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24, 1950

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No. 64 of 1947. - LONDON

In the Privy Council.

ON APPEAL  
 FROM THE WEST AFRICAN COURT OF APPEAL  
 (Gold Coast Session).

30 MAR 1951  
 INSTITUTE OF ADVANCED  
 LEGAL STUDIES

BETWEEN

NII ABOSSEY OKAI II and  
 KORKOI ABOSSEY (Defendants) - - - - - *Appellants*

AND

NII AYIKAI II, MANCHE OF AKUMAJAY (Plaintiff) - *Respondent.*

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**RECORD OF PROCEEDINGS.**

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BURCHELLS,  
 9 BISHOPSGATE, E.C.2,  
*Solicitors for the Appellants.*

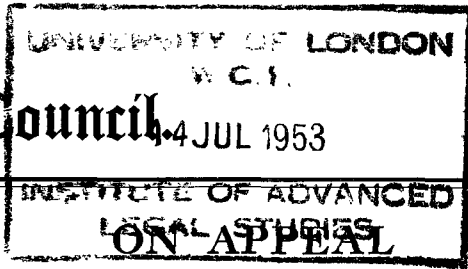
A. L. BRYDEN & CO.,  
 25 WHITEHALL, S.W.1,  
*Solicitors for the Respondent.*

Judgment 24, 1950

C.H. 103.

21

In the Privy Council 4 JUL 1953



No. 64 of 1947 LONDON W.C.1.

30 JUL 1953

INSTITUTE OF ADVANCED LEGAL STUDIES

FROM THE WEST AFRICAN COURT OF APPEAL (Gold Coast Session).

BETWEEN

NII ABOSSEY OKAI II and KORKOI ABOSSEY (Defendants) Appellants

AND

NII AYIKAI II, Manche of Akumajay (Plaintiff) Respondent.

# RECORD OF PROCEEDINGS

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# In the Privy Council.

FROM THE WEST AFRICAN COURT OF APPEAL  
(Gold Coast Session).

BETWEEN

NII ABOSSEY OKAI II and KORKOI ABOSSEY  
(Defendants) - - - - - *Appellants*

AND

NII AYIKAI II, Manche of Akumajay (Plaintiff) - *Respondent.*

## 10 RECORD OF PROCEEDINGS

No. 1.  
CIVIL SUMMONS.

*Suit No. 7.*

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

Between NII AYIKAI II of Accra, Mantse of  
Akumajay - - - - - Plaintiff

and

NII ABOSSEY OKAI II & KORKOI  
ABORSEY - - - - - Defendants

SARAH ADDO - - - - - Co-Defendant.

(Joined by order of Court d/d 28/10/44.)

To ~~Nathaniel Tague~~ Nii Abossey Okai II. (substituted) and Korkoi Aborse  
of Accra (Abosse Okai)—

You are hereby commanded to attend this Tribunal at Accra on  
Monday the 13th day of February 1941 at 8.30 o'clock a.m. to answer  
a suit by Nii Ayikai of Accra against you.

The Plaintiff claims (B) The Plaintiff is the Mantse of Akumajay  
and as such Mantse the owner of all that piece or parcel of land situate at  
30 Accra and known as Obete Kpakpo land.

*In the  
Tribunal  
of the  
Paramount  
Chief  
of the  
Ga State.*

No. 1.  
Civil  
Summons,  
6th  
February  
1941.

Substituted  
by Order of  
Court dated  
4/3/44.

*In the  
Tribunal  
of the  
Paramount  
Chief  
of the  
Ga State.*

No. 1.  
Civil  
Summons,  
6th  
February  
1941,  
*continued.*

The Defendants have been laying claim to the said land and the Plaintiff on behalf of himself and the elders and councillors of Akumajay claims a declaration that the said land is the property of the Stool.

Issued at Accra the 6th day of February, 1941.

Sum claimed	Declaration of title to land.
Tribunal Fee .. .. .	£1 5 0
Mileage & Service .. .. .	3 6
	<hr/>
	£1 8 6
	<hr/> <hr/>

Compl. Drink.

(Sgd.) TACKIE OBILE, 10  
Ga Mantse.

*In the  
Provincial  
Commissioner's  
Court.*

No. 2.  
Notice of  
Motion for  
Transfer of  
Suit, 28th  
July 1943.

No. 2.

NOTICE OF MOTION for Transfer of Suit.

IN THE PROVINCIAL COMMISSIONER'S COURT,  
Eastern Province, Koforidua,  
Gold Coast.

Between NII AYIKAI II., Mantse of Akumajay, Accra - Plaintiff

vs.

NATHANIEL TAGOE and KORKOI ABOSSEY  
of Accra - - - - - Defendants. 20

MOTION ON NOTICE FOR THE TRANSFER OF THE ABOVE SUIT.

MOTION ON NOTICE by Nii Ayikai II., Mantse of Akumajay, the Plaintiff herein praying for an Order by this Court to stop the hearing or further hearing of the above-named case now pending before the Tribunal of the Paramount Chief of the Ga State Accra and for transferring it to the Divisional Court, Accra, in terms of the Affidavit annexed hereto.

TO BE MOVED on 28th day of August, 1943 at 8.30 a.m. or as soon thereafter as Applicant can be heard.

DATED AT ACCRA this 28th day of July, 1943.

(Sgd.) AYIKAI II., 30  
Applicant.

To the Registrar,  
C.E.P.'s Court,  
Koforidua.

And

To the above-named Defendants,  
Their Agent or Representative,  
Accra.

## No. 3.

**AFFIDAVIT in support of Motion for Transfer.**

[Title as No. 2.]

I, AYIKAI II., Mantse of Akumajay Division, Accra, make oath and say as follows :—

1. I am the Plaintiff herein.
2. That the matter in this issue is land situated at Obete-Kpakpo, North West of Korle Lagoon, the said land is under the Akumajay Stool whereof Plaintiff is Mantse.
- 10 3. That Defendants have been giving out plots of this land without the knowledge of Plaintiff and his elders.
4. That the Ga Mantse Nii Tackie Obili, President of the Tribunal, holds a title deed in which some of this land has been conveyed to him by Abossey Okai and therefore has personal interest in the matter.
5. That the Indenture drawn by Government between the Akumajay Stool and the Governor of the Gold Coast the Ga Mantse signed this document testifying the same.
6. That I propose to give Ga Mantse a subpoena in the case and therefore the Tribunal will not be properly constituted to hear this case.
- 20 7. That I make this affidavit in support of my Motion praying for the stoppage of the hearing or further hearing of the above case now pending before the Paramount Chief's Tribunal of Ga State judging from the foregoing and to transfer the same to the Divisional Court.

Sworn at Accra the 28th day of July, 1943.

(Sgd.) AYIKAI II.

Before me,

(Sgd.) F. A. H. BOTCHEY,  
Commissioner for Oaths.

## No. 4.

**AFFIDAVIT of Defendant Korkoi Abossey in opposition.**

[Title as No. 2.]

**AFFIDAVIT**

Of KORKOI ABOSSEY opposing application by Plaintiff for transfer of the above case.

I, KORKOI ABOSSEY, of Abossey Okai, Accra, hereby make oath and say as follows :—

1. That I am the 2nd defendant in the above case.
2. That the 1st defendant Nathaniel Tagoe died on the 22nd day of March 1943 and no substitution has been made to enable the Plaintiff
- 40 to proceed with the above case.
3. That the successor and representative of the deceased defendant has not been served with the motion paper and affidavit herein.
4. That the above land case is within the exclusive jurisdiction of the Native Tribunal and is properly cognisable by the Tribunal.

*In the  
Provincial  
Commissioner's  
Court.*

No. 3.  
Plaintiff's  
Affidavit in  
support of  
motion for  
transfer,  
28th July  
1943.

No. 4.  
Affidavit of  
Defendant  
Korkoi  
Abossey in  
opposition,  
25th August  
1943.



No. 5.

Order transferring suit to Divisional Court.

IN THE PROVINCIAL COMMISSIONER'S COURT, Eastern Province, held at Koforidua, on Saturday, the 28th day of August, 1943, before HIS WORSHIP GUTHRIE HALL, Deputy Provincial Commissioner.

[Title as No. 2.]

Motion on Notice by Nii Ayikai II. Mantse of Akumajay the Plaintiff herein praying for an Order by this Court to stop the hearing or further hearing of the above-named case now pending before the Tribunal of the Paramount Chief of the Ga State Accra and for transferring it to the Divisional Court, Accra, terms of the affidavit annexed hereto.

Affidavit in support filed 7/8/43.

Affidavit in opposition filed 23/8/43.

The case is transferred for hearing to the Divisional Court at Accra. No order, as to costs in this Court.

(Sgd.) GUTHRIE HALL, Deputy P.C.

In the Provincial Commissioner's Court.

No. 5. Order transferring suit to Divisional Court, 28th August 1943.

No. 6.

NOTICE OF MOTION for an interim injunction.

IN THE SUPREME COURT OF THE GOLD COAST. Eastern Province.

Divisional Court, Accra.

A.D. 1943.

Transferred Suit No. 20/1943.

Between NII AYIKAI II., Mantse of Akumajay, Accra Plaintiff

and

NII ABOSSEY OKAI II. by his guardian &c. (Intd. A. N. D.) and KORKOI ABOSSEY of Accra Defendants.

In the Supreme Court of the Gold Coast.

No. 6. Notice of Motion for an interim injunction, 8th December 1943.

TAKE NOTICE that this Court will be moved by Akufo Addo Counsel for and on behalf of the above-named plaintiff for an Order for Interim Injunction restraining the first and 2nd defendants herein their servants and agents and all who act for or under them from disposing of any portions or parts of the "Obete Kpakpo Lands" the subject-matter of this suit by way of Sale, gift or in other manner and from in any way interfering with the said lands pending the hearing and determination of the above-named suit.

Court to be moved on Monday the 13th day of December, 1943, at 8.30 of the clock in the fore-noon or so soon thereafter as Counsel can be heard.

Dated at Kwakwaduum Chambers, Accra this 8th day of December, 1943.

(Sgd.) AKUFO ADDO, Plaintiff's Solicitor.

The Registrar, Divisional Court, Accra and

To the above-named Korkoi Abossey or her Solicitor.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 7.  
Affidavit of  
Plaintiff in  
support, 9th  
December  
1943.

No. 7.

AFFIDAVIT of Plaintiff in support.

IN THE SUPREME COURT OF THE GOLD COAST.

Eastern Province.

Divisional Court—Accra.

A.D. 1943.

Transfd. Suit No. 20/43.

Between NII AYIKAI II., Mantse of Akumajay, Accra Plaintiff

and

NATHANIEL TAGOE (Deceased) and  
KORKOI ABOSSEY of Accra - - - Defendants. 10

AFFIDAVIT of NII AYIKAI II.

I, NII AYIKAI II., make oath and say :—

1. I am the Mantse of Akumajay and I brought this action on behalf of the Akumajay Stool.

2. This action was first brought in the Ga Mantse's Tribunal in 1940 and was by an Order of the Provincial Commissioner made in August, 1943, transferred to the Divisional Court, Accra.

3. The said action is now pending in the Divisional Court, Accra.

4. The 1st Defendant died in 1942 and the action is being proceeded 20 with against the surviving defendant.

5. The action is for a declaration that a piece of land situate at Accra and known as "Obete Kpakpo Lands" are the property of the Akumajay Stool.

6. The said action was taken because the defendants were disposing of portions of the said land by sale, gift or otherwise and held themselves out as Owners thereof.

7. The 2nd defendant is still disposing of portions of the said land by sale, gift or otherwise.

8. I make this affidavit in support of an application on my behalf 30 for an Order for Interim Injunction restraining the 2nd defendant, her servants and agents from in any way interfering with the said property pending the hearing and determination of the suit.

Sworn at Accra this 9th day of December, } (Sgd.) AYIKAI II.,  
1943, by the deponent } Ak. Mantse.

Before me,

(Sgd.) B. CROSBY DAVIS,  
Commissioner for Oaths.





## No. 8.

## COURT NOTES ordering substitution.

IN THE SUPREME COURT OF THE GOLD COAST, EASTERN PROVINCE, held at Victoriaborg, Accra, on Saturday, the 4th day of March, 1944, before HIS HONOUR MR. QUASHIE-IDUN, Ag. J.

20/1943 NII AYIKAI II

vs.

10 NATHANIEL TAGOE  
& KORKOI ABOSSEY

Motion on Notice for substitution of deceased defendant and for appointment of guardian.

*In the  
Supreme  
Court of  
the Gold  
Coast.*  
No. 8.  
Court Notes  
ordering  
substitu-  
tion, 4th  
March 1944.

Mr. Akufo Addo and Mr. Crabbe for Plaintiff-Applicant.

Mr. Ollenu with Mr. Quist for Defendant.

Mr. Akufo Addo moves in terms of Motion Paper and affidavit in support.

Refers to affidavit filed by Plaintiff and also affidavit filed by Emmanuel Ayi Tagoe.

Mr. Ollenu states no objection to application.

*By Court—*

20 It is hereby ordered that Nii Abose Okai II be substituted for Nathaniel Tagoe deceased and that Ayi Tagoe be appointed a Guardian for the said Nii Abose Okai II.

(Sgd.) S. O. QUASHIE-IDUN,  
Ag. J.

## No. 9.

## PLAINTIFF'S STATEMENT OF CLAIM.

IN THE SUPREME COURT OF THE GOLD COAST.  
Eastern Province.

Divisional Court, Accra.

30 A.D. 1944.

Transferred Suit No. 20/1943.

Between NII AYIKAI II, Mantse of Akumajay, Accra Plaintiff

and

NII ABOSE OKAI II, a Minor per his Guardian  
ad litem EMMANUEL AYI TAGOE—substituted  
for NATHANIEL TAGOE (Deceased) and  
KORKOI ABOSSEY of Accra - - Defendants.

No. 9.  
Plaintiff's  
Statement  
of Claim,  
9th June  
1944.

## STATEMENT OF CLAIM.

1. The Plaintiff is the Mantse of the Akumajay Division of Accra and as such represents the Stool and people of Akumajay, and the first  
40 Defendant is the Successor by Native Custom of Nii Abose Okai I (Deceased) and the second Defendant was a daughter of the said Nii Abose Okai I.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 9.  
Plaintiff's  
Statement  
of Claim,  
9th June  
1944,  
*continued.*

2. The land known as "the Obete-Kpakpo Lands" is the property of the Akumajay Stool, it having been acquired by right of occupation and use in accordance with the principles of Native Custom. The said land was first occupied by the ancestors of the Plaintiff about 200 (two hundred) years ago on their immigration to Accra from Ayawaso and the said land has since been in the occupation and undisturbed possession of the said Akumajay Stool.

3. Nii Abose Okai I an elder of the Akumajay Stool was in his lifetime a caretaker of the properties of the Akumajay Stool and people and as such Caretaker had the control of the said "Obete-Kpakpo Lands." 10

4. The said Nii Abose Okai I in his lifetime always declared himself a Caretaker of the said "Obete-Kpakpo Lands" for the Akumajay Stool and never at any time claimed the said land to be his individual property, and in all matters affecting "the Obete-Kpakpo Lands" he acted for and on behalf of the Akumajay Stool.

5. By reason of the averments contained in paragraph 4 (supra), the defendants, who are claiming through the said Nii Abose Okai I by privity of Blood, are estopped from averring that the land in question was the individual property of the said Nii Abose Okai I.

6. The land known as "The Obete-Kpakpo Lands" referred to above 20 is :—

All that piece or parcel of land situate in Accra and bounded on the North by Gong Kpata (Kpata Hill), on the South by Korle Webii Lands, on the East by Ablekuma Road (now the Wiegyan Railway Line) and on the West by Oblogo Road.

7. The Plaintiff, therefore, claims a Declaration that the said "Obete-Kpakpo Lands" described in paragraph 6 (supra) is the property of the Akumajay Stool.

Dated at Kwakwaduam Chambers, Accra this 9th day of June, 1944.

(Sgd.) AKUFO ADDO, 30  
Solicitor for Plaintiff.

No. 10.  
Defence,  
30th June  
1944.

No. 10.  
DEFENCE.

[Title as No. 9.]

#### DEFENDANTS' STATEMENT OF DEFENCE.

1. The Defendants deny the allegations set out in paragraphs 2, 3, and 4 of the Statement of Claim.

2. The Defendants say that the land in dispute is the property of the Na Adawede Family a distinct branch of the Akumaje Stool Family of which the present Head is the first Defendant Nii Abose Okai II. and 40 not the property of the Akumaje Stool.

3. The said land in dispute originally belonged to the Obutu Stool which granted it by way of Gift to the said Na Adawede grand-daughter of the then Mantse of Obutu upon her marriage with Nii Ayikai I., the then Mantse of Akumaje.

4. The said grant was made about 250 years ago to the said Na Adawede and her heirs being issues of her body.

5. At the time of the said grant to the said Na Adawede the Akumaje Mantse Nii Ayikai I., and his people were settled at Ayawaso.

6. The Defendants are direct descendants of Na Adawede and they and their predecessors in title being direct descendants of Na Adawede and known as the Na Adawede Family, have been in undisturbed possession and occupation of the land the subject matter of this suit, for the said period of about 250 years, and they have dwelling houses and farms thereon.

7. The said Akumaje Stool has never been in occupation or possession of the said Obete-Kpakpo lands the subject matter of the suit.

8. The said Na Adawede Family have always exercised acts of ownership over the land the subject matter of the suit by sales, gifts, leases, and licenses to persons who paid tolls to the head of the said family for the use and occupation of plots allotted to them.

9. The Defendants deny that Nii Abose Okai I. who was one of the heads of the said Na Adawede Family did at any time act as Caretaker of the said lands for the Akumaje Stool, and neither the said Nii Abose Okai I. nor any other head of the said Na Adawede Family did at any time account to the Akumaje Stool for tolls collected or other profits accruing from the said lands.

10. The said Nii Abose Okai I., from about the year 1918 until his death and whilst head of the said Na Adawede Family acted as Akumaje Mantse, but this property of his family did not become Akumaje Stool property by reason of his having held such acting position.

11. The Defendants do not admit that the said Nii Abose Okai I. did at any time in his lifetime declare himself a Caretaker of the said Obete-Kpakpo lands for the Akumaje Stool, and the Defendants deny that they are estopped from averring that the land the subject matter of the suit is the family property of the said Na Adawede Family, which is sometimes called family of Nii Abose Okai I.

12. The Defendants do not admit that Plaintiffs are entitled to any of the reliefs sought.

Save in so far as is herein expressly admitted the Defendants deny each and every allegation contained in the Statement of Claim as if the same were herein set out in detail and traversed seriatim.

Dated at Accra this 30th day of June, 1944.

(Sgd.) E. C. QUIST,  
Solicitor for Defendants.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

—  
No. 10.  
Defence,  
30th June,  
1944,  
*continued.*

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 11.  
Court Notes  
ordering  
plan of land  
in dispute  
to be made  
and an  
interim  
injunction,  
9th August  
1944.

No. 11.

**COURT NOTES ordering Plan of land in dispute to be made and an interim injunction.**

IN THE SUPREME COURT OF THE GOLD COAST, Eastern Province, holden at Victoriaborg, Accra, on Wednesday, the 9th day of August, 1944, before HIS HONOUR MR. JUSTICE DOORLY.

NII AYIKAI II.

*vs.*

NII ABOSSE II. ETC.

Akufo Addo for Plaintiff. 10

Ollennu and Quist Therson for Defendants.

*Quist Therson* : The description of the boundaries given by the plaintiff in his Statement of Claim is ambiguous. A plan is necessary.

*Akufo Addo* : I agree.

ORDER : Let a plan be made of the land claimed by the plaintiff in this action on which the land claimed by the defendants so far as it overlaps what plaintiff claims is to be marked. Cost of plan (for the present) to be borne equally by both sides.

Mr. Simpson agreed upon as surveyor. 20

Plan to be filed within six weeks.

Registrar to notify surveyor of this order.

Adjourned 20/9/44.

(Intd.) A. N. D.

*Akufo Addo* : There is still on the file an application by my client for an interim injunction against 2nd defendant. Now that there is a 1st defendant on the record I ask that my application be extended so as to include him also.

*Ollennu* : This is an amendment of the motion. The Court can make it. 30

ORDER : I allow the motion to be amended so as to include the 1st defendant.

(Intd.) A. N. D.

*Akufo Addo* : I ask that that motion be heard now.

*Ollennu* : I do not object to the hearing of the motion but I oppose it.

*Akufo Addo* : Our case is the defendants are in possession as caretakers. The statement in my client's affidavit of 9/12/43 that defendants were disposing of property by sale etc. has not been contradicted by affidavit. Ready to indemnify defendants against any damage they may suffer if we fail in this action.

*Ollennu* : Application premature. Where not certain what land claimed, the Injunction will work a hardship as the land in dispute is not all the land we claim in the area. Boundaries indefinite.

*Akufo Addo*, in reply : Boundaries given by us in statement of claim. From pleadings no doubt what is the land in dispute.

ORDER : I grant an interim injunction against both defendants in respect of the Obete-Kpakpo lands, a description used by and therefore presumably understood by both parties provided that this injunction shall not apply to applications for land made by Government for acquisitions for sanitary or other purposes of benefit to the general community.

The undertaking of the plaintiff to indemnify defendants against any damage caused by this order in the event of the plaintiff's failing in this action is noted as part of this order.

(Sgd.) A. N. DOORLY,  
J.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 11.  
Court Notes  
ordering  
plan of land  
in dispute  
to be made  
and an  
interim  
injunction,  
9th August  
1944,  
*continued.*

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No. 12.

NOTICE OF APPLICATION for joinder of Sarah Addo as Co-defendant.

[Title as No. 9.]

TAKE NOTICE that this Honourable Court will be moved on Saturday the 28th day of October, 1944, at 8.30 o'clock in the forenoon or so soon thereafter as Thomas Hutton-Mills of Counsel for Sarah Addo the Applicant herein can be heard for an Order joining her as a Defendant in the above-named Suit upon the grounds set forth in her affidavit filed in support of the Motion Paper herein. And for such other Order or Relief as to this Honourable Court may seem fit.

Dated at Accra this 20th day of October, 1944.

(Sgd.) T. HUTTON-MILLS  
Solicitor for SARAH ADDO  
(Applicant herein).

No. 12.  
Notice of  
Application  
for joinder  
of Sarah  
Addo as Co-  
defendant,  
20th  
October  
1944.

**AFFIDAVIT of Sarah Addo in support of Application for joinder.**

[Title as No. 9.]

*In the  
Supreme  
Court of  
the Gold  
Coast.*No. 13.  
Affidavit of  
Sarah Addo  
in support  
of applica-  
tion for  
joinder,  
23rd  
October  
1944.

I, SARAH ADDO of Accra, Administratrix of the Estate of the late Madam Laingoye Lartey, deceased of Accra, and also Successor and Head of the said Deceased's Family make oath and say as follows :—

1. That I have the authority, consent and approval of the principal and other members of the said deceased's family to swear to this affidavit and act for them in these proceedings. 10

2. That in the above-named suit now pending for hearing in the above-named Court, the Plaintiff's claim against the Defendants is that as the Mantse of Akumajay, he is the owner of " All that piece or parcel of land situate at Accra and known as Obete-Kpakpo Land."

3. And that the Defendants have been laying claim to the said land, and that he claims on behalf of himself and the elders and councillors of Akumajay a declaration that the said land is the property of the Stool.

4. That the land claimed by the Plaintiff and the Defendants as " The Obete-Kpakpo Land " is described by the Plaintiff in his claim as " All that piece or parcel of land situate in Accra and bounded on the North by Gong Kpata (Kpata Hill), on the South by Korle Webii lands and on the East by Able-Kuma Road (now the Weigyan Railway Line) and on the West by Oblogo Road." 20

5. That the said Plaintiff's claim overlaps a large portion of land the property of my late mother Madam Laingoye Lartey deceased and which said parcel of land together with the buildings thereon and fruit trees etc. commonly known as Bruce's Lodge is situate at " Obete-Kpakpo " in Accra, and bounded on the North by the Gold Coast Railway leading from Weija to Accra (formerly known as Kwasiman Road) and measuring 5250 feet more or less on the South by Hammock Road (formerly Oblogo Road) leading from Oblogo to the Ring Road and measuring 5600 feet more or less, on the East by the Ring Road (formerly open land) leading from Korle Gono to Adabraka and measuring 2310 feet more or less and on the West by unoccupied land and measuring 4225 feet more or less. 30

6. That to the best of my knowledge, information and belief the said deceased's property is included in the " Obete-Kpakpo Land " the subject matter of this suit.

7. That the said property was purchased by the said deceased Madam Laingoye Lartey as evidenced by a Deed of Conveyance executed in her favour by Oyoe Quartey, F. A. Ankrah and others and dated the 6th day of May 1905. 40

8. That the said Oyoe Quartey (Administratrix to the estate of the late Chief John Quartey, deceased), F. A. Ankrah and other Vendors purchased the said property at an auction sale under a Decree of the Supreme Court, Accra in or about the 8th day of June 1899 in the Suit No. 97/1898 and in the matter of Thomas W. Tagoe (Plaintiff) versus Sarah Bruce as the Executrix of the late Thomas Francis Bruce (Defendant).

9. That the Defendant Korkoi Abossey is the daughter of the late Nii Abossey Okai I. of Akumajay and the other Defendant Nii Abossey Okai II., substituted for Nathaniel Tagoe, deceased, is also a direct descendant of the said Nii Abossey Okai I.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

10. That the said Nii Abossey Okai I. who was an elder of the Akumajay Stool during his lifetime also acted as Akumajay Mantse and Caretaker of the said Akumajay Stool lands.

No. 13.  
Affidavit of  
Sarah Addo  
in support  
of applica-  
tion for  
joinder,  
23rd  
October  
1944,  
*continued.*

11. That to the best of my knowledge, it was Nii Abossey Okai I. alias George Abossey who purchased the said Obete-Kpakpo land for the late Madam Laingoye Lartey and joined the late J. R. Myers who was at the date of the purchase of the said property the Acting Akumajay Mantse in witnessing the Deed of 6th May, 1905 above referred to on behalf of the deceased Madam Laingoye Lartey.

12. That the said deceased Madam Laingoye Lartey and her family have since the purchase of the said land been in undisturbed possession and occupation and have dwelling houses and farms thereon.

13. That the said deceased and her family have always exercised acts of ownership over the said land.

14. That I am advised by my Solicitors that my interest in the above subject matter would be greatly affected by the result or decision which may be given by this Honourable Court.

I therefore swear to this affidavit in support of Motion Paper filed herein for an Order joining me as a Defendant herein and for such other Order or Relief as to this Honourable Court may seem fit.

Sworn at Accra this 23rd day of October, } (Sgd.) SARAH ADDO.  
1944

Before me,  
(Sgd.) C. W. DUGBARTEY NARNOR,  
Commissioner for Oaths.

## COURT NOTES ordering joinder of Sarah Addo as Co-defendant.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 14.  
Court notes  
ordering  
joinder of  
Sarah Addo  
as Co-defen-  
dant,  
28th  
October  
1944.

IN THE SUPREME COURT OF THE GOLD COAST, Eastern Province,  
held at Victoriaborg, Accra, on Saturday, the 28th day of October,  
1944, before HIS HONOUR MR. JUSTICE COUSSEY.

NII AYIKAI II.

V.

NII ABOSSEY OKAI II.

## MOTION ON NOTICE

on behalf of SARAH ADDO of Accra for joinder as a Co-defendant in 10  
this suit.

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Hon. A. Sawyerr and Mr. T. Hutton-Mills for applicant Sarah Addo.

Mr. Akufo Addo for Plaintiff.

Mr. Bossman for defendants holding Briefs of Mr. Quist and  
Mr. Ollennu.

Mr. Akufo Addo and Mr. Bossman state that they do not oppose  
application for joinder as co-defendant but intimate that Plan of land  
in dispute has already been completed.

*Per curiam.*

Having read the affidavit of Sarah Addo and after hearing Counsel 20  
for the respective parties, It is hereby Ordered that the said Sarah Addo  
be joined as a Co-defendant herein and that copies of the Writ of Summons  
and of all pleadings be served upon her and that she be bound by all  
former proceedings herein and that she shall, on notice to the plaintiff and  
defendants point out to the Surveyor any features that she may desire  
to point out, on the land in dispute, and that such features shall be marked  
on the plan prepared.

The said Sarah Addo shall within 21 days of service of the Statement  
of Claim and Defence, file and serve her Defence to the Claim.

(Sgd.) J. HENLEY COUSSEY. 30

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No. 15.

## DEFENCE of Sarah Addo.

IN THE SUPREME COURT OF THE GOLD COAST.

Eastern Province.

Divisional Court, Accra.

A.D. 1944.

Transferred Suit No. 20/1943.

Between NII AYIKAI II., Mantse of Akumajay, Accra Plaintiff

and

10 NII ABOSSÉ OKAI II., A Minor per his  
Guardian ad Litem EMMANUEL AYI TAGOE—  
substituted for NATHANIEL TAGOE (Deceased)  
and KORKOI ABOSSÉY of Accra - Defendants  
SARAH ADDO of Accra - - - - Co-Defendant.

## SARAH ADDO'S STATEMENT OF DEFENCE.

1. That the Defendant Sarah Addo of Accra is the Administratrix of the estate of the late Madam Laingoye Lartey of Accra and also successor and Head of the said deceased's family.

20 2. That the said Sarah Addo was served on the 3rd day of November, 1944 with copies of the Plaintiff's Writ of Summons and Statement of Claim, and the Defendants Nii Abossey Okai II's and Korkoi Abossey's Statement of Defence filed herein in terms of the Court's Order dated the 28th day of October, 1944.

3. That the Plaintiff Nii Ayikai II's Statement of Claim and the Defendants' Nii Abossey Okai II's and Korkoi Abossey's Statement of Defence filed herein have been read and interpreted to me by my Solicitor.

30 4. That the said Sarah Addo although admitting paragraphs 1, 2, 3, 4, 5 and 6 of the Plaintiff's Statement of Claim says that the said Plaintiff's claim overlaps a large portion of her late Mother Madam Laingoye Lartey's land and which said piece or parcel of land together with the buildings thereon and fruit trees etc. commonly known as T. F. Bruce's Lodge is situated at "OBETE-KPAKPO" in the Accra District and is bounded on the North by the Gold Coast Railway leading from Weija to Accra (formerly known as Kwashie main Road) and measuring 5,250 feet more or less on the South by Hammock Road (formerly Oblogo Road) leading from Oblogo to the Ring Road and measuring 5,600 feet more or less on the East by the Ring Road (formerly Open land) leading from Korle Geno to Adabraka and measuring 2,310 feet more or less and on the West by unoccupied  
40 land and measuring 4,225 feet more or less.

5. That the said land was originally granted to the late Thomas Francis Bruce deceased of Accra by the Akumajay Stool Elder and Caretaker Nii Abossey Okai I., one of the principal members of the said Na Adawede family.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 15  
Defence of  
Sarah  
Addo,  
22nd  
November  
1944.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

6. That the said property was later on purchased by the said deceased Madam Laingoye Lartey from the estate of the late Chief John Quartey, deceased of Accra as evidenced by a Deed of Conveyance executed in her favour by Oyoe Quartey, F. A. Ankrah and others and dated the 6th day of May 1905.

No. 15.  
Defence, of  
Sarah  
Addo,  
22nd  
November  
1944,  
*continued.*

7. That the said Oyoe Quartey (Administratrix to the estate of the late Chief John Quartey, deceased), F. A. Ankrah and others (Vendors) also purchased the said property advertised for sale at a Public Auction at the instance of the said deceased T. F. Bruce's Judgment Creditor Thomas W. Tagoe under a decree of the Supreme Court Accra issued in or about the 8th day of June 1899 in the Suit No. 97/1898, and in the matter of Thomas W. Tagoe (Plaintiff) versus Sarah Bruce as the Executrix of the late Thomas Francis Bruce (Defendant). 10

8. That I am informed by the said Sarah Addo that to the best of her knowledge information and belief that it was the late Nii Abossey Okai I., alias George Abossey who purchased the said property for the said Defendant's late Mother Madam Laingoye Lartey (deceased), and joined the late J. R. Myers who was at the date of the purchase of the said property the Acting Akumajay Mantse in witnessing the Deed of Conveyance above referred to on behalf of the said deceased Madam Laingoye Lartey. 20

9. That the said Sarah Addo's late mother Madam Laingoye Lartey and the members of her family have always been in undisturbed possession and occupation of the said property by erecting dwelling-houses and making food and fruit farms thereon.

10. That the said Defendant Sarah Addo does not admit paragraphs 2, 3, 4, 5, 7, 9, 10 and 11 of the Defendants' Nii Abossey Okai II.'s and Korkoi Abossey's Statement of Defence filed herein.

11. That the said Sarah Addo whilst admitting that the Defendants Nii Abossey Okai II. and Korkoi Abossey and others and their predecessors are direct descendants of Nah Adawede (deceased), deny that the said Nah Adawede's family is entitled to be in possession or occupation of the said land the subject-matter of this suit. 30

12. That the said Sarah Addo whilst denying that the said Defendants have not always exercised acts of ownership over the land in dispute, say that they and some of their predecessors have since 1926 been unlawfully and wrongfully dealing with the said land in dispute as alleged in paragraph 8 of their Statement of Defence.

13. That the said Nii Abossey Okai I., in his lifetime always declared himself to be a Caretaker of the said Obete-Kpakpo land for the Akumajay Stool and never at any time claimed it to be his individual property and/or the property of the late Nah Adawede or her family, and in all matters or disputes affecting the said Obete-Kpakpo land he acted for and on behalf of the said Akumajay Stool only. 40

14. That by reason of the averments contained in paragraph 13 (supra) the said Defendants who are claiming title to the whole of Obete-Kpakpo lands including the late Madam Laingoye Lartey's land through the said Nii Abossey Okai I., and/or his ancestress the late Nah Adawede

by privity of blood, are estopped from averring that the land in dispute was at any time the individual property of the late Nii Abossey Okai I., and/or the late Nah Adawede.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

15. That the said Defendants are further estopped by Judgments of Record obtained by the said Sarah Addo in several Native Tribunals of the Gold Coast Colony, against various persons who claimed portions of the said Obete-Kpakpo lands through the said Defendants' predecessors, and also by admissions made by the said Nii Abossey Okai I., in the Divisional Courts of the Colony.

No. 15.  
Defence, of  
Sarah  
Addo,  
22nd  
November  
1944,  
*continued.*

10 16. That the said Sarah Addo does not admit that the Plaintiff is entitled to the Declaration sought for in so far as her land included in the Obete-Kpakpo lands is concerned, nor does she admit that the said Defendants are the owners of the said Obete-Kpakpo lands save in so far as is herein expressly admitted, the said Sarah Addo denies each and every allegation contained in the Plaintiff's Statement of Claim and the said Defendants Nii Abossey Okai II.'s and Korkoi Abossey's Statement of Defence filed herein as if the said were herein set out in detail and traversed seriatim.

Dated at Accra this 22nd day of November, 1944.

20

(Sgd.) T. HUTTON-MILLS

Solicitor for Defendant SARAH ADDO.

