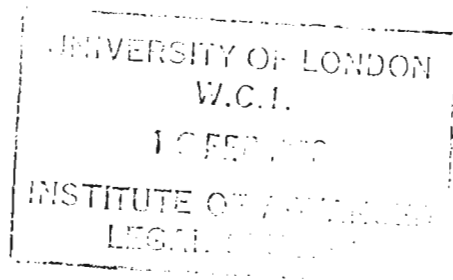


G.H.G.B.

36,1961



11/11/59  
03500

IN THE PRIVY COUNCIL

No. 47 of 1959

ON APPEAL  
 FROM THE WEST AFRICAN COURT OF APPEAL

---

IN THE MATTER of PROPOSED KABO RIVER FOREST  
 RESERVE

---

B E T W E E N :

NANA KATABOA II, Ohene of Apesokubi  
 (Claimant) Appellant

- and -

NANA OSEI BONSU, Ohene of Asato  
 (Claimant) Respondent

---

R E C O R D O F P R O C E E D I N G S

---

A.L. BRYDEN & WILLIAMS,  
 53, Victoria Street,  
 London, S.W.1.  
 Solicitors for the Appellant.

T.L. WILSON & CO.,  
 6, Westminster Palace Gardens,  
 Artillery Row,  
 London, S.W.1.  
 Solicitors for the Respondent.

ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL

IN THE MATTER of PROPOSED KABO RIVER FOREST  
RESERVE

B E T W E E N :

NANA KATABOA II, Ohene of Apesokubi  
(Claimant) Appellant

- and -

NANA OSEI BONSU, Ohene of Asato  
(Claimant) Respondent

RECORD OF PROCEEDINGS

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Mark	Description of Document	Date	Page
Cl-C3	Preliminary Survey Map from of The Oprana Section of the Reserve	Separate Document	
"O-H"	Copy of Judgment of Borada Native Court	21st February 1931	26
	Plan of Boundary by Borada Native Tribunal in 1931	Separate Document.	

LIST OF DOCUMENTS TRANSMITTED BUT NOT REPRODUCED

Description of Document	Date
<u>IN THE COURT OF THE RESERVE SETTLEMENT</u> <u>COMMISSIONER OF THE GOLD COAST</u>	
<u>Evidence:-</u>	
E.K. Agbemetsi	16th December 1930
O.S. Redeker	do.
Yaw Nyako - Chief of Worawora	do.
Akuwoah, Ohene of Kudje	do.
Kwame Boajo, Gyasehene, Apesokubi	do.
Osei Bonsu, Chief of Asato	do.
Charles Kofi Mankrado Guaman.	16th & 17th December 1930
Addo Kwadjo	17th December 1930
Yaw Akwa - Mankralo of Apeso	do.
J. Parker Tomabloe, Tribunal Registrar	18th December 1930
Kwame Mtumi	do.
Kwaku Mkwantabisa	do.
Kwadjo Budu	do.
Amanuke	do.
Alobi	do.
Kpaibu	do.
Kwame Duodu	do.
Kwabena Okesiah	do.
Kwadjo Darku	do.
Kwasi Nyako	do.

Description of Document	Date
Okosu	18th December 1930
Nyaku	do.
Yaw Antwi	do.
Yaw Akwa recalled	do.
Kwasi Adae recalled	18th & 20th December 1930
Bewoni B. Quist	4th June 1931
Yao Myako recalled	do.
Kwasi Adu	do.
John Kofi Amori	5th June 1931
Yaw Yeboa recalled	do.
Kwasi Adu recalled	do.
Duncan Stephenson	12th & 14th March 1940
" " recalled	10th December 1940
Francis Amoh	12th March 1940
Eugene Reynolds Addow	do.
Akpanaja II, Omanhene of Buem State	do.
Sampson Gelia Adogla	do.
Benoui Francisco Ribeiro-Ayeh	do.
John Kofi Amori recalled	do.
Kwaku Antwi	do.
Court Notes	14th March 1940
John Paine	do.
Lawrence Kwane Mensah	do.
Kwadjo Baafi	do.
Donald Allardyce Lane	9th February 1954

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Part of Judgment	9th February 1954
<u>Evidence</u>	
S.K. Mensah	10th February 1954
Kobina Karl	do.
Kojo Kumah	do.
Peter Alogba	do.
Fabinus	do.
Albert Akomine	do.
S.K. Ankomah	do.
Nana Appew IV	11th February 1954
John Ananie	do.
Kobina Safo	do.
Kwame Appia-Egya	do.
Kwame Amou	do.
S.K. Ankoma recalled	do.
Court Notes	do.
D.A. Lane recalled	12th February 1954
Kobina Karl recalled	do.
Nana Kataboah	do.
S.K. Mensah	do.
Alfred Agbozu Parker	do.
Court Notes.	do.
Peter Victor Gordon Lang	21st March 1954
M. Kwadjo Dei	do.

Description of Document	Date
Notice of Appeal by S.K. Obeng and 5 others	18th August 1954
Notice of Appeal by Nana Appew IV Benkumhene of Guaman	22nd September 1954
Order of Court granting Extension of Time	14th March 1955
Court Notes of Argument of Counsel in Re Appeal Nana Kwasi Adu vs. Sub-Chief Osei Bonsu III	18th January 1956
Judgment in Appeal Nana Kwasi Adu vs. Sub-Chief Osei Bonsu III	13th February 1956
Notice of Intention to Appeal to Privy Council	27th February 1956
Application for Conditional Leave to Appeal to Privy Council	27th February 1956
Affidavit of Nana Kataboa in support of Application	28th February 1956
Court Notes granting Conditional Leave to Appeal to Privy Council.	5th April 1956
Notice of Appeal	20th June 1956
Affidavit of Nana Kataboa in support of Application	4th July 1956
<u>EXHIBITS</u>	
"A" - Gold Coast Gazette No.66 of 28.9.1929	28th September 1929
"B" - Gold Coast Gazette No.86 of 21.12.1929	21st December 1929
"D & E" - Proof of Service of Hearing Notice as by Bailiff	16th December 1930
"O - G" - Farm Schedule	10th February 1954

ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL

---

IN THE MATTER of PROPOSED KABO RIVER FOREST  
RESERVE

---

B E T W E E N :

HANA KATABOA II, Ohene of Apesokubi  
(Claimant) Appellant

- and -

10 NANA OSEI BONSU, Ohene of Asato  
(Claimant) Respondent

---

RECORD OF PROCEEDINGS

No. 1

PROCEEDINGS. OPENING OF ENQUIRY

IN THE COURT OF THE RESERVE SETTLEMENT COMMISSIONER  
OF THE GOLD COAST COLONY HOLDEN AT WORAWORA IN THE  
HO DISTRICT OF THE BRITISH SPHERE OF TOGOLAND on  
TUESDAY THE 16TH DAY OF DECEMBER, 1930, at 9.30 a.m.

