

Privy Council Appeal No. 77 of 1915.

**Mensa Akuamankra, since deceased (now
represented by Ohene Kwasi Boahene)** *Appellant,*

v.

Paul and Another - - - - - *Respondents,*

FROM

THE SUPREME COURT OF THE GOLD COAST COLONY.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 12TH JULY, 1917.

Present at the Hearing :

VISCOUNT HALDANE.

LORD SHAW.

SIR ARTHUR CHANNELL.

[*Delivered by* VISCOUNT HALDANE]

Their Lordships have given careful consideration to the arguments in this case and are in a position to dispose of the appeal. It is a case involved in a good deal of obscurity, and it is important that their Lordships should, if possible, have had before them the judgment of the Court of Appeal, reviewing that of the Court of first instance. But owing to the fault, as it has been put, of the appellant, however much that fault may be excusable, he did not appeal in time. The Court of Appeal refused to entertain the appeal, and, when the matter was considered, they would not give the necessary leave to appeal to His Majesty in Council. Then the case came here, and special leave to appeal was granted, because their Lordships' principle is to do justice according to substance as well as to form. If, after hearing the arguments, they had been satisfied that there was a strong *prima facie* case of the Judge who tried the case having come to a wrong decision, they might have sent the case back to the Court of Appeal. But they are not so satisfied. As their Lordships have said,

the case is one involved in considerable obscurity, but they are not prepared to differ from the decision of the learned Judge who tried the case, and as they have not, through the appellant's fault, had the assistance of the Court of Appeal, they see no alternative, on the principles on which they exercise justice, but humbly to advise His Majesty to dismiss this appeal.

In the Privy Council.

MENSA AKUAMANKRA,
since deceased (now represented by
OHENE KWASI BOAHENE)

v.

PAUL AND ANOTHER.

DELIVERED BY
VISCOUNT HALDANE.