

In the Privy Council

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

No. UNIVERSITY OF LONDON  
W.C.1.  
OCT 1956  
INSTITUTE OF ADVANCED  
LEGAL STUDIES  
44444

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CONSOLIDATED SUITS AND APPEALS

BETWEEN

(1) OPANYIN KWASI BAAH (substituted  
for Opanyin Kofi Frimpong) .. (Plaintiff) Appellant

AND

KWAME ABOSSI, ABUAGYE, and  
BAFUOR KWADWO BOADI .. .. (Defendants) Respondents

AND BETWEEN

(2) BAFUOR KWADWO BOADI .. .. (Plaintiff) Respondent

AND

OPANYIN KWASI BAAH (substituted  
for Opanyin Kofi Frimpong) .. (Defendant) Appellant

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CASE FOR THE APPELLANT

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RECORD

10 1. This is an appeal from a judgment of the West African Court of Appeal delivered on 27th February 1940, dismissing the appeal of the then Appellant, Kofi Frimpong (hereinafter called "the Appellant") from a judgment of the Supreme Court of the Gold Coast delivered on the 3rd March 1939. The consolidated suits in which the said judgments were delivered brought into issue the ownership of about 10 square miles of land called Jejeti land (otherwise Jijate or Giagate land) in the State of Akyem Abuakwa in the Gold Coast Colony bounded towards the north by the River Jejeti, beyond which lies the State of Kwahu in the same Colony, and delineated in a plan (Exhibit C) prepared for the purpose of the suit, upon which the Appellant's claim was edged pink, the claim of the defendant Boadi was edged blue and the claim of Abossi and his co-defendants was

p. 48

p. 38

## RECORD

p. 40 edged green. The land claimed by the Appellant was for convenience treated by the trial Judge as if divided into three sections. The first, which he named *Pinkacre*, lies to the east of the Gold Coast Railway and as to this land there was no dispute. The second, which he named *Blueacre*, lies to the west of the railway and comprised such of the land edged pink claimed by the Appellant as was overlapped by the land edged blue claimed by the Respondent Boadi. The third, which he named *Greenacre*, lies still further to the west and comprised such of the land edged pink claimed by the Appellant as was overlapped by the land edged green claimed by the Respondent Abossi and his co-defendants. 10

2. The whole of the land edged pink was purchased in 1905 by the Appellant's predecessor, Yao Anno, from the Chief of Muoso, who is not a party to this action. But the Respondent Boadi alleges that such of the land within the confines of the pink land as is edged blue and green (i.e. *Blueacre* and *Greenacre*) was, at the time of Yao Anno's purchase, attached to his Stool, and that as to *Greenacre*, Boadi's predecessor had sold it in 1921 to the Respondent's Abossi and Abuagye and joint purchasers with them.

p. 40, l. 5 The trial judge gave no decision as to *Pinkacre*, it not appearing at any time to have been claimed by any of the Respondents. He held that he had no sufficient evidence to decide the ownership of *Blueacre* and therefore, 20  
 p. 41, l. 4 as to this land nonsuited both the Appellant as against the Respondent  
 p. 41, l. 38 Boadi and also the Respondent Boadi as against the Appellant without costs to either, these nonsuits not to amount to a judgment on the merits. As to  
 p. 41, l. 24 *Greenacre*, he gave judgment against the Appellant for the defendants Abossi, Asare, Mante and Abuagye with costs, finding that they were then lawful owners and occupiers of this land. Asare, however, had not  
 p. 44, l. 23 been served with process and had taken no part in the proceedings and Mante had died before the hearing, but no point is made of this.

3. In arriving at these conclusions the Trial Judge relied upon the absence or presence of what he termed "accomplished facts", and further, 30  
 p. 40, l. 48 as to *Greenacre*, that there was no direct evidence that the Vendor to the  
 p. 41, l. 22 Appellant had owned the land and could give a good title to the Appellant.  
 p. 41, l. 2

It is submitted that in so doing he was in error as to what were the accomplished facts, that he has attached undue importance to those which he found to exist and has drawn erroneous inferences from them.