BEFORE HIS WORSHIP

20 GEOFFREY OWEN PARKER, Esquire,  
RESERVE SETTLEMENT COMMISSIONER.

---

IN THE MATTER of THE PROPOSED KABO RIVER FOREST  
RESERVE (OPRANA SECTION)

---

Present:-

1. Mr. A.J. Cox, A.C.F., representing Forestry.
2. Ohene Yao Nyako of Worawora.
3. Ohene Akuamoah of Kudje.
4. Gyasehene Kwame Boafo, representing Ohene of Apesokubi.
5. Ohene Osei Bonsu of Assatu.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

---

No. 1

Proceedings.  
Opening of  
Enquiry.

16th December,  
1930.



In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

No. 1

Proceedings.  
Opening of  
Enquiry.  
16th December,  
1930  
- continued.

1st Witness A.J. COX, sworn -

My name is ALFRED JAMES COX. I am an Assistant Conservator of Forests and I represent the Department at this enquiry. I tender the following documents: Gazette No.66 of September 28th, 1929 pages 1746 - 1747 containing a notice of constitution of the KABO RIVER FOREST RESERVE under Section 5 Cap.63. (Tendered and accepted and marked 'A'). I also tender Gazette No.86 of 21st December, 1929 page 2322 appointing the Reserve Settlement Commissioner under section 5 of Cap.63. (Tendered and accepted and marked 'B'). I also tender for identification purpose a preliminary survey in map form of the Oprana Section of the Reserve. (Tendered and accepted and marked 'C1' 'C2' and 'C3').

10

No questions.

Evidence

No. 2

No. 2

Seth Osiaban,  
Registrar to  
Omanhene of  
Buem.  
22nd December,  
1930.

SETH OSIABAN, Registrar to Omanhene of Buem

Court Resumes on Monday the 22nd December at 9 a.m.

Present -

1. Mr. A.J. Cox, A.C.F., representing Forestry.
2. Omanhene of Buem's representative Ling. Yaw Yeboah, and his Registrar Seth Osiaban (attending on a subpoena).
3. Ohene Osei Bonsu of Assatu.
4. Gyaschene Kwame Boafo repr. Ohene of Apeso.
5. Mankrado Charles Kofi repr. Ohene of Guaman.

20

Examination.

26th Witness SETH OSIABAN, sworn -

My name is SETH KWABENA OSIABAN. I am Registrar to the Omanhene of Buem. I attend on a subpoena from this Court. I produce to the Court the Tribunal Record Book pages 394 to 413. This is the Apeso-Assatu land case. I recorded faithfully the evidence given by the parties before the Tribunal. (Tendered and accepted and marked 'J'). The judgment was delivered March 7, 1927. After the judgment the Omanhene was going to lay down the boundary between the people starting from the place where they met on the Assatu-Apesokubi road. The Chief of Assatu said that he did not agree to the decision and refused to pay the Court fees. The Chief of Assatu

30

40

said that as the boundary was not cut between Apeso and himself he could not understand how the Court could decide that he was guilty of selling the land. Later on a few days later the Chief of Assatu returned and paid the Court fees. The Plaintiff (Apeso) was then absent so the Court could not give orders for the boundary to be cut. The Omanhene said that the parties should try to agree and then come to him and he would cut the boundary from the road cleaning joining place. About one month ago the chief of Assatu came to Borada and asked for a copy of the proceedings but these were refused owing to a Political disturbance between the Omanhene and his people. Nearly two years elapsed from the date of judgment to the application by the Chief of Assatu for the proceedings which made the applicant out of time for appeal.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

Evidence

No. 2

Seth Osiaban,  
Registrar to  
Omanhene of  
Buem.

22nd December,  
1930.

Examination  
- continued.

10

Cross-examined by Linguist Asante for Chief of Assatu -

20

Q. Did you hear the Omanhene say that although I was guilty the land was mine?

Cross-  
examination.

A. No. The land was in dispute and the Omanhene said that you should have waited until the boundary was cut before you sold any of the land.

No. 3

No. 3

LINGUIST YAW YEBOA

Linguist Yaw  
Yeboa.

27th Witness YAW YEBOA s.a.r.b.

22nd December,  
1930.

Examination.

30

My name is YAW YEBOA. I am linguist to the Omanhene of Buem and I am his accredited representative and was sent by him today. I know the Chiefs of Apeso and Assatu, they are subjects of the Buem Stool. During the year 1927 there was a land case between the Chief of Assatu and the Chief of Apeso. I was present in Court during the hearing. I was then a linguist. I have been a linguist for 12 years. I will tell the Court the story of the dispute. The Chief of Apeso took action against the Chief of Assatu in the Buem Tribunal. The cause of action was that the Chief of Apeso wished to know why the Chief of Assatu had sold a portion of land

40

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

Evidence

No. 3

Linguist Yaw  
Yeboa.

22nd December,  
1930

Examination  
- continued.

which was in dispute between them and over the same portion of land the Chief of Assatu had prosecuted the Chief of Apeso before the D.C. for making a cacao nursery on the same land. The D.C. promised to view the land but before he did so the Chief of Assatu came and sold a portion of this land. This is the cause of action. The decision of the Tribunal was that as Assatu had not waited for the D.C. to come and view the land he was guilty and should pacify the Chief of Apeso. The Chief of Asatu said that he was not satisfied with the judgment and refused to pay the costs. The Omanhene said he would cut the boundary between the parties and they should go away and cool down and then reach an agreement. About a year ago the Chiefs wished to destool the Omanhene and the palaver is still going on, and about 1 month ago the chief of Assatu came and asked for a copy of the proceedings in the case which was heard in 1927. The Omanhene told the Chief of Assatu that unless he withdraw his opposition towards him regarding the desire of the sub-chiefs to destool him he would not give him a copy of the proceedings. The Chief of Assatu went away and did not return.