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No. 16.

**PLAINTIFF'S REPLY to Defence of Sarah Addo, Co-defendant.**

[Title as No. 15.]

**PLAINTIFF'S REPLY TO CO-DEFENDANT'S STATEMENT OF DEFENCE.**

No. 16.  
Plaintiff's  
Reply to  
Defence of  
Sarah  
Addo,  
Co-defen-  
dant,  
3rd  
February  
1945.

1. The Plaintiff joins issue with the Co-Defendant upon her Defence.

30

2. In further answer to paragraph 4 of the Co-Defendant's Defence the Plaintiff says that while admitting that the said Co-Defendant is entitled to a declaration of ownership in respect of " T. F. Bruce's Lodge " the land covered by the said " T. F. Bruce's Lodge " does not extend to the area claimed by the Co-Defendant. The said " T. F. Bruce's Lodge " consists of a small Building with a garden of Fruit Trees immediately surrounding the said Building and measuring on the North two hundred and seventy feet (270') more or less, on the South two hundred and ninety feet (290') more or less, on the East two hundred and seventy (270') more or less, and on the West two hundred and eighty feet (280') more or less.

Dated at Kwakwadum Chambers, Accra this 3rd day of February, 1945.

40

(Sgd.) AKUFO ADDO,

Plaintiff's Solicitor.

## COURT NOTES of Arguments.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 17.  
Court Notes  
of  
Arguments  
6th  
September  
1945.

IN THE LANDS DIVISION OF THE SUPREME COURT of the Gold Coast, Eastern Province, Eastern Judicial Division, held at Victoriaborg, Accra on Thursday, the 6th day of September, 1945, before M'CARTHY, AG. CHIEF JUSTICE.

Transferred Suit No. 20/43.

NII AYIKAI II

*vs.*

NII ABOSSEY OKAI II,  
KORKOI ABOSSEY.  
SARAH ADDO, Co-Defdt.

10

Akufo Addo (Lamprey with him) for plaintiff—

Quist (with him Ollennu and Quist Therson) for 1st and 2nd defendants—  
Hutton-Mills for 3rd defendant.

W. M. Q. HALM sits as Assessor.

Lamprey reads Statement of Claim, also Statement of Defence of 1st and 2nd Defendants and Statement of Defence of 3rd Defendant.

Quist says that in view of 3rd defendant's statement of defence, the joinder of third defendant as a co-defendant is a misjoinder, for she supports 20 plaintiff's claim as to title.

The Court points out that the order for joinder (28th October, 1944) was by consent of the then parties (including his clients).

Quist contends that if the position revealed in the Statement of Defence had on the 28th October, 1944, been known to the Court, it would not have made the order, though it might have ordered Sarah Addo to be joined as co-plaintiff. In the alternative he asks that 3rd defendant's name be struck out of suit.

*By Court.*

I see no reason for revoking the Order for Joinder which was made by 30 consent. Seeing that Sarah Addo's claim is in serious conflict with the plaintiff's, I think that it would be contrary to practice, and most inconvenient to join her as co-plaintiff.

I am asked in the alternative to strike Sarah Addo's name out of the case, and leave her to institute separate proceedings if she so desires.

It seems to me that her claim can be conveniently tried together with the plaintiff's (and defendants'), so to avoid unnecessary multiplicity of actions I cannot agree to this proposal.

The action will therefore proceed as between all the present parties.

## PLAINTIFF'S EVIDENCE.

No. 18.

Kru Tei.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Plaintiffs'  
Evidence.*

KRU TEI 1st Witness for Plaintiff sworn.

*Examination-in-Chief.*

I live at Abose Okai. I am also called Charles Abose. I am a carpenter. I remember the Glover war (1873-4). I was very young at the time. The war was going on at the time. The late Nii Abose Okai was my father. He had many children. There were about five older than me. I am the eldest surviving child. My father died about 5 years after the visit of the Prince of Wales (1925). He lived all the time in the Akumajay quarter of Accra, but for some time before his death, he lived at Abose Okai, a village which was named after him. The village is also called "Obete-Kpakpo." The story of the Obete-Kpakpo land was told me by my father. The land belonged to Nii Ayikai's Stool, the first Mantse of Akumajay. The land was named after Nii Ayikai's slave Obete, who lived on the land. My father was related to the Akumajay Stool family. He is a member of that family. My father was a cooper. He became in course of time the eldest member of the stool family. During the long absence from the country of the Mantse, an uncle of mine looked after the stool, and on his death my father did the same. Apart from this it was my father's duty to perform customary rites in connection with the stool.

When my father became too old to work as a cooper, he retired to Abose Okai where some of us were farming. While there was no Mantse in Akumajay my father held the stool keys and looked after Akumajay lands and property.

I have heard of a woman Adawude. My father told me that she was a wife of Nii Ayikai I., and that he was a direct descendant of her's. He never told me that the Obete-Kpakpo lands belonged to Adawude. All he said was that they belonged to the Akumajay Stool.

The present Mantse after being on the Stool for a very short time left the country and was away for about fifteen years. On his return he was enstooled a second time. My father on the first enstoolment took the Mantse around and showed the stool lands, including Obete-Kpakpo lands.

I knew T. F. Bruce. He was a merchant. A long time ago T. F. Bruce asked my father for land at Obete-Kpakpo for a country lodge. My father consulted the elders (there was no Mantse at the time) and they gave Bruce a piece of land on which he built a lodge. He planted fruit trees on part of the land. The elders notified him that he had planted beyond his boundary. He said that it was of no importance. Anyway the trees died. At the time a grand uncle of mine Nii Badu was caretaker.

In all the long history of Akumajay there have been only two Mantsemei, Ayikai I., and then after a very long interval the present Ayikai II.

No 18.  
Kru Tei,  
6th  
September  
1945.  
Examina-  
tion-in-  
chief.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Plaintiffs'  
Evidence.*

No. 18.  
Kru Tei,  
6th  
September  
1945.  
Examina-  
tion-in-  
chief,  
*continued.*

The ruins of Bruce's lodge are still on the land. Bruce occupied all the land given to him.

I do not know Abossey Okai II., the 1st defendant. Nathaniel Tagoe deceased was my cousin. I also know Emmanuel Tagoe. I know Korkoi Abossey, she is my half-sister by the same father.

When my father died Nathaniel Tagoe took charge of the Obete-Kpakpo lands. He helped my father in this work, and when my father died, he took over.

I knew Nii Akrong. He was son of a grand-uncle of mine. Nii Akrong and Nathaniel Tagoe, like me, were direct descendants of Adawude. 10  
Nii Akrong had nothing to do with the care of the land. Korley Amah was a direct descendant of Adawude.

Adjourned to 2.15 p.m.

(Intd.) L.M.

Court resumes at 2.15 p.m.

*Cross-  
examina-  
tion for 1st  
and 2nd  
Defendants.*

*Cross-examined by Lokko—*

My mother's name was Fofu. She belonged to Akumajay, but I do not know much of the origin of her family. She was free born. My mother and the plaintiff did not come from the same family.

I do not know whether the mother of the plaintiff comes from the 20  
Adawude's family.

Abose Okai's father was Abose. I am son of Abose Okai. Abose's father was Kru Tei.

All these were descendants of Adawude and Nii Ayikai. Adawude came from Obutu. The Obutus are Gas. I do not know that Adawude's father was the Mantse of Obutu. I do not know from what quarter Nii Ayikai came. I do not know he came from Gbese. He was the first Mantse of Akumajay. I do not know how he got his stool. My father did not tell me who owned the land in dispute before Nii Ayikai. He told me that the descendants of Nii Ayikai were from Obutu, because his wife 30  
came from there. He did not tell me that the land was given to Adawude by her father on her marriage. He told me that people accompanied Adawude when she came to Accra, some to grind corn for her and some to hunt for her and so on. These people settled in the Mantse's house, in what is known as Obutu Kpatashi (kitchen).

The hunters and farmers settled on Obete-Kpakpo, some settling in a village on the land called Ayikai Doblo. A man called Obintey settled on the land. He was one of Adawude's hunters.

Obete-Kpakpo literally means "Vultures' Pool." My father told me the pool was on a path belonging to Nii Ayikai. Nii Ayikai migrated 40  
from Ayawago to Accra. Since his death Akumajay property has been in the hands of caretakers until recent years. After Nii Ayikai's death Nii Badu was the first caretaker. Others were Ashong, Botwe and Akrong. There were also Abose, and Abose Okai; Korley Armah and Nathaniel Tagoe. All these are direct descendants of Adawude.

There are elders to the Akumajay Stool. In Abose Okai's time, among the elders were Nii Akrong, my father's brother Boi, Agortey, Ayiku.

In his time my father was the only person who represented the Stool in connection with the Obete-Kpakpo land.

The Mantse is taken from my family. The present Mantse is through his mother a descendant of Nii Ayikai and Adawude.

When Abose died, his brother Nii Badu took charge ; after him another brother Nii Ayikai, then Akrong, Abose Okai, Tawiahfio. These both looked after the stool and the land, and performed customary rites for the stool.

10 When my father retired he put Tawiahfio in charge of the stool. As Nathaniel Tagoe was already living on the land, he looked after the land.

Obete-Kpakpo is the only land outside Accra belonging to Akumajay. My father gave certain directions concerning the land before he died. He knew he was approaching his end, and wanted to prevent more litigation about the land after his death. He had a notice put up on the land, all over it, calling on any strangers claiming the land to come forward and state their claims. Nobody came. The land belongs to the descendants of Nii Ayikai and Adawude.

20 The present head of the family is Nii Akrong. He looks after the stool, and holds the stool keys. I know J. D. Tetteh Annan, Nathaniel Tagoe, Robert Cobbin Abose alias Klutey. Korkoi Abose, Tetteh Abose, Nii Amah Tagoe.

All these persons are direct descendants of Adawude, as also is Nii Akrong, the Stool Father.

I have heard of Odey the sister of Nii Ayikai, and that the plaintiff is descended from her.

When I say that plaintiff is descendant of Adawude, I do so because we look upon the descendants of Nii Ayikai's sister and of Nii Ayikai and Adawude as one family.

30 About 15 years ago Sarah Addo brought an action in this Court against Tagoe as successor of Abose Okai about Obete Kpakpo land.

The *locus in quo* was inspected. I saw Sarah Addo point out the land she claimed. Adams was the surveyor.

*Cross-examined by Hutton-Mills—*

I was told by my father that he was authorised by the elders to the stool to point out the boundaries of the land given to T. F. Bruce. Bruce gave rum to the elders of the stool. My father went with the elders when the boundaries were pointed out. I was then about 20 years of age.

40 In those days land in the neighbourhood of Obete Kpakpo was of very slight value, only used for planting cassava. It was called Obete Kpakpo because of a pool in it. The first person to put up a substantial building on the land was the late T. F. Bruce. It was called T. F. Bruce's Lodge. His labourers occupied outhouses on the land. The outhouses are in ruins, but the Lodge is still standing, and it is and long has been occupied by the Methodist mission.

I heard of a mortgage to somebody but not that it was sold.

When the Gas came from Ayawaso Nii Ayikai led the Akumajay section and settled in the present Akumajay quarter of Accra.

*In the Supreme Court of the Gold Coast.*

*Plaintiffs' Evidence.*

No. 18.  
Kru Tei,  
6th  
September  
1945,  
Cross-examination for 1st and 2nd Defendants,  
*continued.*

Cross-examination for Co-defendant Sarah Addo.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

Later the Akumajay people went to farm on Obete Kpakpo land. I do not know whether they went to farm on the land before Adawude was married to Nii Ayikai. All I know is that my father told me the land belonged to the Nii Ayikai Stool.

*Plaintiff's  
Evidence.*

Adjourned to to-morrow, at 8.30 a.m.

(Intd.) L.M.

7th September, 1945.

No. 18.  
Kru Tei,  
6th  
September  
1945.

KRU TEI, 1st witness for Pltff.

*Cross-examination by Hutton-Mills contd.*

Cross-  
examina-  
tion for Co-  
defendant  
Sarah  
Addo,  
*continued.*

My father Abose Okai was also known as George Abose. I knew a man called J. R. Myers. He was one of the elders of the Stool, at the same time as my father was an elder. My father became an elder 40 years ago. I know Mankata Aku and Abeley Kowah came from the Songbe-Nah section of Akumajay. They are dead. They were elderly women in Akumajay. They were elders of the Stool. 10

No. 19.  
Nii  
Ayikai II  
Plaintiff,  
7th  
September  
1945.  
Evidence in  
chief.

No. 19.

Nii Ayikai II.

NII AYIKAI II, Plaintiff, sworn.

*Examination-in-chief.*

I am Mantse of Akumajay in James Town, Accra. I became Mantse in September, 1914. I remained on the Stool until 1925 when I abdicated. I went to Northern Nigeria and came back in 1940. On my return I was reinstated in accordance with native custom. In 1914 on my first enstoolment J. R. Myers, Williams Pappoe, Thomas Laryea Gyan, Joseph Nunoo, C. P. Ashong Tawiahfio alias Okyne, Albert Neequaye, David Addo, M. W. Addy, were among the elders. They represented different houses in Akumajay. I knew Abose Okai. He was one of the elders, but at that time there was a dispute between his house and those elders who installed me, so he kept aloof. Later in 1921, the dispute was settled, and Abose Okai became the Senior Elder. 20 30

The enstoolment ceremony was repeated. Abose Okai put me on the stool, and I took the oath at Amuginah.

J. R. Myers and Thomas Laryea the Linguist to the Stool told me of the traditions of the Stool when I was installed. So did my grandfather Komeley. They are all dead. My grandmother told me that Nii Abuma founded the stool. He brought the stool from Ayawaso, when he came with the Gas to the coast.

He first settled at Tunma-we between Gbese and Abola quarters. From there he moved to what is now known as James Town. He took with him his Stool and his people. 40

In those days farming was the principal occupation of the people, and every chief had to see to it that his people had somewhere to farm. Nii Abuma took over the land known as Obete-Kpakpo and made his people farm on it. "Obete" is a corruption of "Opete" which means vulture.



The land was unoccupied at the time.

Obete Kpakpo lands are extensive. Odorkor is part of it. Kwashiman lands also belong to Akumajay and Nsakiman, Anyaa, Manhean, Ayikai Doblo, Okushibiade, Akrama-man. These are what I can remember.

In 1921 Abose Okai showed me the boundaries of Obete Kpakpo. He took me with other elders. Korle Mensah is the only one still alive. Korkoi Abosey was one of those who went with Abose Okai.

10 My elders told me that Nii Abuma's nephew, Nii Ayikai I, succeeded him. He married a woman called Adawude from Obutu. Their descendants are still alive. One of them was Nii Abose Okai.

I never heard Abose Okai lay claim to Obete-Kpakpo. When I left for Nigeria, Obete Kpakpo was grass-land. On my return I found many houses on it, and that part of the land had been given to a Syrian by Korley Armah and some of the members of the stool. Part of the land had also been given to the Government. The names of the donors are in the document.

They purported to convey the land as caretakers of the Stool. One of them Nii Akrong, who was caretaker until my return is still alive.

Abose Okai transferred many of these lands.

20 In 1922 I had notices like the one now produced posted on the land (Exhibit "A").

Nobody opposed. In 1940 I had notices like the one now produced posted on the land (Exhibit "B").

Nathaniel Tagoe and Nah Korkoi published in the local press claims that the land belonged to the family of Abose Okai. Such a notice appeared in the issue of the *Daily Echo* of 28th November, 1940 (Ex. "C").

30 This led to a meeting of my elders. Subsequently a further notice was published in the *Daily Echo* of the 13th December, 1940, repudiating the claim of Nathaniel Tagoe (Exhibit "D"). This notice was signed by the members of the Abose Okai family. Nii Akrong signed as head of the Abose Okai family. Abose Okai was then dead.

On the female side I am descended from Odey the sister of Ayikai I, and her daughter Natia, whose daughter was Ayorkor, whose daughter was Komley, whose daughter was Ellen Marmon, who was my mother.

There are two houses in Akumajay from which a Manche is taken, Nah Fia and Korkor-Wayo. Nah Fia and Korkor-Wayo were sisters. I belong to the Nah Fia house.

40 The Mantse is never taken from the Adawude house. They take care of the stool. Abose Okai and Nii Akrong belong to that house. I am the third Mantse.

The Adawude house is not a royal house because the stool descends through the female line. The Adawude house is part of the Jase.

Bruce Lodge is on Obete Kpakpo land. Abose Okai did not show me the boundaries of the land given to T. F. Bruce.

*Cross-examined by Ollennu.*

My stool is known as Nii Ayikai's stool. It is not called so because Nii Ayikai founded it.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Plaintiff's  
Evidence.*

No. 19.  
Nii  
Ayikai II  
Plaintiff,  
7th  
September  
1945.

*Evidence in  
chief,  
continued.*

Ex. "A."

Ex. "B."

Ex. "C."

Ex. "D."

Cross-  
examina-  
tion for 1st  
and 2nd  
Defendants.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

I cannot say whether the stool owned lands when at Ayawaso. The name of Nii Abuma is known in Akumajay.

Nii Ayikai was the one who actually reigned. He became popular, and the stool was known by his name.

*Plaintiff's  
Evidence.*

The oath I took as Mantse is "Nii Ayikai Gbugbla," which is Ayikai I's Oath.

No. 19.  
Nii  
Ayikai II  
Plaintiff,  
7th  
September  
1945.  
Cross-  
examina-  
tion for  
1st and 2nd  
Defendants,  
*continued.*

Adawude was daughter of the Mantse of Abutu. It is not true that in those days the Obutus owned lands up to the Korle. I never heard that. I have not been told that Adawude came with personal servants, including people to farm and hunt for her. My grandfather did not tell me of Obintey, and that he was the first to settle on Obete-Kpakpo. There is a place in Akumajay called Obutu-Kpatashie. This was allotted by Ayikai to Adawude and her people if she brought any. Before I left for Nigeria in 1925 I had heard reports that people were giving rum to Abose Okai, and that he was giving them land to farm. It was only grassland and I did not worry.

I believe that J. D. Tettey Annan belongs to the Adawude family.

When I returned in January, 1940, the elders of the Stool were Nii Akrong (Caretaker), Nii Boi Maclean (Jasehene), R. C. Abose, J. E. Amah, J. O. Quayefio, and others. These would be proper people to sign a document on behalf of the Stool. Nii Akrong would sign with these people, if the transaction were an honest one.

In 1922 there were just a few buildings on the land.

I did not hear that Abose Okai was selling part of the land at that time. But I heard that he was giving land for people to farm on. I did not like it, so I posted the notice in 1922.

My stool was poor, but so are all the stools along this part of the coast. All they have is land.

Cross-  
examina-  
tion for Co-  
defendant  
Sarah Addo

*Cross-examined by Hutton-Mills.*

When Abose Okai was caretaker of the stool he was empowered with the concurrence of the principal elders to sell stool lands.

I do not know the nature of the transaction resulting in T. F. Bruce building on part of the land, nor do I know the boundaries.

Ex. "1"  
(3rd Deft.).

This is a Certificate of Purchase dated 8th June, 1899, relates to T. F. Bruce's Lodge. It is issued to Oyoe Quartey (Certificate marked Exhibit "1" (3rd Deft.)).

Ex. "2"  
(3rd Deft.).

I see this deed of conveyance from Oyoe Quartey and others to Madam Laingoye Lartey of 6th May, 1905 (By consent the deed is put in evidence and marked Exhibit "2" (3rd Deft.)).

No. 20.

Robert Coppin Abose.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

ROBERT COPPIN ABOSE, 2nd witness for Plaintiff—sworn.

*Examination-in-chief.*

I am a farmer and live at Accra. The late Nii Abose Okai was my uncle, my father's elder brother. In his latter days he lived at Abose Okai—also known as Obete-Kpakpo. I am a member of the Adawude family. My uncle Nii Abose Okai succeeded Nii Akrong as caretaker of the Akumajay Stool.

*Plaintiff's  
Evidence.*

No. 20.  
Robert  
Coppin  
Abose,  
7th  
September  
1945.  
Evidence  
in chief.

10 I know Ayi Tagoe. I am his uncle. Nathaniel Tagoe was my cousin and father of Ayi Tagoe. I have not heard that anyone has been appointed head of our family. Abose Okai sold some of the Obete-Kpakpo land as Caretaker of the stool.

I know one Nii Akrong. Some time ago he leased land to a Syrian Nassar. I joined in the lease. This is the document. It bears my signature as a witness. I saw Nii Akrong sign it. It is dated 30th May, 1936. (Exhibit "E.")

Ex. "E."

20 Korkoi Abose, 2nd defendant was one of the witnesses. She and others touched pen and E. A. Mensah made their marks. Before this E. A. Mensah the lawyer's clerk, interpreted the contents of the document to us. We heard that the document was to be executed on behalf of the stool.

Shortly after the Earthquake the Government acquired land at Obete-Kpakpo for a re-housing scheme. Nii Akrong, Nathaniel Tagoe, and other elders including myself, executed the deed of conveyance. This is the deed. I saw Nii Akrong sign it. I signed it as a witness. Korkoi Abose was one of the witnesses. The document was read over by Mr. Norton Jones, the District Commissioner. Tete Annan interpreted in Ga before we signed, and the illiterates touched pen.

30 The land was granted on behalf of the Akumajay Stool. This was interpreted. (Document marked Ex. "F.")

Ex. "F."

(Hutton-Mills mentions that his client does not admit the validity of the document.)

I never heard from Abose Okai that Obete-Kpakpo land belonged to our family.

Korley Armah was Caretaker before Nii Akrong. I do not know whether he granted any of the land.

Court adjourned to 2.15 p.m.

(Intd.) L.M.

40 Court resumes at 2.15 p.m.

*Cross-examined by Ollennu.*

One of the royal houses of Akumajay is Natia. Another is Korkor-Wayo.

In 1936 Nii Akrong the caretaker had elders from these and other houses. The elders from these houses included C. P. Ashong, Quayefio, Tawiah alias Peter Okyne, Albert Neequaye.

Cross-  
examina-  
tion for 1st  
and 2nd  
Defendants.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Plaintiff's  
Evidence.*

No. 20.

Robert  
Coppin  
Abose,  
7th  
September  
1945.  
Cross-  
examina-  
tion for 1st  
and 2nd  
Defendants.  
Re-examin-  
ation.

Of the names in Exhibit "E." all the grantors belong to the Adawude family. All in Exhibit "F." 2nd defendant was born in Accra, her son on Obete Kpakpo land. I do not know that Abose Okai granted Obete-Kpakpo lands in his capacity as head of his family. I know that in 1930 Sarah Addo brought an action against Teiko alias Nathaniel Tagoe as successor of Abose Okai deceased, and that the action was defended solely by members of the family. The action related to part of the land, bought by the plaintiff from Bruce.

*Cross-examined by Hutton-Mills.*

Nii Akrong was head of the family at the time. I do not know Sarah 10  
Addo brought many actions in respect of Obete Kpakpo land, claiming  
Obete Kpakpo land sold by Abose.

*Re-examined by Akufo Addo.*

We descendants of Adawude have no stool apart from the Akumajay stool.

Nathaniel Tagoe lived with Abose Okai on the land, and when Abos Okai died, Nathaniel Tagoe took charge of the land, but no one from the stool house appointed him.

T. E. Bruce put up about five buildings on the land. He planted cassava and fruit trees on the land. You can still see mango and other 20  
fruit trees on the land.

I supported Tagoe in the litigation with Sarah Addo. She claimed about a mile square. We agreed to a piece of land about 270 feet square. There was a plan. The case was never decided.

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No. 21.

**Boi Maelean.**

No. 21.  
Boi  
Maclean,  
7th  
September  
1945.  
Evidence  
in chief.

BOI MACLEAN, 3rd witness for Plaintiff, sworn.  
Examination-in-chief.

I am a farmer and belong to the Akumajay Jase. I know Obete Kpakpo land. It belongs to the stool Nii Ayikai. 30

I first went on the land as a child of 7 or 8. I am descended from Nii Ayikai but not in the Adawude line. I know of people not belonging to that line who have farmed on Obete Kpakpo. Nii Osabu, Nii Mensah, Nii Abe Afu, Nii Adama Katak, Nii Philip, Nii Bantama, Nii Allote Kpetenkple, Boitsuru-Flonor-Kpawo-Nah. Flonoi-Kpawo is a quarter of Akumajay. Abose Okai went to the Bights where he worked as a cooper. When he retired he went to Obete-Kpakpo. I remember about 20 years ago Nii Ayikai was enstooled as Akumajay Mantse, and that after a number of years he abdicated. When he was away Tawiah looked after the stool and Abose Okai looked after the lands. I never heard that Abose Okai 40  
claimed Obete-Kpakpo land as belonging to his family.

Akotey a blood relative of mine farmed on the land.

*Cross-examined by Ollennu.*

I became Jasehene when Nii Ayikai II was installed, that is before he left for the Bights. I do not know that Abose lived on the land and was in control of it.

Philip was a grandson of Nii Ayikai. I did not mention him.

I did not know Adama Pataku, but I worship his stool. Nii Abe Afu farmed on the land with many elders. We were young and only accompanied them. I knew Nii Osabu. He lived in Korkoi-Wayo's house in Akumajay.

10 I knew Nii Mensah. He lived at Akramana behind the stool house.

Nii Bantama was descended from Nii Ayikai in the male line. Kwaku is now working on the land. He comes from Bantama in Akumajay. I do not know where his father came from.

---

**No. 22.**

**Jacob Okai Thompson.**

JACOB OKAI THOMPSON, 4th witness for Plaintiff, sworn.  
Examination-in-chief.

I am second Division Clerk in the Lands Department.

20 I produce a deed of covenant dated 25th August, 1936 between Korlay Amah, on behalf of the Akumajay Stool and Government with regard to the proposed acquisition by Government of Opete land for public purposes.

(Exhibit " G " ).

By consent a Photostat copy is substituted for original.

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**No. 23.**

**Okorli Mensah.**

OKORLI MENSAH, 5th witness for Plaintiff, sworn.  
*Examination-in-chief.*

30 I am an attendant of Nii Ayikai.

I remember when he was placed on the Akumajay Stool. After the settlement of the dispute with Abose Okai there was an official visit of the Mantse to Obete Kpakpo. He was accompanied by me, Amah, Tei Koshie Tawia from the Mantse's section. He was known as Tawiahfio, and was an elder of the stool. Odei alias Kru Tei, Korkoi Abose (second defendant) and Nathaniel Tagoe.

We met Abose Okai there, Korkoi and Tagoe, and Kru Tei were with him.

40 Abose Okai told Nii Ayikai that the land belonged to him as it was stool land. We were taken a long way across the land. Korkoi carried food. Before we left we took rum and a libation was poured.

Abose Okai took us a long way to Kpatcha Kole to point out boundaries with Asere.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Plaintiff's  
Evidence.*

—  
No. 21.  
Boi  
Maclean,  
7th  
September  
1945,  
Cross-  
examina-  
tion for 1st  
and 2nd  
Defendants.

No. 22.  
Jacob Okai  
Thompson,  
7th  
September  
1945.  
Examina-  
tion-in-  
Chief.

Ex. " G. "

No. 23.  
Okorli  
Mensah,  
7th  
September  
1945.  
Evidence-  
in-chief.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

Obete Kpakpo land stops at Gon-Kpataa, but Akumajay land stretched beyond it for a long way. Abose Okai said that the stool land stretched from Gon-Kpataa to Kpatcha Korle and beyond.

*Cross-examined by Ollennu.*

*Plaintiff's  
Evidence.*

Korle Amah looked after the stool. I am related to him.

I belong to the Akumajay Stool house on my mother's side.

No. 23.

*Cross-examined by Hutton-Mills.*

Okorli  
Mensah,  
7th  
September  
1945.  
Cross-  
examina-  
tion  
for 1st  
and 2nd  
Defendants.

I knew Abose Okai personally.

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No. 24.

**Kojo Fio Quartey.**

10

**KOJO FIO QUARTEY**, 6th witness for Plaintiff, sworn.

*Examination-in-Chief.*

In 1929 I bought a piece of land in Obete Kpakpo from Abose Okai.

He executed the conveyance in my presence. It is dated the 8th October, 1929. The document was read over in Ga by Charles Sackey before Abose Okai made his mark (Exhibit "H").

*No Cross-examination.*

Akufo Addo tenders a certified copy of the evidence of Abossey Okai in *Kojo Ababio IV v. T. R. Quartey & Anor.* Tried before the Divisional Court Accra in 1912.

It is tendered as an admission of Abossey Okai. (Exhibit "J.")

Akufo Addo also tenders evidence of Abose Okai in case of *Kumi v. Botu* tried in 1909 in Divisional Court Accra (Exhibit "K").

Adjourned to Monday, 10th inst.

(Intd.) L.M.

20

No. 25.

Ayi  
Laryea,  
10th  
September,  
1945.  
Evidence-  
in-chief.

No. 25.

**Ayi Laryea.**

**AYI LARYEA**, 7th witness for Plaintiff, sworn.

*Examination-in-chief.*

I live in Akumajay Accra and am a farmer. I have farmed on Obete Kpakpo the last six years. It was farmed by my fathers before me. My father belonged to Flonoi-Kpawo-Na in Akumajay. He is dead. He was a farmer and lived on his farm first on Obete Kpakpo and later further inland.

I in my early life lived with my father on his farm. I do not belong to the Na Adawude family. I have not heard of it.

30

*Cross-examined by Quist—*

Where my father farmed was taken by Government for the planting of sisal so I had to farm elsewhere. Nathaniel Tagoe is the son of Korkoi (2nd defendant). Nathaniel Tagoe once came to where I was farming and asked about a drain that Amah had made on the land. He did not attempt to stop me from farming. I did not tell him that I was merely planting cassava on vacant land as any Ga man has a right to do.

*In the Supreme Court of the Gold Coast. Plaintiff's Evidence.*

I know Asafoatse Ayare of Asere. He farmed on Obete Kpakpo land. Anybody can plant foodstuff crops on vacant land. Hundreds of Hausas  
10 and others are doing this on the land.

No. 25. Ayi Laryea, 10th September 1945. Cross-examination 1st and 2nd Defendants. By Court.

*By Court—*

My father told me that his father had farmed on the same land. Quist asks leave to put further questions to the Plaintiff. Plaintiff recalled.

---

No. 26.

Nii Ayikai II re-called.

AYIKAI II (Plaintiff), recalled.

*Cross-examined by Quist—*

Plaintiff is asked to look at Exhibit " D."

20 The draft notice was not prepared in my house. One Ashong was my clerk. I do not know that he prepared the draft.

Nii Akrong did not sign it in my presence. I had nothing to do with the draft. I first knew of it when the notice was published.

When Exhibit " C " was published I called a meeting of the elders. I do not remember whether Nii Akrong attended. I do not remember asking him about the land at the time.

I do not know of any dispute between Nii Akrong and Nathaniel Tagoe respecting the land. I know Tete Annan. He belongs to the Na Adawude family.

30 I have not heard that Na Adawude had two daughters, by Ayikai, Ayeley and Korkoi, or a son Amah. Or that this Amah became blind, and so could not be put on the Stool. Or that Amah's son became Chief of Obutu.

I am the next Chief after Ayikai I.

When I was being first installed, Abose Okai put forward Tete Annan as a candidate for the Stool.

*By Akufo Addo—*

I have known a lot about Obete Kpakpo lands since 1914.

40 Case for the Plaintiff subject to putting in the plan through the Surveyor.

Re-examination.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

FRANK HERMAN SHANG SIMPSON, 8th witness for Plaintiff, sworn.

*Plaintiff's  
Evidence.*

*Examination-in-chief.*

I am a Licensed Surveyor practising at Accra. On the 9th August, 1944, I was appointed by the Court to survey the land in dispute.

No. 27.

I produce the plan I made and bearing date 30/9/44.

Frank  
Herman  
Shang  
Simpson,  
10th  
September,  
1945.  
Evidence-  
in-chief.

When I went on the land the plaintiff was represented by R. C. Abose. The first defendant and 2nd defendant were both present.

These parties showed me their boundaries as claimed by them. I 10 made the plan. The boundaries are shown by me in the plan.

Later on I superimposed on the plan a plan of the land claimed by Sarah Addo. I did this after being shown the land claimed by her. The plaintiff was represented, the defendants did not attend, although I invited them.

A great portion of the north-east boundary of the plaintiff is a motor road which has taken the place of the Weigian railway line.

Ex. "L."

(The plan is tendered—Exhibit "L.")

Here is a second plan made by me in compliance with an order of this Court in 1930 in the suit between *Sarah Addo v. Teiko etc.* 20

At first I saw only the defendant and I completed the work for him. Later the plaintiff came. She pointed out the land she claimed which I showed on the land in brown strokes.

The land pointed out by the defendant is shown in green and yellow.

The land indicated by green hatch is land pointed out by defendant as land claimed by plaintiff in that case. (Plan not tendered.)

Cross-  
examina-  
tion for  
1st and 2nd  
Defendant.

*Cross-examined by Quist—*

The plaintiff showed me the north western boundary of the land as Amorkor Hill and Gon Kpataa land.

Sarah Addo pointed out to me two dirty cement pillars flush with the 30 ground.

The black dots on the plan represent houses said by 1st and 2nd defendants to have been built on land granted by them.

This was said in the presence of plaintiff's representative who did not dispute it.

3rd defendant was not present.

Cross-  
examina-  
tion for  
Co-  
defendant  
Sarah  
Addo.

*Cross-examined by Hutton-Mills—*

3rd Defendant showed me the physical features on the land claimed by her. Fruit trees, cassava land, and buildings.

Nobody disputed this. 40

Adjourned to 8.30 a.m. to-morrow.

(Intd.) L.M.



## DEFENDANTS' EVIDENCE.

No. 28.

Nii Akrong.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

NII AKRONG, 1st witness for 1st & 2nd defendants, sworn.

*Defendants'  
Evidence.*

*Examination-in-chief—*

I live in Accra and am a carpenter. I belong to Akumajay. My father belonged to Akumajay. I live in my mother's quarter Afeye-Nah which is a continuation of Akumajay.

No. 28.  
Nii Akrong,  
10th  
September  
1945.

I look after the Stool.

10 Nii Ayikai married Na Adawude, grand-daughter of the Obutu Manche. Their children included Ayeley, Korkoi and a son Amah Ashong.

*Evidence-  
in-chief.*

I am descended from Ayeley. Abose Okai was descended from Korkoi. The history of Obete Kpakpo is this: The land was given to Na Adawude by the Manche of Obutu on her marriage to Ayikai. He also gave her people to work for her.

According to tradition the land was not given to Ayikai.

20 The Chief of Obutu gave Na Adawude six men to work on the land and feed her. These included Larbi Mensah alias Sempe Mensah, Awushieteh, Kokote, Obintey. They lived in the quarter now known as Sempe.

The women lived next door to the Manche in what is known as Kpatashi.

According to our tradition the land belongs to the descendants of Na Adawude by Ayikai. Nobody else has any interest in the land. According to Ga custom the grandson of the Manche succeeds, with the son sitting behind him. If there is no grandson the son succeeds. A nephew does not succeed to the stool. Akumajay custom is the same as the general Ga custom. According to this custom the Manche of Akumajay should be a descendant of Ayikai and Na Adawude.