4. Upon appeal to the West African Court of Appeal, that Court accepted the findings of the Court below except the finding that Abossi and his company were lawful owners of *Greenacre*, holding that the decisions did not justify the view that shortcomings in the proof of a legal title might be made good by proof of "accomplished facts". Subject to this variation 40  
 p. 48, l. 20 of the judgment, the appeal was dismissed with costs.  
 p. 48, l. 34

p. 9, l. 39 5. The Appellant is a Juaben man (the Juabens or Jabins were originally natives of Ashanti, of which the State of Jabin was and is a leading state). About 1875 a civil war broke out in Ashanti (not then a British Colony) between the Jabins and Kumasi, the premier Ashanti State, in which the Jabins were defeated and driven out of Ashanti into the

Gold Coast Colony, the majority of them settling in and around the town of Koforidua in the Eastern Province of the Colony. Subsequently a large number returned to Ashanti but a large number also remained in the Koforidua district, where they formed a new State, known as New Juaben.

6. The Respondent Boadi is an Akim man, the Odikro or village Chief of Asunafo. He is a Chief subordinate to the Ohene of Abomuso, who is himself subordinate to the Paramount Chief of Akim Abuakwa. The Respondents Abossi and Abuage are Cherepongs. (The Cherepongs are one of the constituent tribes who, with two other tribes, have  
10 amalgamated to form the State of Akwapim, the lands of which lie to the south-west of those of Akim Abuakwa. All these people, Jabins, Akims and Cherepongs are of the same Akan stock, speak similar or identical languages and have similar customs).

7. The facts giving rise to the proceedings are as follows:—  
The Odikro or Chief of Muoso, Apontua, litigated on behalf of his Stool with Adjua Fi, Odikro of Akuaboso, over a nugget of gold found by a Jejeti man upon land occupied by the Odikro of Jejeti. The Odikro of Jejeti was admittedly not the owner of the land occupied by him and his people. He and they occupied it by permission of the Odikro of Muoso.  
20 (It was by customary native law their duty to hand over to the owner of the land they occupied any nuggets of gold found upon the land.) This nugget was claimed by Adjua Fi, but was handed by the Jejetis to Apontua. In consequence, there followed an action in the High Court between Apontua and Adjua Fi, in which Apontua was successful but which involved him and his Stool in debt. In order to pay such debt, some Stool land was sold, part to Yao Anno, being the land edged pink in the occupation of the Jejetis, and part, lying on the easterly part of the southern border of that purchased by Yao Anno, to its occupants, the Kankang people, inhabitants of the village of Kankan. They also are Jabins and had settled at Kankan  
30 by permission of the Odikro of Muoso some time before, as the Jejeti people, also Jabins, had settled on the land to the north by his permission. The dates of first occupations by the Jejeti people and the Kankang people are not precisely fixed, but from surrounding circumstances were probably not long after the expulsion of the Jabins from Ashanti in 1875.

8. The negotiations for the sale to Yao Anno took place at Koforidua, the land was pointed out to him on the ground with the assistance of the Jejeti people, and the boundaries traversed. "Guaha" was also cut (being the Akan method of sale of land outright, so far as native law contemplates such a sale) and the purchase price paid. After this native  
40 sale Vendors and Purchaser proceeded to Accra with the Court bailiff, where a Conveyance in English form was executed, dated the 2nd January 1905. This Conveyance was duly registered in the Gold Coast Deeds Registry and its execution was duly proved in these proceedings by two of the attesting witnesses wherein it was marked Exhibit "A". Thereafter, the Odikro of Jejeti was left in charge of the land, with continued permission