10

20

By Court -

Q. Has a boundary yet been laid down between the parties?

A. Because the parties would not cool off. They made the breach worse instead and did not come and ask for the line to be cut.

30

Q. What is your opinion regarding the sale of land in Buem Division. What is the custom?

A. I heard the evidence given regarding the sale of land by the Apeso people to strangers from Akim Abuakwa and Anum. I think that they had a right to sell the land but the vendors should have informed me first. All the land in Buem was given by my predecessor to the various Chiefs to sit on, and in accordance with custom I should be informed of any sale. No regular portion is given but a witness fee of £2 is usually given for a 'drink'. This done in the case of Ahamansu. These people who have sold land and not notified the Omanhene had done so in defiance of native customary law.

40

Q. I take it that the Omanhene would require the consent of his subchiefs before he could sell land?

A. Yes, certainly.

Cross-examined by Linguist Asante for Chief of Assatu -

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

Evidence

No. 3

Linguist Yaw  
Yeboa.

22nd December,  
1930

Cross-  
examination.

Q. Did you inspect the land in dispute? A. Yes.

Q. Is it in accordance with custom to view the land?  
A. Yes.

Q. Is the Omanhene's consent to sell land verbally  
or in writing? A. Verbally.

Q. How many Buem chiefs have asked permission?

10 A. Nobody; only by accident I found out that the  
Ahamansu people had made sales and I took the wit-  
ness fee.

Q. I put it to you that it is not the custom for  
Chiefs to ask permission to sell land?  
A. It is.

Q. Was the boundary between Apeso and myself laid  
down by the Buem Court before judgment was given?  
A. No. You sold land without waiting for the D.C.  
to decide the ownership of the land. You did not  
wait you sold the land at once.

20 Q. Why did I arrest Apeso and run before the D.C.?  
A. For stealing your land, as you said.

Q. Did you decide whether the cacao nursery was on  
my land or Apeso's?  
A. No. No boundary was laid down.

Q. Did not the Court say that although I am guilty  
the land was mine?  
A. No. You were fined for not waiting for the D.C.

Q. Do you remember the Linguist who delivered judg-  
ment. He is called Kwasi Donkor? A. Yes.

30 Q. Did I not at once ask for a copy of the proceed-  
ings?

A. Yes, but you refused to pay the costs of the case  
and I refused to give you the documents.

Q. Have I not now paid the costs?

A. Yes, but you did not apply for a copy of the  
proceedings.

Q. Did the Omanhene not say that I need not bother  
about the proceedings because although judgment had  
gone against me the land was mine? A. No.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

Evidence

No. 3

Linguist Yaw  
Yeboa.

22nd December,  
1930.

Cross-  
examination  
- continued.

Q. Was Linguist Kwasi Donkor present?

A. No, because no such statement was ever made.

Q. Were the costs of the case paid at the place the  
case was heard or at Borada?

A. At Nsuta where the case was heard the day after  
the judgment.

Cross-examined by Chief of Apeso (Kwame Boafo,  
Gyasehene) -

Q. Have my costs been paid yet?

A. No.

10

No. 4

Submissions.

22nd December,  
1930.

No. 4

S U B M I S S I O N S

Submission by the following Chiefs -

Chief of Guaman - I now say that I have no land in-  
side the Forest Reserve therefore I have no boundary  
with Kudjo inside the Reserve.

Chief of Kudje - I do not wish any boundary to be  
laid between Worawora and myself. We are all one  
people.

Chief of Worawora - I agree to this. I only want  
the Court to put a pillar where the farms meet on  
the Forestry line.

20

Chief of Apeso - I ask the Court to do the same with  
my boundary with Worawora.

Chief of Worawora - I agree.

Court adjourned until 23.12.30.

G.O.P.  
R.S.C., 22.12.30.

No. 5

PROCEEDINGS

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

23.12.30 Court resumes on Tuesday the 23rd  
December 1930 at 9 a.m.

No. 5

IN THE MATTER OF - THE KABO RIVER FOREST RESERVE  
(Oprana Section)

Proceedings.  
23rd December,  
1930.

Present -

10

- 1. Mr. A.J. Cox, A.C.F., representing Forestry dept.
- 2. Ohene Yaw Nyako of Worawora.
- 3. Ohene Osei Bonsu of Assatu.
- 4. Gyasehene Kwame Boafo representing Ohene of Apeso.

By Court - Has the Chief of Assatu or the Chief of Apeso agreed regarding their boundary?

Chief of Assatu represented by Linguist Asante - I agree that the Court shall lay down the boundary between us and give effect to the judgment of the Buem Tribunal delivered in 1927.

20

Chief of Apeso - We agree provided that the boundary follow the line we indicate to the Court.

ORDER BY COURT -

30

It is clear that a dispute has arisen regarding the ownership of land within the Oprana Section between Apeso and Assatu and the chances of bringing the parties into agreement are negligible. In the ordinary course of events the provisions of Section 9 ss. 4 No.1/1924 would operate and the case transferred to the Buem Tribunal, but in this case the question regarding the ownership of this disputed area has already been substantially decided by the Buem Tribunal on March 7th, 1927 (Exhibit 'J') but the boundary between the parties has not yet been laid down. The question of the boundary between Assatu and Apeso within the Reserve is accordingly referred to the Buem Tribunal in order that it may enforce its judgment.

Court adjourned sine die.

(Intld.) G.O.P.  
R.S.C.,  
23.12.30.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

No. 6

P R O C E E D I N G S

IN THE COURT OF THE RESERVE SETTLEMENT COMMISSIONER  
OF THE GOLD COAST COLONY HOLDEN AT WORAWORA IN THE  
HO DISTRICT OF BRITISH SPHERE OF TOGOLAND on  
THURSDAY THE 4TH JUNE, 1931 at 9 A.M.:

No. 6

BEFORE HIS WORSHIP

Proceedings.  
4th June, 1931.

EDWARD NORTON JONES, Esquire  
RESERVE SETTLEMENT COMMISSIONER.

IN THE MATTER OF -- THE KABO RIVER FOREST  
RESERVE

10

Present -

- Mr. A.J. Cox, A.C.F.
- Ohene of Worawora.
- Ohene of Apesokubi
- Linguist Yeboa representing Headchief of Buem.