30 I am eligible to be put on the stool. Nii Abose Okai and I were caretakers of the stool. Nii Ayikai's son Amah was entitled to be caretaker of the stool. The plaintiff is not a descendant of Nii Ayikai. The elders selected Tete Annan to be chief. He refused. One Myers broke into the Stool room, removed the contents and put forward plaintiff as a candidate. There was a case about it. I did not write the notice published in the Echo which is Exhibit "A." I signed the original in the Manche's house.

40 The Manche sent for me, told me of a previous notice, and said that a reply had been drafted which I should sign. All the Manche's documents are prepared by Teacher Ashong, so I take it that he prepared this. Before I signed the paper, the Manche asked me whether the land was the private property of Abose Okai or Stool land. I replied that Abose Okai did not buy the land, and told him the tradition which I have given this morning. I said that as a descendant of Na Adawude I had the same interest in the land as Abose Okai. I did not tell the Manche that the land was stool land.

(Witness is shown Exhibit "F.")

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Defendants'  
Evidence.*

No. 28.  
Nii Akrong,  
10th  
September  
1945.  
Cross-  
examina-  
tion for  
Plaintiff.

My signature is on it. The document was prepared by the Government. I did not tell Government that the land was stool land. When Exhibit "A" was posted on the land Abose Okai put up a counter notice. It was published in the "Vox Populi." The Akumajay Stool has never sued or been sued in respect of the land.

*Cross-examined by Akufo Addo.*

I can read and write a little. I did not read Exhibit "F." Being a Government document I signed it without question.

I filled in my name at the head of the document. The following words are "of the Stool of Akumajay." I signed Exhibit "E," and Nathaniel Tagoe made his mark. I signed these documents which I knew that they stated that the land belonged to the Stool, but I knew it was usual to prepare documents in that way. 10

*Q.* Do you recognise any difference between the property of the stool and the property of the Na Adawude family ?

*A.* Ayikai's Doblo lands are distinct from this land. Ayikai Doblo, Akushibiade, and Akrama-man are stool lands. These lands were given to Nii Ayikai by the Obutu Manche before the marriage.

Korlay Amah and I were the only educated caretakers of Akumajay.

Korlay Armah can only just read and write. 20

I knew Korlay Armah signed a deed in connection with Government lay-out on the land.

When the plaintiff returned from Nigeria in 1940 I was among those who welcomed him. I was then caretaker and I handed over to him.

The documents relating to the land were kept in a box in Abose Okai. I did not give any to the plaintiff.

I do not know that Abose Okai always made it clear that he only held the land as caretaker for the stool. We Africans have our own way of thinking, and if Abose Okai said this, he may not have thought clearly.

Abose Okai was a sensible and well-respected man. 30

I remember the case between Myers and Abose Okai.

I do not remember that the latter stated in evidence that he had been elected caretaker by the elders of Akumajay.

Adjourned to 2.15 p.m.

(Intd.) L.M.

Court resumes at 2.30 p.m.

**NII AKRONG.**

*Cross-examined by Hutton-Mills.*

When Abose Okai died I succeeded him as senior member of the Na Adawede family. Nii Teiko alias Nathaniel Tagoe was also a senior member of the family. I knew J. R. Myers. He called himself Acting Akumajay Manche, but no one appointed him as acting Manche. 40

I know that T. F. Bruce bought a small village on Obete Kpakpo land. I know of my own knowledge. T. F. Bruce approached Nii Badu about the land he wanted. Nii Badu authorised Abose Okai to give it to him. Later the buildings on the land were sold. Abose Okai became caretaker about 35 years ago.

Cross-  
examina-  
tion for  
Co-  
defendant  
Sarah  
Addo.

*Re-examined by Quist.*

In my view if even I buy land with my own money and I owe allegiance to a stool, I can properly describe the land as Stool land.

I did not mean that the land was the property of the stool.

The documents relating to Obete-Kpakpo land were kept in Abose Okai's house on the land, because it belonged to the Na Adawude family.

Nii Badu was a direct descendant of Na Adawude.

AKUFO ADDO asks leave to interpose the evidence of the Surveyor.

Leave granted.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Defendants'  
Evidence.*

No. 28.

Nii Akrong,  
10th  
September  
1945.

Re-  
examina-  
tion.

No. 29.

Sempe  
Mensah,  
11th  
September  
1945.

Evidence-  
in-chief.

10

No. 29.

Sempe Mensah.

Same Counsel.

SEMPE MENSAH, 2nd witness for 1st and 2nd Defts., sworn.

*Examination-in-chief.*

I am a bricklayer and live in Accra.

I am grandson of an Obutu man, Sempe Mensah.

According to my family tradition land stretching from Korle to Gon Kpataa had been given by the Obutu Mantse to Na Adawude.

20 My grandfather (who told me this story) was an elder of the Obutu Mantse.

The Obutus originally lived at Ablekuma. When they left Ablekuma my grandfather came and settled in Accra.

The Obutus left the land with my grandfather—the land stretching from the Sempe sea border to Nsarki.

Ablekuma is the name of a village near Nsarki a stream on the land.

The Obutus were at Ablekuma when the other Gas were at Ayawaso.

30 The land from the Korle to Gon Kpataa is properly known as Obintey Kpakpo, although it is also known as Obete Kpakpo. It was given by the Obutu Mantse to his grand-daughter on her marriage to Nii Ayikai. One of the persons sent by the Obutu Manche to look after Adawude and work on the land was one Obintey. He dug a well on the land which was called Obintey Kpakpo.

This land is now also known as Abose Okai.

The land was not given to Nii Ayikai.

*Cross-examined by Akufo Addo.*

My grandfather Sempe Mensah founded the Sempe quarter of Accra.

The Obutu Chief's name was Abiata. I do not know where the Akumajay stool lands are. I belong to Sempe.

Cross-  
examina-  
tion for  
Plaintiff.

40 *Cross-examined by Hutton-Mills.*

It is only of late years that the land was known as Abose Okai.

*By Court.*

The Obutu Stool still has lands in the neighbourhood of Obintey Kpakpo. I am working on Obutu land in the neighbourhood.

My village is Larte Biorkoshi.

Cross-  
examina-  
tion  
for Co-  
defendant  
Sarah  
Addo.  
By Court.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

**No. 30.**

**Korkoi Abose.**

**KORKOI ABOSE, 2nd Defendant, sworn.**

*Examination-in-chief.*

*Defendants'  
Evidence.*

No. 30.  
Korkoi  
Abose,  
2nd  
Defendant,  
11th  
September  
1945.  
Evidence-  
in-chief.

I live on the land in dispute.

I am daughter of the late Nii Abose Okai and widow of late Nathaniel Tagoe originally first defendant in this case.

I have borne children on the land, and lived on it with my father and later with my husband.

At the time of Homowo certain customs are performed on the land. 10

I know that many people were buried on the land before I was born.

They belonged to the Na Adawude family of Akumajay.

People not belonging to the family would not be allowed to be buried on the land.

My granduncle Nii Akrong was buried on the land, also Ayikwe, Djadja Amah, Aflah, and my father.

Abose Okai has developed into a township with schools, churches and other public buildings. My father granted the land for these purposes. He granted the land to T. F. Bruce to build a lodge on.

He did not grant all the land now claimed by Sarah Addo. 20

Abose Okai only gave T. F. Bruce land for a lodge. Fifteen years ago Sarah Addo brought an action against my husband Nathaniel Tagoe in connection with this grant, in this Court. I attended Court regularly during the case. No judgment was given. The Court inspected the land. Mr. Simpson was appointed to survey the land.

I went on the land with the surveyor and my clerk. Sarah Addo also went. We both showed our claims. Sarah Addo showed certain pillars. Her lawyer was Mr. (now Mr. Justice) Coussey, my lawyer was Mr. Renner. Sarah Addo pointed out the pillars to Michelin J. The pillars are still there. 30

Now she is claiming far beyond those pillars, which she formerly showed as her boundary.

Sarah Addo placed those pillars on the land. At the time she was accompanied by Armah Kwantreng the Surveyor. I protested but the surveyor said that he was doing his job. We nearly fought. The pillars comprised a larger piece of land larger than that granted to T. F. Bruce.

The larger piece of land now claimed includes land on which the graves of members of my family are situated. One pillar is on the grave of Ayikwe. It includes the site of the house in which my father was living when he granted land to T. F. Bruce. 40

Cross-  
examina-  
tion for  
Plaintiff.

*Cross-examined by Akufo Addo.*

The whole township of Abose Okai is within the area now claimed by Sarah Addo. There must be about a thousand buildings. Abose Okai himself made all the grants of land for these buildings. He made no grants of land within the area given for Bruce's Lodge. Of late years the Government has acquired an interest in Abose Okai land. Nii Akrong, Nathaniel Tagoe and I have made the necessary papers. I joined in making the documents by touching pen. Before doing so the documents were interpreted to me. Sarah Addo did not challenge our right to deal with the land. 50

*Cross-examined by Hutton-Mills.*

Tete Annan about sixteen years ago mortgaged land on the area in dispute to the African Products Development Company. It was on account of this that Sarah Addo brought an action against my husband Teiko (Tagoe) as successor of Abose Okai and the Company.

*In the Supreme Court of the Gold Coast.*

Teiko (Nathaniel Tagoe) was successor of Abose Okai as head of the Adawude family.

*Defendants' Evidence.*

Both Sarah Addo and Teiko pointed out our claims to the surveyor Simpson.

No. 30.

10 I was present when Armah Kwantreng placed the pillars on the land. It is not true that my husband and I placed the pillars on the land and then made out to the surveyor (Simpson) that these represented the boundaries previously pointed out by Sarah Addo.

Korkoi Abose, 2nd Defendant, 11th September 1945.

I know that Sarah Addo brought actions against the Korle Woryoe (fetish priestess), Adjebu Okai and Amassah in respect of property within the pillars.

Cross-examination for Co-defendant Sarah Addo.

My father invited Government to make a lay-out of Abose Okai land. I do not know that Sarah Addo made any claim in respect of the lay-out.

20 I was on the land when Bruce came on the land. I am about sixty years of age.

Re-examination.

*Re-examined by Quist.*

No compensation was payable in respect of land granted to Government for earthquake re-housing schemes.

(Quist tenders second plan mentioned by Simpson the surveyor —admitted without objection and marked Exhibit " 3 ".) Tawiahfio was caretaker of the Akumajay at the time of the case in 1930. Nathaniel Tagoe (Teiko) was just looking after the land.

Ex. " 3. "

*By Court :*

By Court.

30 There is one fetish on the land. There is the Afieye fetish. My father looked after it and after him Nathaniel Tagoe. I look after it now. I do not know if any other fetish on the land.

*By Hutton-Mills by leave of Court :*

I know nothing about the plan made for Sarah Addo for this case.

No. 31.

**Gabriel Titus Glover.**

No. 31.

GABRIEL TITUS GLOVER, 3rd witness for 1st and 2nd Defendants, sworn.

Gabriel Titus Glover, 11th September 1945.

40 *Examination-in-chief.*

I am a son of the late Titus Glover formerly Government Printer.

Evidence-in-chief.

This document is dated 30-9-1920 and made between Abose Okai as donor and Titus Glover as donee. I see my father's signature on the document—(tendered and marked Exhibit " 4 ").

Ex. " 4. "

Quist also tenders a deed of gift from Abossey Okai to Agnes Tettehkai Ayiku dated 28th January, 1928, and a deed of conveyance dated the 23rd September, 1929, made between Abossey Okai and J. O. Amartey—marked 5 and 6 respectively.

Exs. " 5 " and " 6. "

Case for 1st and 2nd Defendants closed.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 32.  
Sarah Addo.

SARAH ADDO, Co-defendant, sworn.

*Examination-in-chief.*

*Defendants'  
Evidence.*

No. 32.  
Sarah  
Addo,  
Co-  
defendant,  
11th  
September  
1945.  
Evidence-  
in-chief.

I live in Accra, in Akumajay. I am known as Adoley, and am the daughter of the late Laingoye Lartey. On her death I became her successor. My mother took me to Obete-Kpakpo and showed me land there belonging to her. Several people accompanied us. They were F. A. Ankrah, Madam Kowah, and Madam Aku. We went to Bruce's Lodge and met Abose Okai there. Abose Okai pointed out the boundaries 10  
of the land which he had bought for my mother.

On the south-east the land is bounded by Korle Webii land (now bounded by the Ring Road). On the North by the Ablekuma Road now leading to Weijian, on the South-west by Oblogo, on the North-west by land belonging to Akumajay.

When Simpson was appointed to survey my claim, I went on the land and pointed out my boundaries to him. I pointed out to him Bruce's Lodge, and the mango, cashew and other fruit trees marked on the plan. The buildings and trees were on the land when Abose Okai showed us the boundaries. 20

My mother went to the land within a few months of the purchase of the land on her behalf, and on this occasion went to see what had been bought. She took possession reared pigs and poultry on the land. The second defendant would carry on her head and bring to our house fruit collected on the land.

Our labourers living at the back of the Lodge planted cassava on the land.

We fixed pegs and later pillars on the boundaries.

I am about sixty-five years of age.

When the boundaries were shown to my mother I had already given 30  
birth to a child.

Adjourned to 2.15 p.m.

(Intd.) L.M.

Court resumes at 2.15. p.m.

I repaired some of the broken down houses on the land.

Ex. 7.

On the death of my brother I came into possession of the title deeds Exhibits 1 and 2.

I know the contents.

I have sued people in Tribunals and in this Court for trespassing on the land. 40

There was a case of Ajibu Okyne against me.

Ex. "7."

I produce a letter dated 30/5/27 written on behalf of Abossey Okai with reference to part of my land. (Exhibit "7.")

Ojibu Okyne later sued me in this Court. Mr Coussey was my lawyer and Mr. Renner the plaintiff's. Michelin J. was the Judge.

No order was made for a plan was made in that case.

The Judge and lawyers inspected the land.

Plaintiff pointed out the land in respect of which he was suing. I was only concerned with the land on which a building was standing. I did not point out my boundaries to the Judge. It was not necessary. I did 50  
show them to Simpson in my case against Teiko. (Certified copy of proceedings in Okyne versus myself put in marked Exhibit "8".)

Ex. "8."

Hutton-Mills tenders evidence of Abose Okai given in case of Charles Quartey and others versus R. W. Bruce, in which Madam Laingoye Lartey was joined as co-defendant, and in which Abose Okai spoke of the extent of the land given by him to T. F. Bruce, and generally. (Exhibit "9".)

Quist asks for consent judgment in this case to be put in—all consent judgment and writ of summons marked "10".

Hutton-Mills tenders Judgment in James Town Tribunal on 3/2/30 in *Sarah Addo v. Amassah*, who claimed through Abose Okai. Also the Judgment of the Appellate Tribunal of 1/7/1930. (Marked 11 and 12 10 respectively.)

Also Judgment of James Town Tribunal of 5/10/27 in case of late *Laingoye Lartey Family per Sarah Addo vs. Okaikor*.

Abose Okai was also known as George Okai.

*Cross-examined by Quist—*

Abose Okai did not point out to my mother a small piece of land but the large piece of land I am now claiming.

I knew D. P. Hammond. He was Asere Manche in 1918.

Madam Laingoye Lartey brought an action against Abose Okai for trespass on a land given to T. F. Bruce and later mortgaged by him. The 20 case proceeded to judgment.

(Quist produces a document purporting to contain the judgment in this case and to be signed by the Asere Manche. He asks the Court to compare the signature with that of the same Manche in Exhibit 2. I point out that the document cannot be the original judgment and does not purport to be a certified copy and state that it would be preferable to obtain a certified copy. Counsel for all parties agree that a certified copy of the proceedings should if possible be put in evidence. Registrar to apply for one.)

I have engaged Armah Kwantreng to survey my land on Obete- 30 Kpakpo. I never engaged him to locate my land by putting up boundary pillars. I engaged him to measure the middle of my land. I went on the land with Armah Kwantreng when Teiko came on the land, and there was a row.

The buildings of Numofio Acquah, Adjebu Okai, and Amassah are all on the land. I told Armah Kwantreng to survey.

My instructions to Armah Kwantreng have nothing to do with this case.

Abose Okai was living on the land at the time of the grant to T. F. Bruce. I cannot say whether Abose Okai sold his house at the time to 40 T. F. Bruce. I do not know that the Afieye Fetish and graves of Abose Okai's ancestors are on the land.

When my mother got the land there were no other buildings on it besides Bruce's lodge. Now there are hundreds of houses on the land. I did not grant any of the land on which people have built. I do not collect any tolls.

Yomofio, Acquah, Adjebu, Okai and Amassah are the only people whom I have challenged. Their houses are all within the green patch.

All the important missions have churches on the land. I did not give them the land.

50

Adjourned to 8.30 a.m. to-morrow.

(Intd.) L.M.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

*Defendants'  
Evidence.*

No. 32.

Sarah  
Addo,  
Co-  
defendant,  
11th  
September  
1945.

Evidence-  
in-chief,  
*continued.*

Ex. "9."

Ex. "10."

Exs. "11"

and "12."

Cross-  
examina-  
tion for  
1st and  
2nd  
Defendant.

12th September 1945.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

Same Counsel.

SARAH ADDO.

*Cross-examined by Akufo Addo—*

*Defendants'  
Evidence.*

I was related to the late T. F. Bruce. He married an aunt on my father's side.

No. 32.

I knew Bruce's Lodge long before my mother.

Sarah  
Addo,  
Co-  
defendant,  
12th  
September  
1945.

Cross-  
examina-  
tion by  
Addo.

No. 33.

Name of  
Sarah  
Addo to be  
struck off  
as Co-  
defendant,  
12th  
September  
1945.

---

No. 33.

**COURT NOTES ordering name of Sarah Addo to be struck off as Co-Defendant.**

At this stage I state that I have come to the conclusion that the 10  
Joinder of the co-defendant has proved embarrassing to the 1st and 2nd  
defendants and the plaintiff, and to be generally unsatisfactory.

The original issue between the plaintiff and 1st and 2nd defendants is  
by no means simple and has been the subject of a mass of evidence. The  
land involved is of considerable value. So much being at stake on this  
issue it has obviously been difficult for Counsel for the above parties  
to devote sufficient time to the formidable claim of the co-defendant  
Sarah Addo, which affects the whole township of Abose Okai and which if  
established would render the success of either of the other parties on the  
other issue a somewhat hollow victory. 20

As it is she is being attacked by the 1st and 2nd defendants on the  
one hand and the plaintiff on the other, while these are fighting each other  
and she is against them all.

Actually the position is more complicated than this, but it is unneces-  
sary to say more except that I am of opinion that Sarah Addo should leave  
this suit, and that her claim should, if necessary, be litigated in another  
suit.

All Counsel agree to the course proposed.

The Court adjourns for a short time to enable Mr. Hutton-Mills to  
explain the position to his client. 30

I also point out that even if I should find in favour of the plaintiff  
on the issue between him and 1st and 2nd defendants, it could hardly  
amount to more than a bare declaration of ownership in the stool subject  
to such usufructuary rights in the stool as might be elsewhere established  
by agreement or litigation. I urge upon the parties the advisability of  
seeking an amicable settlement.

On resumption Hutton-Mills says that his client reluctantly agrees  
to the course proposed, and that he realises the effect of the provisions as  
to misjoinder in Order 3 Rule 5.

*By Court—*

The name of Sarah Addo will be struck off—No order as to costs. 40

Sarah Addo to be at liberty to institute or defend in any proceedings  
for the purpose of vindicating her claim in respect of the land in dispute.

---



No. 34.  
COURT NOTES.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

Submission of Quist for 1st and 2nd Defendants.

10 Kru Tei, 1st witness for plaintiff confirmed case for defendants, in stating that the land belonged to the descendants of Nii Ayikai and Adawude. There is no evidence of acts of ownership by the stool. Even though the members of the defendant family were the caretakers of the stool when the numerous grants of land in the area in dispute were made during the past thirty years, there is no evidence that such person accounted to any elders of the stool as such for any proceeds of the land. There is no evidence that any elder of the stool not being a member of the family received any part of the proceeds or claimed any.

No. 34.  
Court  
Notes,  
12th  
September  
1945.  
Submis-  
sions of  
Quist for  
1st and 2nd  
Defendants.

Members of the family have been buried on the land, no others have been.

The Afeye Fetish belongs to the family and is tended by it to this day.

The stool has never sued or been sued previously in respect of this land.

20 In the case of Sarah Addo against Teiko successor of Abose Okai, it is significant that Teiko was not sued as Caretaker, although he was caretaker of the stool at the time.

Refers to Privy Council Judgment in *Anege Akwei v. Kojo Ababio* (Selected Judgments of Privy Council, 1874-1928, 99, 101).

In view of evidence as to exercise of acts of ownership of the family, including occupation thereof, the onus of proving title is on the plaintiff stool.

The admissions alleged in this case against the defendants are merely technical and cannot operate to vest the property in the stool in the absence of other evidence of title.

30 *Exhibit "F."* The deed of conveyance to Government. It was executed by Nii Akrong. According to Ga custom succession to office is traced through males.

*Nee Mensah Larkai v. Amorkor* (1933) 1 W.A.C.A. 323.

The Na Adawude family being the only family descended from Nii Ayikai became the stool family, and also became identified with the stool.

40 The land also descended to the same family being the only family descended from Nii Ayikai and Nah Adawude. Thus though members of the family granted lands by documents purporting to be made on behalf of the stool, they thought they were merely acting on behalf of the stool. It never occurred to them that they were admitting any interest of outsiders in the land.

Adjourned to 2.30 p.m.

(Intd.) L.M.

Court resumes at 2.30 p.m.

Quist further cites a passage from Bossman cited at page 93 of Sarbah's Fanti Customary Law.

Exhibit G. The same remarks apply.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 34.  
Court  
Notes,  
12th  
September  
1945,  
*continued.*

Exhibits E and H. The same remarks apply. Four women signed Exhibit H. They held no position except as members of the stool family.

Exhibits 4, 5 and 6. These do not purport to have been signed by Abose Okai in a representative capacity. (In Exhibit 5 there is an undertaking on the part of the donee with reference to the elders and councillors of the Akumajay Quarter.)

Exhibit J. This is evidence given by Abose Okai in *Kojo Ababio IV v. T. R. Quartey*. It cannot operate as an estoppel against the family, as Abose Okai gave evidence.

Exhibit K. Some of the evidence of Abose Okai in this case *Kumi 10 v. Botu* supports the defendants' case.

Exhibit C. Nii Akrong gave evidence to the effect that this notice was prepared by Nii Akrong, that he told the Mantse the family tradition as to the land, that the Mantse told him to sign, and he signed. In the circumstances the family is not bound.

These statements even if held to be admissions cannot, in view of the evidence of the clear evidence of control of the land by the family, divest the family of its beneficial interest in the land. If they give anything to the stool (which apart from this evidence has proved nothing at all) they can only give the stool some sort of overlordship. In any case the plaintiff is not entitled to the declaration sought. 20

Reply of  
Akufo  
Addo for  
Plaintiff.

Reply of AKUFO ADDO for Plaintiff.

This enquiry has nothing to do with the personnel of the stool. The question is not whether the right person is on the stool.

It is only in this case that there has been any talk of the Na Adawude family. What right could it have as part of the stool family if traced through this Obutu lady and not through Ayikai ?

There is no question of overlordship in this case.

Nii Akrong knew what he was doing in describing the land as Stool land. In the box he showed a clear grasp of the difference between Stool and family land. 30

There is nothing novel in the Gold Coast for a family to be put in charge of Stool and become by practice and custom its traditional caretaker. This does not vest ownership or any special right over the land in the family. There is no question of payment of tolls as by a subordinate to a superior state. It is only a question of accounting for the proceeds of the land.

For many years the stool was vacant. When Abose Okai was caretaker of the land and the stool, and there was no Mantse to whom was he to account ? 40

Of course even a Mantse should account to his elders for the proceeds of stool lands. But it is clear that Akumajay affairs have for long been in a state of confusion.

There had been no chief for about 300 years. It was a case of constant internecine warfare. When at last the present Mantse was at first put forward as a candidate for the stool. Abose Okai produced a rival, and there was a dispute lasting about 7 years. What happened after the Mantse abdicated in 1925. Abose Okai proceeded to alienate a lot of the land. It was only on the return of the Mantse to the stool in 1941 that he took the matter in hand. After he published a notice in the press, the 53

family published a counter notice. In view of this confusion ordinary standards of control would not be expected.

If a Councillor like Myers had asked Abose Okai to render an account there would have been a violent quarrel.

It is not surprising that the caretakers of the land should live at Abose Okai and be buried there. What is more natural?

10 There is nothing in point that Sarah Addo sued Teiko as successor of Abose Okai and not as caretaker. The position was that Abose Okai had mortgaged the property to secure Tete Annan, and thereupon Sarah Addo who is claiming the land sued Teiko as his successor.

It is admitted that the members of the family are the customary caretakers of the stool lands, it is not surprising that they should join in the execution of documents relating to it.

Abose Okai at various times openly acknowledged in documents and in the witness box that he was only caretaker of the land.

After these open admissions it is to be assumed that subsequent grants were made in the same capacity even though this was not expressed.

Adjourned to 8.30 a.m. to-morrow.

(Intd.) L.M.

20 Reply of AKUFO ADDO for Plaintiff, *continued*.

With reference to the passage in the Waterworks Privy Council Judgment, p. 101, the Sempe Mantse in that case did not allege that the Alata Mantse was the caretaker of the land in dispute. In this case there is clear evidence that the position of the head of the defendant family has been that of caretaker of the Akumajay Stool lands.

It has been admitted again and again by representatives of the family that Obete-Kpakpo belongs to the stool.

No objection was raised to the Notice published by the Manche in 1923 (Exhibit "A").

30 After this notice the family still executed grants of land in the name of the stool.

Refers to Everest & Stroude on Estoppel, 3rd Edition 172-3. A person is responsible for a document which he executes. This applies to an illiterate if it is shown that he knows the contents.

Nii Akrong, Korlay Amah, and R. C. Abose who joined in executing some of these documents are all educated men.

Judgment reserved.

(Intd.) L.M.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 34.  
Court  
Notes,  
12th  
September  
1945,  
*continued.*

Reply of  
Akufo  
Addo for  
Plaintiff,  
*continued.*

27th September, 1945.

No. 35.  
Judgment,  
27th  
September  
1945.

Lamprey holds Akufo Addo's brief.  
Ollennu for defendants.

I mention that I have since the case was last before the Court noticed that there are references to Ayikai I in Reindorf's History of the Gold Coast and that I thought a reference to the Afieye fetish of sufficient interest to mention in my judgment.

Counsel have no comments to make.

I read my Judgment, making the declaration claimed by the Plaintiff, with costs. Remuneration in respect of professional fees assessed at £21.

10

(Intd.) L.M.

I concur.

(Sgd.) W. M. Q. HALM.

JUDGMENT—

This action was originally instituted by the Akumajay Mantse against Nathaniel Tagoe and Korkoi Abossey, in the Ga Mantse's Tribunal. The claim is for a declaration of title to land.

The action was transferred to the Divisional Court, Accra, by order of the Provincial Commissioner dated 28th August, 1943. Subsequently Nii Abossey Okai II, a minor and successor of Nathaniel Tagoe then deceased, was substituted for him as a defendant, Emmanuel Ayi Tagoe being appointed his guardian *ad litem*.

On the 28th October, 1944, an order was made by consent for the joinder of Sarah Addo as co-defendant. When the case came on for hearing, Mr. Quist, Counsel for the 1st and 2nd defendants, objected to the joinder as embarrassing because Sarah Addo in her statement of defence supported the plaintiff's title as against the other defendants.

Seeing that Sarah Addo also claimed against the plaintiff and other defendants the greater portion of the land in dispute between them it was impossible for her to be made co-plaintiff as suggested. Nor did I at the time feel justified in ordering her name to be struck out.

At a much later stage, when Sarah Addo was in the witness-box, I came to the conclusion that inasmuch as the attention of the Court and of Counsel for the plaintiff and 1st and 2nd defendants was perforce concentrated on the issues between these parties, it was unlikely that the important issue between Sarah Addo and the others would receive the full care which it required. I therefore ordered her name to be struck out.

In preparing this judgment I have excluded from consideration any evidence which could not have been adduced if Sarah Addo had not been a party.

The plaintiff who is Mantse of Akumajay claims that the land in dispute is the property of his stool. The defendants contend that it belongs to the Na Adawude family of Akumajay, which they say is the Stool family (hereinafter called "the family"). Nii Akrong the head of the family is not one of the defendants, but he has given evidence for the defendants and obviously on behalf of the family.

The land, which is 1.28 square miles in area and delineated in a plan in evidence (Exhibit 3), is on the outskirts of Accra, and is known as Obete-Kpakpo or Kpete-Kpakpo, which means "The Vultures' Pool." The emblem of the Akumajay stool is a vulture. The land contains a fair-sized township known as Abossey Okai. Formerly farm land with only a few houses on it, Obete-Kpakpo is now covered with hundreds of houses.

10 It is established fact that towards the end of the seventeenth century when the main body of the Accras were moving from their capital town of Ayawaso, some eleven miles inland, one Ayikai founded the Akumajay quarter of Accra. Some interesting details about his origin and adventurous career are given in Chapters III and VII of Reindorf's History of the Gold Coast and Ashanti.

The Mantse of the Obutus who also migrated from inland to the coast, gave his daughter, Na Adawude, in marriage to Ayikai. The plaintiff traces his title to Obete-Kpakpo from an alleged gift of the land by the Obutu Mantse to Ayikai. The family traces its title from an alleged gift by the Mantse to Na Adawude.

20 A third version mentioned by Abossey Okai, deceased, a former head of the family (which is composed of descendants of Ayikai by Na Adawude) is that the land was granted by the Obutu Mantse to Ayikai and Na Adawude and their children.

30 Importance is attached in this case by the defendants to their contention that the family exclusively constitutes the Akumajay Stool family. It is pointed out by them that according to Ga custom eligibility to sit on the Stool descends ordinarily through the male line from the founder of the Stool, and they represent themselves as the only descendants of Ayikai. However, one Boi Maclean stated in evidence that he is a descendant of Ayikai, and yet is not a member of the family. This evidence was not challenged. Moreover it is well known that membership of the Stool family is not according to Ga custom confined to those eligible to sit on the Stool. It is clear that the family only forms part of the Stool family.

The only other tradition to which I need now allude is the strange story (no doubt a true one) that since the time of Ayikai I there was for about two hundred years no occupant of the Akumajay Stool until 1914 when the present Mantse was enstooled as Ayikai II at the age of sixteen. He abdicated in 1925, going to Nigeria where he remained till 1940 when he was again put on the Stool.

40 In these possibly unique circumstances it is only to be expected that there should be much that is unusual in the history of Akumajay affairs.

So much for the moment as to tradition.

It is beyond question that as far as living memory goes, the Na Adawude family has been especially associated with the land in dispute. According to Ga custom any member of the Stool would be at liberty to farm on any part of unoccupied land, and there is evidence that Akumajays who are not members of the family have farmed on the land. But the land would appear to have been occupied to a great extent by members of the family or by persons placed on it by the family.

50 All the persons known to have been in charge of the land have been members of the family. The same person who was in charge of Obete-

*In the  
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—  
No. 35.  
Judgment,  
27th  
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1945,  
*continued.*

*In the  
Supreme  
Court of  
the Gold  
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Judgment,  
27th  
September  
1945,  
*continued.*

Kpakpo has usually had custody of all the Stool lands and property, and often to have been Acting Akumajay Mantse.

During the past twenty years or so, very numerous grants of plots of land have been made by the person for the time being in charge of Obete-Kpakpo, especially by Abossey Okai, who gave his name to the new township. The grants will almost certainly have usually been made for monetary consideration. There is no reason to suppose that the grantors ever accounted for these monies to persons who were not members of the family. Nobody not a member of the family ever joined in the making of these grants. 10

Korkoi Abossey, daughter of Abose Okai and 2nd defendant, lives on the land, and on it tends the Afiyie fetish which stands in an ancient grove. It may be noted that it is stated in Reindorf, p. 107, that Ayikai owned a fetish called Afiyie (this evidently did not belong to Na Adawude).

Korkoi Abossey stated in evidence that many members of the family were buried on the land before her time, and others since then also whom she knew. Nobody outside the family was so buried.

The evidence as to occupation taken together with that of tradition would, I think, have been sufficient to establish the family's title, but for the evidence which it is submitted by the plaintiff shows clearly that prominent members of the family have repeatedly made it clear that they have occupied the land as caretakers on behalf of the Stool, and not as owners. This submission I find to have been fully substantiated. 20

Kru Tei and R. C. Abossey, son and nephew respectively of the late Abossey Okai, gave evidence in this case in support of the plaintiff's claim that the land belongs to the Stool.

The plaintiff gave evidence to the effect that in 1921 Abossey Okai in the presence of the Elders showed him the boundaries of Obete-Kpakpo. Korkoi Abossey was present. This was confirmed by Okorli Mensah who stated that Abossey Okai told the Mantse that the land belonged to the Stool. This evidence has not been questioned. Abossey Okai was at the time head of the family. 30

In 1922 the plaintiff posted on the land a public notice stating that the land belonged to the Stool. There was no opposition.

In 1940 a similar notice was posted on the land at the instance of the plaintiff on his return from Nigeria. This led to the first open assertion of ownership on behalf of the family, the publication of a notice to that effect by Nathaniel Targoe, who signed it as head of the family.

A further notice was published later in 1940 by Nii Akrong who also claimed to be head of the family and by other members of the family, repudiating in its name the claim to ownership. 40

A number of documents have been produced relating to the land, which were executed by the head for the time being of the family as caretaker for the Stool. In one form or another every senior member of the family seems of late years to have subscribed to a statement in writing that the land belongs to the Stool.

Various attempts have been made by the defence in the course of the case to explain away this uncomfortable fact, but in my opinion they have failed utterly.

What then is the effect of these admissions in view of the evidence as to tradition and occupation? I do not propose to refer to the authorities on these matters beyond saying that a selection of them are cited in the judgment of Hall, J., in the *European Residential Area Acquisition Case* (1931), Div. Ct., 1929-31, 77, and that the principles therein enunciated are well known.

Admissions do not operate as an estoppel, but their weight as evidence is a matter of common sense. If the leading members of the family have said again and again that they are caretakers of the land for the Stool, and until recently are not known to have said anything to the contrary, I can see nothing in the evidence to prevent my accepting those statements as true. If the persons uttering them believed them to be untrue one would expect some satisfactory explanation to be forthcoming. There has been nothing of the kind.

In the circumstances no reliance can be placed on tradition as to what happened two hundred years or more ago when this is disputed.

The facts as revealed by the evidence as to the extensive control exercised by the family over Obete-Kpakpo are quite reconcilable with the position so often alleged by the family that it has functioned as caretaker of the land for the Stool. A caretaker is normally accountable to the owner, but as already suggested what would be abnormal elsewhere has apparently in certain respects been the normal state of affairs in Akumajay.

