the interest of Ayanfuri Stool. The plaintiff issue is that the ancestors of Ayanfuri Gyaman stayed at a place known as Gyaman Dadaa (old Gyaman) before relocating to their present establishment. He said A.G.C Mining Company worked in the area and it affected Gyaman Dadaa Land but Gyaman Dadaa cemetery was violated. Plaintiff said that when Gyaman people insisted the Mining Company paid reparation and built school for them.

Plaintiff said they discovered that someone was allocating the same land for building purpose after the miners had departed. Because of this, they interviewed Ayanfurihene who shared rampant boundary with them if he was allocating the land to potential developers but the chief refuted. Plaintiff said that he summoned the Defendant before arbitral tribunal after discovering that it was the Defendant who was selling the lands. He said the Defendant approached him for peaceful settlement but later declined to settle the matter. The

Defendant was a member of plaintiff's family from Ayanfuri Gyaman declared by the plaintiff. In defending the Defendant said that the land in contention belonged to his grandparents, Nana Anokoran and Adjoa Asiama. His grandparents purchased the land from Ayanfurihene and had farmed the land for more than 50 years. He said that his land did not share a rampant boundary with the plaintiff's land which could be located at long distance.

However, the case before this Court changed when Abusuapanin, Kofi Mensah joined the suit. He made it clear that Ayanfuri Stool was litigating against Gyaman Stool over land both of them called Gyaman Stool Lands and Ayanfuri Stool Lands. Co-defendant said the land in contention belonged to Ayanfuri Stool and when the miners acquired it, Ayanfurihene invited Gyamanhene and public cerebation was held to launch the mining activities. He said he had stopped the Defendant from selling the land. Based on the proof of Co-defendant and Plaintiff the Defendant was selling the land without the knowledge of either the Ayanfuri Stool or Gyaman Stool.

If Ayanfuri Stool instructed Defendant to sell the land the Co-defendant would not stopped him from selling the land. But the Court wanted to find out if the land belonged to Ayanfuri Stool or Gyaman Stool. Due to this, the Court would like to find out how a stool acquired land and the type of land acquisition that existed under customary law. There are four ways a stool acquired land. These are

- 1. Conquest and subsequent settlement thereon and cultivation by subjects of the conquering stool**
- 2. Discovery by hunters or pioneers of the stool**
- 3. Gift to a stool by another stool**
- 4. Derivative**

Though none of the parties revealed how they acquired their stool lands, the Court proceeded and investigated into the types of titles the stool hold. According to Ollenu's principle of customary law in Ghana 2nd Ed. 1985. P5 a stool relying on its rank could hold alodial title and also sub-paramount title.

The Co-defendant declared under interrogation that Gyaman did not have land but stayed on Ayanfuri stool land. He also said Ayanfuri stool shared boundary with Nkotumsu

(Nkasawura) and Gyaman had no lands. It is astonished that two towns lie side by side did not share a rampant boundary. The Co-defendant meant that Ayanfuri stool gave Gyaman Ancestors a place to stay. Assuming it was true specific area should have been given to Gyaman people to settle on and that became their land.

If Gyamanhene paid tribute to Ayanfurihene, Ayanfurihene could not take over so far as Gyaman people had occupied the land. Customary law says that a head stool cannot get absolute title to land unless that land is empowered in a sub-stool under the head stool. Hence if any land is accepted to be empowered in head stool for absolute estate that land must be inevitably belongs to sub-stool (Ibid25). The declaration that it was Ayanfuri stool which gave Gyaman stool land or Gyaman stool is subordinate to Ayanfuri Stool is unsubstantiated before this Court. Assuming Gyaman stool is subordinate to Ayanfuri stool then for Ayanfuri stool to acquire absolute title to any stool land that stool land must empowered in the sub-stool. This is referring to Gyaman stool. It is transgression of the law to say that Gyaman has no land.

The Defendant stood on mining and timber concession given to some companies to claim allodial title to land. Granting concessions do not correspond with stool boundaries. In Exhibit 2 the timber concession given to Gazamah Forestry worker covered more than 14 sq miles including Ayanfuri, Nkotumsu, Akrofuom lands and among others. Ayanfuri stool cannot based on appearance of its name on the concession map to claim ownership of the land. Can Nkotumsu, Akrofuom or Achiase stand on the concession map to claim ownership of the land? The answer is no. Nana Kwasi Praph II replied a letter scribed by Minerals Commission who witnessed for the defense (Exhibit 5). Mineral Commission stated that under section 1, 14 (i) and 17 of the Minerals and Mining law 1986 PNDC Law 153 that the titles of stools, skins families or other persons to land in Ghana is subject to the supreme authority and control by the state of all minerals in its natural state in any land in Ghana.

To a utilize concession given by Government to mining or timber company to claim ownership and title to stool land is against customary law practice. It is banal learning that an owner might own allodial title to the land while another person owns defineable title to the same piece of land. The allodial owner is the ruler of the land but a person holding defineable title has authority to utilize it even to the point of ceding it to farmers or future developers. The land in contention at Gyaman Dadaa is clearly as sharing boundary with Ayanfuri lands and Gyaman people declared that they were title to it. When the Mining

Company came and worked in the Ayanfuri area, they paid compensation for land rights and Ayanfurihene gave Gyamanhene sum of the money. If Gyaman stool had no land, Ayanfuri would not have given part of the compensation to Gyaman. Once part of the compensation was paid, Gyaman stool highlights their interest in the land, although Ayanfuri stool might be their ruler.

A stool being overlord to another stool does not have sole access to all the lands in the area. This subordinate stool also has right to allocate lands for building purposes. In light of the proof cited so far the plaintiff had established that he and his people were the best people to deal with lands at Gyaman Dadaa. Because of this, they were declared possessor such land. The Defendant had intruded on Plaintiff's land and must depart instantly. Plots of lands the Defendant had sold to potential developers ought to be imposed and the Defendant owned the Plaintiff. Any further agreement must be between the Plaintiff and the developers. An expense of 2,000,000 was awarded against the Defendant.

**SGD. MR. R. ADJEI DJAN**  
(DISTRICT MAGISTRATE)

## **REFERENCE**

Mr. R. Adjei Djan, (2002, December 13), "Judgement", circuit court of justice, central region. Dunkwa -on-offin.p1-5