ALFRED JAMES COX, recalled - I now produce a notice  
of page 535 of Gazette No.24/31, which notice has  
reference to the appointment of the Reserve Settle-  
ment Commissioner under Section 5 of Cap.63.  
(Tendered and accepted and marked 'K'). I also  
produce a preliminary survey plan of the Tempere  
Section of the Kabo River Reserve. (Tendered for  
identification, accepted and marked 'L' for identi-  
fication).

20

No. 7

No. 7

Proceedings.

P R O C E E D I N G S

5th June, 1931. By Court -

It is unfortunate that the ownership of land  
within the Tempere Section of the Kabo River Reserve  
is disputed, not only between two Subchiefs, but  
also between the Headchief of the Division and his  
subchiefs. I have attempted to bring the parties  
together without avail. I must therefore refer the  
following issue to the Tribunal of the Headchief of  
Buem -

30

- (1) Does the ownership of the land within the Tem-  
pere Section of the Kabo River Reserve belong

to the Stool of the Buem Division as represented by the Headchief of the said Division?

- (2) If the ownership of the said land is not vested in the said Stool, does it belong entirely to the Stool of Worawora as represented by the Chief of Worawora or to the said Stool of Worawora and to the Stool of Apeso as represented by the Chief of Apeso?

10

- (3) In the event of the said land being owned partly by the said Stool of Worawora and partly by the said Stool of Apeso, what is the boundary between the said Stools within the said section of the Reserve?

In the case before the Tribunal the Headchief of Buem Division shall be Plaintiff and the Chief of Worawora and Apeso shall be defendants.

20

As it also appears from the evidence given before me today that the Headchief is claiming ownership over all the land in the Oprana Section of the Reserve, I refer the following issue to the Tribunal of the Headchief of Buem and order that it be gone into at the same time as the first issue above-mentioned -

Does the ownership of the land within the Oprana Section of the Kabo River Reserve belong to the Stool of the Buem Division as represented by the Headchief of the said Division?

30

In hearing this issue the parties will be as above-mentioned except that the chiefs of Kudje and Assatu shall be joined as Co-Defendants.

This enquiry is adjourned sine die.

(Sgd.) E. Norton Jones,  
R.S.C.

---

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

No. 7

Proceedings.

5th June, 1931  
- continued.



In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

No. 8

PROCEEDINGS

IN THE COURT OF THE RESERVE SETTLEMENT COMMISSIONER  
OF THE GOLD COAST HELD AT JASTKAM KETE-KRACHI  
DISTRICT OF TRANS-VOLTA/TOGOLAND on 9TH DAY OF  
FEBRUARY, 1954,

No. 8

BEFORE HIS WORSHIP

Proceedings.  
9th February,  
1954.

ARTHUR PHILIP PULLEN, Esquire, O.B.E.  
RESERVE SETTLEMENT COMMISSIONER

IN THE MATTER of - THE PROPOSED KABO RIVER  
FOREST RESERVE

10

Parties present -

- Mr. D.A. Lane, S.A.C.F.,
- Nana Appewu, Benkumhene of Guaman
- Nana Kwame Appia Egya, Gyasihene, repr. Chene  
of Asatu
- Nana Kobina Safo, representing Chene of Kudje
- sic Safohene A.O. Ankouah of Apesokubi
- L.K. Owusu, Elder of Apesokubi
- Kofi Baafi, " " "
- F.K. Safo, Linguist of Apesokubi
- Nana Kwame Anom, Mankrado of Worawora
- Mr. Seth Amanie alias Sibau of Buem
- Mr. T.W. Aidoo, Elder of Buem
- John Amanie, representing Omanhene of Buem
- Nana Akuamoah, Chene of Kudje.

20

BY COMMISSIONER -

The settlement of this Reserve has been the  
subject of a long delay. The enquiry was opened on  
December 16th 1930 and adjourned on December 23rd  
1930 by Mr. G. Parker who made the following Order  
"It is clear that a dispute has arisen regarding  
the ownership of land within the Oprana Section  
between Apeso and Asatu and the chances of bringing  
the parties into agreement are negligible. In the  
ordinary course of events the provisions of Section  
9 ss.4 No.1/1924 would operate and the case trans-  
ferred to the Buem Tribunal, but in this case the  
question of the ownership of this disputed area has  
already been decided by the Buem Tribunal on March 7th  
1927 Exhibit 'J' of the enquiry but the boundary  
between the parties has not yet been laid down.  
The question of the boundaries between Asatu and

30

40

Apeso within the Reserve is accordingly referred to the Buem Tribunal in order that it may enforce its judgment."

2. On June 4th 1951 the enquiry was resumed by Mr. Norton Jones who succeeded Mr. Parker as Reserve Settlement Commissioner under the authority of Gazette Notice No.535 of Gazette 24/31. During the enquiry the A.C. of F. Mr. Cox produced a plan of the proposed Reserve referring to the portion known as the Tempere Section as distinct from the ad-  
 10 sic journing Oprana Section which was in dispute because  
 of Asatu and Apesokubi

3. Evidence was recorded from Yao Nyako Chief of Worawora and Kwasi Adu Ohene of Apesokubi, John Kofi Anori of Kpandu District made a claim to the purchase of land from Safohene Adjinka of Worawora which was supported by some documentary evidence which did not satisfy the Commissioner (Mr.Sutherland) that a right had been established.

20 Yaw Yeboa a linguist to the Omanhene of Buem stated that all the land in the Tempere Section belonged to the Buem Stool which had put it under the care of Subchief of Worawora - Apesokubi and Asatu. Later however the Omanhene of Buem said "I am making no claim about the land".

30 4. A dispute then arose as to the boundaries between Worawora and Apesokubi and to the ownership of land in the Tempere Section. Mr. Norton Jones referred the dispute to the Tribunal of the Headchief of Buem in the following terms :-

(i) Does the ownership of land within the Tempere Section of the Kabo River Forest Reserve belong to the Stool of Buem Division as represented by the Headchief of the said Division?

40 (ii) If the ownership of the land is not vested in the said Stool does it belong entirely to the Stool of Worawora as represented by the Headchief of Worawora or to the Stool of Apeso as represented by the Chief of Apeso?