p. 29, l. 1  
p. 29, l. 41  
p. 31, l. 17  
p. 32, l. 42

p. 16, ll. 29-36

p. 20, l. 23  
p. 21, l. 1

p. 21, l. 39

p. 16, l. 26  
p. 19, l. 3

p. 9, ll. 13-25  
p. 9, ll. 11-32  
p. 15, l. 29

p. 55, l. 20  
and p. 16

pp. 52-55  
p. 9, ll. 34-39

p. 9, l. 6  
 p. 14, l. 10  
 p. 12, l. 6  
 p. 18, l. 27

for him and his people to use the land, and they paid tolls to Yao Anno and, on the latter's death about 1928, the Appellant succeeding him, to the Appellant. At this time the whole land was forest land, and the bulk of it has so remained, but a railway had since been made (the main line of the Colony) passing through the land and a main road has also been made through it, in place of an ancient native highway.

p. 18, l. 10  
 p. 17, l. 13  
 p. 16, l. 37  
 p. 33, l. 32  
 and p. 3, l. 15

p. 14, l. 40

p. 15, l. 15

9. The Jejeti people, besides using the land for hunting, at first used it for producing gold and then for planting cocoa (a crop which is grown in the forest and benefits by its shade) and they paid tolls to Yao Anno as the landowner first in gold and then in cocoa. Their farming extended into *Greenacre*, at any rate in 1929. The Appellant occasionally visited his land. 10  
 Shortly before these proceedings began, he had a "village" made for himself upon it, on the northern boundary of *Blueacre*. (A "village" in Gold Coast parlance may consist of a single hut, as this would seem to have been.) Kankang people also infiltrated from the south and made farms. Appellant took no toll from them, as they were brother Jabins and their cocoa had not come into yield.

p. 10, l. 1

10. In 1932 the Jejetis reported to Appellant that Abossi and others were farming on the western boundary of the land and, when questioned by the Appellant, Abossi and his company said that the Odikro of Asunafo had sold the land to them and, on Appellant taking the matter up with the Respondent Boadi, the latter said that the land sold was his (i.e. attached to his Stool). 20

p. 24, l. 24 to  
 p. 25, l. 20

11. From the evidence given in the action it appeared that the Stool of Asunafo claimed the whole of the land edged blue and green. Boadi's predecessor on the Stool, one Apiagye, however, had sold, or was alleged to have sold, that edged green in or about the year 1921 to Abossi and his partners for a sum of £1,100 or thereabouts, the sale being carried out by native law only and no written record of it having been made. The sale is said to have been completed by the cutting of Guaha at Asuasi, where 30  
 the purchasers allege that they erected huts, but where this place is does not appear. No independent evidence was given that such a sale ever took place. It was not until 1929 that Abossi and his people started farming, but no evidence was given as to where the farms then made were or as to the date when they claim to have first started farming on *Greenacre*, i.e. the northern part of the area edged green, their presence, however, being first reported by the Jejetis in 1932.

12. Upon their presence being reported, Appellant sent a surveyor who surveyed the Appellant's land and marked its boundaries with concrete pillars. Abossi protested at the survey and was supported in this protest 40  
 by Boadi. The pillars, so far as they were on the lands edged green and blue, were thrown down by Boadi or under Boadi's authority.

13. Boadi then began, by oath, the suit of Boadi *v.* Frimpong in the Tribunal of the Paramount Chief of Akim Abuakwa, claiming damages for trespass, the hearing notice being dated the 5th September 1933. p. 2, l. 10

This suit was duly removed, on Frimpong's application, into the Supreme Court on the 17th October 1933 and was struck out with costs on the 21st November 1933, restored on the 7th December 1933 and again struck out with costs on the 7th June 1934. p. 2, l. 30  
p. v

14. On the 22nd November 1934, this suit having been so disposed of, Frimpong caused a summons to be issued by the before mentioned Tribunal against Abossi, Asare, Mante and Abuagye claiming (a) a declaration of title (as owner) to the land edged pink; (b) recovery of possession; (c) damages for trespass and wrongful occupation. p. 3