As might have been expected Abossey Okai opposed the election in 1914 of the plaintiff as Mantse, and it was not until 1921 that he was prepared to recognise him. He then insisted on enstooling the Mantse afresh himself. It would be difficult for the young Mantse to take a firm line with this important personage. When there was no Mantse it is unlikely that Abossey Okai would consider it necessary as caretaker to render an account to himself as Acting Mantse. As regards the Elders, chronic internal dissension may have made it difficult for them to find a way of dealing adequately with the situation.

It is therefore not surprising that the family when the land rather suddenly became valuable should have been able to exploit the situation to its own advantage. But the one thing that it did not do until quite recently was to combine for the purpose of appropriating the land as its own property. As has already been indicated, even to-day the family is not entirely united in this endeavour.

In the result I am satisfied that the plaintiff is entitled to the declaration he seeks and it is accordingly declared.

I would add that this result does not necessarily affect any rights which the family may have in respect of the land, on the footing that it is stool property.

I should also add that Mr. W. M. Q. Halm, the assessor, is in agreement with this judgment.

Plaintiff's costs to be taxed. Remuneration in respect of professional fees assessed at twenty guineas.

(Sgd.) L. M'CARTHY,  
Ag. Chief Justice.

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 35.  
Judgment,  
27th  
September  
1945,  
*continued.*

No. 36.

**COURT NOTES granting final leave to appeal to West African Court of Appeal.**

*In the  
Supreme  
Court of  
the Gold  
Coast.*

No. 36.  
Court  
Notes  
granting  
Final  
Leave to  
Appeal to  
West  
African  
Court of  
Appeal,  
20th  
November  
1945.

IN THE SUPREME COURT OF THE GOLD COAST, Eastern Judicial Division held at Victoriaborg, Accra, on Tuesday, the 20th day of November, 1945, before COUSSEY, J.

NII AYIKAI II.

Vs.

NII ABOSSEY OKAI II &c.

Application for final leave to appeal.

Mr. Quist Therson for Mr. Ollennu mover.

10

Refers to affidavit of Korkoi Abossey.

*By Court :*

Final Leave granted.

(Intd.) J.H.C.

*In the  
West  
African  
Court of  
Appeal.*

No. 37.  
Grounds of  
Appeal,  
26th  
November  
1945.

No. 37.

**GROUND OF APPEAL.**

IN THE WEST AFRICAN COURT OF APPEAL.

Between NII ABOSSEY OKAI II. and  
KORKOI ABOSSEY -

Appellants-Defendants

and

20

NII AYIKAI II., Manche of Akumajay Respondent-Plaintiff.

The Appellant, being dissatisfied with the Judgment of the Lands Division of the Supreme Court of the Gold Coast, Eastern Judicial Division, Accra, delivered on the 27th day of September, 1945, and having obtained final leave to appeal therefrom dated the 20th day of November, 1945, hereby appeals to the West African Court of Appeal upon the grounds hereinafter set forth.

**GROUND OF APPEAL.**

1. The judgment was against the weight of evidence.
2. The Trial Judge misdirected himself in the matter of and as to the effect of documents and writings produced in evidence, which he construed as conclusive evidence and admissions by the family (Appellants) that the land belongs to the Stool.
3. The Trial Judge considered and was influenced in his judgment by matters not in evidence to wit :—passages from Reindorf's History.



4. The judgment was inequitable inasmuch as :—

(A) The Trial Judge found that the evidence as to occupation taken together with that of tradition would have been sufficient to establish the family's (Appellants) title, but for the evidence which it is submitted by the Plaintiff (Respondent) shows clearly that prominent members of the family have repeatedly made it clear that they have occupied the land as caretakers on behalf of the Stool, and not as owners.

10 (B) The family (Appellants) have occupied the land for a period of about 200 years and have exclusively exercised acts of ownership in respect of the same by grants, licences, sales and otherwise without accounting to the Stool in any manner whatsoever.

Dated this 26th day of November, 1945.

(Sgd.) E. C. QUIST,

Counsel for Appellants.

*In the  
West  
African  
Court of  
Appeal.*

No. 37.  
Grounds of  
Appeal,  
26th  
November  
1945,  
*continued.*

**No. 38.**

**COURT NOTES of Arguments.**

28th May, 1946.

20 IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session held at Victoriaborg, Accra, on Tuesday the 28th day of May, 1946, before THEIR HONOURS FRANCIS HORACE BAKER, Ag. C.J. Nigeria (Presiding), ERNEST SAMUEL BEOKU BETTS, J. Sierra Leone and KOBINA AAKU KORSAH, J. Gold Coast.

Civil Appeal.

NII AYIKAI II., Mantse of Akumajay,  
Accra - - -

Plaintiff-Respondent

*Versus*

30 NII ABOSSEY OKAI II. (a Minor) per his guardian ad Litem EMMANUEL TAGOE and KORKOI ABOSSEY of Accra

Defendants-Appellants.

Appeal from judgment of M'Carthy, Ag. Chief Justice dated 27th September, 1945.

Mr. E. C. Quist (with him Mr. N. A. Ollenu) for Appellants.

Mr. Akufo Addo (Mr. E. O. Lamptey with him) for Respondent.

Submissions of Quist for Appellants.

This action was commenced in the Chief of Ga State Eastern Province Court and was transferred to the Supreme Court Suit No. 20 of 1943. Statement of Claim at page 7 read also Statement of Defence at page 1.

40 Plaintiffs say we were only caretakers. We say that the land belonged originally to the Obutu Stool which granted it to Na Adawude.

The Stool have been in possession for 250, and Plaintiff relies on a document in which one of our predecessors said he was caretaker for the Stool of Akumajay. This declaration did not bind the remaindermen. Paragraph 4 page 43 of the judgment, the Judge finds something which

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sions of  
Quist for  
Appellants.

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Court  
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Submissions  
of Quist for  
Appellants,  
*continued.*

was not Plaintiff's case. The Plaintiff never claimed the land as a gift by an Obutu Chief, but the Judge finds this as a fact.

The only persons who claim it was a gift from the Obutu Chief are ourselves; if he found it was a gift then the only person who obtained gift.

Impliedly if the Trial Judge found it descended from Obutu by way of gift then he is making a finding in our favour. If it was a gift it could not be Stool land it would be given absolutely to the donee her or his heir. There is not a title of evidence to support the Trial Judge's finding.

The principal witness at page 22 says the Plaintiff obtained the land by occupation. The Judge finds they obtained it by way of gift. The 10  
Judge having found [*sic*] this the . . .

I am dealing with grounds 1 and 4 of my appeal, page 44 of the Judgment, the Judge says the family have repeatedly made it clear that they have occupied the land as caretakers on behalf of the Stool and not as owners, this submission I find to have been fully substantiated.

It is admitted that we have been in possession for innumerable years.

If a person farms on land it does not necessitate that they are members of the family.

One of their own witnesses at page 21 Obose Kai looked after the land. I never heard Abose Okai claimed Obete Kpappo land. 20

Significant there were no grant of other lands which were Stool lands by defendant although he was caretaker of other Stool lands at the time.

The Judge relies on admissions that defendants were only caretakers.

See *Manche Anege Akue v. Manche Kojo Ababio IV*. Privy Council Judgment pages 100 and 101 of Privy Council Appeals.

The Plaintiff did not adduce any evidence of title.

Refers to the evidence of Kru Tei, page 21 last line; "The land belongs to the descendants of Nii Ayikai and Adawude." I submit his evidence is that it is defendant's property.

R. C. Abossey a jealous member of the family (all the members of 30  
the family signed the assignments as members of the Stool).

The evidence of these two witnesses were not worthy of the weight the Trial Judge attached to them.

Mensah says Obose Okai says the Stool land stretches from Gon Kpata to Kpatche Korle.

Exhibit "D" signed by a lot of illiterates the exhibits prove nothing. Only members of the family signed. 3rd Vol. W.A.C.A. 323. *Nee Mensah Larkai v. Bruce Kana* question of Ga custom as to succession. Succession to the Stool would be through the male line to the property by the female line. 40

Plaintiffs consider themselves part and parcel of the Stool and the property descends to them through the female line.

It is quite possible that the parties to the document considered themselves as part of the Stool but did not intend to divest themselves of their property.

Full Court Reports of 1919. No difference between caretaker or owner according to custom of the Gold Coast.

Accra Water Works 1919. (The deeds do not mention caretaker but the recital refers to Stool lands.)

All those who signed the exhibits, they were members of the family. 50

1931 Edition Taylor paragraph 758 page 483. Tenant for life which the defendant was can only bind himself.

1931 Edition Taylor page 91 paragraph 96 regarding estoppel. If defendant describes himself as caretaker it is a mere description and he is not estopped from showing that it is a mistake.

Selected cases or Judgments of Divisional Court of Gold Coast page 77 and bottom of 83 *Hearne v. Roger, Newton v. Belcher* 12 2B 921. I ask the Court to take all the surrounding circumstances before coming to a decision.

I submit it would be a great injustice to deprive these people of their land. All the documents relating to the land are with the defendants. Defendants' ancestors have been in possession for 200 years or so.

10 Plaintiff said he became caretaker in September, 1914 and remained until 1925 when he abdicated.

Page 24 : In 1940 the elders of Stool were Nii Boci, Madear, Nii Akrong was caretaker.

Ground 3 Reference by the Judge to Reindorf's Book. The Judge was not referred to it, he used the book which influenced him to come to the conclusion which he did.

He did not consider the surrounding circumstances when he made his findings occupation.

Same Counsel.

20 Reply of Akufo Addo for Respondent.

Evidence of tradition, page 43 paragraphs 4 and 5 are no findings of fact, he (The Judge) was clearly relating the stories which had been narrated before him and I agree that the reference to Plaintiff tracing his title through Ayikai is not quite correct, but the Judge has not found that we established our title through Ayikai at all, that is not why he gave us judgment. I therefore submit that any attack on this passage is unfounded.

30 Then the passage referring to Reindorf at p. 43 paragraph 5 only goes to strengthen the traditional story in spite of the Judge reading a passage of Reindorf he says in spite of that I still would have given you judgment, one passage at page 43 and page 43 at paragraph on page 43 and then again at page 43 paragraph . The Judge says in the circumstances no reliance can be placed on tradition as to what happened 200 years or more ago.

Conduct on part of the appellants the Judge proceeded to review some of the evidence on that point at page 44.

The Judge did not find they were estopped by the admissions but considered them as evidence in our favour.

40 Kru Tei's evidence page 22 the last two lines. The land belongs to the descendants of Nii Ayikai and Adawude previously he said it belonged to the Stool. If it is Stool property see paragraph c.

Evidence of Okorli Mensah at page 27. He said the land is Stool land but stretches much further to the West.

This I submit is the proper interpretation of the last line of this witness's evidence. Gon Kpataa being the Western boundary of the Stool land.

Admission contained in documents.

50 Nii Akrong was at one time head of the family, an educated man. Appellants referred to his evidence at page 33 or re-examination. "In my view if even I buy land with my money etc. I owe allegiance to a Stool. I can properly describe the land as stool land."

*In the  
West  
African  
Court of  
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Court  
Notes of  
Arguments,  
28th May  
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Submissions  
of Quist for  
Appellant,  
*continued.*

Reply of  
Addo for  
Respondent

*In the  
West  
African  
Court of  
Appeal.*

No. 38.  
Court  
Notes of  
Arguments,  
29th May  
1946.  
Reply of  
Addo for  
Respondent  
*continued.*

The Trial Judge with his knowledge did not believe him and I submit the witness cannot believe : he did not prove it and appellants could not prove it.

Why did appellants always sign the documents when there were other elders from other families.

Page 44, last paragraph at page 44.

The absence of the other elders not signing the document is nothing against the Stool, some of the principal persons who signed these documents were elders of the Stool.

R. C. Abossey the other defendant at page 25 cross-examination, 10  
"I joined in making the documents by touching the pen before doing so the documents were interpreted to me."

Documents executed before the District Commissioner.

I refer to exhibit " D " at page 117. How on the face of that can it be said that the land does not belong to them.

Land belongs to a family, it is family land there is no reversion and cannot be a tenant for life.

Exhibit 4 is dated 1920 the next Exhibit 5, 1928. Exhibit 6, 1929.

Mantse abdicated in 1922 and he says he had not heard of any sales only stable history from 1914, he returned in 1940 and he then enquired 20  
as to the caretakers of this land and not until then did the defendants lay claim to the land.

Exhibit " J " page 72 Abossey Okai, I am caretaker of the Stool.

Again at pages 83-93, Abossey Akai says the land is Ayikai's land that is Opete Parpo the man Abossey Akayi purported by the 3 documents Exhibits 4, 5 and 6.

All questions of fact for the Trial Judge.

The law as to admissions contained at page 45.

Judgments of Divisional Court 1929, 1931.

*Hearne v. Roger.*

30

At page 45 the Judge enumerated the facts he had found : Court (at paragraph 5 he says the third version) Reindorf's reference to Reindorf by the Judge and referred to as tradition by Respondent's counsel as tradition, it was evidence in paragraph 5 page 45 ; he refers to Reindorf having said that a fetish on the land did not belong to Na Adawude.

The Judge went on the land and at page 44 there is evidence of the fetish. Korkoi Abose is a member of the family and the Judge said Kru Tei and R. C. Abossey at page 20 says they were son and nephew of the late Abossey Akai.

Evidence of Akorli Mensah at page 28 ; he says Obete Kpakpo stops 40  
at Gon Kpataa but Akumajay land stretches beyond it why did he divide these two lands.

I submit he would have said the whole is Stool land if he had meant it and not divided the land up.

With regard to the documents take all the surrounding circumstances. The Trial Judge did not deal with the documents Exhibits 4, 5 and 6. Mentality of the persons who are alleged to have made the admissions must be taken into consideration also the surrounding circumstances.

Question of rendering an account : My clients have never been asked because Respondents know the land belonged to appellants. 50

Judgment reserved.

(Sgd.) FRANCIS H. BAKER.

No. 39.

## JUDGMENT.

JUDGMENT—Read by BEOKU-BETTS, J., Sierra Leone.

This is an appeal from the decision of the Divisional Court which declared plaintiff-respondent owner of all that piece or parcel of land situate at Accra and known as Obete Kpakpo land.

Plaintiff-Respondent as the Mantse of Akumajay claimed for himself and on behalf of his elders and councillors a declaration that the said land is the property of the Akumajay Stool. Defendants-appellants contended that the said land is the property of the Na Adawude family, a branch of the said Akumajay stool family.

It is not disputed that plaintiff-respondent as Mantse of Akumajay is the person entitled to claim a declaration of title to any land which is stool property of the Akumajay stool family. Defendants-Appellants however, sought to establish title on behalf of a branch of the stool family by traditional evidence based on an alleged gift of the said land to a woman by the name of Na Adawude who was the wife of the Mantse of Akumajay about 200 years ago. No written record of the said gift was produced.

Learned Counsel for the appellants relies on the following grounds of appeal :—

“(2) The Trial Judge misdirected himself in the matter of and as to the effect of documents and writings produced in evidence which he construed as conclusive evidence and admissions by the family (Appellants) that the land belongs to the stool.

“(3) The trial Judge considered and was influenced in his judgment by matters not in evidence to wit: passages from Reindorf’s History.

“(4) The judgment was inequitable inasmuch as :—

“(a) The trial Judge found that the evidence as to occupation taken together with that of tradition would have been sufficient to establish the family’s (Appellants’) title, but for the evidence which it is submitted by the plaintiff (Respondent) shows clearly that prominent members of the family have repeatedly made it clear that they have occupied the land as caretakers on behalf of the stool, and not as owners.

“(b) The family (appellants) have occupied the land for a period of about 200 years and have exclusively exercised acts of ownership in respect of the same by grants, licences, sales and otherwise without accounting to the stool in any manner whatsoever.”

Grounds 2 and 4 were dealt with together by learned Counsel for the appellants.

The learned trial Judge in his judgment reviewed the rival claims and tradition and came to the conclusion that :—

“The evidence as to occupation taken together with that of tradition would, I think, have been sufficient to establish the family’s title, but for the evidence which it is submitted by the plaintiff shows clearly that prominent members of the family have repeatedly made it clear that they have occupied the land as caretakers on behalf of the stool, and not as owners. This submission I find to have been fully substantiated.”

*In the  
West  
African  
Court of  
Appeal.*

No. 39.  
Judgment,  
15th June  
1946.

*In the  
West  
African  
Court of  
Appeal.*

No. 39.  
Judgment,  
15th June  
1946,  
*continued.*

By this the learned trial Judge found that occupation and tradition were in favour of the appellants. Had he stopped there, he would have been compelled to find for the appellants that the land in dispute was family land and not stool land. But he found that prominent members of the family of the appellants have repeatedly stated that they occupied the land as caretakers on behalf of the stool and not as owners. The whole appeal, in our opinion, turns upon whether this finding of the learned trial Judge, is supported by the evidence.

The place of admissions in civil cases is admirably stated in Halsbury's Laws of England, 2nd Edition, Vol. 13, pages 574 and 575 thus :— 10

“ In civil cases, statements made otherwise than by way of  
“ testimony in Court by a party to the proceedings are evidence  
“ of the truth of the facts asserted against, but not in favour of  
“ such party. Although what a party has said on some former  
“ occasion may, without injustice, be presumed to be true as  
“ against himself, yet no presumption of truth arises when such  
“ statements are tendered in evidence in his favour . . . As the  
“ value of an admission depends on the circumstances in which it  
“ was made, evidence of such circumstances is always receivable to 20  
“ affect the weight of the admission. Thus the party against whom  
“ it is tendered may show that it was made under an erroneous  
“ view of the law, or in ignorance of the facts, or when his mind  
“ was in an abnormal condition.”

Admissions are therefore no estoppels and are not conclusive against the party against whom they are tendered. He always has the right to prove the circumstances or to show that they were due to erroneous conception of the law, or ignorance of the real facts or other circumstances which sufficiently explain them. It is however for the trial Court to decide the issue and to give due weight to the alleged admissions and the explanatory facts or circumstances. 30

We propose to review the findings of the learned trial Judge on these alleged admissions and to determine how far the explanatory facts and circumstances can reasonably be said to have detracted from their value or weight.

The first admission relied upon is the evidence of the witness Kru Tei (1st witness for the plaintiff). Kru Tei is one of the sons of Abossey Okai, the person from whom the defendant Nii Abossey Okai II derives his title. As such as a member of the family he has material interest in the property in dispute as family property. He said that his late father told him that the land belonged to Nii Ayikai's stool, the first Mantse 40 of Akumajay. He said that when there was no Mantse in Akumajay, his father held the stool keys and looked after Akumajay lands and property. Learned Counsel for the appellants invited the Court to regard this witness as hostile and a traitor to the family. There was nothing in his evidence which suggests hostility. His evidence is consistent with a witness, who, despite the effect of his evidence on alleged family property, was nevertheless determined to speak the truth. It was quite competent for the trial Judge to regard his evidence as such and to act upon it.

The next witness Robert Coppin Abose (2nd witness for plaintiff) is a nephew of the late Abossey Okai. He said that Abossey Okai sold 50 some of the Obete Kpakpo lands as caretaker of the stool. He referred

to the circumstances of the execution of the Exhibits " E " and " F " as he was one of the witnesses. The learned Judge then referred to the evidence of Okorli Mensah (5th plaintiff's witness).

Learned Counsel for the appellants contended that this witness did not say that Obete Kpakpo land was stool land but that stool land stretched from Gon Kpataa to Kpatcha Korle and beyond.

In order to find admissions on oral testimony, the evidence must be clear and unambiguous. There is such ambiguity in the evidence of this witness that in our opinion, it cannot be safely relied upon for this purpose.

10 On the whole, we do not regard the evidence of oral admissions strong enough, by themselves, to displace findings of occupation and tradition.

We next consider the documentary evidence of admissions. Exhibits " A " and " B " which are public notices do not carry the case any further and need only be mentioned. Exhibit " D " may be said to be in a different category. It is a notice published in a local Newspaper and reads as follows :—

*" Notice.*

20 " In the issues of November 28 and December 2, 1940 there appeared a Notice signed by Nathaniel Tagoe who styles himself " as Headman of Obinte Kpakpo village and Head of late Abossey Okai's family, that lands known as Obinte Kpakpo lands are " family lands of the late Nii Abossey Okai of Accra.

30 " The public is hereby informed that we the undersigned " principal members of the said Abossey Okai's family, declare " positively that the publication by Nathaniel Tagoe referred to " above touching Obete Kpakpo lands is untrue and unfounded and " we hereby affirm that Obete Kpakpo land is a property attached " to the stool of Akumajay Mantse. That the late Nii Abossey " Okai, was, prior to his death, a member of the Akumajay stool " and had been ' caretaker.'

" The public is hereby further informed that the said Nathaniel " Tagoe has never been appointed ' Headman ' of Obinte Kpakpoe " village neither has he been ' Head ' of Abossey Okai's family.

" NII AKRONG,

" Head of Abossey Okai's Family.

" (Sgd.) R. C. ABOSSEY

" " J. D. TATAY ANNAN

" " J. O. QUAYE

" " J. E. ARMAH

40 " " " their

" CHARLES ABOSSEY x

" JAMES ODOI x

" CHARLES HAMMOND x

" WILLIAM ADJAYE x

" ROBERT SACKKEY x

" DJAMAH x

" KORKOI x

" LARTEY KAI x

" MANSAH x

50 " KOMIOKOR x

" DADAYE OYEA x

" Witness to marks : " marks

" (Sgd.) J. D. TATAY ANNAN

" 9th December, 1940."

*In the  
West  
African  
Court of  
Appeal.*

No. 39.  
Judgment,  
15th June  
1946,  
*continued.*

*In the  
West  
African  
Court of  
Appeal.*

No. 39.  
Judgment,  
15th June  
1946,  
*continued.*

This document on the face of it is important as an admission. It is a public declaration by the head of the same family, now claiming the land as family property, that the land is not family property, and expressly stating that it is stool land. It states that the predecessor in title of the appellants was a member of the stool and "caretaker." It is declared that the statement that the land is family land is untrue and unfounded. The document is signed by the principal members of the family. Unless therefore some satisfactory explanation can be given, this document amply supports the findings of the learned trial Judge as to admissions. Nii Akrong, who signed this document as head of the family, gave evidence 10 and was the first witness for the defendants (appellants). He said :—

" I did not write the notice published in the Echo which is  
" exhibit ' D.' I signed the original in the Manche's house. The  
" Manche sent for me, told me of a previous notice, and said that  
" a reply had been drafted which I should sign. All the Manche's  
" documents are prepared by teacher Ashong, so I take it that he  
" prepared this. Before I signed the paper the Mantse asked me  
" whether the land was the private property of Abossey Okai or stool  
" land. I replied that Abossey Okai did not buy the land . . .  
" I did not tell the Manche that the land was stool land." 20

Such an explanation was very properly disregarded by the learned trial Judge. The witness Nii Akrong is literate. His handwriting as appears in the original of exhibit " F " marks him out as fairly educated. He must be taken to have known the nature of the document he signed and his evidence can be regarded as a vain effort to get out of a most difficult situation. R. C. Abossey (2nd plaintiff's witness) was not asked anything about the document and no other witness was called to explain it or the circumstances in which it was made.

The next document is exhibit " E." This is a deed of indenture executed on the 30th May 1936 by the same Nee Akrong and Nathaniel 30 Tagoe for themselves and on behalf of the elders and people of the stool of Akumajay and expressed to be with the consent and concurrence of the elders and people who have testified their consent by their signature as witnesses. Nee Akrong signed, as we have said before, and several other persons also did so as witnesses. Among them is R. C. Abossey. James Odoi signed as linguist. This document was expressed to have been read over and explained in the Ga language before it was executed or witnessed.

The next document was exhibit " F " executed on the 18th November, 1939 by the same Nee Akrong, of the stool of Akumajay, acting for himself and as the representative of all the members of the stool of Akumajay, 40 whose consent and concurrence was stated to be evidenced by their signing as witnesses. This document was made in favour of the Gold Coast Government, and was read over and explained to the grantor and witnesses.

Exhibit " G " dated the 25th August 1936 was executed by Korlay Ammah as caretaker of Akumajay affairs with the consent and concurrence of the elders who described themselves as headmen, councillors, linguist respectively.

Exhibit " H " dated 8th October, 1929 was executed by Abossey Okai as caretaker and representative of Akumajay stool and head of the stool family of Akumajay. 50



In these documents the several grantors expressly stated they were caretakers or representatives of the stool and were conveying the land or area respectively with the consent and concurrence of the elders, councillors or people. The effect is that these documents contained admissions that the land was stool land and not family land. Unless explanations are given which satisfy the Court as to the circumstances or show clearly that such admissions should not be so regarded, due weight would be given to them as such. One explanation given is that when Abossey Okai stated in the deeds that he was "caretaker" of the land his mentality should be taken into consideration. It was sought to show this mentality by reference to a recital of his evidence in a previous case and to be found on page 70 of Judgments of the Full Court held at Accra in February, 1919. In that Abossey Okai (the same person who figured prominently in these documents) is reported as saying that "the person who is taking care of the land is the 'owner of land.'" If he as caretaker claims that he is owner of the land, surely an admission that he as caretaker, and therefore for the time being the owner, is in fact only holding the land on behalf of the stool, there is no element in his mentality which requires any special consideration. Such an admission from a person in that position is of greater weight than if it came from a person who is a "caretaker" according to the English legal conception of the term. A caretaker according to the native customary law of the Gold Coast had full powers of disposing of and dealing with lands in his care if he gets the consent and concurrence of others interested evidenced by their joining in any document. Admissions therefore made by him in similar circumstances would be binding and would have full weight and effect.

Learned counsel for the appellants then drew attention to the evidence of Nii Akrong, who himself signed Exhibit "D" and other documents, who said that if he bought land with his own money and he owed allegiance to the stool, he can properly describe it as stool land. The learned trial Judge did not allow such a statement to influence his judgment. Nii Akrong in Exhibit "D" clearly showed his appreciation of the difference between stool property and family property, and must be taken to have known the difference between these and private or individual property. It is convenient for Nii Akrong to give the evidence he did. But presumably, the trial Judge preferred his statements in written documents made several years ago when there was no litigation, to his oral statement made during litigation.

Learned counsel for the appellants then submitted that a caretaker holds an interest analogous to a life tenant in English law, and any admissions he is regarded to have made only bind his interest and not the remaindermen or reversioners. This, of course, would be inconsistent with the claim that a caretaker is the owner of the land. It seems settled law that the dispositions of land by a caretaker, if made with the consent and concurrence of representatives, bind and affect the interests of reversioners and remaindermen. If this were not so, there would be grave unsettling of titles to land to the great detriment of land tenure. The nearest analogy of a caretaker to English law is that of a trustee. In English law the admissions of a trustee would bind the *cestui-que* trust (*Bauerman v. Radenius*, 101 Eng. Rep. 1186).

Learned counsel for the appellants then submitted that there were other elders of the stool who did not join in the admissions. It has been

*In the  
West  
African  
Court of  
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No. 39.  
Judgment,  
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*In the  
West  
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Court of  
Appeal.*

No. 39.  
Judgment,  
15th June  
1946,  
*continued.*

shown that the affairs of the Akumajay stool were in a very confused state, and it is conceivable that in such circumstances, it was difficult to get the elders to sign. But their failure to sign can only be of importance on the question whether the stool land was properly conveyed.

On the question of admissions to bind the family it is immaterial whether there were members of the stool who did not sign. The admissions were in favour of the stool and a statement by these other elders would not have any additional importance. The real value of the admissions was against the members of the family who asserted that it was stool land and not family land. 10

Learned Counsel for the appellants then referred to certain documents to prove that the same Abossey Okai had previously dealt with portions of this property as his individual property. In Exhibit "4" dated the 30th September, 1920, Abossey Okai made a deed of gift to one Titus Glover in a manner which suggests he was dealing with the portion conveyed as his private property. It was not dealt with as stool property or family property. In Exhibit "5" made on the 28th January, 1928, Abossey Okai again executed a deed of gift to Agnes Tettehkai Ayiku in which he also dealt with the property as his private or individual property. In Exhibit "6" the same Abossey Okai executed a deed of conveyance dated the 23rd September, 1929 by which he conveyed the area defined to one J. O. Armartey as purchaser. These exhibits were not referred to by the learned Judge. We think however that their effect on the general evidence as to admissions should be considered. It is recognised law that a person cannot by his acts prove anything in his favour, and these dealings with the property are therefore not of the same value as admissions against interest. The respondents say that Abossey Okai was able to deal with the properties in Exhibits 4-6 in the way he did because of the disorganised state of the stool, and at a period when there was no Manche, but whenever he made public pronouncements, he admitted that the lands were stool property. The attention of the Court was drawn to the evidence of Abossey Okai in proceedings before the Court as far back as 1909. In Exhibit "J" where Abossey Okai gave evidence in an action on the 28th October, 1912, he said that he was caretaker of the stool of Akumajay and that Obete Kpakpo was Akumajay stool land. Previous to this, on the 2nd February 1909 when he gave evidence before the Supreme Court he said the land was stool land (Exhibit "K"). 20 30

When the whole of the evidence is taken together, Exhibits "4-6" do not affect or detract from the value of the admissions on which the learned trial Judge acted. 40

Learned counsel for defendants-appellants has criticised a passage in the judgment of the Court of first instance in which the learned Judge made reference to Reindorf's (History of the Gold Coast), that "it may be noted that it" is stated in Reindorf, p. 107 that Ayikai owned a fetish "called 'Afiye'" "this evidently did not belong to Na Adawude." There is no evidence on record to support this conclusion. The only reference to a fetish on the land being the following evidence given by Korkoi Abose, the 2nd defendant-appellant in answer to questions by the Court.

"There is one fetish on the land."  
"There is Afieye fetish.

50

“ My father looked after it and after him Nathaniel Tagoe.  
 “ I look after it now. I do not know of any other fetish on the  
 “ land.”

*In the  
 West  
 African  
 Court of  
 Appeal.*

It is however clear that the learned Judge did not base his judgment on the passage quoted, but on the evidence of admissions in the case. As regards the lack of evidence that the appellants ever accounted to the stool for the lands, the unsettled state of the stool and the fact that appellants and their predecessors were the persons to whom account should be made, may well explain this. We are satisfied that there was ample evidence to support the judgment of the Court below. The appeal is therefore dismissed with costs assessed at £44 1. 0.

—  
 No. 39.  
 Judgment,  
 15th June  
 1946,  
*continued.*

(Sgd.) FRANCIS H. BAKER,  
 Presiding Judge.

(Sgd.) E. S. BEOKU BETTS,  
 Judge, Sierra Leone.

(Sgd.) K. A. KORSAH,  
 Judge, Gold Coast.

Counsel :

Mr. E. C. Quist (with him Mr. N. A. Ollenu) for Appellants.  
 20 Mr. Akufo Addo (with him Mr. E. O. Lamptey) for Respondent.

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No. 40.

**COURT NOTES granting final leave to appeal to Privy Council.**

23.5.47.

Motion on notice on behalf of the defendants-appellants for an Order for final leave to appeal to His Majesty's Privy Council.

Mr. Quist for movers.

Mr. Akufo Addo for plaintiff-respondent.

Final leave is granted.

No. 40.  
 Court  
 Notes  
 granting  
 final leave  
 to appeal  
 to the  
 Privy  
 Council,  
 23rd May  
 1947.

(Sgd.) WALTER HARRAGIN.

30

1270/73

*Defendants' Exhibits.*

**DEFENDANTS' EXHIBIT.**

**Exhibit " 1 "—Certificate of Purchase in favour of Oyoe Quartey.**

1.  
Certificate  
of Purchase  
in favour  
of Oyoe  
Quartey,  
8th June  
1899.

No. 48.

**CERTIFICATE OF PURCHASE OF LANDS.**

**IN THE SUPREME COURT OF THE GOLD COAST COLONY,  
Eastern Province.  
A.D. 1899.**

Suit No. 97 of 1898.

Between **THOMAS W. TAGOE** - - - - Plaintiff

and

**SARAH BRUCE**, as the Executrix of the late  
Thomas Francis Bruce - - Defendant.

10

This is to certify that **OYOE QUARTEY** has been declared the Purchaser of the right, title and interest of the late Thomas Francis Bruce in the messuages lands and tenements hereinafter mentioned, that is to say :

All that piece or parcel of land and buildings thereon and fruit trees &c. commonly known as **BRUCE'S LODGE** situate outside the Town of Accra and measuring on the North 5250 feet on the South 5600 feet on the East 2310 feet and on the West 4225 feet and bounded on the East, West, North and South by unoccupied lands, which said messuages lands and tenements were sold in execution of a decree in the above suit by Order of this Court, dated the 9th day of June, 1898.

20

Dated at Accra the 8th day of June, 1899.

(Sgd.) **W. BRANDFORD GRIFFITH,**  
C.J.

I.

This is the paper-writing marked I now produced and shewn to me and referred to in the affidavit of Alexander Bruce sworn to on the 30th day of May 1899,

Before me,  
(Sgd.) **E. BANNERMAN,**  
Commissioner for Oaths.

30

I hereby certify that the within-named property was sold to Oyoe Quartey under writ of Fi. Fa. No. 54 dated 13th October, 1898 for the sum of £50 (Fifty Pounds).

(Sgd.) ?  
Sheriff.

Sheriff's Office,  
Accra. 1st June 1899.



DEFENDANTS' EXHIBIT.

Exhibit "2"—Indenture made between Oyoe Quartey and Laingoye Larthey.

No. 317/1923.  
Gold Coast  
Five Shillings  
Stamp Duties.

Defendants'  
Exhibits.

2.  
Indenture  
made  
between  
Oyoe  
Quartey  
and  
Laingoye  
Larthey,  
6th May  
1905.

THIS INDENTURE made the 6th day of May One thousand nine hundred and five Between OYOE QUARTEY Administratrix to the estate of the late Chief John Quartey deceased FREDERICK ANTONIO ANKRAH, 10 CHERCHER, AMANUAH, JOSEPH ANTONIO ANKRAH and ANNA FRANCE of Accra in the Gold Coast Colony hereinafter called the Vendors of the one part and LAINGOYE LARTEY Trader also of Accra in the said Gold Coast Colony and hereinafter called the Vendee of the other part Whereas the Vendors are entitled to a piece or parcel of land situate behind the Town of Accra hereinafter described by purchase at Public Auction dated the 8th day of June 1899 Now this Indenture witnesseth that in consideration of the sum of Forty Pounds sterling this day paid to the Vendors by the Vendee (the receipt whereof the said Vendors do hereby acknowledge) for the purchase of the hereditaments intended to be hereby granted the 20 said Vendors do hereby grant, sell and convey to the said Vendee her heirs, executors, administrators, and assigns absolutely and for ever All that piece or parcel of land generally known as the late Thomas Francis Bruce's Lodge and measuring on the North 5250 feet on the South 5600 feet on the East 3210 feet and on the West 4225 feet more or less which piece or parcel of land is more particularly described in the plan attached herewith Together with all estate interest and claim whatsoever of the said Vendors in out of or upon the said land and the said Vendors for themselves their heirs executors administrators and assigns covenant with the said Vendee her administrators and assigns that notwithstanding 30 anything by the said Vendors done or knowingly suffered to be done they the said Vendors now have power to grant and release the said land unto and to the use of the said Vendee her heirs and assigns free from all encumbrances and that the said Vendors and their heirs and every other person or persons claiming through or in trust for them will at all times at the cost of the said Vendors their heirs and assigns do and execute all such acts and assurances for further or better assuring all or any part of the said land to the use of the said Vendee her heirs and assigns as by them shall be reasonably required.