(iii) In the event of the land being owned partly by the Stool of Worawora and partly by the Stool of Apeso, what is the boundary between the said Stools within the said Section of the Reserve?

In the Court  
 of the Reserve  
 Settlement  
 Commissioner  
 of the Gold  
 Coast

No. 8

Proceedings.  
 9th February,  
 1954  
 - continued.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

\_\_\_\_\_  
No. 8

Proceedings.

9th February,  
1954  
- continued.

In the case before the Tribunal the Headchief of Buem Division shall be the plaintiff and the Chiefs of Worawora and Apeso shall be the Defendants. As it also appears from the evidence given before me to-day that the Headchief is claiming ownership over all the land in the Oprana Section of the Reserve, I refer the following issue to the Tribunal of the Headchief of Buem and order that it be gone into at the same time as the first issue above mentioned :-

10

"Does the ownership of the land within the Oprana Section of the Kabo River Forest Reserve belong to the Stool of Buem Division as represented by the Headchief of the said Division."

In hearing the issues the parties will be as above-mentioned except that chiefs of Kudje and Asatu shall be joined as co-defendants.

I quoted the words and order of Mr. Norton Jones who then adjourned the enquiry.

5. On March 12th 1940, the enquiry was resumed this time by a third R.S.C., Mr. D.A. Sutherland who succeeded Mr. Norton Jones.

20

Evidence was recorded from Yaw Nyako Ohene of Worawora and Kwasi Adu Ohene of Apesokubi, that they had settled their dispute amicably and not through the Buem Tribunal. This was confirmed by Nana Akpandja II Omanhene of Buem State who withdrew his claim to land ownership in favour of Worawora and Apesokubi. He also stated that no land may be sold without his approval, ending with the words "All the disputes in the Tempere Section have been amicably settled".

30

An agreement on the boundary marked Ex. 'Q' was put in by the Forest Ranger and was signed by Worawora and Apesokubi. The boundary was cut, representatives were present when this done but left before cutting was completed.

6. On March 13th 1940 evidence was recorded from A.C.F. on the claims made earlier in the enquiry on the exercise of communal rights and other details. The enquiry was then adjourned.

40

7. On June 4th 1940, the enquiry was resumed by Mr. Sutherland. Finally the proceedings were closed and adjourned sine die on December 10th 1940.

8. Mr. C.N.T. Henry was appointed Reserve Settlement Commissioner in succession to Mr. Sutherland vide Gazette No.60 of 14th June 1952 but the enquiry was not resumed by him.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

\_\_\_\_\_  
No. 8

9. I have endeavoured to give you a picture of what has happened since the enquiry was first opened in 1930, now 24 years have elapsed. As I have been appointed to succeed Mr. Henry under the authority of Gazette Notice 2212 of Gazette No.74 of 7th November, 1953.

Proceedings.  
9th February,  
1954  
- continued.

I wish the Chiefs of Worawora - Apesokubi to say whether they wish me to start the enquiry de novo or whether from the point that Mr. Sutherland adjourned. I must ask you this question under Section 5 ss.(2) Forests Ordinance Cap.122.

If there is no objection to the latter course, I am in a position to pronounce judgment on the evidence already recorded and after hearing further claims should there be any and comments by Mr. Lane, S.A.C.F.

By this I mean judgment on the Tempere Section only. To give effect to this suggestion. I hereby divide the proposed Kabo River Forest Reserve into two sections. The Tempere Section and the Oprana Section under Sec.9(2) Forests Ordinance Cap.122.

SUBMISSION -

(i) All parties present state that they wish me to resume this enquiry from the adjournment of December 1940.

(ii) The Ohene of Worawora and Ohene of Apesokubi ask to see the map exhibit of the Tempere Section on which is shown the Apesokubi-Adumadum path between beacons Nos.213 and 136 forming the common boundary between the Tempere and Oprana Sections of the Reserve.  
They express satisfaction and confirm that there is no longer any dispute between the Stools.

In the Court  
of the Reserve  
Settlement  
Commissioner  
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No. 9

J U D G M E N T  
(TEMPERE SECTION)

HISTORY

No. 9  
Judgment.  
(Tempere  
Section)  
9th February,  
1954.

The history of the enquiry into the settlement of this Reserve has been set out in my address to the chiefs and people concerned and it is unnecessary for me to repeat it in this judgment, except to record that I have formally divided the Reserve into two blocks under Section 9(1) Forest Ordinance Cap.122 namely the TEMPERE SECTION where there are no longer any boundary disputes and the OPRANA SECTION where litigation is still in progress.

10

This judgment covers the Tempere Section the boundaries of which are described in Schedule II.

No. 10

No. 10

Proceedings on  
Resumption of  
Enquiry into  
Oprana Section.  
10th February,  
1954.

PROCEEDINGS on Resumption of Enquiry into  
OPRANA SECTION

By Commissioner.

I have already explained to you the difficulties which have arisen since the enquiry on the Kabo River Forest Reserve was opened in December 1930. Yesterday I formally divided the Reserve into the Tempere and Oprana Sections and as there were no longer any disputes in Tempere Section I pronounced judgment. Today I resume that part of the enquiry which involves the Oprana Section. I will read out to you the sorry state of affairs regarding litigation between Apesokubi and Asatu since the dispute over the boundary was referred by the Commissioner to the Native Court in 1930.

20

30

March, 1931. Borada Native Tribunal.

Judgment in favour of plaintiff and fixed the boundary between Asatu and Apesokubi.

April, 1937. W.A.C.A.

The case went on appeal to the P.C., and then to the W.A.C.A., where the judgment of Borada Native Court was upheld.

July, 1939. Buem State Council.

Owing to the enactment of new legislation the Defendant tried to appeal to the Buem State Council. After several adjournments the case was withdrawn by the consent of both parties and submitted for settlement by arbitration.

In the Court  
of the Reserve  
Settlement  
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Coast

                      
No. 10

July, 1942. Arbitration No. 1

10

As a result of this arbitration it was agreed that the boundary between Asatu and Apesokubi should be demarcated but the Apesokubihene withdrew the case and no demarcation was carried out.

Proceedings on  
Resumption of  
Enquiry into  
Oprana Section.

10th February,  
1954

- continued.

June 1947. Arbitration No. 2.