On Frimpong's application this action was also duly removed into the Supreme Court on the 18th March 1935. To this action Boadi was added, on his own application and that of the original Defendants, as a Defendant on behalf of the Stool of Asunafo, on the 7th September 1935. On the 23rd September 1935 the action of Boadi *v.* Frimpong was for the second time restored. p. 4  
p. 5  
p. v

20 The actions were heard together without pleadings, and during the hearing were consolidated, the hearing extending over various dates from the 6th December 1938 to 1st March 1939, judgment being given on the 3rd March 1939, as stated in paragraph 2 of this case. p. 6, p. 7,  
l. 32, and  
p. 13, l. 32  
p. 6 to 36  
p. 38

15. The Appellant duly appealed to the West African Court of Appeal from the said judgment who, on the 27th February 1940 dismissed the said appeal with costs, as stated in paragraph 4 of this case. p. 49

On the 16th September 1940 the Appellant duly obtained final leave from the West African Court of Appeal to appeal to His Majesty in Council, but on the 22nd September 1940 the Appellant died and on the 11th November 1940 the West African Court of Appeal duly certified that Kwasi Baah, the Successor according to native customary law and the Head of the Family of the Appellant, was the proper person to be substituted on the Record for the Appellant and he was substituted accordingly and now prosecutes this Appeal. p. 50.  
p. 51

16. The evidence brought forward by Frimpong to establish his case was of two kinds :—

- (1) Evidence of the title of his predecessor in title, the original owner of the land, the Muoso Stool, and of the grant by that Stool to Yao Anno :
- (2) Evidence of use and occupation or the payment of tribute or toll.

40 17. Ordinarily, under the first head the representative of the Muoso Stool would have been called to give evidence of their own title, but this the Muoso people declined to give for reasons which appear in paragraph 19 of this Case. p. 40, l. 23  
p. 48, l. 8

It is submitted, however, that there was abundant evidence that the whole of the land in dispute had been Muoso Stool land up to the time when that Stool had sold it to Yao Anno.

p. 16, l. 25  
p. 19, ll. 3, 12, 20  
p. 18  
p. 16, l. 30

The Odikro of Jejeti gave traditional evidence that the Jejetis had been placed upon the land by the Muoso Stool at a time which is not specified but was probably in or shortly after 1875, this evidence being corroborated by the representative of the Stool of Bepon in Kwahu. He also gave evidence of the assertion by the Muoso Stool of their ownership of the lands against the Stool of Akuboso at some date prior to 1905.

p. 22

18. But the most important evidence of the ownership of the land 10 is the entirely independent evidence of the Ohene of Mpraeso, who gave evidence that the boundary of his Stool land had been formerly with the lands of the Muoso Stool and thereafter with the land of Yao Anno all along the Jejeti River from the lorry road which crosses that river near Jejeti to the junction of the Jejeti with the Asuboni. This comprises the whole of the north boundary of the disputed area and about half its western boundary. This evidence is supported by a judgment of the Supreme Court in the "Akim-Kwahu Boundary Suits," in which action the witness had succeeded in maintaining against the Stool of Akim Abuakwa and its subordinate stools, including that of Muoso, that his boundary with Muoso 20 was what he said.

p. 56  
p. 22, l. 21  
p. 66, l. 44

19. The proceedings in the Akim-Kwahu Boundary Suits afford the explanation of why the Stool of Muoso refused in the present suit to come forward and prove the title to the Stool to the area sold in 1905 to Yao Anno.

p. 64, l. 9

In the Akim-Kwahu Boundary Suits Kwahu, and Mpraeso in particular, had relied, among other things, upon the conveyance of 1905 as evidence that their boundary with Muoso, and therefore with Akim, was the River Jejeti as stated in the parcels of such conveyance and indicated on the plan drawn thereon. 30

p. 64, l. 45  
p. 66, l. 22

The defendants in such Boundary Suits had tried hard, but unsuccessfully, to get rid of this damaging evidence by showing that the Muosos had no land there bounding Kwahu, adopting the tactics of not calling the Chief of Muoso as a witness but in his stead an alleged representative of the Stool whom the Court regarded as a false and fraudulent witness.