40 IN WITNESS WHEREOF the said Vendors have hereunto set their hands and seals the day and year first above written.

50 This document was first read over and interpreted to the said Oyoe Quartey, Chercher, Amanuah and Anna France by William A. Fearon in the Ga language and they seem perfectly to understand the same before making their marks thereto

	her	
OYO QUARTEY	X	L.S.
	mark	
(Sgd.) F. A. ANKRAH		L.S.
AMANUAH her X mark		L.S.
ANA FRANCE her X mark		L.S.
CHERCHER her X mark		L.S.
(Sgd.) JOSEPH A. ANKRAH		L.S.

Defendants' Exhibits.

2.

Indenture made between Oyoe Quartey and Laingoye Lartey, 6th May 1905, continued.

Signed Sealed and Delivered in the presence of the undersigned witnesses

LAINGOYE LARTEY her X mark

L.S.

(Sgd.) J. W. VANDERPUYE

Witness to marks.

„ J. R. MYERS

(Sgd.) W. A. FEARSON.

GEORGE ABBOSEY his X

mark

MANKATA AKU her X

her

mark

ABALAY KOWAH her X

her

mark

10

In accordance with section 18 of the Stamp Ordinance of 1889 I certify that in the opinion of the Commissioners of Stamps this Instrument is chargeable with a duty of Five Shillings.

Commissioner of Stamps Office. Accra 9th June, 1905.

(Sgd.) ? Commissioner of Stamps. L.S. 20

GOLD COAST LAND REGISTRY.

Registered as No. 317/1923 on pages 218 and 219 of Book No. 3 of 1923.

At the Asere Tribunal Marked A No. 166.

(Sgd.) M. T. HINCKS, Ag. Registrar of Deeds.

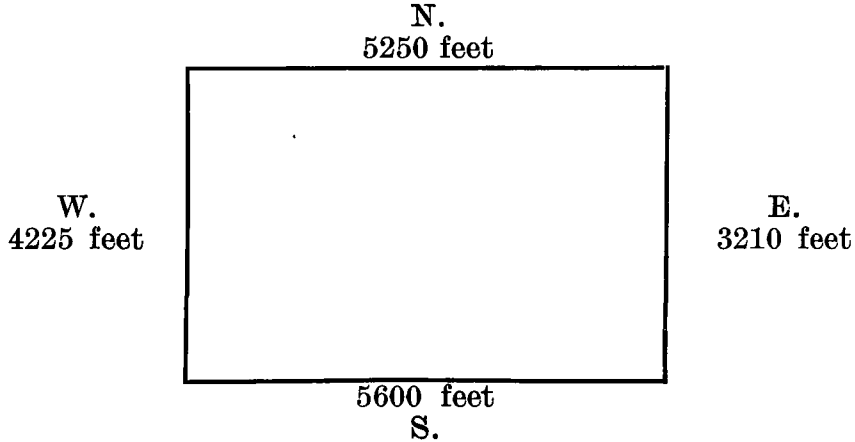
(Sgd.) D. P. HAMMOND, Asere Manche, 18/2/18.

30

On the 26th day of June 1923 at 10 o'clock in the forenoon this instrument was proved before me by the oath of the within-named William Alexander Fearon to have been executed by the within-named Oyoe Quartey, Frederick Antonio Ankrah, Checher, Amanuah, Joseph Antonio Ankrah, Anna France and Laingoye Lartey.

(Sgd.) A. WHITE, Registrar of Deeds.

PLAN REFERRED TO.



40

**DEFENDANTS' EXHIBIT.**

**Exhibit " 10 "—Writ of Summons in Charles Quartey, etc. v. Richard W. Bruce and Others together with Court Notes.**

*Defendants' Exhibit.*

No. 51.

No. 30.

Office Copy

(Sgd.) DANL. OHENE  
for C.R.

10.  
Writ of Summons in *Charles Quartey &c. v. Richard W. Bruce & ors.* together with Court Notes, 20th May 1908.

**WRIT OF SUMMONS.**

**SUPREME COURT OF THE GOLD COAST COLONY.**

Suit No. 51.

10 Between CHARLES QUARTEY on behalf of himself and the members of ANUNSA KWATEI'S Family

Plaintiff

and

RICHARD W. BRUCE, CHARLES BRUCE,  
VICTOR CRABBE, KWAKU LAMPTEY,  
AKWETE CARPENTER, ADDO  
WASHERMAN, AMORKOR and KAI -

Defendants.

To Richard W. Bruce, Charles Bruce, Victor Crabbe, Kwaku Lamptey, Akwete Carpenter, Addo Washerman, Amorkor and Kai all of Accra—

20 You are hereby commanded in His Majesty's name to attend this Court at Victoriaborg Accra on the 20th day of July 1908 at 8 o'clock, in the forenoon, then and there to answer a suit by Charles Quartey on behalf of himself and the members of Anunsa Kwatei's Family of Accra against you.

The Plaintiff claims from the defendants the sum of £150 whereof the sum of £90 is damages for trespass committed by the defendants on the plaintiff's family land situate at Obete-Kpakpo near Accra and bounded by lands belonging to Kpakpo Thompson William Bampo Okai and an unoccupied land and £60 being value of property destroyed by the defendants on the plaintiffs' family land.

30 Issued at Victoriaborg, Accra the 20th day of May, 1908.

Sum claimed .. .. .	£150	0	0
Court fees .. .. .	1	0	0
Mileages .. .. .	1	0	
Bailiff's fees .. .. .	8	0	
<b>Total .. .. .</b>	<b>£151</b>	<b>19</b>	<b>0</b>

(Sgd.) W. BRANDFORD GRIFFITH.

*Defendants' Exhibit.*

10.

Writ of Summons in *Charles Quartey &c. v. Richard W. Bruce & ors.* together with Court Notes, 20th May 1908, *continued.*

IN THE SUPREME COURT OF THE GOLD COAST COLONY held at Victoriaborg, Accra, on Thursday, the 6th day of August, 1908, before HIS HONOUR SIR W. BRANDFORD GRIFFITH, Knight, Chief Justice.

QUARTE & ORS.	}	From p. 546.
v.		Papafio for Plaintiff.
BRUCE & ORS.		Defendants in person.
* * *		* * *

At this stage Mills consents to Judgment against his clients with respect to the land on which the houses stand admitting for purposes of this action that land in plan stated to be Anumsa Kwate's belongs to the 10 Anumsa Kwate Family.

Question of damages remains.

\* \* \* \* \*

By consent damage assessed at £50.

There will be Judgment for Plaintiffs for £50 and costs subject to the order of yesterday as to costs of attendance.

W. B. G.

9.

Copy Proceedings in *Quartey v. Bruce & ors.* before Griffith, C.J., 5th August 1908.

DEFENDANTS' EXHIBIT.

Exhibit "9"—Copy proceedings in *Quartey v. Bruce and Others* before Griffith, C.J.

IN THE SUPREME COURT OF THE GOLD COAST COLONY, held at Victoriaborg, Accra, on Wednesday, the 5th day of August, 1908, 20 before HIS HONOUR SIR WILLIAM BRANDFORD GRIFFITH, Knight, Chief Justice.

QUARTE	}	From p. 532.
v.		Same Counsel.
BRUCE & ORS.		
* * *		* * *

ABOSE OKAIN s.a.r.b. in Ga.

I live at James Town Accra.

I am a cooper i.e. now am a farmer.

My father was Abose.

His father was from Asere and his mother from James Town.

30

He lived at his mother's place—Vulture quarter.

He was Manche there.

Q. Was he put on stool or did he take care of it ?

A. The stool belonged to his grandfather and he had sat on it. When I grew up he farmed.



- Q. Where ?  
 A. At Okpeti Kpakpo (Okpeti pool).  
 Q. How long ago did you see your father there ?  
 A. Before Sam Bannerman was made commandant of Christiansborg.  
 Q. Did anybody else work there beside your father ?  
 A. If they got permission from my father.  
 Q. Did he give permission to any people to work there ?  
 A. Yes.  
 Q. How do you know ?  
 10 A. Those whom I met I knew.  
 Q. Who did you know ?  
 A. Big Alote.  
 Q. Did he get permission from your father ?  
 A. Yes.  
 Q. Who else ?  
 A. Otu of Otu Street, Asuwe, Ayiku Unkor.  
 There are those I actually saw there i.e. I saw them get permission from my father.  
 Q. Were people working there before these with your father's  
 20 permission ?  
 A. I can't say.  
 I know land in question the land on which the houses were broken down.  
 I know the land my father gave it to their fathers.  
 Q. Who are they ?  
 A. Charles Kwarte, James Kwarte, T. T. S. Thopson (Plaintiff) and Bampo.  
 Bampo's house was standing on his father's land, viz. :—Amankwa's alias Charles Kwarte's house was on Anumsa Kwarte's land—Thopson's  
 30 house was on Anumsa Kwarte's land.  
 James Kwarte's house was on Anumsa Kwarte's land.  
 Q. How did Anumsa Kwarte get the land ?  
 A. My father gave it to him.  
 He was my father's sister's son.  
 Q. How do you know the land was Anumsa Kwarte's land ?  
 A. I know that my father gave him the land.  
 He planted cassada on the land cashews and mangoes.  
 He farmed there till he died.  
 Q. What happened to land after his death ?  
 40 A. The land remained to my father.  
 When he died nobody worked the land.  
 Afterwards his children came and they farmed there.  
 Q. They ceased working there ?  
 A. They said their cassada had been eaten by pigs and stopped farming there.  
 Q. Have they right to go on that land now ?  
 A. Yes they have right to go there.  
 I knew late T. F. Bruce.  
 He had a lodge near there.  
 50 The land between the land in question and Bruce's land is my father's.  
 Q. How did Bruce get it ?

*Defendants' Exhibit.*

9.  
 Copy Proceedings in *Quartey v. Bruce & ors.* before Griffith, C.J., 5th August 1908, *continued.*

Defendants'  
Exhibit.

9.  
Copy Pro-  
ceedings  
in *Quartey*  
v. *Bruce*  
& *ors.*  
before  
Griffith,  
C.J., 5th  
August  
1908,  
*continued.*

A. He came to me at Accra and asked and a week after he came to the land.

Q. What did he say at Accra ?

A. He asked if I had power to give him land for him to plant cocoanut trees. I said that if he came on the land himself and saw the land and if it suit him I would give it to him.

When late T. F. Bruce was coming he went to Big Alote's lodge and they came together to the land. Big Alote had a lodge to north of mine.

Q. Did they say anything to you ?

A. Bruce said he had come about the talk he had had with me. 10

I said he had spoken about cocoanuts and asked if he had come on same matter. Bruce said yes. I said I thought he was coming to plant fruit and flowers—I said so because I had pigs and I thought they would injure his plants. He said he had come on the same matter and I sent to choose a spot.

He selected top part western side.

I said some people were working there.

He said I should take him to see there.

He asked me to tell him names of people who were working there.

I gave names viz. Otu, Ashwell, Kofi and Niakum. 20

We only met Otu there.

He asked me how I could manage to bring people on land so that he might see them.

I said I'd have to go home first.

Big Alote said that Niakum and Ashwell and Kofi were his relatives and he'd go and tell them.

I told Otu that they should all turn up next day to meet Bruce and say if they would like to give him the land.

They came next day.

Otu said that he had already got a land on which he worked and that he only came there on account of his mango and cashews. 30

Ashwell said he had other land and land was no good there and he only came for mango and cashews.

Kofi and Niakum said if I wanted to take their land I should give them land elsewhere.

Kofi—A. W. Ashley.

Q. What did you do then ?

A. I took Kofi and Niakum to a different land and gave them land there.

Bruce said he'd thank us for giving him the land and he gave me Big Alote and the people who gave up the land a double flask of gin. 40

Bruce asked if I could point out boundaries of the land of these four people so that I could mark it.

I said I would know it—and I got umbrella tree sticks and I went with Bruce and planted them between myself and these people and Niakum and Okra.

Niakum and Kofi were on one side and I had boundary with them there, then I had another boundary the other side with them, and I put a stick on Otu's corner and another on Okra's and on Ashwell's corner. Ashwell's and Okra's land joined and put a stick there too. 50

Bruce was with me the whole time.

I know Aberekuma road, Big Alote worked on right side of that road going from Accra.

- Q. Who gave Big Alote land there to work ?  
 A. My father.
- Q. Before Big Alote worked there had any one worked there ?  
 A. Yes two people, Okarte from Sempe quarter and Lamppte's son Kwe from Abola quarter Ussher Town.
- Q. Who allowed them to work there ?  
 A. This land belonged to my grandfather Agin and they got permission through my father.
- 10 side ?  
 Q. Before Big Alote worked on right side of road had he worked on left side ?  
 A. He worked before on the Oblogo road.
- Q. Who had allowed him to work there ?  
 A. I don't know.
- Q. It is suggested that it was Big Alote who gave the land to Bruce is it so ?  
 A. I gave the land to Bruce—but the land was my father's property and my father gave to Big Alote the land which he worked. When I gave land to Bruce he began to plant cocoanut trees. I did not give him the land of Anumsa Kwate but the farms of the four  
 20 people I have mentioned.
- Q. Did you see him plant any cocoanut trees on Anumsa Kwate's land ?  
 A. No.  
 Afterwards Bruce made a road from Korley to this land.
- Q. Did you say anything to him about it ?  
 A. Yes. He said he was going to make a road there and I said no because there were farms full of mango and cashew trees. He said he didn't come for that he only want to make a road and if the owners like they could come and pick the cashew and mangoes.
- 30 Bruce planted cocoanut at side of road making an avenue. All those cocoanut trees died.  
 None of the cocoanut trees ever bore.
- Q. How many are living now ?  
 A. Only one and it is dying.
- Q. When Bruce died how many cocoanut trees were there ?  
 A. About six.
- Q. Did Bruce plant any mango or cashew trees there ?  
 A. People who were there before had mango and cashew trees and when the seeds were thrown on ground they grew of themselves.
- 40 Bruce put up a building there.  
 Q. When ?  
 A. I can't say, a long time ago.
- Q. How long after you gave him the land to plant cocoanut trees ?  
 A. While planting the cocoanuts he was building he didn't plant cocoanut in a day.  
 That is the building now standing.
- Q. You only allowed him to plant cocoanut why did you let him build ?  
 A. He said he was going to plant cocoanuts and build a house to  
 50 pass time.
- Q. After you gave land to Bruce did you go anywhere ?  
 A. No. I stayed.

*Defendants' Exhibit.*

9.  
 Copy Proceedings in *Quartey v. Bruce & ors.* before Griffith, C.J., 5th August 1908, continued.

*Defendants' Exhibit.*

9.  
Copy Proceedings  
in *Quartey v. Bruce & ors.*  
before Griffith, C.J., 5th August 1908,  
*continued.*

I have a village on the land one house of 5 rooms.

Q. Had you a house before Bruce came there ?

A. My father's house with a single room was there—but he had died long before Bruce came and I was living there.

Q. Did Bruce ask you for any more land for other purpose ?

A. Yes.

Q. What for ?

A. He said that he wanted to plant cassada and asked me for a place where my pigs wouldn't trouble him and he gave me 2 Ningo people to point out the land to them and I gave the land and they planted cassada. 10  
And cassada was there up to and after his death.

Ankrah saw the cassada.

Q. Did any other person ask also for land for cassada ?

A. I gave somebody else viz. :—Amma and Laingoi Larte.

Subsequently Bruce's lodge came into hand of Ankrah's people.

I was not present at the auction sale of the lodge.

I did not give to Bruce Bampoe's land, only the land of the four people I have named.

Sometime ago Laingoi Larte gave me two of her nephew viz. :—  
Kotoku and Adjin to look after. 20

I took them to the land where I was staying—my house there.

Whilst they were there Kotoku said something.

Q. What did he say ?

He took a walk to Bruce's lodge and he said he had heard that it was going to be sold ; that if I heard place was to be sold I should buy it for him that he might rear stock.

He said he was all right now and he'd be going to Bight and any time I heard that land was to be sold I should go to his aunt Laingoi Larte and that he'd tell her also that I must buy it at any cost for him and apply to his aunt Laingoi Larte for the money. I then went to her and told her 30  
what Kotoku had said and asked her if he had told her and she said yes.

She said I should buy for him and it would be very good if I got it for him.

I then went to Ankrah and asked him if the lodge had been sold or mortgaged to him.

Ankrah went to his room and brought out a " book " and looked into it and said that the lodge had been mortgaged to his late uncle Chief John Quartey.

I told him why I had come to him about it viz. :—What Kotoku said.

Ankrah said he'd be going to Akim and he was proper man to sell 40  
it and he'd sell to whomsoever wished to buy it if debt not paid.

I said if he wished to sell he must let me know so as to get it for Kotoku.

I said if he wanted me he should go to Laingoi Larte who would send for me.

Later on Laingoi Larte sent for me and told me that Ankrah had come and that he was willing to let her have part of house and he'd keep part but she didn't care for that and that he was willing to buy the whole.

Next day she said Ankrah had agreed to sell her whole place, and that they had agreed at £40 and she asked me if it was a fair price. 50

I said if she took into consideration—roof rafters—scantlings and zinc and walls it would come to about £40.

She said if I said it was a fair price should give me the money to pay. She gave it to me and others and we took the money to Ankrah.

Chief John Vanderpuye was present with Ankrah when money paid.

Ankrah said he'd give a receipt and go and consult his people—I took receipt to Laingoi Larte.

I told her that Ankrah was going to consult his family and let her have a paper and she was to let me know when she got the paper.

Laingoi Larte sent for me when she got the paper.

I said it should await arrival of Kotoku.

10 He came.

He cycled to my village and told me he had heard I had got the thing for him as arranged and asked for the receipt—I told him that Laingoi Larte had it.

I saw Laingoi Larte. She said "you have given me some of this land before" that she had not built on the land and therefore she would not give this to Kotoku just now.

I asked her what are we going to tell him that he may stop talking about it.

20 She said that when he asked for papers I should say they had got mixed with her papers.

About three days after Kotoku complained to me.

I said it wasn't my fault because he hadn't put money into my hands that Laingoi Larte had paid the money and therefore I had given her the papers.

Q. After land was sold did anyone go with you to see land ?

A. About three days after Laingoi Larte told me that he had got the document she said she would come and see the land.

30 I was at my village and Laingoi Larte and Ankrah and Vanderpuye, Hammand son in law of Laingoi Larte T. E. Boche, and others came to village to look at land. They asked me for twine—I gave it; they measured the twine and then use it to measure with and the land was measured.

My small son carried a cutlass and hoe and cleared ground when pegs were to be put and they measured right round the land.

Q. Which land ?

A. We measured the land which I gave Bruce for the cocoanuts and house and where I gave him for cassada.

Where there was a tree they marked it.

Q. Are any of the pegs they put down there now ?

40 A. Lately when I went with the surveyor we saw two of them and one tree which had been marked.

Q. What was the land you shewed Laingoi Larte and the others ?

A. The land which Ankrah caused to be measured round.

Q. What you gave Bruce for cocoanuts ?

A. Yes.

Q. And the cassada land too ?

A. Yes that was included in the measuring.

By Court.

Q. There weren't two measurings only one.

50 A. Only one.

Q. Did you include Anumsa Kwate's land ?

A. That was not measured—I said it was not measured.

Defendants'  
Exhibit.

9.

Copy Pro-  
ceedings  
in *Quarley*  
v. *Bruce*  
& *ors.*  
before  
Griffith,  
C.J., 5th  
August  
1908,  
*continued.*

*Defendants' Exhibit.*

Ayiku's was also excluded.  
Bampo's was not included.

Postponed till to-morrow.

W. B. G.

9.  
Copy Proceedings in *Quartey v. Bruce & ors.* before Griffith, C.J., 5th August 1908, *continued.*

IN THE SUPREME COURT OF THE GOLD COAST COLONY held at Victoriaborg, Accra, on Thursday, the 6th day of August, 1908 before His HONOUR SIR W. BRANDFORD GRIFFITH, Knight, Chief Justice.

QUARTE & ORS. }

vs. }

BRUCE & ORS. }

From p. 546.

Papafio for Plaintiff.  
Defendants in person.

10

*Abose Okain ex.—continued.*

Q. Did Laingoi Larte send to you about some land there ?

A. Yes.

Q. About what ?

A. About the houses broken down.

She sent Amorkor and Kowa.

Mills now appears.

\* \* \* \* \*

W. B. G.

*Plaintiff's Exhibits.*

PLAINTIFF'S EXHIBIT.

20

Exhibit " K "—Copy proceedings in *Kumi v. Botu* before Griffith, Chief Justice.

K.  
Copy Proceedings in *Kumi v. Botu* before Griffith, Chief Justice, 2nd February 1909.

IN THE SUPREME COURT OF THE GOLD COAST COLONY, held at Victoriaborg, Accra, on Tuesday, the 2nd day of February 1909, before His HONOUR SIR W. BRANDFORD GRIFFITH, Kt., C.J.

KUMI v. BOTU

From page 460.

Same Counsel.

\* \* \* \* \*

OBOSSO OKAIN s.a.r.b. in Ga.

I come from Vulture Quarter. I am a farmer.

I farm at Opeti Parpo. That land is Ayikain's land.

T. F. Bruce's lodge land is on that land. I gave it to T. F. Bruce.

Q. Whose was Opeti Parpo's land originally ?

A. Ayikain.

Q. Was it any one's before ?

A. Obutu land.

30

Q. How came Ayikain to get this land from Obutu ?

A. When the Akwamus fought the Accras Ayikain had a village at Boburo: the Obutus were then living on the banks of Nsaki; Ayikain wanted to marry daughter of Manche of Obutu and the Manche said he would not refuse but Ayikain must give an elephant with a trunk and a cask of rum. Ayikain said it was not difficult and would sent to Ayigbe. He sent twelve people with powder and tobacco to hunt the elephant. On their way these people had to sleep at Prampram but the Prampram people would not let them sleep there as they were strangers and wanted to  
10 plunder them. So these people had their landlord to leave the house and let the Pramprams come—landlord left and twelve people opened their powder and challenged the Pramprams. Pramprams rushed in and 12 men fired the gunpowder and blew them all up. It was through this that the oath Ayikain Brumbrum (Prampram) came about. Ayikain then got 6 people and sent them to Akwapim to get the elephant with a trunk. They brought the elephant with trunk. The Obutu Manche said that Ayikain was in earnest and was ready to give his daughter, but he said he had no money to settle on daughter.

He gave however 4 women to cook and wash and make kenkey and  
20 6 men to farm the land from Nsaki to Opeti Parpo.

Q. What was done with the land ?

A. They worked on it.

The Manche of Obutu also said that if they had a child the land should go to the children. They had 7 children, 6 girls and 1 boy. When the Obutus settled where they now are they sent some old men to say that they wanted some of the grandchildren of this woman to sit on the stool. One of the grandsons was sent—the son of the one son, i.e. Annan. The son was wanted but he sent his son instead. Then Annan and his sisters' children remained in Accra.

30 I am a son of Abosse who was descended from one of Annan's sisters and that is how I come to be on the land.

I know Namkwe, he is on stool of Obutu now.

He is descended from Annan.

Q. Has anyone ever disturbed you Ayikain's people on that land ?

A. No.

Government wanted part of the land and I sent in my claim. No Ga Manche knew of it.

Q. Do you know boundary between Ga land and Obutu land ?

A. I wouldn't know the boundary between Obutu and land of Accra,  
40 only between Obutu and Doburo.

XXD.

I know Anyan land but not the boundaries.

It is between Nsaki and Opeti Parpo. It is part of the land that Ayikain got. I know Abrekuma land, it is part of the land which Ayikain got. Bawe land I know. It is Obutu and it belonged to Ayikain. I know Twim village. It is on Anyan land on the Obutu road. I know Capt. Owah, he lives on the Obutu road at Twim. I know defendant Botu but not where he lives. Opeti I know; he lives at Anyan land—Obutu land—that was part of land given to Ayikain.

50 Q. Do you know when Opeku went to live on Anyan land ?

A. No.

Q. You do not know his title to the land ?

Plaintiff's  
Exhibit.

K.  
Copy Pro-  
ceedings  
in *Kumi v.*  
*Botu,*  
before  
Griffith,  
Chief  
Justice,  
2nd  
February  
1909,  
*continued.*

*Plaintiff's  
Exhibit.*

K

Copy Pro-  
ceedings  
in *Kumi*  
v *Botu*  
before  
Griffith,  
Chief  
Justice,  
2nd  
February  
1909,  
*continued*

A. No.

I have heard of Okainkwe.

I have heard of Odede Okai as mother of Okainkwe and daughter of Manche of Obutu.

Q. And did you hear that a quantity of Obutu lands thereby became attached to Ga Stool ?

A. Manche of Obutu is under Accra and all lands I named are Accra lands.

Q. Under Accra Stool ?

A. Yes.

10

Q. Did Ayikain hold stool under Ga Stool ?

A. Yes under Stool of Ga Manche.

Q. Did not late Ga Manche collect tolls from Ayan land ?

A. Yes. I have seen him collect tolls once.

Q. Who went to collect tolls there ?

A. He deputed people from his Stool, one from Vulture quarter and one from Sempe, one from Otu Stool, one from Abola, one from Gbese, one from Korle priest to go.

Q. How long before death of late Ga Manche ?

A. Not long before his death.

20

Q. Who was then on Vulture Stool ?

A. Akrong was in charge of Stool—no one was sitting on it.

Ayikain's stool is known as the Vulture Stool.

Q. Are you one of the Vulture Councillors ?

A. I am connected with the Stool.

When the Ga Manche hears cases I go to his Court.

Q. Do you know of a case between defendant and Opeku, or Ayifio or Cheku ?

A. No. I was not there.

When case was later heard at Abeka I was there.

30

I was one of the people who sat on case and I went into council.

Q. Did you join and deliver judgment ?

A. Yes.

*Re-exam.*

Q. At that time did you know that this land was Obutu land ?

A. Yes.

Q. Did you and other councillors say that the land belonged to the Ga Manche's Stool ?

A. Ayikain's Stool is under the Ga Manche's Stool and therefore if there is any other stool created that is also under the Ga Stool.

40

Q. Is your land under the Vulture Stool ?

A. It is under the Ga Manche.

Q. Same question ?

A. It belongs to the Vulture Stool.

Q. If it belongs to the Vulture Stool how comes it to be under the Ga Manche's Stool ?

A. I am in charge of the Stool and the land belongs to the Stool and if land belongs to the Stool and I am under the Ga Manche it is under him.

Q. Has Ga Manche ever collected toll from your land ?

50

A. No. But somebody was deputed under my stool to go and collect tolls from Anyan land.



*By Court.*

- Q. Is Anyan land under Ga Stool then ?  
 A. It is included in my land.  
 Q. Same question ?  
 A. Same answer.  
 Q. Same question and witness warned ?  
 A. It is under my stool.  
 Q. Have you the right to levy tolls on it ?  
 A. It was not done in ancient times but things are done so now.  
 10 Q. Same question ?  
 A. I have a right to collect tolls.  
 Q. Has the Ga Manche the right also ?  
 A. He has a right.  
 Q. Who has the right to collect tolls.  
 A. I have the right.  
 Q. Has the Ga Manche ?  
 A. Yes.  
 Q. Can both of you go and collect tolls ?  
 A. If I am going I have to tell the Manche and he can depute one  
 20 to go.  
 Q. Who gets the tolls ?  
 A. When I bring it to him he takes his share and I take my share.  
 Q. What is his share ?  
 A. He takes Half.  
 Q. Can he take toll from your land ?  
 (Witness hesitates in same way.)  
 A. He has never done so.  
 Q. But he has right to take tolls from Anyan land, can he take from  
 your land ?  
 30 A. He has got the right.  
 Q. When toll was collected from Anyan was any collected on your  
 land ?  
 A. No.  
 Q. Why not ?  
 A. I saw the persons but they never called on me.  
 Q. How do you know that they collected tolls at Anyan ?  
 A. Akrong deputed Ayite to collect. I was not in town at the time.  
 Q. How do you know that Ayite collected from Anyan ?  
 A. When they were returning I followed and Akrong told me  
 40 something.  
 Q. Was not this in time of present Ga Manche ?  
 A. I think that Manche Tackie Tawiak was at the time alive.  
 Q. At that time the land palaver between the Ussher Town Chiefs  
 and Manche Ababio had started ?  
 A. I can't say.  
 Q. Had you not come to my office about some palavers before they  
 went to collect these tolls ?  
 A. No.  
 50 Q. Was that the occasion when Mr. Mettle and the Korle Priest went ?  
 A. Yes Mettle was one—and Korle priest was one—Mettle was one.  
 Q. The Prampram land is also under the Ga Stool ?  
 A. I do not know.

*Plaintiff's  
Exhibits.*

K  
 Copy Pro-  
 ceedings  
 in *Kumi*  
*v Botu*  
 before  
 Griffith,  
 Chief  
 Justice,  
 2nd  
 February  
 1909,  
*continued*

(Admitted  
 that  
 Mettle  
 went after  
 death of  
 Tackie  
 Tawiah).

*Plaintiff's Exhibit.*

K.  
Copy Proceedings in *Kumi v. Botu* before Griffith, Chief Justice, 2nd February 1909, continued.

A. Are the Teshie lands under the Stool of the Ga Manche ?

A. Yes.

Q. Can Teshie Manche sell Teshie lands without consulting the Ga Manche ?

A. I can't say.

I gave land referred to to T. F. Bruce.

Q. None ever questioned your right to give the land to T. F. Bruce ?

A. He was not the only man I gave to, I gave to many others.

Q. But nobody interfered [*sic*] with you ?

A. No. I did not sell the land. I only gave it for farming purposes. 10

Q. Who are the Abrekuma people ?

A. Obutus.

*Through Court by Dove—*

Q. Did Bruce give rum only for the land ?

A. Only rum.

Q. Did you give any of the rum to the Ga Manche ?

A. I was not selling the property. I was only giving it to them to farm on and when they finished to clear out, of the property.

Q. If you had sold would you have given portion of the proceeds to the Ga Manche ? 20

A. Later when the Government came to get the land I informed the Manche.

Q. When Government pays you will you have to give some to Ga Manche ?

A. The money will be paid to me and I shall take it to the Ga Manche.

Q. Will the Ga Manche be entitled to a share of it ?

A. He will divide the money into two and he will take half and give me half.

Q. Is it not only on special occasions that the Ga Manche collects tolls ? 30

A. I have never seen him collecting tolls before. The only time I know is the one time I have seen.

\* \* \* \* \*

Postponed till to-morrow.

(Intd.) W. B. G.

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**PLAINTIFF'S EXHIBIT.**

**Exhibit " J "—Copy proceedings in *Kojo Ababio IV v. T. R. Quartey and Another*, before Gough, Ag. Chief Justice.**

**IN THE SUPREME COURT OF THE GOLD COAST COLONY, Eastern Province, held at Victoriaborg, Accra on the 28th day of October, 1912, before HIS HONOUR MR. JUSTICE F. H. GOUGH, 40 Acting Chief Justice.**

**KOJO ABABIO IV**

*vs.*

**T. R. QUARTEY & ANOR.**

\* \* \* \* \*

**ABOSSEY OKAI—sworn a.r.b. speaks Ga through Court Interpreter.**

J.  
Copy Proceedings in *Kojo Ababio IV vs. T. R. Quartey and Anor.* before Gough, Ag. Chief Justice, 28th October 1912.

*Examined Papafio.*

Come from Akumaji Quarter in Accra.

Caretaker of the Stool.

The Ga Manche recognises me as head of that quarter.

At meetings I attend as head of the quarter.

Akrong was caretaker before me.

Akrong died 1½ or 2 years ago.

I succeeded him as caretaker.

Before Akrong Ayikai was caretaker.

10 I know old Badoo. He was caretaker of Akumaji Stool.

Knew Allotey. He was Sempe Manche.

Anege Acquay succeeded him.

He is in Court. (Identified.)

He is now Manche of Sempe.

Know Kpakpo Brown of Alata Quarter.

I don't know whether he or I is the elder.

As caretaker I have been told where the Akumajis and Sempes came from.

20 My grandfather and grandmother told me that the Akumajis and Sempes came from the interior bush and settled by the sea.

They came with the Gas.

They came and settled in Kingkang (Ussher Town or Dutch Accra).

They lived in Asere quarter near Gbese.

Akumajis and Sempes were Aseres.

I have been told that some time ago the Gas and Obutus at Ayawaso in different places.

The Gas came down here, and the Obutus went to the west.

I know Oblogo village.

I was not at Accra when Oblogo was founded.

30 I know Marko.

Oblogo is not the same as Marko.

Knew the site of Oblogo before it was founded.

I saw Mankrado Allotey at Marko.

The man who begat my father's mother was an Obutu.

I live near Korli Lagoon, on a land called Obetekpakpo.

All that land is now Akumaji Stool land.

It was so formerly.

Ayikai married the woman who begat my father's mother from the Obutu Manche.

40 The Obutu Manche was grandfather to the woman.

The Manche gave this land to his grandfather as a dash.

The land belonged to the Obutu Manche.

Know Gbawe land.

Before Gbawe village was founded, the land belonged to my great grandmother an Obutu.

Gbawe land was then Obutu land.

The site of Oblogo village belonged to Sempe and Akumaji.

*By Court.*

50 The site of Oblogo belonged to the Obutus: that is why the Obutu Manche had power to give it to his granddaughter.

Gbawe village is now occupied by Papachewe people.

I don't know if they got the land by marriage.

*Plaintiff's Exhibit.*

J.

Copy Proceedings in *Kojo Ababio IV vs. T. R. Quartey and Anor.* before Gough, Ag. Chief Justice, 28th October 1912, *continued.*

*Plaintiff's  
Exhibit.*

J.  
Copy Pro-  
ceedings  
in *Kojo  
Ababio IV  
v. T. R.  
Quartey  
and Anor.*  
before  
Gough,  
Ag. Chief  
Justice,  
28th  
October  
1912,  
*continued.*

I know Anya land.

I don't know if Anya people got the land through marriage.

I know Owulaman village.

I never heard it belonged to Obeku's family.

I don't know if it was got from the Obutus through marriage.

Oblogo land became Akumaji and Sempe land from the time it was given to my grandfather.

No one of my ancestors has told me that Akumajis and Sempes put their lands under Alata Stool.

If such a thing had been done, they would have told me. 10

I have not heard from anyone that Sempe and Akumaji lands have been put under Alata Stool.

I have never heard that Alata Manche has been made caretaker of the Sempe and Akumaji lands.

The Plaintiff did not consult me before bringing this action.

I have not heard of his consulting the Sempe Manche.

The latter would have told me of it—he hasn't told me so. I heard of the death of Oblogo Lamptey.