The case was brought before a second arbitration - arbitrators demarcated the boundary. The Apesokubi again withdrew the arbitrators continued and completed the boundary.

20

May 1948. Buem State Council.

The Apesokubihene took action before the State Council against the arbitrators. The case was discussed by the State Council but the Council ruled that the boundary demarcated by the arbitrators was not binding upon either party.

November, 1950. Land Court.

30

The Apesokubihene lost an appeal against the judgment of the Buem State Council in respect of costs.

March, 1953. W.A.C.A.

40

The Asatuhene applied to the Borada Native Court "B" for a writ of possession based on the original judgment given in 1931. The application was granted and the Apesokubihene applied for a writ of prohibition preventing the Asatuhene and the Borada Native Court from executing the writ of possession. The Apesokubihene's application was not granted by the Land Court but when taken to W.A.C.A., on

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
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No. 10

Proceedings on  
Resumption of  
Enquiry into  
Oprana Section.  
10th February,  
1954  
- continued.

appeal Windsor Aubrey J., set aside the  
decision of the Land Court and made the  
writ of possession absolute.  
(prohibition)

In his judgment he ruled that the 1931  
judgment only declared the boundary and  
did not award any specific location to  
the Asatuhene.

September, 1953. Akan Native Court "B".

The Asatuhene instituted a new action for  
recovery and possession of the land sur-  
veyed shown on a plan prepared in 1932 as  
a result of the 1931 judgment the Court  
gave possession to the plaintiff.

10

January, 1954. Land Court -

The decision of the Akan Native Court "B"  
was taken on appeal to the Buem Native  
Court "B" by the Apesokubihene and his  
appeal upheld. The decision of Buem N.  
Court is now the subject of an appeal  
pending before the Land Court.

20

It therefore seems that it is impossible to deter-  
mine Stool ownership of land in the Oprana Section  
of this Reserve for some considerable time to come.  
If my assumption is correct and after establishing  
the rights of individual farmers who have prior to  
the Governor's Notice long established farms known  
to the Forestry Department and hearing any aliena-  
tion claims, I may find it necessary to conclude the  
enquiry without permitting the exercise of any com-  
munal rights to the Stools disputing the land, while  
any revenue derived from forest management after  
the Reserve is constituted will be deposited with  
the Accountant-General until such time as it is  
possible to divide it according to Stool ownership  
of land. A boundary however has been declared be-  
tween Asatu and Apesokubi by the decision of the  
Borada Tribunal in 1931. I will now hear claims  
providing that you agree that there is no necessity  
to start this resumed enquiry de novo but prefer  
that I continue from the last adjournment by Mr.  
Sutherland, Section 5(2) Forests Ordinance Cap.122  
refers.

30

40

X X X X  
BY COMMISSIONER.

Ohene of Worawora - Apesokubi - Asatu - Elders  
say that they wish me to continue from Mr. Suther-  
land's adjournment of December, 1940.

No. 11

NANA KATABOAH

Witness No.57 - NANA KATABOAH: (recalled)

Cross-examined by Commissioner -

We of Apesokubi follow Akan custom, there is variation of Akan custom in cases of heritage.

In the Court  
of the Reserve  
Settlement  
Commissioner  
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Coast

Evidence

No. 11

Nana Kataboah.  
21st March,  
1954.

No. 12

COURT NOTES

By Commissioner

No. 12

Court Notes.  
21st March,  
1954.

10 I now put in the decision of the Borada Native Tribunal containing a description of the boundary declared between Apesokubi and Asatu. It is certified a true copy and dated 21st February 1931. Exs. "O - H". Marked by this Court Exhibits "O-H".

The decision is out of time for appeal but as you know litigation is in progress for a writ of possession. This however does not affect the description of the boundary which holds good.

Court Note -

20 The Ohene of Apesokubi (witness No.29) raises no objection. The Benkumhene of Guaman (witness No.52) claims communal rights of 8 Odum, 8 Opapa, 8 Mahogany, 12 Oil palms, 200 building poles, although the predecessor of the present Benkumhene claimed interests in the Oprana Section in the earlier enquiry before previous Reserve Settlement Commissioner, he later said Guaman had no interest.

30 At the resumed enquiry before me this statement has been reversed and it appears that Guaman may have a small interest with Asatu vide the boundary description given in Exhibit "O-H" where Guaman is mentioned but this may refer to boundary outside the Reserve.



In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

J U D G M E N T  
(OPRANA SECTION)

HISTORY -

No. 13

Judgment  
(Oprana  
Section)

3rd May, 1954.

The enquiry was opened on 16th day of December, 1930, by Mr. Parker, resumed by Mr. Norton Jones on June 4th 1931, followed by Mr. D.A. Sutherland on March 3rd 1940.

It was resumed by me on February 9th 1954, when I formally divided the Reserve into two Sections namely the Tempere Section and the Oprana Section. The authority for doing so is Section 9(1) of Forests Ordinance Cap.122. Judgment was pronounced on the Tempere Section on 9th February, 1954.

10

2. The enquiry before me on the Oprana Section is covered by the period 10th February, 1954, 21st March 1954 at Jasikan and 8th-14th April, 1954 at Accra, and on May 3rd, 1954 at Jasikan when judgment was pronounced.

I am satisfied that due publicity was given to the holding of the enquiry to enable persons who may have had claims in the Reserve to appear in person or to make such claims in writing or to send a representative to do so. Various Gazette Notices covering the appointment of divers Settlement Commissioners are in order.

20

3. The long delay in settlement of the entire Reserve has been caused by the long drawn out boundary dispute between the Stools of Apesokubi and Asatu both Akans, included in the Buen-Akan State. From Records in my file it is recorded that litigation has cost the Stool of Asatu alone over £4000 up to the year 1941. A precis of the progress of this litigation has been given in my opening address to the Court.

30

4. The Land Court has now restored the judgment of the Akan Native Court and a writ of possession of the land east of the boundary defined by the judgment of Borada Native Tribunal in March 1931, has been granted to the Stool of Asatu. The Chief Justice was the presiding Judge of land appeal No.94/1933 delivered on 22nd April 1954. Appeal from this decision regarding a Writ of Possession

40

now lies to the West African Court of Appeal but whatever the outcome of the Appeal may be, no farming rights would be granted to the successful Stool over that part of land in the Reserve, by my judgment of this enquiry.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

-----  
No. 13

10 5. It is unfortunate that the enquiry was not continued soon after all avenues of appeal had expired against the fixation of the boundary by the Borada Native Tribunal as contained in a certified copy of its decision dated March 1931, which forms Exhibit -H of this enquiry as all avenues of appeal against the boundary so determined had already been exhausted.