20. It is also submitted that there is all the evidence of use and occupation and of the payment of tribute or tolls which can reasonably be expected having regard to the nature of the area claimed by the Appellant.

p. 17, l. 42  
p. 21, l. 40  
p. 19, l. 40

The evidence showed that it had been in such slight occupation as it 40 was capable of by the Jejeti people for a very long time and that they had acknowledged the ownership, first of the Muoso people and then of Yao Anno and Frimpong, by the payment of tolls of gold and cocoa, though they do not appear to have made farms in any number, if at all, to the West of the railway, i.e. on *Blueacre* and *Greenacre*, before 1933.

21. The title of all the Respondents depends on the title of the Stool of Asunafo, just as the title of the Appellant in the main depends on the title of the Stool of Muoso. But the trial Judge has not found any title in the Asunafo Stool as to either *Blueacre* or *Greenacre*, though he has found a title to be lawful occupiers of *Greenacre* in Abossi and his Company. But this, it is submitted, cannot be sustained unless there had been found a good title in the Asunafo Stool to that area.

pp. 40 and 41

p. 41, l. 20

The trial Judge says :—

10 “I find therefore that so far as Frimpong’s claim to *Greenacre* is concerned there is proof of the “accomplished facts” and adverse occupation by Abossi and his Company which shows that they are now lawful [owners and] occupiers of the land.”

The West African Court of Appeal disagreed with the words placed in square brackets above but otherwise upheld the finding.

22. It is submitted, however, that without a finding that either the Stool of Asunafo or Abossi and Company had title as owners no finding of lawful occupation can be sustained. Mere occupation in native law gives no title of any kind, even inchoate, but the title of the true owner must always prevail, unless there is proof of such true owner having acted in such a way as to lead the occupier to believe that he can safely improve the land or deal with it as if he were the owner, in which case the English Courts have laid down, as a matter of justice, equity and good conscience, that the true owner cannot disturb the occupier.

The limits of this doctrine, as laid down by the English Courts, are not yet clearly defined, but it is submitted that it has no application to “adverse occupation”, but at least it must be shown that a true owner, seeing an occupier laying out money or labour or otherwise acting to his prejudice in the belief that he has a good title as owner or at least as occupier, has not warned such occupier that he is doing so at his own risk.

23. Nor was there in fact any “adverse occupation”, as admittedly it was not until 1929 that Abossi and Company started to farm and not until some time later that Frimpong became aware of what they were doing or even of their existence, when he at once took steps to assert his title. It may well be that it was not until this happened that Abossi and Company became aware of the claims of Frimpong, though the Asunafo Stool would appear to have been at least put upon enquiry long before, and must have been fully apprised of the claims of Frimpong at the time of the Kwahu-Akim Boundary Cases in 1922, in which the Stool of Asunafo was one of the defendants. It is submitted that the denials of such knowledge, made in the present case, are incredible.

p. 25, l. 24

p. 25

p. 30, l. 11

p. 56, l. 18

p. 30, l. 24

p. 32, l. 32

In any case adverse occupation gives no title and trespassers can never acquire one by native law.

p. 31, l. 2

24. Asunafo Stool claimed not only to have originally owned *Greenacre*, but still to own it, all of which, with other lands, they claimed had been Asunafo Stool land from time immemorial. They alleged that they were

p. 29, l. 23.

l. 29

p. 31, l. 36

## RECORD

p. 32, l. 35  
 p. 35, l. 14  
 p. 33, l. 21  
 p. 31, l. 10  
 p. 34, l. 24  
 p. 35, l. 20

bounded on the east by the Asuboni (below the confluence of the Jejeti Stream) and by the Akuaboso Stool lands there, on the north by the Jejeti Stream and the Kwahu lands there and on the east by the railway and the Stool lands of Akuaboso, which, they (and Akuaboso also) claimed, ran up to the Jejeti between the railway and the Motor Road.