After his death, there was a meeting at the Ga Manche's house, at which all the Manches were present, except the plaintiff. 20

I was there as head of the Akumaji quarter.

The Sempe Manche was there.

It was agreed to send people to enstool Kwartei Kojo as headman of Oblogo.

People were sent.

I was not there when the people were sent.

I didn't go to Oblogo.

I agreed with the rest to sending people to enstool Kwartei Kojo.

They came back and reported they had made him chief and had received a fee, but I was not there when it was shared. 30

I have not heard that in bringing this action the plaintiff is representing the Akumaji and Sempe quarters.

The Akumajis and Sempes have not, so far as I have heard, placed the site of Oblogo village under the Alata Stool.

So far as I know or have been told the Alata Manche has no interest in Oblogo land.

I have heard of the selling of land by Kwartei Gono to S. A. Sackey, but I haven't inspected it.

I have heard that the Government is acquiring the land.

I have heard that the Sempe Manche has sent in a claim. 40

He consulted me before doing so.

I also signed the paper, claiming the land with him.

I don't know if the plaintiff has claimed also in respect of the land.

It does not belong to him : it is Sempe and Akumaji land.

The three quarters in James Town have separate courts.

Know Wiejian land.

It belonged to the Obutu Manche.

Through the woman I mentioned it came to Akumaji and Sempe.

Amanfro land is included in the old woman's land.

The Government is acquiring Wiejian land. 50

The Sempe Manche sent in a claim and consulted me first.

We sent in a joint claim.

I don't know if plaintiff has sent in a claim.

The land doesn't belong to him.

I heard of the Ashaman case.

Many of my elders were there and they looked after the case.

The plaintiff has not to my knowledge sold lands and divided the proceeds with Akumajis and Sempes.

At the meeting appointing Kwartei Kojo, Allotey Wayo was present.

I did not hear that the Ga Manche sent Kwartei Kojo a present as head of Oblogo.

10 *Xcd. Bannerman.*

The late Chief Badoo was my uncle, not my close brother.

I say I am caretaker of Akumajai stool.

I have the stool key.

I preside over the native tribunal.

I held a Court under the Native Jurisdiction Amendment Ordinance.

I held it at Akumaji.

My councillors are Mensah Pappoe, Joseph Nunoo, J. R. Myers, Laryea and Noye.

I signed the first summons and afterwards handed it to Laryea and  
20 afterwards Laryea and J. R. Myers conspired together and said I was not to be told before a paper is signed.

This was about 7 or 8 or 9 months ago.

I signed the first return to the District Commissioners.

After that they conspired and did not allow me to put my name therein.

I did not complain to the District Commissioner.

Mr. Meyer is not recognised by the Government as acting Manche of Akumaji.

No, I don't know that District Commissioner, Accra, recognises him as  
30 acting Manche.

Mr. Myers recognises me as the caretaker. I have the key.

The people of Akumaji who like me follow me when I go to a meeting, those who don't like me, don't.

Mr. Meyer follows me ; it is his place to.

When I went to the meeting about Kwartei Kojo, half my councillors went ; the other half who didn't like to go, didn't.

I called Mr. Nunoo, but he didn't go.

Mensah Pappoe was at Nsawam.

*Q.* Did Laryea go ?

40 *A.* I did not mark that day. I went with a lot of people from Akumaji.

Mr. Meyer did not go.

I have attended meetings at the Ga Manche's house, and Mr. Meyer and Mr. Nunoo were with me.

*Plaintiff's Exhibit.*

J.

Copy Proceedings in *Kojo Ababio IV v. T. R. Quartey and Anor.* before Gough, Ag. Chief Justice, 28th October 1912, *continued.*

Plaintiff's  
Exhibit.

J.

Copy Pro-  
ceedings  
in *Kojo*  
*Ababio IV*  
v. *T. R.*  
*Quartey*  
*and Anor.*  
before  
Gough,  
Ag. Chief  
Justice,  
28th  
October  
1912,  
*continued.*

I have attended meetings about several matters.  
I don't remember a meeting at which it was proposed to sue you,  
Hutton-Mills and the plaintiff.

11 a.m. Court adjourned.

2 p.m. Court resumed.

Same Case and Counsel.

ABOSSEY OKAI—*Xcd. Bannerman contd.*

Remember the case of *Tetteh Quarcoo v. Kpakpo Brown and others.*

I mean I heard of it, but was not present.

I didn't give evidence.

Remember the case of the *Asere Manche v. C. J. Bannerman.*

I gave evidence in that case.

I was downstairs when the case was called.

I don't know that *Tetteh Quarcoo v. Kpakpo Brown* came on just  
before it.

Akrong took no part in *Tetteh Quarcoo's* case.

I did not come the case because I don't know that I was put forward  
as representing Akumaji Stool.

I swear that I had nothing to do with the *Tetteh Quarcoo* case.

I was not subpoenaed.

I was not consulted about the case by Tetteh Quarcoo.

I don't know that Chief Justice Griffith in that case found I did not  
represent Akumaji quarter.

I put no one forward in that case to represent that I was caretaker of  
the Akumaji Stool.

Akumaji and Sempe have the same lands.

Sempe Manche assisted the Akumaji Manche to marry the woman  
from Obutu.

My grandfather when I remember so told me.

The land which I say belongs to the Akumajis and Sempes extends 30  
from Tchoko from palm tree on this side of the lagoon here : thence to the  
base of MacCarthy's hill (Marko) : thence to the meeting of the Sekumo and  
Humo rivers : thence to Lamgba hill near Kokrobite village : thence to  
Jajaraku stream : thence to Odipon market : thence behind the town of  
Obutu to a hill called Apla : thence it passes in front of Nyanao hill  
through Amasaman to Feese : thence it extends behind Ayawaso to Adofa :  
thence to Sotuon : thence to Quashimañg : thence to Obitekpakpo :  
thence to the Korli lagoon which belongs to the Korli family.

The Sempes and Akumajis were with the Accras at Ayawaso and  
Ayikai of Akumaji went from there and asked the Obutu Manche for the 40  
land.

Ayikai got the land before they got to Accra.

The Sempes and Akumajis got this land from the Ubutus while they  
were in the bush.

Ayikai got the land thus.

First the Obutu Manche gave his land to farm.

Ayikai told his brother the Sempe Manche that the Obutu Manche had  
given him a large piece of land to farm on.

He told the Sempe Manche that he thought that if he asked the  
Obutu Manche for his daughter in marriage he would agree. 50

The Sempe Manche told him to try.  
 He tried and he married her.  
 Before he married the Ubutu Manche said to him "I don't want anything from you except a live elephant and a barrel of rum."  
 Ayikai agreed and said he would try.  
 Ayikai sent twelve men to go to Krepe.  
 He gave each man 2 kegs of powder 18 lbs. weight and tobacco.  
 Each man was to sell the tobacco to get food.  
 They started to go and when they got to Prampram they went to  
 10 lodge in a house.  
 They were threatened with being plundered.  
 One man jumped through a window and got as far as we are from  
 the Basel Mission.  
 He heard a noise as of an explosion and they were burnt.  
 He told Ayikai what had taken place.  
 Ayikai got people to go to Prampram and they brought back the  
 bodies of the 11 men.  
 One Fanti man also got burnt.  
 On account of this they claimed 7 men from Ayikai.  
 20 Therefore it became an oath, Ayikai's oath.  
 He got again 6 men and he gave the same powder each and tobacco  
 and sent them to Akwapim.  
 They were away for 3 months and then brought an elephant alive.  
 They then made funeral custom for a week over the 11 dead men.  
 Then Ayikai sent the elephant and the rum to the Obutu Manche.  
*By Court :*  
 My grandfather told me all this.  
 Then the Obutu Manche gave his granddaughter to Ayikai.  
 Then the Obutu Manche selected 12 men who were to farm from  
 30 Nyanao Hii to Obitekpaipo near the lagoon.  
 Peopase land belonged to the Ga people.  
 At this time I cannot say whether the Accras had fought.  
 The Accras were somewhere near Ayawaso.  
 They had not come to the sea.  
 The Portuguese and French people came here.  
 I don't know from which native he got the rum.  
 Before the Sempes and Akumajis came to the coast, they were called  
 Gas.  
 Where Sempes settled, was called Sempe, and where Akumajis settled  
 40 was called Akumaji.  
 They were not called Sempes and Akumajis in the bush.  
 They had got this land long before they came to Accra.  
 They already had Korli Gono land.  
 Bannerman's lodge might not be included in this land for it is on the  
 Pepoase road, land belonging to the Gas.  
 Q. Then you don't say the Akumajis and Sempes are Gas ?  
 A. They were once all one and so they are Gas.  
 The Akumajis and Sempes though Gas have no interest in the Ga  
 lands.  
 50 The Gas have no interest in Akumaji and Sempe lands.  
 The Asere Manche is a Ga man.  
 I have not heard that the Asere Manche gave the Akumajis and  
 Sempes their lands.

*Plaintiff's  
 Exhibit.*

J.  
 Copy Pro-  
 ceedings  
 in *Kojo  
 Ababio IV  
 v. T. R.  
 Quartey  
 and Anor.*  
 before  
 Gough,  
 Ag. Chief  
 Justice,  
 28th  
 October  
 1912,  
*continued.*

Plaintiff's  
Exhibit.

J.

Copy Pro-  
ceedings  
in *Kojo*  
*Ababio IV*  
v. *T. R.*  
*Quartey*  
and *Anor.*  
before  
Gough,  
Ag. Chief  
Justice,  
28th  
October  
1912,  
*continued.*

Marko and Oblogo villages are on Akumaji and Sempe land.

Marko and Oblogo lands are one.

Marko and Oblogo are on the same land.

It is on Marko land.

The Sempes and Akumajis have not so far as I have heard parted with their interest in Marko land.

I have not been told that the land on which Oblogo stands has been given away.

I have not given it away.

I know Gbawe.

10

Gbawe is on a portion of the land given to Ayikai.

The Sempes and Akumajis have not given Gbawe to anybody.

*Q.* Have you heard of the case of *Solomon v. Noye* ?

*A.* I heard there was a case about Marko land.

I came and found Marko village ruined.

I did not enquire.

I heard there was a case about it.

My uncle Chief Badoo would know more about Stool affairs than myself.

*Q.* If he stated that Marko land belonged to the Asere Manche would it be true ?

*A.* I don't know.

I have not heard of Marko belonging to Papachewe people.

I knew Oblogo Lamptey.

Akumajis and Sempes have not so far as have heard given Oblogo land to him.

*Q.* Would you be surprised to know that Oblogo Lamptey has willed the land and village to Ankrah ?

*A.* I have not heard it.

He would not have the right to give it away.

30

I have heard of the case of *Hammond v. Ababio IV and another.*

I did not apply to be joined as a co-defendant : I was summoned as a witness.

The case was about Akumaji-Sempe land.

It was about late Akoto land.

Hammond is Asere Manche.

I don't know if Akrong and the Sempe Manche came and asked to be made co-defendant.

They did not speak to me about it.

The bailiff in giving me the subpoena said I was summoned at the Crown.

I was told it was at the instance of Hammond.

I did not know what evidence Hammond wanted me to give.

*Q.* If you had been called would you have said that Latebiokor did not belong to Hammond ?

*A.* I would have explained that he had no interest in that land. I heard Hammond was claiming that land.

I knew that Hammond also summoned Anege Acquay.

He was not called to give evidence.

*Q.* Do you know why you were not called ?

50

*A.* I don't know.

I see Kwartei Kojo sitting there.



Oblogo didn't belong to Oblogo Lamptey.

Know T. R. Quartey.

Marko land at no time belonged to him.

It never belonged to Papachewe family.

Gbawe never belonged to Papachewe family.

In James Town there are three quarters.

I have met Kojo Ababio.

I knew him as Manche.

He was known as James Town Manche.

10 He stood on his quarters : Akumaji in his, and Sempe in his.

I did not see him represent the other quarters.

I remember the Vlo-Dofu war (1870).

The Alatas and Akumajis and Alatas went.

Kojo Ababio did not lead them.

Badoo commanded the Akumajis.

Anege led the Sempes.

Kofi Oku may have led the Alatas : it was in his time.

I don't know that the James Town Manche stood for all James Town in political matters.

20 I have seen Ababio IV in a palanquin.

Q. Did the Akumajis and Sempes then recognise him as their head ?

A. These were all one then : since the stone there has been a split.

Everyone was vexed and are no more brothers.

Before they ceased to be brothers, he was neither the head of Sempe or Akumaji.

I don't know who was the senior of the three.

I don't know if there was a senior.

I can't say if Kojo Ababio IV was the head, I don't know that before the split, the Government recognised plaintiff as the head.

30 I don't know of James Town lands : I knew of Akumaji and Sempe lands.

I don't know any land called James Town land.

I have not heard if Kojo Ababio's stool has any lands in Accra.

Q. If Badoo speaks of James Town lands and says they belong to Ababio, is that true ?

(Mr. Papafio says he is willing that all Badoo's evidence should go in. Mr. Bannerman agrees if whole proceedings go in. Mr. Papafio does not consent.)

(Question withdrawn.)

40 I know the late Kojo Ababio III.

Q. During his time and during plaintiff's time up to the split, was there not only one Court for James Town ?

A. I don't know. The Akumajis had a Court : The Sempes might have had one.

Q. Was there not before the split and the Native Jurisdiction Ordinance only one Court being Kojo's Court ?

A. No. I used to decide cases in Akumajis quarters. Big matters from Akumaji quarter were not taken to the Court of Kojo Ababio.

I remember being charged with putting a man in a fetish.

50 I did not take the case before Kojo Ababio.

Q. How many Manches are entitled to sit in palanquins ?

A. The Manchemei do not go in palanquins.

Plaintiff's  
Exhibit.

J.

Copy Pro-  
ceedings  
in *Kojo  
Ababio IV  
v. T. R.  
Quartey  
and Anor.*  
before  
Gough,  
Ag. Chief  
Justice,  
28th  
October  
1912,  
*continued.*

*Plaintiff's Exhibit.*

J.  
Copy Proceedings  
in *Kojo Ababio IV v. T. R. Quartey and Anor.*  
before  
Gough,  
Ag. Chief Justice,  
28th  
October  
1912,  
*continued.*

If anyone gets money, and wants to he can go in a palanquin, Kojo Ababio IV is a Manche man.

He sits in a palanquin, because he has the money.

Q. Did not the Ga Manche charge plaintiff a fee for going in a palanquin ?

A. I have only seen one man in a palanquin, i.e., plaintiff.

4 p.m. Court adjourned.

28 Octr. 1912.

29.10.1912.

IN THE SUPREME COURT OF THE GOLD COAST COLONY, 10  
EASTERN PROVINCE, held at Victoriaborg, Accra, on the 29th  
day of October, 1912, before HIS HONOUR Mr. JUSTICE F. H. GOUGH,  
Acting Chief Justice.

KOJO ABABIO IV.

*vs.*

T. R. QUARTEY & ANOR.

*Contd.*

Plaintiff went into the palanquin before the stone throwing (February 1910).

When he went into palanquin, all James Town were united and one. 20  
I was not there and can't say if all joined in the ceremony.

We all went to the ceremony.

I have heard of Weche Kojo.

Weche Kojo was not the senior Manche in James Town.

I have not been told he is recognised as the senior.

I have not heard that his descendants were recognised as the principal chiefs in James Town.

The occupant of the stool of Weche Kojo has not, so far as I have heard anything to do with the lands I say are Akumaji and Sempe lands.

I have not been told that he has anything to do with the lands. 30

I have not been told that he sold any or worked on any.

I have heard that the Akumajis and Sempes have complained that plaintiff is selling their lands.

The Akumajis and Sempes have spoken to plaintiff about it.

We spoke to him and also wrote.

I remember joining in writing a letter to him about land.

It was after the stone throwing.

(A letter is translated to the witness.)

I was one of the writers.

We have written him several letters. 40

I have not heard that he dealt with our lands.

We told him to take his hands off the lands.

He had taken them himself: no one had given them to him.

He had taken away our lands and was selling them.

We went and spoke to him about it.

This was after the stone throwing.

The time we were ordered to go to Korli Gono was the time he began selling the lands (1908).

Before then he was not selling Korli Gono lands.

I have heard that 17 years ago he sold a portion of Korli Gono land to S. A. Sackey. *Plaintiff's Exhibit.*

I heard this first about 2 years ago.

When I returned from the Bights, I heard that King Solomon had fought the Aseres for Marko land.

My fathers talked about it : I was a boy.

I was then so high.

(Indicates the height of a boy of 15.)

I don't know if I am older than you.

10 I knew your father.

I remember the first Krobo war (1858).

I was a boy and carried my father's things to the war.

(Mr. Bannerman says he was born in 1861.)

I don't know if the fight about the Marko took place 32 years ago. I am not a scholar and I wasn't there.

When I heard of the fight, I had not yet a wife.

I had not worked enough to get married.

Remember K. Tackey being taken to Elmina (1880).

I had not then a wife and had had no child.

20 I now have children.

Not being a scholar, I can't say how long it was after Tackey was taken to Elmina that I had a child.

I can't say if at the time I was in Accra or at the Bights.

I had a son called Kroote, who is dead.

Not being a scholar I can't say if he was born before Tackey was taken to Elmina.

I don't think I was in Accra when he returned.

I was still working at the time of the Herring Riot.

I hadn't a child.

30 I have now 3 grandchildren.

Weijian land is Obutu land. It is included in Obutu land.

Weijian land is occupied by Alatas.

I have heard of Amanfro, but haven't been there.

I heard that Alatas lived at Amanfro.

I heard that they founded it.

*Re-vid. Papafio—*

By Stool key I meant stool room key.

The last time we repaired the room, Akrong and myself paid for it.

40 Mr. Meyers has no connection with Akumaji Stool, he was born in the stool house.

His grandmother was Ayikai's slave.

She was bought by Agin.

When the Native Jurisdiction Ordinance came into force all we chiefs went to the District Commissioner for papers.

For the Akumaji, Akrong and myself received papers.

Akrong is dead.

I told the Sempe Manche and the Ga Manche about the conduct of Laryea and Meyers.

50 When the Manches are called by Government I am summoned for the Akumajis.

I have the stool room key with me.

Meyers has never been in charge of the stool.

He has never been the head of the Akumaji people.

J.  
Copy Pro-  
ceedings  
in *Kojo*  
*Abadio IV*  
v. *T. R.*  
*Quartey*  
*and Anor.*  
before  
Gough,  
Ag. Chief  
Justice,  
28th  
October  
1912,  
*continued.*

Plaintiffs'  
Exhibit.

Copy Pro-  
ceedings  
in *Kojo*  
*Ababio IV*  
v. *T. R.*  
*Quartey*  
*and Anr.*  
before  
Gough,  
Ag. Chief  
Justice,  
28th  
October  
1912,  
*continued.*

While I was with Akrong here, he didn't go to Court.  
I can't say if he came to Court and gave evidence while I was at the village.

I and the Sempes have never given the site of Oblogo village to plaintiff.

I and the Sempes have not put it under plaintiff's stool.

I and the Sempes have not asked him to take care of the land.

I and the Sempes have not authorised plaintiff to start this action.

I have not been told that the ancestors of the Akumajis and Sempes put their lands under the stool of Weche Kojo. Weche Kojo's stool 10 has not, so far as I have been told, any interest in Oblogo land.

Uncle Badoo was known as J. H. Badoo.

I knew Akramah, Asere Manche.

If Badoo said that Marko land did not belong to plaintiff's stool, I agree.

If Badoo said that the Alata stool has some land across the Sakoom, but not this side, I agree for I have not heard that Alata stool has land this side.

When Ayikai married the Obutu woman, he was to farm from Doblo and Okusibiade to Obetekpakpo on the lagoon. 20

The land of which I gave boundaries yesterday was Obutu land, and of this land a portion was given to Ayikai.

When I said yesterday the Sempe had no interest in Ga land though they were Gas, I referred to those Sempes who were Obutu and farmed on the land I have just mentioned, but the rest of the Sempes are Gas and have an interest in Ga lands, because they were living with the Gas before.

Marko village is called after a person.

Before the village was founded, the land had no particular name. The village was called after the man who went there, one Nma.

Oblogo village is not on the top of Marko village. 30

When I was born, Gbawe village was in existence, and in the occupation of Papachewe people.

Gbawe means House of the Prophets or Tetish Town.

I don't know that the Obutus called Bama.

Q. In your life time who was the principal Manche in British Accra ?

A. Sempe is over Akumaji : Alata is a stranger.

Alata Manche is the youngest.

When plaintiff got into his palanquin the other Manches from Ussher Town and James Town took part in the ceremony and in the drink.

I and Sempe Manche went and drank. 40

Knew Ababio III.

I used to be sent by my grandfather to him.

It is not customary for Manche in Accra to go in palanquin.

Going in palanquin is a Twi, not a Ga custom.

I heard of the plaintiff : selling lands 2 years ago.

Akrong was alive ; he died 2 years ago.

I cannot say if it was before or after Tetteh Quarcoo's case that I heard of plaintiff selling land.

Weijian land is only occupied by Alatas.

There is a Sempe woman and her children there. 50

I seldom go there.

I don't know how the Alatas came to live there.

\* \* \* \* \*

11.15 Court adjourned.

## DEFENDANTS' EXHIBIT.

Defendants'  
Exhibit.

Exhibit " 4 "—Indenture made between Obose Okai and Titus Glover.

Gold Coast  
One Pound  
Stamp Duties.

4.  
Indenture  
made  
between  
Abose Okai  
and Titus  
Glover,  
30th  
September  
1920.

THIS INDENTURE made this 30th day of September in the year of our Lord One thousand nine hundred and twenty (1920) Between ABOSE OKAI of Akamaiaje Quarter a sub-division of the Ga Division of the Accra District of the Eastern Province of the Gold Coast Colony West Coast of Africa (hereinafter called the Donor which term when the context permit shall include his heirs successors executors administrators and assigns) of the one part and TITUS GLOVER of Accra in the Ga Division of the Accra District of the Eastern Province of the Gold Coast Colony West Coast of Africa (hereinafter called the Donee which term when the context allows shall include his heirs successors executors administrators and assigns) of the other part Whereas the Donor for the love and affection which he hath and bear for and towards him the Donee herein and for the sum of Twelve Pounds (£12.0.0) sterling paid and for other diverse considerations hath offered to the Donee by way of Gift All that piece or parcel of land situate lying and being at Obitey-Kpakpo Accra District aforesaid and bounded on the North by the property of Messieurs Quarteylai and others on the South by Pathway from Oblogo Road to Villages on the East by the property of Madam Okayley and on the West by the property of Boye and measuring on the North One hundred and ninety eight feet (198'-0") on the South One hundred and ninety eight feet (198'-0") on the East One hundred and thirty two feet (132'-0") and on the West One hundred and thirty two feet (132'-0") And whereas the Donee hath consented and agreed to accept take and receive the said property Now this Indenture Witnesseth that in consideration of the premises above mentioned and for the love and affection which he hath for the Donee also for the sum of Twelve Pounds (£12.0.0) sterling and other diverse considerations the Donor doth hereby grant convey and make over unto the Donee his heirs successors executors administrators and assigns All that piece or parcel of land with the things thereon (if any) situate lying and being at Obitey-Kpakpo Accra aforesaid and bounded on the North by the property of Messieurs Quarteylai and Others on the South by Pathway from Oblogo Road to villages on the East by the property of Okarley and on the West by the property of Boye and measuring on the North one hundred and ninety eight feet (198'-0") on the South one hundred and ninety eight feet (198'-0") on the East one hundred and thirty two feet (132'-0") and on the West one hundred and thirty two feet (132'-0") or howsoever otherwise the same may be bounded described distinguished measured or known which said piece or parcel of land with the things thereon (if any) is more particularly described and delineated on the plan hereto attached and thereon marked " A " together with all rights title and interest of the Donor and all liberties privileges easements and appurtenances whatsoever to the said piece or parcel of land and hereditaments and premises belonging or in anywise appertaining or usually held or occupied therewith or reputed to belong to or be appurtenant thereto And All the estate right interest claim and demand whatsoever of him the said Donor in to and upon the said premises and every part thereof To

Defendants' Exhibit.  
4.  
Indenture made between Abose Okai and Titus Glover, 30th September 1920, continued.

Have and to Hold the hereditaments and premises hereby granted or expressed so to be Unto and to the Use of the Donee his heirs successors executors administrators and assigns Forever and the said Donor doth hereby for and on behalf of himself his heirs successors executors administrators and assigns covenant with the Donee his heirs successors executors administrators and assigns that notwithstanding any act deed or thing by him done or executed or knowingly suffered to the contrary he the said Donor hath good right and title to grant the hereditaments and premises hereby granted and conveyed or expressed so to be unto and to the use of the Donee his heirs successors executors administrators and assigns in manner aforesaid and also that the Donee his heirs successors executors administrators and assigns shall and may at all times hereafter peaceably and quietly possess and enjoy the said hereditaments and premises hereby granted without any lawful eviction interruption claim or demand whatsoever from or by the said Donor or any person or persons lawfully or equitably claiming any estate or interest in the said hereditaments and premises or any part or parts thereof from under through or in trust for him the said Donor shall and will at all times hereafter at the request and cost of the Donee his heirs successors executors administrators and assigns do and execute or cause to be done and executed all such acts deeds and things whatsoever for further and more perfectly assuring the said hereditaments and premises and every part thereof unto and to the use of the Donee his heirs successors executors administrators and assigns in manner aforesaid as shall or may be reasonably required.

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 Abose Okai after the contents of this Indenture had been read over interpreted and explained to him in the Ga language by Sam Codjoe Sackey and he seemed perfectly to understand the same before making his mark and affixing his seal thereto in the presence of the undersigned witnesses :

(Sgd.) SAM CODJOE SACKEY

ABOSE OKAI his X L.S. mark 30

ABOSE BOI his X mark 40

ADJEEYE BI TEIKO his X mark.

Signed Sealed and Delivered by the the said Titus Glover in the presence of the undersigned witnesses

(Sgd.) TITUS GLOVER L.S.

ISAAC FISCIAN his X mark. 50

(Sgd.) SAM. CODJOE SACKEY.

*Defendants'*  
*Exhibit*

---

4.

Indenture  
made  
between  
Abose Okai  
and Titus  
Glover,  
30th  
September  
1920,  
*continued.*

*Defendants' Exhibit.*

4.

Indenture  
made  
between  
Abose Okai  
and Titus  
Glover,  
30th  
September  
1920,  
*continued.*

In accordance with section 18 of The Stamp Ordinance of 1889 I certify that in the opinion of the Commissioners of Stamps this Instrument is chargeable with a duty of One Pound.

(Sgd.) ALEX KONUAH,

Commissioner Stamps.

L.S.

Commissioner of Stamps Office,  
Accra. 2nd October, 1920.

*Plaintiff's Exhibit.*

"A."

Public  
Notice  
over the  
name  
Ayikai II,  
Akan-  
maidse  
Mantse,  
5th  
August  
1922.

**PLAINTIFF'S EXHIBIT.**

**Exhibit "A"—Public Notice over the name of Ayikai II, Akanmaidse Mantse.**

10

**PUBLIC NOTICE.**

The General Public is hereby informed that all that piece or parcel of land situate and lying at Accra, commonly known and described as "OBETEY KPARKPOE" is property attached to the Stool of Akanmaidse. No part or portion of the said property nor any estate right or interest therein can be lawfully disposed of by sale, mortgage, lease, gift or otherwise by any person or persons except by the Mantse of Akanmaidse with the consent of his Councillors.

Any disposition of part or portion of the said property and of any estate right or interest therein by any person or persons claiming or professing to have right to do so without the knowledge and concurrence of the said Mantse and his councillors is unlawful and of no validity and all persons claiming to have acquired any estate right or interest in the said property or any part or portion thereof from any person or persons other than the Akanmaidse Mantse, and his Councillors are hereby particularly notified that their claims are not recognised.

AYIKAI II.,

Akanmaidse Mantse.

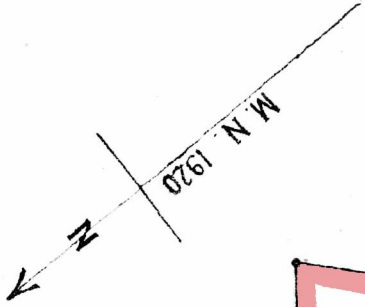
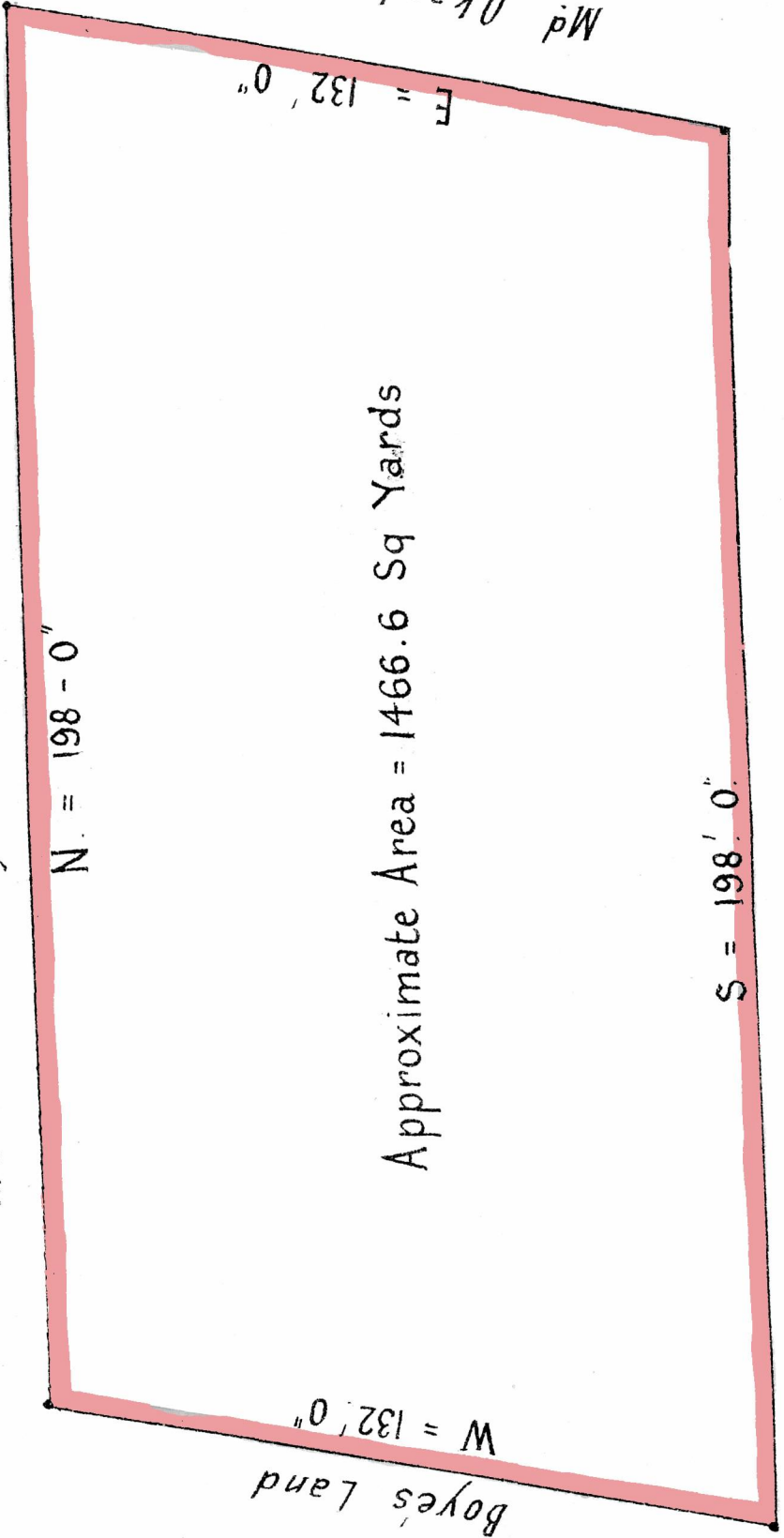
Accra 5th August 1922.



Plan shewing property belonging to  
Mr Titus Glover situated at White Spakpo  
near Accra

Scale, 25 Ft = 1 inch

Messrs Quarteylai & Ors



Md Okarley's Land

Boys' Land

Pathway from Oblogo Road to Village

John Allotey  
Surveyor.

## DEFENDANTS' EXHIBIT.

Exhibit "7"—Letter for Obossey Okai and Others to Sarah Addo.

From P. A. Renner.

Awoonor Chambers,  
Accra.  
P.O. Box 109,  
30th May, 1927.

Madam,

10 It has been reported to me that you are erecting a building on part of the land for which I gave one Yomofio and Adjeibu Okai licence to occupy and work. I beg to notify you to desist from erecting or building or in any way interfering with my tenants' rights as granted by me to the land.

I am,

Yours faithfully,

(Sgd.) PET : AW : RENNER,

Solicitor for ABOSSEY OKAI,  
YOMOFIO & ADJEIBU OKAI.

20 Miss Sarah Addo,  
Bannerman Road,  
James Town,  
Accra.

Defendants'  
Exhibit.

7.  
Letter for  
Abossey  
Okai and  
Others to  
Sarah  
Addo,  
30th May  
1927.

## DEFENDANTS' EXHIBIT.

Exhibit "5"—Indenture made between Obossey Okai and Agnes Tettehkai Ayiku.

No. 558/1928.

Gold Coast.

One Pound.

Stamp Duties.

569/28.

5.  
Indenture  
made  
between  
Abossey  
Okai and  
Agnes  
Tettehkai  
Ayiku,  
28th  
January  
1928.

30 THIS INDENTURE made the 28th day of January in the year of Our Lord One thousand nine hundred and twenty eight Between ABOSSEY OKAI of Akumajay Quarter James Town Accra now residing at Obete Kpakpo near the Korley Lagoon Accra in the Eastern Province of the Gold Coast Colony (hereinafter called the Donor which expression where the context so admits shall include his heirs executors administrators or assigns) of the one part and AGNES TETTEHKAI AYIKU of Accra in the Province and

*Defendants'*  
*Exhibit.*

5.