Judgment  
(Oprana  
Section)

3rd May, 1954  
- continued.

6. I therefore accept the decision of the Borada Native Tribunal dated March 1931 and record that the physical boundary between the Stools of Apesokubi and Asatu is as follows :-

20 "The proper boundary fixed in this judgment is the top of Oprana Hill from river Asuokoko southward to the stream Mutabe and down the stream to an Ntombe tree and to the road cleaning heap Asatu-Apesokubi road."

The acceptance of the Native Court decision is regularised by Section 9(2) of Forests Ordinance which reads -

"Provided that it shall not be necessary to refer any dispute which has already been decided by any Native Court or other Court."

and again Section 9(6) which reads -

30 "The Reserve Settlement Commissioner shall accept and adopt the judgment of the Native Court or the Supreme Court, as the case may be, or, in the case of an appeal from such judgment, the judgment of the appellate Court, for all the purposes of the enquiry and of his judgment under Section 14 of this Ordinance."

40 I have noted that Mr. Norton Jones referred this dispute to the Buem Native Court (Borada Tribunal) vide notes of evidence on page 29 dated 23rd November, 1930.

7. I proceeded to hear claims from farmers and on the evidence of the Senior Asst. Conservator of Forests (Mr. Lane witness No.41) admitted unrestricted farming rights over the areas claimed. These claims are recorded in Schedule III.

In the Court  
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Sec.14(2)(c)  
F.O. Cap.122

SCHEDULE III

FARMING RIGHTS ADMITTED.

No. 13	Name of right holder	Address	No. of farm	Area in acres	Indiv: right					
Judgment (Oprana Section) 3rd May, 1954 - continued.	Sawyer Kwasi	Kabosu	4	15.40						
	Yaw Anti	Apesokubi	5	4.80						
	Panbu Kpebu	Okrahe	6	42.10		10				
	Ofori Mayeden ) Sewiri )	Apesokubi	7	4.00	Unrestrict- ed rights of cultiva- tion over the area stated, with access thereto over existing paths.					
	Male	Okrahe	8	9.16						
	Animka Amemoki	Apesokubi	9	2.50						
	E.K. Osafo	"	10	2.24						
	Kwami Duodu	Okrahe	11	0.70						
	Kwadjo Budu ) Kwaku Togo )	Apesokubi	12	17.20			20			
	Kwasi Kuma ) Obochi )					"		13	5.90	
	Parker Tamakloe ) Ata Yao )									
	Kwaku N. ) Kwatabisa ) Kwasi Ahia )	"	14	27.84						
	S.K. Danquah	"	15	17.19						
	Kwadjo Befi	"	16	1.20						
	Kwame Attah	Worawora	17	1.74		30				
	Kwabena Okesiah	"	18	5.60						
	Kofi Meeh	"	19	7.47						
	Kwadjo Darku	Kudje	20	3.12						
	Kwasi Nyarko ) Kwadjo ) Tamakloe ) Kwabena Safo )	"	21	5.20						

Note -

1. All areas are more or less.
2. Farms Nos. 1, 2, 3, are contained in Schedule III of Judgment on the Tempere Section dated 9th February, 1954.

Sec.14(2)(c)  
F.O. Cap.122

SCHEDULE VI.

STOOL RIGHTS ADMITTED.

All residual rights of ownership of land within the boundaries of the Oprana Section, are vested in the Stools of Apesokubi, Asatu, Worawora and Kudje, within their respective portions, subject to any obligations imposed by Native Law and Custom to the paramount Chief of the Buem State or Local Council or by Ordinance.

10

(Sgd.) A. P. Pullen  
RESERVE SETTLEMENT COMMISSIONER.

In the Court  
of the Reserve  
Settlement  
Commissioner  
of the Gold  
Coast

No. 13

Judgment  
(Oprana  
Section)

3rd May, 1954  
- continued.

No. 14

NOTICE AND GROUNDS OF APPEAL

IN THE WEST AFRICAN COURT OF APPEAL

GOLD COAST SESSION

ACCRA A.D. 1954

NOTICE OF APPEAL

20 IN THE MATTER of THE PROPOSED KABO RIVER FOREST  
RESERVE - (OPRANA SECTION).

In the West  
African Court  
of Appeal

No. 14

Notice and  
Grounds of  
Appeal.

20th May, 1954.

30

TAKE NOTICE that NANA KATABOAH, Chene of Apesokubi one of the parties hereto, being dissatisfied with the decision of the Court of the Reserve Settlement Commissioner of the Gold Coast in the decision of A.P. Pullen, Esquire, Reserve Settlement Commissioner dated the 3rd day of May, 1954 at Jasikan, does hereby appeal to the West African Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

AND the Appellant further states that the

In the West  
African Court  
of Appeal

No. 14

Notice and  
Grounds of  
Appeal.

20th May, 1954  
- continued.

names and addresses of the persons directly affected by the appeal are those set out in paragraph 5.

2. The appeal is against that part of the decision whereby a boundary is declared between the Apesokubi and Asato Stool land.

3. GROUND OF APPEAL.

1. The Reserve Settlement Commissioner was wrong in basing his decision regarding the boundary between the Apesokubi Stool and Asato Stool lands on the judgment of the Borada Native Tribunal of March, 1951, because the issue relating to the boundary aforesaid was still sub-judice. 10

2. The decision regarding the boundary was wrong because it was not based on any evidence before the Reserve Settlement Commissioner.

4. RELIEF SOUGHT -

THAT that part of the judgment of the Reserve Settlement Commissioner whereby a boundary is declared between Apesokubi and Asato be set aside. 20

5. PERSONS directly affected by the Appeal -

Nana Osei Bonsu,  
Ohene of Asato  
Asato.

DATED at Kwakwaduan Chambers, Accra, this 20th day of May, 1954.

(Sgd.) E. Akufo Addo,  
SOLICITOR FOR THE APPELLANT.