This would appear to be very much the case that was put forward and rejected in the Kwahu-Akim Boundary suit. It is submitted that it should have been expressly rejected in this suit.

p. 35, l. 10  
 p. 29, l. 29  
 p. 29, l. 33  
 p. 29, l. 37

Asunafo and Akuaboso support each other in asserting these boundaries but it is submitted that this should have little weight, as admittedly they are "brothers" and so closely related that one pays the debts of the other, 10  
 Akuaboso being an offshoot of Asunafo.

p. 41, l. 30

25. The trial Judge, it is submitted rightly, characterized the evidence of Asunafo and Akuaboso as to the boundaries of their stool lands as confusing and contradictory, but did not consider it necessary to examine this evidence in detail, though he found, it is submitted rightly, that there was no evidence that *Blueacre* had ever been occupied or used by the people. ~~Asunafo~~ But that there had been no occupation and use by these Stools does not necessarily dispose of their claim to ownership. All land in the Colony has an owner, though large areas are even now uninhabited and unused. But it is submitted that their claim to ownership is disposed of 20  
 by a comparison of the evidence as to the above mentioned boundaries:—

p. 31, l. 36

(a) Asunafo claims that *Greenacre* is bounded on the east, below the confluence of the Jejeti and the Asuboni, by the Akuaboso Stool lands. This is, however, disposed by Abossi who says that there the Kwahus are on the other side of the river and that he does not border with the Akuaboso Stool land.

p. 26, l. 12

p. 32, l. 35  
 p. 35, l. 14  
 p. 35, l. 10  
 p. 33, l. 21  
 p. 34, l. 24  
 p. 35, l. 20  
 p. 22

(b) Asunafo claims that *Blueacre* is bounded on the north by the Jejeti, beyond which is Kwahu, and they and Akuaboso claim that, going east, there are, between the railway and the motor road, Akuaboso Stool 30  
 lands also bounded on the north by the Jejeti.

But this is disproved by the Chief of Mpraeso, who proves that his neighbour on the south of the Jejeti, along the whole stretch from the road to the confluence of the Jejeti with the Asuboni, was formerly Muoso Stool and then Yao Anno, which was the conclusion reached by the Court in the Kwahu-Akim Boundary suits.

It is submitted that the title of Asunafo and Akuaboso is disproved and that, with the negation of the title of Asunafo, the dependent title of Abossi and Company is also negated.

26. The Appellant humbly submits that the said judgment of the 40  
 West African Court of Appeal of the 27th February 1940 was wrong and should be reversed and that judgment should be given for the Appellant with costs in the suit of Frimpong and Abossi and others declaring his title as owner to the area edged pink upon Exhibit "C" and for the recovery



of the possession thereof and for damages to be assessed, and that judgment should also be given for the Appellant in the suit of Boadi *v.* Frimpong with costs for the following among other