Indenture  
made  
between  
Abossey  
Okai and  
Agnes  
Tettehkai  
Ayiku,  
28th  
January  
1928,  
*continued.*

Colony aforesaid (hereinafter called the Donee which expression where the context so admits shall include her heirs executors administrators or assigns) of the other part Whereas the Donor is seised in fee simple free from encumbrances of the land and hereditaments hereby assured And whereas the Donor is desirous of making a gift of the said property to the Donee and her heirs Now this Indenture Witnesseth that for effectuating his said desire and in consideration of the natural affection which the Donor hath for the Donee and in consideration of the sum of Twelve Pounds (£12) paid by the Donee to the Donor (the receipt whereof the Donor acknowledges) He the Donor as Beneficial owner hereby 10 grants unto the Donee all that piece or parcel of land situate lying and being at Abose Okai a village on the North side of the Korle Lagoon Accra bounded on the North by footpath to Wieghian on the South by open property on the East by open property and on the West by Dorothy Oyiwon Kotey's property and measuring on the North One hundred and thirty-two feet (132'-0") on the South One hundred and thirty-two feet (132'-0") on the East One hundred and thirty-two feet (132'-0") and on the West One hundred and thirty-two feet (132'-0") more or less which said hereditaments are for the better identification thereof delineated on the plan annexed to these presents and thereon coloured Red together with all 20 fixtures rights easements advantages and appurtenances to the said land and hereditaments expressed to be hereby granted appertaining or with the same hold or enjoy or reputed as part thereof or appurtenant thereto And All the estate right title interest claim and demand of the Donor in to and upon the said premises or any part thereof To Have and to Hold the same Unto and to the Use of the Donee her heirs and assigns And the said Donor doth hereby for himself his heirs executors and administrators covenant with the said Donee her heirs and assigns that notwithstanding anything by him the said Donor or any of his ancestors done or knowingly suffered to the contrary he the said Donor now hath full power to grant 30 all and singular the said premises hereinbefore expressed to be granted to the uses hereinbefore declared And that the same premises shall at all times remain and be to the uses hereinbefore declared and be quietly entered into and upon and held and enjoyed and the rents and profits thereof received by the said Donee her heirs and assigns accordingly without any lawful interruption or disturbance by the said Donor or his heirs or any person lawfully or equitably claiming through or in trust for him them or any of them or through or in trust for any of his ancestors And that free and discharged from or otherwise by the said Donor his heirs executors or administrators sufficiently indemnified against all 40 estates incumbrances claims and demands created occasioned or made by the said Donor or his heirs or any person lawfully or equitably claiming through or in trust for him them or any of them or through or in trust for any of his ancestors And further that the said Donor and his heirs and every person having or lawfully or equitably claiming any estate or interest in or to the said premises or any of them through or in trust for him the said Donor or his heirs or through or in trust for any of his ancestors will at all times upon the request and at the cost of the said Donee her heirs or assigns execute and do every such lawful assurance and thing for the further or more perfectly assuring all or any of the said premises to the uses 50 hereinbefore declared as by the said Donee her heirs or assigns shall be reasonably required.

In Witness whereof the said parties hereto have hereunto set their respective hands and seals the day and year first above written. *Defendants' Exhibit.*

10 Marked Signed Sealed and Delivered by the Donor after same had been read over and interpreted to him in the Ga language by E. K. R. Lamptey when he seemed perfectly to understand the same before making his mark thereto in the presence of :—

ABOSSEY OKAI

his  
X  
mark.

L.S.

5.  
Indenture made between Abossey Okai and Agnes Tettehkai Ayiku, 28th January 1928, continued.

(Sgd.) E. NEE ARMAH TAGOE.

Marked Signed Sealed and Delivered by the said Donee after the foregoing had been read over and interpreted to her in the Ga language by Nee A. Tagoe when she seemed perfectly to understand the same before making her mark thereto in the presence of :—

AGNESS TETTEHKAI AYIKU.

L.S.

20 (Sgd.) E. J. NEE ARMAH TAGOE.

I AGNESS TETTEHKAI AYIKU to whom this deed of gift has been granted by NEE ABOSSEY OKAI his elders and councillors of Akanmadje Quarters faithfully promise that I will not in any way secure myself with that deed of gift or dispose of it by way of mortgage.

I further promise that in case circumstances shall compel me to use the said deed of gift in this way the attention of Nee Abossey Okai his elders and councillors of the said quarters will be called.

30 Marked Signed Sealed and Delivered by the said Donor after the foregoing had been read over and interpreted to him in the Ga language by E. K. R. Lamptey when he seemed perfectly to understand the same before making his mark thereto in the presence of :—

ABOSSEY OKAI.

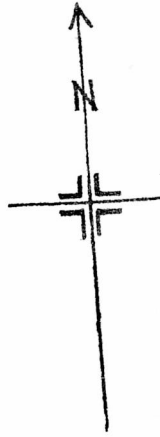
(L.S.)

(Sgd.) E. J. NEE ARMAH TAGOE.

*Defendants'*  
*Exhibit.*

5.

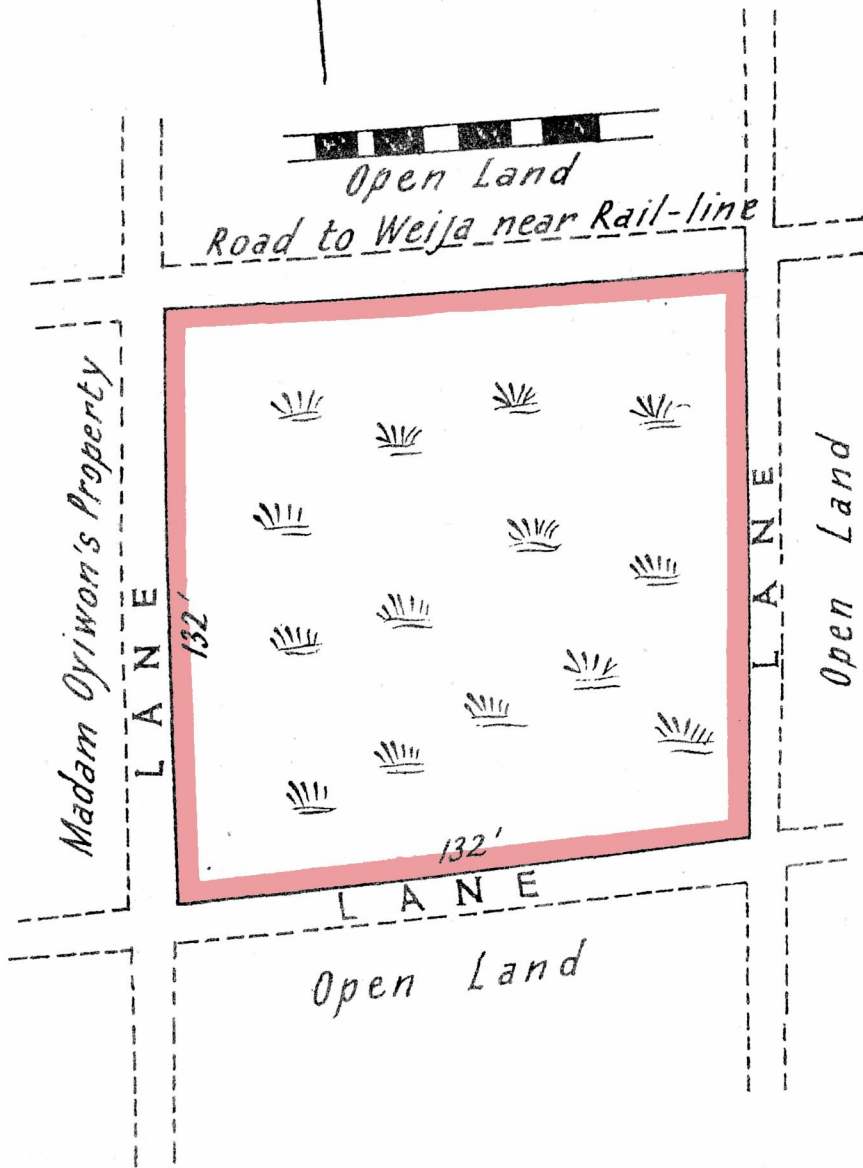
Indenture  
made  
between  
Abossey  
Okai and  
Agnes  
Tetteh Kai  
Ayiku,  
28th  
January  
1928,  
*continued.*



*Madam Tetteh-Kai's  
property situated at  
Abalsey Okai*



*Open Land  
Road to Weija near Rail-line*



Marked Signed Sealed and Delivered by the said Donee after the foregoing had been read over and interpreted to her in the Ga language by Nee A. Tagoe when she seemed perfectly to understand the same before making her mark thereto in the presence of

AGNES TETTEH KAI  
AYIKU

her  
X  
mark

L.S.

*Defendants' Exhibit.*

5.

Indenture made between Abossey Okai and Agnes Tettehkai Ayiku, 28th

January 1928, *continued.*

(Sgd.) E. J. NEE ARMAH TAGOE.

10 On the 6th day of October 1928 at 9.45 o'clock in the forenoon this Instrument was proved before me by the oath of the within named Emmanuel Jacobson Nee Armah Tagoe to have been duly executed by the within named Abossey Okai.

(Sgd.) R. J. MANNING,  
Ag. Registrar of Deeds.

In accordance with section 18 of the Ordinance of 1889 I certify that in the opinion of the Commissioners of Stamps this Instrument is chargeable with a duty of One Pound.

(Sgd.) ?

Commissioner of Stamps.  
L.S.

20

Commissioner of Stamps Office,  
Accra.

25.2.1928.

GOLD COAST LAND REGISTRY.

Registered as No. 558/1928 on pages 34 to 37 of Book No. 8 of 1928.

(Sgd.) R. J. MANNING,  
Ag. Registrar of Deeds.



*Defendants' Exhibit.*

**DEFENDANTS' EXHIBIT.**

Exhibit " 8 "—Copy proceedings in Adjeibu Okai v. Sarah Addo, etc., before Hall, J.

8.  
Copy proceedings in Adjeibu Okai v. Sarah Addo, &c. before Hall, J, 21st May 1929.

IN THE SUPREME COURT OF THE GOLD COAST COLONY, Eastern Province, held at Victoriaborg, Accra, on Tuesday, the 21st day of May, 1929, before HIS HONOUR MR. JUSTICE ROGER EVANS HALL

ADJEIBU OKAI  
v.  
SARAH ADDO

} Transferred Case.

and

YEMOFIO AKUA  
v.  
SARAH ADDO

} Transferred Case.

10

Lokko for Renner for Plaintiff in each case.

Coussey for Defendant in each case.

Lokko states no instructions—not able to trace brief in Renner's Office.

*By Court—*

[sic] These cases must be struck out—pending since August, 1927. Mr. Renner has left no instructions. There *has* been numberless adjournments.

20

Costs to Defendant to be taxed in each case.

(Sgd.) R. E. HALL,  
J.

Certified true Copy.

(Sgd.) ROBERT A. BANNERMAN,  
Registrar,  
Divisional Court,  
Accra.





## DEFENDANTS' EXHIBIT.

Exhibit " 6 "—Indenture made between Abossey Okai and J. O. Amartey.

3777/29.

*Defendants'*  
*Exhibit.*

6.

Indenture  
made  
between  
Abossey  
Okai and  
J. O.  
Amartey,  
23rd  
September  
1929.Gold Coast  
Five Shillings  
Stamp Duties.

THIS INDENTURE made this 23rd day of September One thousand nine hundred and twenty-nine (1929) Between ABOSSEY OKAI of Accra in the Gold Coast Colony West Africa (hereinafter called the Vendor which expression where the context so admits shall include his heirs personal representatives and assigns) of the one part and J. O. AMARTEY of Accra 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 is seised in fee simple free from incumbrances and possessed of and otherwise well entitled to the hereditaments hereby intended to be conveyed and Whereas the Vendor has agreed with the Purchaser for the absolute sale to him the Purchaser for the sum of Fourteen pounds (£14) for the hereditaments and premises hereby conveyed Now this Indenture Witnesseth that in pursuance of the recited agreement and in consideration of the sum of Fourteen pounds (£14) now paid by the Purchaser to the Vendor (the receipt whereof the Vendor doth hereby acknowledge) he the said Vendor as sole and absolute owner doth hereby grant and convey unto the Purchaser all that piece or parcel of land situate lying and being at Obete Kpakpo Accra aforesaid and bounded on the North by foot path leading to Madam Langoye Lartey's village measuring sixty-six feet (66' 0") more or less on the South by a Lane and Kpabibi Allotey's land measuring sixty-seven feet (67' 0") more or less on the East by Captain Ayikuma Father's property measuring one hundred and fifty-nine feet (159' 0") more or less and on the West by T. F. Bruce's property measuring One hundred and thirty-seven feet (137' 0") more or less which piece or parcel of land is more particularly delineated on the plan attached to these presents Together with all rights ways liberties advantages and appurtenances whatsoever to the said hereditaments and premises expressed to be hereby granted belonging or in anywise appertaining or usually held occupied or enjoyed therewith or reputed or belonging thereto and all the estate rights title interest claim and demand whatsoever of the Vendor in to and upon the said hereditaments and premises expressed to be hereby granted and every part thereof To Have and to Hold the same Unto and to the Use of the Purchaser his heirs personal representatives and assigns for ever the Vendor for himself his heirs personal representatives and assigns doth hereby covenant with the Purchaser that notwithstanding any act or thing by the Vendor done executed or knowingly suffered to be done to the contrary He the Vendor now hath good right title and full power to grant and convey the freehold hereditaments and premises hereinbefore expressed to be hereby conveyed unto and to the use of the Purchaser free from incumbrances and in manner aforesaid And that the Purchaser shall and may at all times hereafter peaceably and quietly enter possess and enjoy the said hereditaments and premises without any lawful eviction interruption claim or demand whatsoever by the Vendor or any person or persons lawfully or equitably claiming any estate or interest

*Defendants'*  
*Exhibit.*

6.

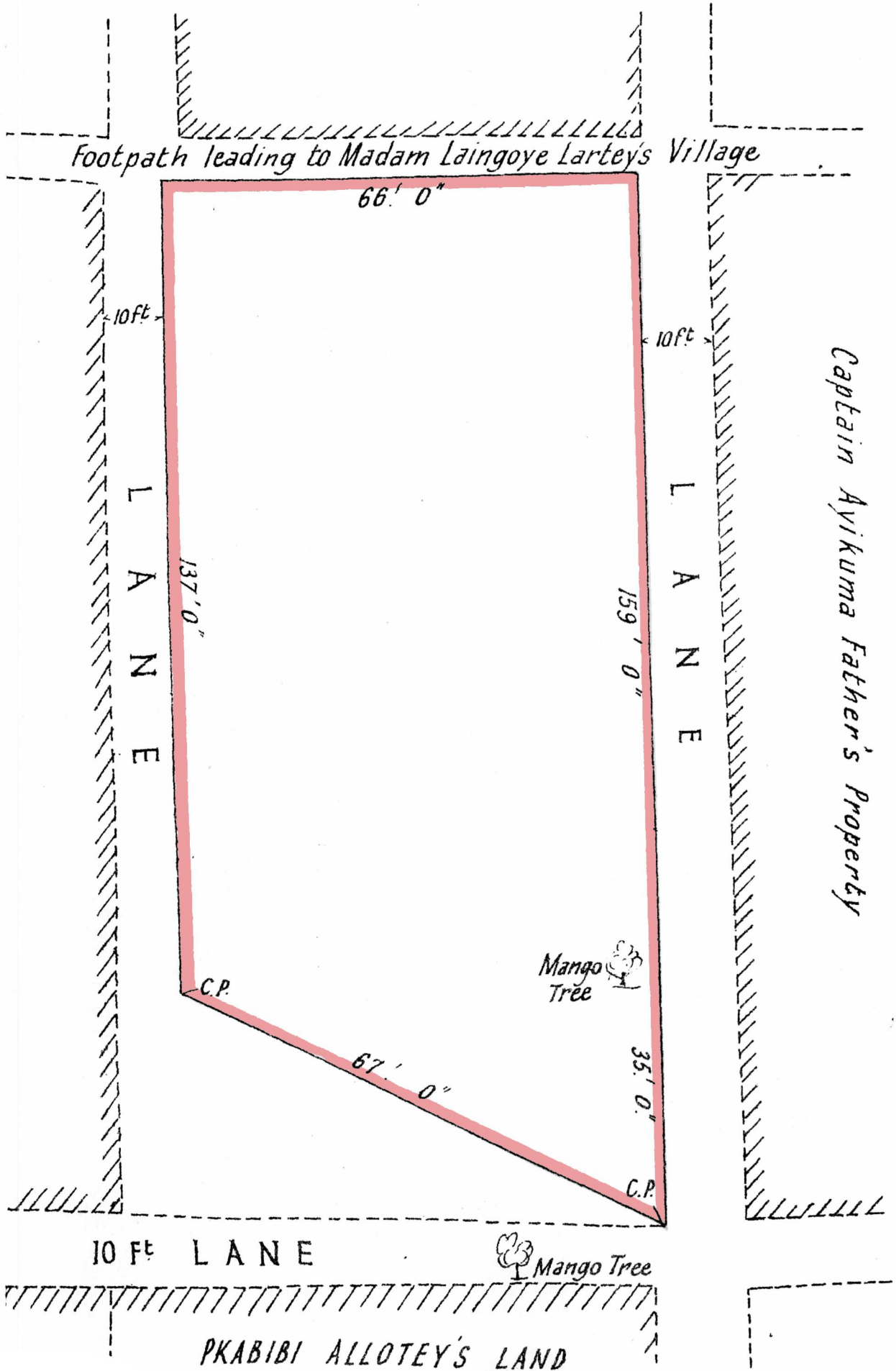
Indenture  
made  
between  
Abossey  
Okai and  
J. O.  
Amartey,  
23rd  
September  
1929,  
*continued.*

Exhibits

*Plan of Property referred to situate at  
Obetepakpo - Aborsey Okai Township - Accra  
Shown edged pink*

Scale, 20 Feet or 2 Chains = 1 inch

Note: C.P. = Concrete Pillar



in the said hereditaments and premises or any of them or any part thereof from under or in trust for him And he the Vendor shall and will at all times hereafter at the request and cost of the Purchaser do and execute and cause to be done or executed all such acts deeds and things whatsoever for further and more perfectly assuring the said hereditaments and premises and every part thereof Unto and to the use of the Purchaser in manner aforesaid as shall be reasonably required.

*Defendants' Exhibit.*  
6.  
Indenture made between Abossey Okai and J. O. Amartey, 23rd September 1929, continued.

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

10 Signed Sealed and Delivered by the within named Abossey Okai after the foregoing had been read over and interpreted to him in the Ga language by Charles Sackey when he seemed perfectly to understand the same before making his mark hereto in the presence of

ABOSSEY OKAI his X L.S. mark  
Witness to mark  
(Sgd.) CHARLES SACKEY

- NATH. TAGOE X
- ABOSSEY TETTEH X
- 20 MAD. DEDE OBOSHIE X
- „ NAH KORKOR X
- „ „ ODEY X
- „ KORKOI X
- „ ABOSSEY KAI X

Signed Sealed and Delivered by the within named J. O. Amartey in the presence of

(Sgd.) J. O. AMARTEY L.S.

- R. M. OWOO X
- EMMANUEL AKOTEY X
- 30 MAD. MARY DODOO X
- R. A. MENSAH X

In accordance with section 18 of the Stamp Ordinance of 1889 I certify that in the opinion of the Commissioners of Stamps this Instrument is chargeable with a duty of Five shillings.

(Sgd.) J. C. CATO,  
Commissioner of Stamps.  
L.S.

Commissioner of Stamps Office,  
Accra. 18.10.1929.

40 On the day of 1929 at o'clock in the noon this Instrument was proved before me by the oath of the within named Charles Sackey to have been duly executed by the within named Abossey Okai.

Registrar of Deeds.

*Plaintiff's  
Exhibit.*

PLAINTIFF'S EXHIBIT.

Exhibit "H"—Indenture made between Abossey Okai and Kodjoefio Quartey.

"H."  
Indenture  
made  
between  
Abossey  
Okai and  
Kodjoefio  
Quartey,  
8th  
October  
1929.

Gold Coast  
Five Shillings  
Stamp Duties.

4561/29.

THIS INDENTURE made the 8th day of October One thousand nine hundred and twenty-nine Between ABOSSEY OKAI Caretaker and Representative of Akamaijain Stool, also Head of the Stool family of Akanmaiain Quarter James Town Accra in the Eastern Province of the Gold Coast Colony, British West Africa (hereinafter called the Vendor 10 which expression where the context so admits shall include his heirs executors administrators and assigns as well as any future Manche or Representative of the Quarter or Stool or future of the Stool family) of the one part and KODJOEFIO QUARTEY also of Accra aforesaid in the Province and Colony aforesaid (hereinafter called the Purchaser which expression where the context so admits shall include his heirs executors administrators and assigns) of the other part Whereas the Vendor is seised in fee simple in a representative capacity free from incumbrances of the hereditaments hereinafter expressed to be hereby conveyed And whereas the said Vendor has in a representative capacity agreed 20 with the said Purchaser to sell to him the said hereditaments for the price of Twelve Pounds (£12) sterling Now this Indenture witnesseth that in consideration of the sum of Twelve Pounds (£12) sterling which was paid by the said Purchaser to the Vendor (the receipt whereof is hereby acknowledged) the said Vendor hereby grants unto and to the use of the said Purchaser All that piece or parcel of land situate lying and being at Obeytey-Kpakpo North of Korley Lagoon in the Accra District of the Province and Colony aforesaid and bounded on the North by Kraku Brothers Land measuring One hundred and forty-seven feet 147' more or less on the South by Mr. Okoe's Land measuring One hundred 30 and forty-seven feet 147' more or less on the East by Open Space reputed as Vendor's Land and Cashew Nut Tree (Atia) as boundary measuring Ninety-nine feet 99' more or less and on the West by Un-named Street measuring Ninety-nine feet 99' more or less and more clearly delineated in the Plan hereto attached and edged "Pink" at the foot of these presents Together with all rights easements advantages and appurtenances to the said hereditaments belonging or with the same are held occupied and enjoyed or appurtenant thereto And all the estate right title interest and demand whatsoever of the said Vendor into and upon the said hereditaments To Hold the same unto and to the use of the said Purchaser 40 his heirs executors administrators and assigns in fee simple or for ever and the said Vendor doth hereby for himself his heirs executors administrators and assigns as aforesaid covenant with the said Purchaser his heirs executors administrators and assigns that notwithstanding any act deed or thing by him or his ancestors done or executed or knowingly suffered to be done or executed to the contrary that the said Vendor now hath good title and right to grant the said hereditaments in the manner expressed unto and to the use of the Purchaser his heirs executors administrators and assigns as aforesaid and that the said Purchaser his heirs executors administrators and assigns shall and may at all times 50 hereafter peaceably and quietly possess and enjoy the said hereditaments



*Plaintiff's  
Exhibit.*

“ H.”  
Indenture  
made  
between  
Abossey  
Okai and  
Kodjoefio  
Quartey,  
8th  
October  
1929,  
*continued.*

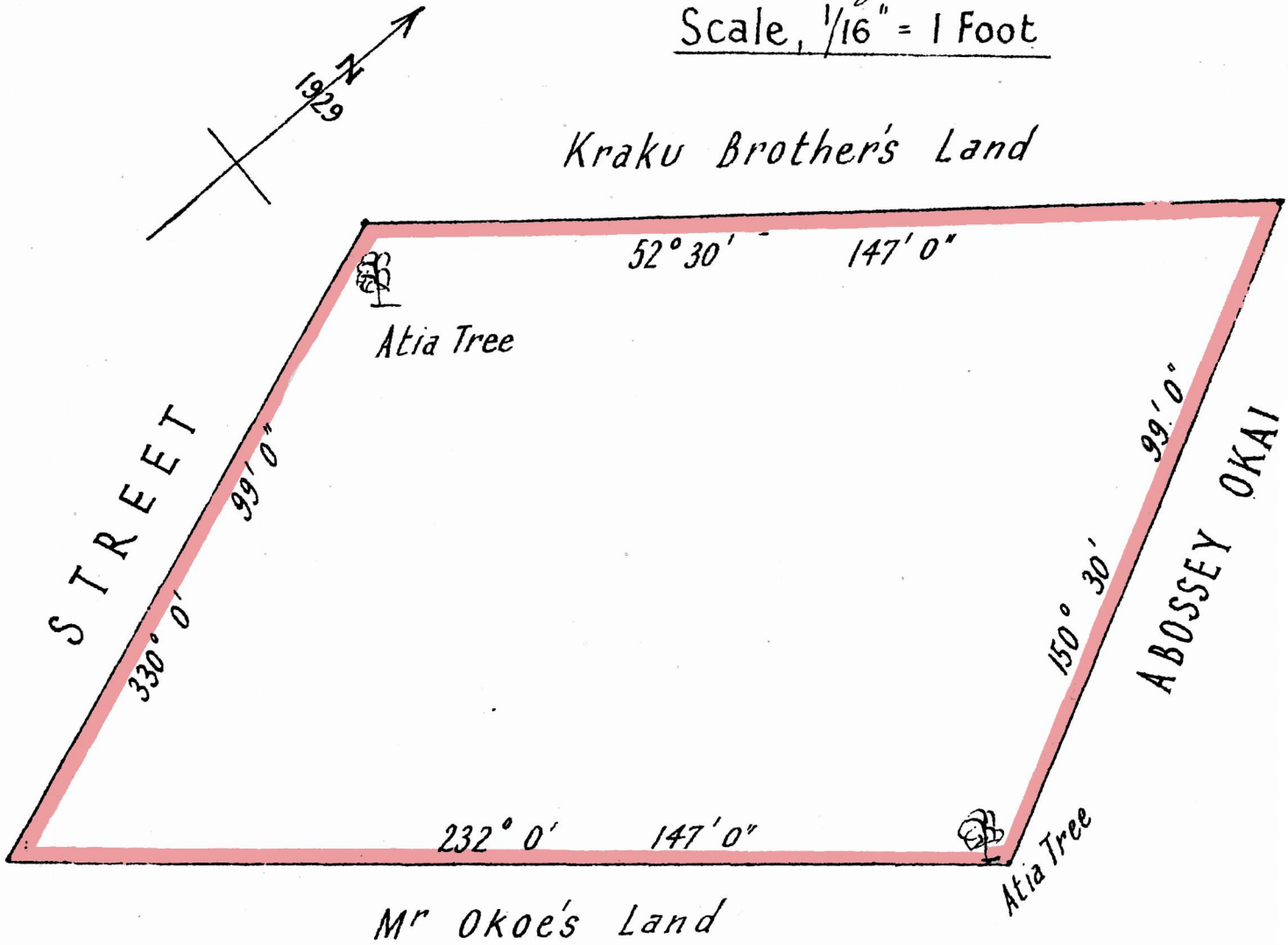
On the            day of            19            , at o'clock in the  
forenoon this instrument was proved before me by the oath of the within-  
named            to have been duly executed by the  
within-named Abossey Okai by making his mark and seal.

Registrar of Deeds.

Land Plan  
for  
No. 2000 Quarter  
situated at Obetokpoko  
(Abossey Okai)

Scale,  $\frac{1}{16}'' = 1$  Foot

Kraku Brother's Land





DEFENDANT'S EXHIBIT.

Exhibit "11"—Judgment of the Tribunal of James Town Division delivered in Sarah Addo v. Amassah.

Defendants' Exhibit.

11.

IN THE TRIBUNAL OF THE JAMES TOWN DIVISION held on Monday the 3rd day of February, 1930, before NEE KOJO ABABIO IV., President, Linguist CHARLES J. TAGOE and his Elders and Councillors—Recorded by J. E. SACKKEY.

Judgment of the Tribunal of James Town Division delivered in Sarah Addo v. Amassah, 3rd February 1930.

Suit No. 78/30.

10 SARAH ADDO Administratrix of the Estate  
of Madam Laingoye Lartey, Deceased - Plaintiff  
*versus*  
AMASSAH - - - - - Defendant.

JUDGMENT.

The plaintiff Miss Sarah Addo sued as the Administratrix of the estate of Late Madam Laingoye Lartey (deceased) to recover £25 damages from defendant for trespass committed by him on plaintiff's land at Obetekpakpo commonly known and called Bruce's Lodge and also for an Injunction to restrain defendant and his workmen and agents from again entering on the land.

20 This claim raises two issues for the Tribunal to determine, namely :—  
(a) Whether plaintiff is the rightful owner of the land Obetekpakpo commonly known and called Bruce's Lodge; and if so,  
(b) Whether the defendant did commit trespass on the said land.

By the Tribunal's permission the plaintiff is allowed to be represented by Mr. N. J. Nuno, Licensed Auctioneer of this Town who on plaintiff's behalf states: That the land in dispute forms a portion of a piece of land measuring 5,250 feet more or less on the North, 5,600 feet more or less on the South, 3,210 feet more or less on the East, and 4,225 feet  
30 more or less on the West, which the late Madam Laingoye Lartey purchased 25 years ago from Madam Oyoe Quartey, F. A. Ankrah, Chercher Amanuah, Joseph Antonio Ankrah, Anna France representing the family of the late Chief John Quartey of Otublohum Accra; that a Deed of Conveyance which was executed by the aforesaid Oyoe Quartey and others in connection with the sale of that land contains the names of J. R. Myers, and George Abossey, as attesting witnesses and that J. Y. Myers was also known as Owula Jim and George Abossey as Abossey Oki. That since the purchase of the said piece of land the plaintiff has been and is in occupation thereof.

40 At this stage plaintiff's representatives tenders the deed of conveyance executed by Oyoe Quartey and others to late Madam Laingoye Lartey dated 6th May 1905. Certificate of Purchase dated 8th June 1898 signed by Sir William Brandford Griffith—Chief Justice—in respect of land commonly known and called Bruce's Lodge at Obetekpakpo which was sold in auction by Order of Sheriff in the case *T. W. Tagoe versus Mrs. Sarah Bruce and others* is also tendered. It is further alleged on plaintiff's behalf that when information reached her that defendant was building

*Defendants' Exhibit.*

11.

Judgment of the Tribunal of James Town Division delivered in Sarah Addo v. Amassah, 3rd February, 1930, *continued.*

on the land she went over to Obetekpakpo with Mr. N. J. Nuno her representatives in this case and Lawyer Alexander Hutton-Mills to see the defendant but not meeting either him or his workmen, although they saw the building which was in erection, they placarded Notices on standing trees and elsewhere warning the Public that any person entering on the land without the knowledge and permission of plaintiff would be dealt with accordingly. Also that they at the same time left instructions for the caretaker to warn the defendant in the terms of the notice when he came again to the site of his building and to find out and report defendant's name to plaintiff. That the caretaker carried out the instructions by warning defendant and reporting his name and that this action has been taken upon the strength of that report. 10

In answer to questions by the Tribunal plaintiff's representative states that plaintiff has Fruit Trees including Mango and Cashew on the land and has always cleared the land when it overgrew with weeds and grass and that Madam Laingoye Lartey purchased the land for £40. When asked whether there are any fixtures and other marks showing the boundaries of the land plaintiff's representative replies that besides trees, pillars have been erected on the land to indicate the boundaries of the land and that before giving judgment in the actions taken by Yemofio's daughter Ackuah and one Adjebu in which Abossey Okai was joined as co-plaintiff against the present plaintiff, the Judge inspected the boundary marks. That the judgment was in favour of the present plaintiff and costs were awarded her which have not been paid. Also that the judgment covered the entire land which Madam Laingoye Lartey purchased from Oyoe Quartey and others because Abossey Okai on becoming co-plaintiff set up a claim for the whole land. Plaintiff declares that she will call no witnesses as she considers Exhibits "A" and "B" sufficient for the purpose of her case. 20

Defendant after pleading not liable for trespass states that the land on which he is building was purchased by him from Abossey Okai for the sum of £3 15/- and a bottle of rum two years ago next March. Dimensions 66 feet square. That his building was commenced three months ago and is finished with the exception of the roofing. That when he was served with the writ of summons last Monday he showed it to Teiko the nephew of Abossey Okai and that Teiko advised him to see Nee Kojo Ababio and say to him that there is a case in the Supreme Court with reference to this land which is not yet finished. That the defendant came and saw the Mantse who told him that as none of his elders were near at hand at the moment, he should go and call again the following Friday. That the defendant there and then made up his mind for withdrawal of the case but had to change his mind in consequence of Teiko's assurance that he Teiko would come before this Tribunal to explain the position. 30 40

In cross-examination defendant stated that Teiko did not inform him the party that they have the case within the Supreme Court and that he also never enquired although it was his interest as one who has purchased a portion of the land in dispute and spending money to build on it to enquire. He further admits in cross-examination that when Teiko went with him to measure the land he noticed Bruce's lodge Buildings which he himself knows to be the property of Madam Laingoye; also that the site measured for him is distant from Bruce's Lodge about from this Tribunal room to the Cenotaph leading to the Beach. Denies having been informed by his workmen that his name was being sought for in connection with the 50

building that he was making on the land. He also says that he was given a paper when he purchased the land but it was neither registered nor stamped and is lost.

*Defendants' Exhibit.*

Defendant's witness Teiko then gave evidence that it was he who measured out the land for defendant by Abossey Okai's orders, that Abossey Okai was his own maternal Uncle whom according to Ga Custom he is the rightful person to succeed and that the dimensions of the land given to defendant are 66 feet square and situate far from Bruce's Lodge. That the Obetekpakpo land is attached to Nee Ayikai's stool land and that the land in dispute was given to defendant by Abossey Okai on behalf of Nee Ayikai's Stool. The following questions put in cross-examination and their replies are of interest :—

11.  
Judgment of the Tribunal of James Town Division delivered in Sarah Addo v. Amassah, 3rd February 1930, continued.

Q. Do you know if late Madam Lartey acquired the land by purchase or by mere occupation ?

A. I know that Madam Laingoye Lartey purchased the buildings of the late Kofi Bruce's Lodge but she did not buy any land there.

Q. What is the name of the land on which the building bought by Madam Laingoye is situate ?

20 A. Obetekpakpo.

Q. How distant is the land in dispute from the building ?

A. About from here (that is the tribunal room) to the Light House which is roughly about 800 feet distant.

[sic]

Q. Do you know that Oyoe Quartey, F. A. Ankrah, Chercher Amanuah, Joseph Antonio Ankrah and Anna France represented the Family of the late Chief John Quartey from whom Madam Laingoye purchased the land ?

A. They were mentioned in the same way at the Asere Tribunal as you have mentioned them.

30 Witness also denied knowledge of the following facts that late J. R. Myers during his lifetime was in charge of the Akunmadse Stool as acting Mantse and that Abossey Okai was known as George Abossey when running the Bights as a cooper. He however on being pressed admitted that Abossey Okai was also known as George Abossey. Witness also denied knowledge that J. R. Myers and George Abossey were attesting witnesses to the deed of conveyance in connection with the entire land purchased by Madam Laingoye Lartey from Chief John Quartey's Family. This witness has been subjected to a very lengthy cross-examination owing to his unwillingness to speak the truth as regards the ownership of the land and as to the fact that plaintiff had warned trespassers by Notice. His evidence does not impress the Tribunal so as to attach any weight to it. However the only questions for the Tribunal to decide are :—

40 1. Whether the plaintiff who purchased the land from Oyoe Quartey and others is the rightful owner or Abossey Okai who gave the land to the defendant.

2. Whether the defendant has committed trespass by building on the land.

In the opinion of the Tribunal the Deed of Conveyance and the Certificate of Purchase conclusively prove that the property originally belonged to Kofi Bruce and that it was sold in auction upon the instructions of the Sheriff and was purchased by Chief John Quartey's Family and by them was sold to Madam Laingoye Lartey on the 6th day of June 1905.

*Defendants' Exhibit.*

11.

Judgment of the Tribunal of James Town Division delivered in Sarah Addo v. Amassah, 3rd February 1930, continued.

There is no evidence before the Tribunal that the documents namely the deed of conveyance and the certificate of purchase are not genuine and the Tribunal being satisfied that the documents are in perfect order as constituting a good title to the land has come to the conclusion upon the evidence that the whole land commonly known and called Bruce's Lodge Obete-Kpakpo belongs to Madam Laingoye Lartey (deceased) of whose estate the plaintiff is the administratrix.