REASONS :—

1. BECAUSE Frimpong had proved his title to the whole of the area, coloured pink in Exhibit " C " ;
2. BECAUSE neither Boadi, Abossi, nor Aboagye had proved any title to any part of the said area ;
- 10 3. BECAUSE there is abundant evidence that the whole of the land in dispute had been Muoso Stool land up to the time of the Conveyance of the 2nd January 1905 to Yao Anno, the predecessor of the Appellant ;
4. BECAUSE the Odikro of Jejeti gave evidence about being placed upon the land by the Muoso Stool prior to 1905 and that subsequently he had paid tribute and tolls first in gold and then in cocoa to Yao Anno and the Appellant, and because he further gave evidence confirming the boundary as claimed by the Appellant ;
- 20 5. BECAUSE the representative of the Chief of Bepong corroborated the evidence of the Odikro of Jejeti and stated that the Muoso Stool had asserted ownership to the lands prior to 1905 as against the Stool of Akuaboso ;
6. BECAUSE the Chief of Mpraeso, the entirely independent witness, swore that the boundary of his stool lands had formerly been with Muoso stool lands and thereafter with Yao Anno, the predecessor of the Appellant, along the Jejeti river from the lorry road which crosses that river near Jejeti to the junction of the Jejeti with the Asuboni river ;
- 30 7. BECAUSE the said boundary comprises the whole of the Northern boundary and about half of the Western boundary of the disputed area ;
8. BECAUSE the evidence of the Chief of Mpraeso is supported by a judgment of the 29th August 1923 ;
9. BECAUSE the Odikro of Asunafo was a party to the litigation in the Akim-Kwahu Boundary Suits (Nos. 68, 69 and 70 of 1922) in which the said judgment of 1923 was delivered ;

10. BECAUSE the Odikro of Asunafo knew that the Conveyance of 2nd January 1905 had been accepted by the Court in 1923 as important evidence of title in declaring the boundary in favour of the Mpraeso Stool, as against the Muoso Stool, and his denials in the present suit of the claims which were then made are incredible;
11. BECAUSE the proceedings in the Akim-Kwahu Boundary Suits show why the Stool of Muoso did not come forward in the present suit to prove their title to the land sold in 1905;
12. BECAUSE all the evidence of use and occupation and the payment of tribute and tolls which could be reasonably expected having regard to the nature of the area claimed by the Appellant was given; 10
13. BECAUSE all land in the Gold Coast is held by some owner;
14. BECAUSE the title of all the Respondents depends upon the title of the Stool of Asunafo, and the Trial Judge did not find any title in the Asunafo Stool to grant the lands as alleged on *Blueacre* and *Greenacre*;
15. BECAUSE in the absence of any title in the Stool of Asunafo, the Trial Judge was wrong in declaring that Abossi and his Company were "lawful owners and occupiers" of the land;
16. BECAUSE the West African Court of Appeal were right in cutting out the words "owners and", but wrong in retaining the words "lawful occupiers", as an occupation can only be lawful in accordance with the title given by a lawful owner, which the Odikro of Asunafo was not declared to be; 20
17. BECAUSE without a definite finding that either the Stool of Asunafo or Abossi and Company are owners no finding of lawful occupation can be sustained;
18. BECAUSE mere occupation in the native law gives no title of any kind, even inchoate, as the title of the true owner must prevail;
19. BECAUSE the so-called "adverse occupation" referred to by the Trial Judge only took place in 1929 when the Appellant immediately asserted his title, and it was only then that Abossi and Company became aware of the title of the Appellant; 30
20. BECAUSE adverse occupation gives no title, and trespassers can never acquire one by native law;
21. BECAUSE the Trial Judge characterized the evidence of Asunafo and Akuaboso about the boundaries as confusing and contradictory, but did not go into detail;

22. BECAUSE, if the Trial Judge had made a comparison of the evidence as to their alleged boundaries, their claim to ownership would have been disposed of, and the evidence of the Mpraeso Stool and the Judgment of 1923 would have settled the dispute entirely in favour of the Appellant ;
23. BECAUSE the Judgment of the Trial Judge was wrong ;
24. BECAUSE the Judgment of the West African Court of Appeal was wrong.

T. B. W. RAMSAY.

# In the Privy Council

No. 15 of 1941

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

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## CONSOLIDATED SUITS AND APPEALS

BETWEEN

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KWAME ABOSSI, ABUAGYE, and  
BAFUOR KWADWO BOADI  
*(Defendants) Respondents*

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(2) BAFUOR KWADWO BOADI  
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## CASE FOR THE APPELLANT

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