Now as to the trespass, owing to the contradictory character of the evidence on this point a party of four Councillors was sent from the Tribunal to view the land in dispute with a view to ascertaining if it is within the boundary of the land Obetekpakpo commonly known and called Bruce's Lodge. 10

The viewing party on its return reports that the defendant's building is distant from Bruce's Lodge by 319 feet on the North and that therefore it is within the plaintiff's boundary.

Upon this Report the Tribunal finds that plaintiff is justified in taking action against defendant for trespass and accordingly gives judgment for £5 damages and costs against the defendant.

(Sgd.) KOJO ABABIO IV.,  
James Town Mantse,  
President.

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Accra.

3rd February, 1930.

Certified true copy.

(Sgd.) THOS. B. F. FRANCISCO RIBEIRO,  
Registrar, James Town Tribunal Accra.

**DEFENDANTS' EXHIBIT.**

12.

Judgment of the Tribunal of the Paramount Chief of Ga State delivered in Sarah Addo v. Amassah, 1st July 1930.

**Exhibit " 12 "—Judgment of the Tribunal of the Paramount Chief of Ga State delivered in Sarah Addo v. Amassah.**

In the Tribunal of the Paramount Chief of the Ga State, Eastern Province, Gold Coast Colony, held at Mojawe Accra before the Acting Ga Manche Nii Ayi Bonte, President, Ni Henry Nuno, Acting Abola Manche with Representative Councillors Linguist Ayikai Teiko, W. A. Laryea from Abola, J. C. M. Okai, G. D. Laryea, and Ayikai Amah from Gbese, D. H. Laryea from Asere, J. B. Lamptey from Otublohum and Ayi Dowuona from Osu and Ahinana K. Ewur Ghartey, Registrar on Tuesday, the 1st day of July, 1930. 30

SARAH ADDO Administratrix of the Estate of  
LAINGOYE LARTEY - -

Plaintiff-  
Respondent

40

and

AMASSAH OF ACCRA

Defendant-  
Appellant.

NOTE : The appellant applies for leave to be represented by Emmanuel Kwao Richardson Lamptey being his relative.

Tribunal grants the application that E. K. R. Lamptey represent the appellant.



Plaintiff's  
Exhibit.

PLAINTIFF'S EXHIBIT.

Exhibit "E"—Indenture made between Nii Akrong and Nathaniel Tagoe.

"E."  
Indenture  
made  
between  
Nii Akrong  
and  
Nathaniel  
Tagoe,  
30th May  
1936.

Deeds Registry  
No. 674/1936.  
Gold Coast  
One Pound  
Stamp Duties.

"A"

2589/36

THIS INDENTURE made the 30th day of May One thousand nine hundred and thirty-six (1936) Between NEE AKRONG and NATHANIEL TAGOE both of Accra Gold Coast Colony for themselves and on behalf of the Elders and people of the Stool of Akumajay whose consent and concurrence is hereby testified by some of them subscribing their names to these presents as witnesses (hereinafter called the Lessors which expression where the context so admits shall include their successors and assigns) of the one part and JOSEPH NASSAR of Accra aforesaid Syrian Merchant (hereinafter called the Lessee which expression where the context so admits shall include his executors administrators and assigns) of the other part Witnesseth as follows:—

1. In consideration of the sum of Forty Pounds (£40) being rent in advance paid by the Lessee to the Lessors (the receipt whereof the Lessors hereby acknowledge) and of the rents and covenants on the part of the Lessee hereinafter reserved and contained The Lessors hereby demise unto the Lessee All that Piece or Parcel of Land situate lying and being at Oppete Kpakpo Accra aforesaid and bounded on the North-East by Weija Railway Line and measuring eight hundred feet (800') more or less on the South-West by Oppete Kpakpo land and measuring eight hundred feet (800') more or less on the South-East by Oppete Kpakpo land and measuring one thousand two hundred feet (1200') more or less and on the North-West by Oppete Kpakpo land and measuring one thousand two hundred feet (1200') more or less more particularly delineated on the plan hereto attached To hold the same unto the Lessee from the 1st day of June 1936 for the term of ninety-nine (99) years Paying therefor during the said term the yearly rent of four pounds (£4).

2. The Lessee hereby covenants with the Lessors in manner following, that is to say:—

(A) That the Lessee will during the term hereby granted pay the rents hereby reserved at the time and in the manner aforesaid.

(B) That the Lessee will at the determination of the said tenancy quietly yield up the said premises in good condition.

3. The Lessors hereby covenant with the Lessee in manner following, that is to say:—

(A) That the Lessors will pay the rates (if any) payable in respect of the said premises.

(B) That the Lessee paying the rents hereby reserved and performing and observing the covenants and conditions herein contained and on his part to be performed and observed shall and may peaceably and quietly hold and enjoy the said premises during the term hereby granted without any lawful interruption or disturbance from or by the Lessors or any person rightfully claiming through them.

4. It is hereby agreed that if the Lessee shall be desirous of renewing this lease and shall give one calendar month's previous notice in writing

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to the Lessors of his intention so to do then and in such case this lease shall be renewed for a further term of twenty-five (25) years at the same rent and subject to the same terms and conditions as this present lease except this clause for renewal.

*Plaintiff's Exhibit.*  
" E. "

5. It is hereby agreed that it shall be lawful for the Lessee to assign sublet or underlet or part with the possession of the said premises.

Indenture made between Nii Akrong and Nathaniel Tagoe, 30th May 1936, *continued.*

6. Provided always that if the said yearly rent hereby reserved or any part thereof shall at any time be in arrear and unpaid for twenty-one days after the same shall become due or in the event of any breach of the covenants on the part of the Lessee herein contained it shall be lawful for the Lessors or any person or persons duly authorised by them in that behalf at any time thereafter to re-enter the demised premises or any part thereof and thereupon this demise shall absolutely cease and determine but without prejudice to the right of action of the Lessors in respect of any breach of the Lessee's covenants herein contained.

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 Nee Akrong and Nathaniel Tagoe after the foregoing had been read over explained and interpreted to the said Nathaniel Tagoe in the Ga language by E. A. Mensah and he seemed perfectly to understand the same before making his mark thereto in the presence of

(Sgd.) NEE AKRONG. (L.S.)

NATHANIEL TAGOE. his X mark (L.S.)

- (Sgd.) E. A. MENSAH
- 30     "     J. D. TATAY ANNAN
- "     S. G. OWOO
- "     R. C. ABOSSEY
- "     OBLIE QUAYE
- KORKOI ABOSSEY
- CHARLES HAMMOND
- JAMES ODOI, Linguist
- WILLIAM ADJAYE

her X mark  
their X  
marks

Witness to marks

(Sgd.) E. A. MENSAH

40 Signed Sealed and Delivered by the said Joseph Nassar in the presence of

(Sgd.) J. NASSAR. (L.S.)

(Sgd.) E. A. MENSAH.

In accordance with section 18 of Cap. 154 I certify that in the opinion of the Commissioners of Stamps this Instrument is chargeable with a Duty of One Pound.

(Sgd.) L. A. BUTLER, (L.S.)  
Commissioner of Stamps.

Commissioner of Stamps Office,  
Accra 22.6.1936.

*Plaintiff's Exhibit.*

"E."

Indenture made between Nii Akrong and Nathaniel Tagoe 30th May 1936, *continued.*

On the 6th day of November, 1936 at 12 o'clock in the noon this Instrument was proved before me by the oath of the within named Robert Coppin Abossey to have been duly executed by the within named Nee Akron and Nathaniel Tago.

(Sgd.) W. PRICE-JONES,  
Ag. Registrar of Deeds.

GOLD COAST LAND REGISTRY.

Registered as No. 674/1936.

(Sgd.) W. PRICE-JONES,  
Ag. Registrar of Deeds. 10

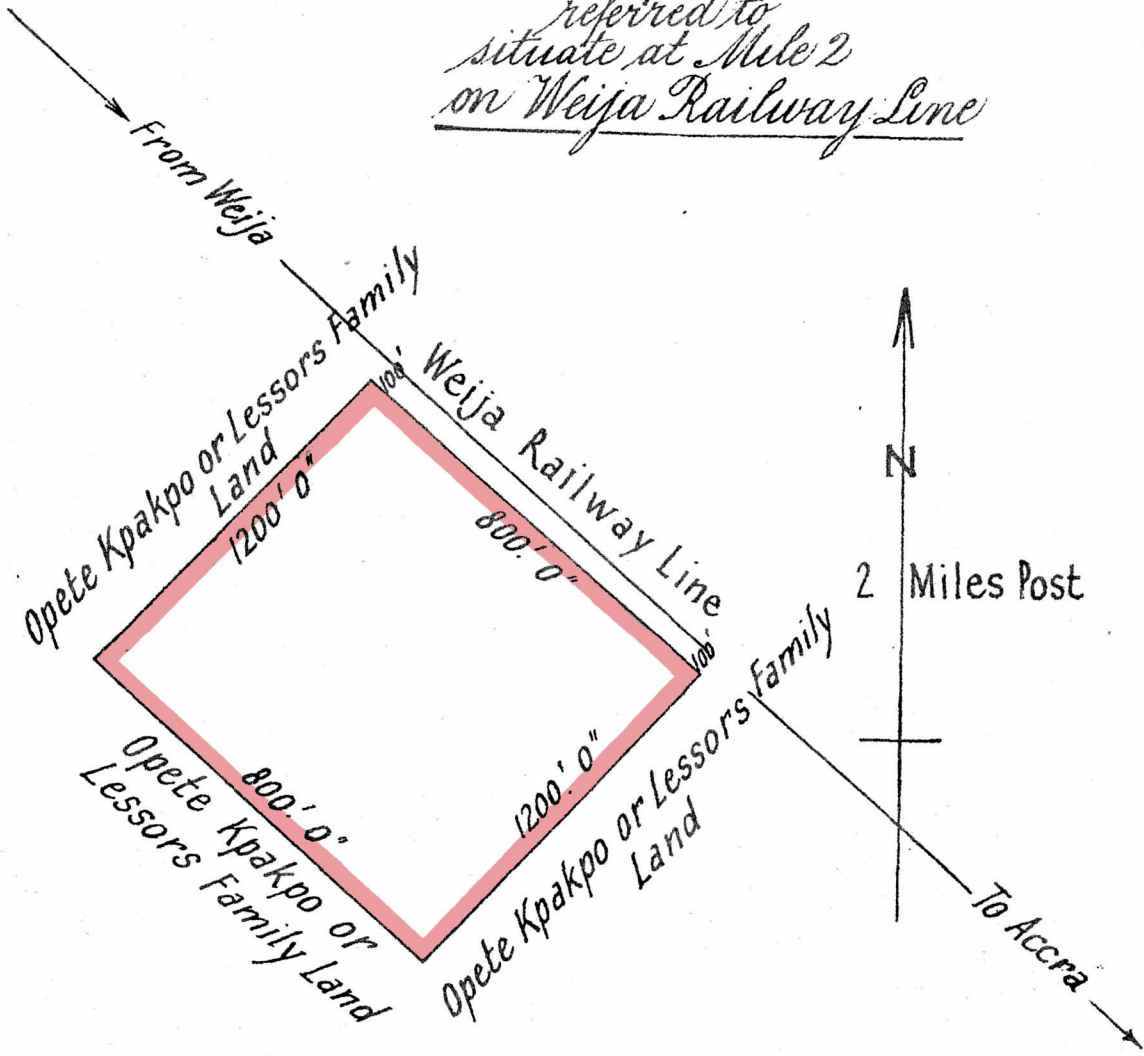
This is the Instrument marked "A" referred to in the oath of Robert Coppin Abossey sworn before me this 6th day of November, 1936.

(Sgd.) W. PRICE-JONES,  
Ag. Registrar of Deeds.



Sketch

*Plan of Land  
referred to  
situate at Mile 2  
on Weija Railway Line*



— Scale, 1/5000 —

## PLAINTIFF'S EXHIBIT.

Exhibit "G"—Indenture made between Korlay Ammah and others and the Governor of the Gold Coast Colony.

Govt. doct.  
L.S. 481/36.  
4007/36.

*Plaintiff's  
Exhibit.*

"G."

Indenture  
made  
between  
Korlay  
Ammah  
and others  
and the  
Governor  
of the  
Gold Coast  
Colony,  
25th  
August  
1936.

THIS INDENTURE made the 25th day of August 1936 Between  
KORLAY AMMAH, Caretaker of Akumajay Affairs of the Akumajay Stool  
of Accra in the Accra District of the Eastern Province of the Gold Coast  
10 Colony acting for himself and as the representative of all members of the  
Akumajay Stool whose consent to or concurrence in this Indenture is for  
the more perfect assurance of the provisions hereof requisite or desirable  
according to native customary law or to the customs of the said Akumajay  
Stool which consent is sufficiently testified by the attestation of these  
presents by some of such members (hereinafter called "the Stool" which  
expression shall wherever the context so admits or requires include the said  
Korlay Ammah his successors in title and assigns) of the one part and  
THE GOVERNOR OF THE GOLD COAST COLONY (hereinafter called "the  
Government" which expression shall where the context so admits or  
20 requires include his successors in office and his duly authorised officers and  
servants) acting by GEORGE WENTWORTH STACPOOLE, Esquire, Commis-  
sioner of Lands of the said Colony of the other part Whereas the  
Government proposes at its own expense to lay out in a convenient orderly  
and sanitary manner within a period of twenty one years from the date  
hereof certain lands situate at Abose Okai (Opete Kpakpo) Sabon Zongo  
and Larte Biokorshie Accra and shewn on the plan attached to these  
presents to portions of which the Stool claims to be entitled and in  
connection therewith to construct on the said land roads streets drains  
dustbins latrines incinerators wash-houses or any of them and any other  
30 works whatsoever which in the opinion of the Government will be necessary  
for purposes of public utility health and convenience And whereas the  
said layout will be of great service and advantage to the members of the  
Stool And whereas for the reasons aforesaid the Stool is ready and  
willing to permit the Government to acquire within the said period of  
twenty one years from the date hereof under the Public Lands Ordinance  
such portions of the said lands so claimed by the Stool as aforesaid which  
may be requisite or necessary in connection with the construction of the  
said roads streets lanes drains dustbins latrines incinerators washhouses  
40 or any of them and other works whatsoever as aforesaid free of all charges  
and freed from all claims in respect of compensation or otherwise therefor  
And whereas the Government is desirous of accepting the said offer and  
proposes to acquire the land necessary for the purposes aforesaid under  
the provisions enabling the Government in that behalf contained in the  
Public Lands Ordinance Now this Indenture Witnesseth that in considera-  
tion of the premises and of the great service and advantage to the members  
of the Stool as aforesaid and of the sum of One shilling now paid by the  
Government to the Stool (the receipt whereof the Stool doth  
hereby acknowledge) the Stool doth hereby covenant with the  
Government that the Government shall be permitted to acquire  
50 within the said period of twenty one years from the date hereof as  
aforesaid All such portions of the several pieces of land situate at Abose

*Plaintiff's Exhibit.*  
 "G."  
 Indenture made between Korlay Ammah and others and the Governor of the Gold Coast Colony, 25th August 1936, *continued.*

Okai (Opete Kpakpo) Sabon Zongo and Larte Biokorshie at Accra aforesaid and shown coloured pink on the plan attached to these presents claimed by or belonging to the Stool free from all charges and free from all actions proceedings suits causes of action costs damages claims and demands whatsoever which the Stool or anyone lawfully claiming through or under the Stool now has or at any time hereafter may have or but for the execution of these presents could or might have against the Government for or by reason of or in respect of compensation for the acquisition of the said land And the Stool doth hereby further covenant with the Government that the Government shall be permitted to enter upon 10 demarcate pillar and use for any of the purposes aforesaid any of the said several pieces of land so claimed by the Stool as aforesaid prior to the acquisition thereof under The Public Lands Ordinance and also temporarily to enter upon and use any land or lands adjacent to any land or lands required or acquired as aforesaid for the purposes of effecting the said layout or constructing any building or work in connection therewith or for the purpose of quarrying and the removal of such stone as may be required for the construction of the said roads lanes drains dustbins latrines incinerators wash-houses and other works in connection with the layout free of all further charge and freed from all claims for damage or trespass 20 or of any other nature by whomsoever made And the Stool doth also covenant with the Government that the Stool will indemnify and keep indemnified the Government from and against all actions proceedings costs damages charges expenses claims and demands whatsoever in respect of any land or lands being private property which shall have been acquired or occupied as aforesaid by the Government for the purpose aforesaid And the Stool doth hereby further covenant with the Government that the Stool will indemnify and keep indemnified the Government from and against all actions proceedings costs damages charges expenses claims and demands whatsoever by whomsoever made in respect of any action 30 reasonably taken or trespass reasonably committed by the Government in the course of such layout and construction as aforesaid In Witness whereof the party hereto of the first part has hereunto set his hand and seal and the party hereto of the second part has hereunto set his hand and affixed the seal of the Lands Department of the said Colony the day and year first above written.

Signed by setting his mark hereto  
 Sealed and Delivered by the said  
 Korlay Ammah after these presents had been read over and interpreted to him and the purport and effect thereof had been previously explained to him in the language by  
 of  
 when the  
 said  
 appeared perfectly to understand  
 same in the presence of

(Sgd.) KORLAY AMMAH (L.S.)  
 Caretaker of  
 Akumajay Affairs.

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Attested by the marks of signatures  
of the following members of the  
Stool  
Nathaniel Tagoe  
Headman of Abose Okai  
Charles Okai  
Councillor  
James Odoi  
Linguist  
10 Okine Tagoe  
R. C. Abossey  
Councillor  
after these presents had been read  
over and interpreted to them and  
the purport and effect thereof had  
been previously explained to them  
in the Ga language by C. I. Adjaye  
when they appeared perfectly to  
understand the same in the pre-  
20 sence of

Before me,  
(Sgd.) RUTHERFORD,  
D. C. Accra.

Signed Sealed with the seal of the  
Lands Department and Delivered  
by the said George Wentworth  
Stacpoole for and on behalf of the  
Governor of the said Colony in the  
presence of

30 (Sgd.) HERMAN W. HESSE,  
First Div. Clerk,  
Lands Dept., Accra.

In accordance with section 18 of the Stamps Ordinance I certify that  
in the opinion of the Commissioner of Stamps this Instrument is not  
chargeable with a stamp duty.

(Sgd.) L. C. BUTLER, L.S.  
Commissioner of Stamps.

Commissioner of Stamps Office,  
Accra. 5.9.1936.

40 I, NII TACKIE OBLIE of the Ga Stool hereby assent to the above  
written disposition of the land therein referred to.

Signed by the said Nii Tackie Obile } (Sgd.) TACKIE OBILE,  
in the presence of } Ga Mantse.

Before me,  
(Sgd.) ? RUTHERFORD,  
D. C. Accra.

*Plaintiff's Exhibit.*

"G."

Their NATHANIEL TAGOE Headman of Abossey Okai  CHARLES OKAI Councillor  JAMES OKOI Linguist  OKINE TAGOE  (Sgd.) R. C. ABOSSEY Councillor	X L.S.  X L.S.  X L.S.  X L.S.  marks L.S.	Indenture made between Korlay Ammah and others and the Governor of the Gold Coast Colony, 25th August 1936, <i>continued.</i>
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*Plaintiff's Exhibit.*

**PLAINTIFF'S EXHIBIT.**

**Exhibit " F "—Indenture made between Nii Akrong and Stool of Akumajay, Accra.**

" F."  
Indenture made between Nii Akrong and Stool of Akumajay, Accra, 18th November 1939.

Gold Coast  
One Pound  
Stamp Duties.

5444/39.

THIS INDENTURE made the eighteenth day of November 1939 Between NEE AKRONG of the Stool of Akumajay (Accra) in the Accra District of the Eastern Province of the Gold Coast Colony acting for himself and as the representative of all members of the Stool of Akumajay (Accra) whose consent to or concurrence in these presents is for the more perfect assurance of the provisions hereof requisite or desirable according to native customary law or to the customs of the said Stool of Akumajay (Accra) which consent is sufficiently testified by the attestation of these presents by some of such members (hereinafter called " The Stool " which expression shall wherever the context so admits or requires include the said Nee Akrong his successors in title and assigns) of the one part and THE GOVERNOR OF THE GOLD COAST COLONY (hereinafter called " The Government " which expression shall wherever the context so admits include the successors for the time being of the Governor and his duly authorised officers and assigns) Sir ARNOLD WIENHOLT HODSON K.C.M.G. Governor and Commander in Chief of the said Colony of the other part Whereas the stool has for the purposes hereinafter mentioned and in consideration of the covenants on the part of the Government hereinafter contained agreed to convey to the Government all the right title and interest of the Stool to or in the land hereinafter described and intended to be hereby conveyed And whereas the Government has agreed to utilize the said land to be hereby conveyed for the purpose of erecting thereon two room structures for the temporary accommodation of subjects of the Stools of the Ga State in Accra rendered homeless as a result of the earthquake and by the demolition of buildings for purposes connected therewith or necessitated thereby And whereas the Government has further agreed that as and when the provision of temporary housing accommodation has been completed and the necessary adjustments in respect thereof have been made the Government will subject to the approval of the Secretary of State thereupon construct (or arrange by means of contractors for the construction of) more permanent and/or extensive residences upon the plots eventually allocated under this Agreement to those approved persons who shall at that time have expressed their desire of obtaining and permanently occupying a plot within the land intended to be hereby conveyed whether or not a two room structure shall have been constructed upon such plot or alternatively that where such person so allocated a plot as aforesaid shall elect himself to undertake the construction of such permanent and/or more extensive residence then the Government will assist such person in accordance with and to a maximum amount to be fixed by an approved Building Scheme to be devised by the Government And whereas the Stool has also agreed with the Government that in furtherance of the proposals of the Government for the provision of temporary housing accommodation and of the Land Settlement Scheme the Stool will replace with grants of Stool land elsewhere any and all customary grants made prior to the date of these

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presents by the Stool to its subjects of plots within the area comprised in and intended to be hereby conveyed And also to use its best endeavours to make similar replacement of land to any other individual owner or owners of land within the said area which may be found by the Government to be requisite or desirable And whereas the Government has agreed with the Stool that in the event of the failure of the Stool in its endeavours the Government will dispose of any such claims by compulsory acquisition of the land affected upon payment of compensation which compensation shall however be reimbursed to the Government in manner hereinafter provided And whereas the Government has agreed to constitute by legislation or otherwise a Board of Arbitration to adjudicate upon any dispute as to title and upon any other matter in dispute which may arise as a result of or consequent upon the effectuation of the proposals of the Government for the temporary housing accommodation and the Land Settlement Scheme And whereas for the consideration aforesaid the Stool has agreed to abide and be bound by any decision of the said Board of Arbitration whether respecting title to the said land or otherwise And whereas the Government has agreed that the consideration payable for the conveyance in due course to those persons desirous of obtaining a plot or retaining the plot with a two room structure thereon which shall eventually have been allocated to them of such plot shall be limited to the customary drink fee prevailing according to the custom of the Stool and that every such fee paid upon any such conveyance as aforesaid shall be paid by Government to the Stool or to the owner of the land prior to the vesting of the same in the Government or where the title of the land is disputed then to the Stool or person adjudicated by the said Board of Arbitration to be the rightful claimant thereto And whereas the Government has further agreed with the Stool to reconvey to the Stool or such Stool or persons duly adjudicated as aforesaid to have been the rightful claimant thereto any plot (exclusive of plots or sites reserved or required for public purposes such as roads streets lanes latrines dustbins incinerators open spaces markets schools and such like purposes of public health and convenience) within the area intended to be hereby conveyed which shall be found by the Government not to be required for the purpose of the Land Settlement Scheme or in respect of which a conveyance to the allottee shall not have been granted as aforesaid And whereas the Stool has agreed to pay to the Government prior to any such reconveyance as aforesaid the cost of construction or such other price as may be agreed upon with the Government of any two room structures which may have been constructed upon such plots Now this Indenture witnesseth that in pursuance of the said hereinbefore recited agreements and in consideration of the covenants on the part of the Government hereinafter contained the Stool doth hereby grant and convey unto the said Governor of the Gold Coast his successors in office and assigns All the right title and interest of the Stool in or to All that parcel of land situate within the Abose Okai Layout in the Abose Okai District of the Municipality of Accra which said parcel of land is more particularly described and delineated on the plan hereto attached and thereon shewn edged pink To hold the same unto and to the use of the said Governor of the Gold Coast his successors in Office and assigns absolutely Excepting and reserving all those plots within the said parcel of land which prior to the date hereof have been allocated granted or conveyed by the Stool in

*Plaintiff's Exhibit.*

" F. "

Indenture made between Nii Akrong and Stool of Akumajay, Accra, 18th November 1939, *continued.*

*Plaintiffs' Exhibit.*

"F"

Indenture made between Nii Akrong and Stool of Akumajay, Accra, 18th November 1939, *continued.*

conformity with the approved layout plan No. G. C/B.525 and upon which said plots have been erected buildings duly approved by the Building Authorities And this Indenture further witnesseth that in further pursuance of the said hereinbefore recited agreements the Stool and the Government do hereby covenant with and to each other and on the part of the Stool so as to bind all members of the Stool as follow :—

1. The Government will construct two room structures upon plots duly laid out and demarcated upon the land hereby conveyed to a number to be decided by the Government Provided that only one such structure shall be erected on each plot and that the design and material of the said structure shall be decided by the Government. 10

2. The Government will in the first instance use the said two room structures for the purpose of providing temporary shelter for subjects of the Stools of the Ga State in Accra and for such persons as may be nominated by the Chiefs of the said Stools who have been rendered homeless as a result of the recent earthquake and by the demolition of buildings for purposes in connection therewith or necessitated thereby Provided that every such allocation shall be by way of licence to occupy the same over a period of one year or such longer period as the Government may from time to time decide and Provided further that the Government shall be entitled to require any allottee to remove from the two room structure or portion thereof originally allocated to such allottee to another structure or corresponding portion thereof in the event of such removal being found necessary or desirable. 20

3. The Stool will grant Stool land elsewhere to any person to whom Stool customary grants within the land hereby conveyed shall have been made by the Stool prior to the date of this deed and remaining unbuilt upon at such date and also will use its best endeavours to adjust claims by private individuals to land within the same area by similar means provided however that where it is not found to be possible to dispose of duly proved claims by private individuals by means of such exchange as aforesaid then the Government will dispose of the same by compulsory acquisition of the land so granted as aforesaid and upon payment of compensation And provided further that the Government will charge any compensation so paid to the Land Settlement Scheme for repayment thereunder. 30

4. The Government will provide by legislation or otherwise for the constitution of a Board of Arbitration to decide or adjudicate upon any disputes as to title respecting the land hereby conveyed or respecting any other matter which shall or may be properly referred thereto.

5. The Stool will in the event of any such arbitration abide and be bound by the adjudication of the said Board of Arbitration respecting the title to the land hereby conveyed or respecting any other matter properly referred thereto. 40

6. The Government will so soon as the provision of temporary accommodation shall have been completed and the necessary adjustments in respect thereof have been made and subject however to the prior approval of the Secretary of State construct (or arrange by means of contractors for the construction of) more permanent and/or extensive residences upon the plots eventually allocated under this agreement to those persons who shall at that time have expressed their desire of obtaining and permanently occupying a plot within the land hereby conveyed whether or not a two room structure shall have been constructed upon such plot 50

so allocated as aforesaid Provided however that should such person elect to undertake himself the construction of such permanent and/or more extensive residence then that the Government will assist such person in accordance with and to a maximum amount to be decided by an approved Building Scheme to be devised by the Government.

*Plaintiff's Exhibit.*

" F. "

Indenture made between Nii Akrong and Stool of Akumajay, Accra, 18th November 1939, *continued.*

7. The Government will in pursuance of the Land Settlement Scheme convey to each person who shall be desirous of obtaining and permanently occupying the plot of land eventually allocated to him by the Government such plot for the consideration price prevailing according to the custom of the Stool of £5 10s. -d. and upon conditions for the payment of the cost to Government of construction of the two room structure where such exists upon the said plot and/or of the cost to the Government of the construction of the said permanent and/or more extensive residence in accordance with clause 6 hereinbefore contained and of the said consideration price by instalments over a period of not less than thirty years.

8. The Government will pay to the Stool or such Stool or person as shall have been duly adjudicated by the said Board of Arbitration to be the rightful claimant thereto every consideration price of £5 10s. paid by each allottee to the Government upon the conveyance to him of the plot allocated to him as aforesaid within the land hereby conveyed.

9. The Government will reconvey to the Stool or to such Stool or person as shall have been duly adjudicated to be the previous owner thereof any plots situate within the land hereby conveyed which shall be found by the Government not to be required either for the purposes hereof or which shall not be required for public purposes such as roads streets lanes latrines dustbins incinerators open spaces markets schools and such like purposes of public health and convenience or which shall not have been conveyed to an allottee in accordance with clause 7 hereinbefore contained Provided nevertheless that where a two room structure has been erected upon any plots so reconveyed to the Stool as aforesaid the Stool shall and doth hereby covenant to pay to the Government prior to such reconveyance the cost of construction of such structure or such other price as the Government may agree to accept and in such manner as may likewise be agreed upon.

10. The Government will layout and construct necessary roads or streets over and upon the land hereby conveyed and will provide the usual water and electricity supply facilities and the usual public health conveniences.

In Witness whereof the party hereto of the First Part has hereunto set his hand and seal and the party hereto of the Second Part has hereunto set his hand and affixed the Seal of the Gold Coast Colony the day and year first above written.

Signed by setting his mark hereto }  
 Sealed and delivered by the said } (Sgd.) NEE AKRONG (L.S.)  
 Nee Akrong }

(Sgd.) JONES,  
 District Commissioner,  
 Accra.



*Plaintiff's Exhibit.*  
 "F."

Indenture made between Nii Akrong and Stool of Akumajay, Accra, 18th November 1939, *continued.*

Attested by the marks or signatures of the following members of the Stool :—

- J. D. Tatay Annan
- Nathaniel Tagoe
- Robert Coppin Abossey
- Korkoi Abbossey
- Nee Ammah Tagoe

(Sgd.) J. D. TATAY ANNAN  
 NATHANIEL TAGOE Their X

(Sgd.) ROBERT COPPIN  
 ABOSSEY

10

KORKOI ABBOSSEY X

TETTEH ABBOSSEY X

(Sgd.) NEE AMMAH TAGOE marks

after these presents had been read over and interpreted to them and the purport and effect thereof had been previously explained to them in the Ga language by J. D. Tatay Annan of Accra when they appeared perfectly to understand the same in the presence of :—

(Sgd.) JONES,  
 District Commissioner,  
 Accra.

20

(Sgd.) J. D. TATAY ANNAN.

Signed Sealed and Delivered by the said Sir Arnold Wienholt Hodson Governor of the said Gold Coast Colony in the presence of

(Sgd.) ARNOLD HODSON  
(L.S.)

(Sgd.)  
 Governor's Office, Accra  
 (Chief Clerk).

30

In accordance with section 18 of Cap 129 I certify that in the opinion of the Commissioner of Stamps this Instrument is chargeable with a duty of One Pound.

(Sgd.) E. LARYEA ADJEI, (L.S.)  
 Commr. of Stamps.

1  
 Commissioner of Stamps Office,  
 Accra 5.1.1940.

## PLAINTIFF'S EXHIBIT.

Exhibit " B "—Public Notice over the name of Ayikai II, Akanmaidse Mantse.

*Plaintiff's  
Exhibit.*

" B."

## PUBLIC NOTICE.

Public  
Notice  
over the  
name of  
Ayikai II,  
Akan-  
maidse  
Mantse,  
1st  
October  
1940.OBETE KPARKPO LANDS OTHERWISE KNOWN AS ABOSE  
OKAI.

10 The attention of the general public is hereby called to a Notice issued  
by the undersigned Mantse of Akanmaidse Division of Accra dated 5th  
day of August 1922 whereby the public were warned that no part or portion  
of the said lands can be lawfully disposed of whether by sale mortgage  
gift or otherwise except by the undersigned as Mantse of Akanmaidse  
with the consent and concurrence of his Elders and Councillors.

And the undersigned hereby give Notice that all those persons who  
have acquired any interest in any portion of the said lands are requested  
to give particulars to the undersigned of their such interest and evidence  
immediately or before the 31st day of December, 1940 in support of same  
for confirmation or otherwise by the undersigned.

And Notice is hereby further given that no rights or interest in the  
said lands will be recognised by the undersigned except those which have  
been presented to him under this Notice and confirmed and allowed by  
20 himself and his Councillors.

(Sgd.) AYIKAI II.,  
Akanmaidse Mantse.

Accra 1st October 1940.



**PLAINTIFF'S EXHIBIT.**

**Exhibit " D "—Public Notice over the name of Nii Akrong and others.**

*Plaintiff's Exhibit.*

**NOTICE.**

D.  
Public Notice over the name of Nii Akrong and others, 9th December 1940.

In the issues of November 28 and December 2, 1940, there appeared a Notice signed by Nathaniel Tagoe, who styles himself as Headman of Obinte Kpakpo village and Head of late Abossey Okai's family, and that lands known as Obinte Kpakpo lands are family lands of the late Nii Abossey Okai of Accra.

10 The Public is hereby informed that we the undersigned principal members of the said Abossey Okai's family, declare positively that the publication by Nathaniel Tagoe referred to above touching Obete Kpakpo lands is untrue and unfounded, and we hereby affirm that Obete Kpakpo land is a property attached to the Stool of Akumajay Mantse. That the late Nii Abossey Okai was, prior to his death, a member of the Akumajay Stool and had been " Caretaker."

The public is hereby further informed that the said Nathaniel Tagoe has never been appointed " Headman " of Obinte Kpakpoe Village neither has he been " Head " of Abossey Okai's family.

**NII AKRONG,**

20

Head of Abossey Okai Family.

(Sgd.) R. C. ABOSSEY  
 „ J. D. TATAY ANNAN  
 „ J. O. QUAYE  
 „ J. E. ARMAH

their

30

CHARLES ABOSSEY X  
 JAMES OKOI X  
 CHARLES HAMMOND X  
 WILLIAM ADJAYE X  
 ROBERT SACEY X  
 DJAMAH X  
 KORKOI X  
 LARTEY KAI X  
 MANSAH X  
 KOMIORKOR X  
 DADAYE OYEA X

marks.

Witness to marks :

40 (Sgd.) J. D. TATAY ANNAN.  
 9th December, 1940.



# In the Privy Council.

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ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL  
(Gold Coast Session).

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BETWEEN

NII ABOSSEY OKAI II and  
KORKOI ABOSSEY (Defendants) - - - - - *Appellants*

AND

NII AYIKAI II, MANCHE OF AKUMAJAY (Plaintiff) - *Respondent.*

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## RECORD OF PROCEEDINGS.

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BURCHELLS,  
9 BISHOPSGATE, E.C.2,  
*Solicitors for the Appellants.*

A. L. BRYDEN & CO.,  
25 WHITEHALL, S.W.1,  
*Solicitors for the Respondent.*