Filed: 10th June, 1954  
(Sgd.) Kweku Atta, Registrar,  
R.S.C., Accra. 30

COURT NOTES OF ARGUMENTS

In the West  
African Court  
of Appeal

20th February, 1956.

No. 15

IN THE WEST AFRICAN COURT OF APPEAL

Court Notes of  
Arguments.

GOLD COAST SESSION:

20th February,  
1956.

CORAM COUSSEY, P., KORSAN and AMES, JJ.A.

51/54 (1)

IN re PROPOSED KABO RIVER FOREST RESERVE,  
etc.

10 NANA KATABOAH, Ohene of Apesokubi

v.

NANA OSEI BONSO, Ohene of Asatu

MR. AKUFO ADDO for appellants  
MR. BOSSMAN and MR. OLLENNU for respondents.

Mr. Akufo Addo -

20 I adopt the same submissions as I made to  
this Court of Appeal No.25/55 Nana Osei Bonso III  
v. Nana Kwasi Adu in which appeal, this Court on  
13th February 1956 dismissed the appeal in favour  
of Nana Osei Bonso of Asatu, thereby supporting the  
view of the Reserve Settlement Commissioner in the  
Enquiry, the subject of the present appeal.

I have nothing further to add.

Mr. Ollennu -

30 This appeal was adjourned by consent to abide  
the result of Appeal No.25/55. That appeal was  
decided against the present appellant and the only  
course is to dismiss this appeal as it is between  
the same parties on the same issues. Mr.Akufo Addo  
has nothing to add. I agree that in the circum-  
stance the Court is bound to dismiss the appeal.

In the West  
African Court  
of Appeal

No. 16

J U D G M E N T

No. 16

JUDGMENT -

Judgment.  
20th February,  
1956.

In the circumstance we feel ourselves bound by the Judgment of this Court dated 13th February 1956 in Appeal No.25/55, Nana Osei Bonsu III v. Nana Kwasi Adu which involves the same issue between the same parties. The appeal is accordingly dismissed with costs for the Respondents allowed at £18. 8. 6.

(Sgd.) J. Henley Coussey, P.

10

(Sgd.) K. A. Korsah, J.A.

I did not hear the arguments in the appeal on which the decision in this appeal depends. But Mr. Akufo Addo has agreed that in the circumstances this Court must dismiss this appeal: and his reason for not withdrawing it is technical and procedural, in case the other appeal may be taken further. I therefore agree with the dismissal of this appeal.

(Sgd.) E. G. Ames, J.A.

ORDER -

20

The appeal is dismissed with costs £18.8.6d.

(Sgd.) J. Henley Coussey, P.

No. 17

No. 17

Application  
for an Order  
for Final  
Leave to Appeal  
to Her Majesty  
in Council.

APPLICATION for an ORDER for FINAL LEAVE  
to APPEAL to HER MAJESTY IN COUNCIL

3rd July, 1956.

IN THE WEST AFRICAN COURT OF APPEALGOLD COAST SESSIONVICTORIABORG - ACCRAA. D. 1956BEFORE A SINGLE JUDGE

30

IN re THE PROPOSED KABO RIVER FOREST RESERVE

- And -

IN THE MATTER of -

NANA KATABOA II, Ohene of Apesokubi,

Claimant-Appellant-Appellant

v.

NANA OSEI BONSU, Ohene of Asato,

Claimant-Respondent-Respondent

APPLICATION FOR AN ORDER FOR FINAL LEAVE  
TO PRIVY COUNCIL

In the West  
African Court  
of Appeal

No. 17

Application  
for an Order  
for Final  
Leave to Appeal  
to Her Majesty  
in Council.

3rd July, 1956  
- continued.

10 TAKE NOTICE that this Court will be moved by  
EDWARD AKUFO ADDO Esquire of Counsel for the Appel-  
land herein and on his behalf on Monday the 8th day  
of October 1956 at 9 of the clock in the forenoon  
or so soon thereafter as Counsel may be heard for  
an Order for Final Leave to Appeal to the Privy  
Council from the Judgment of this Court delivered  
on the 20th February, 1956 AND/OR for any such  
further order or orders as to the Court may seem  
fit.

DATED at KWAKWADUAM CHAMBERS, ACCRA, this 3rd  
day of JULY, 1956.

(Sgd.) E. Akufo Addo  
SOLICITOR FOR THE APPELLANT.

20 THE REGISTRAR,  
West African Court of Appeal,  
Accra.

And to  
NANA OSEI BONSU III of Asato  
The Respondent herein.

No. 18

COURT NOTES granting FINAL LEAVE to APPEAL  
to HER MAJESTY IN COUNCIL

IN THE WEST AFRICAN COURT OF APPEAL,

GOLD COAST SESSION:

CORAM KORSAH, C.J., sitting as a Single  
Judge of Appeal.

No. 18

Court Notes  
granting Final  
Leave to Appeal  
to Her Majesty  
in Council.

8th October,  
1956.

30 Civil Motion  
No.47/56.

IN re PROPOSED KABO RIVER FOREST RESERVE, etc.

NANA KATABOA II

v.

NANA OSEI BONSO

MOTION on notice by Nana Kataboa II for an Order for  
final leave to appeal to Privy Council.

Mr. C.A. Owusu for Applicant.

Mr. Lassey for respondent.

40 COURT - Final Leave granted as prayed.

(Sgd.) K.A. Korsah,  
C.J.



Exhibits

E X H I B I T S

"O-H"

"O-H". - JUDGMENT of BORADA NATIVE COURT 1931

Judgment of  
Borada Native  
Court.  
21st February,  
1931.

IN THE NATIVE TRIBUNAL OF BORADA (BUEM) held by  
NANA AKPANDJA II, OMANHENE OF BUEM, and his ELDERS,  
21ST day of FEBRUARY, 1931.

BETWEEN

SUBCHIEF OSEI of Asato Plaintiff

- and -

SUBCHIEF KWASI ADU of Apesokubi,  
Defendant

10

Plaintiff's Charge - (a) For having stated you have no boundary with me on the disputed land but with Dodi place where marked by German Official at Owankukuama, and his with Ahmansu at Tentianye, to know by historical origin why have no land there.

(b) That we both (with the Defendant) pay fee to the Omanhene due to the setting of the first boundary twenty years now; you claim the boundary to be renewed why my amount not refunded to me.

Defendant plead not guilty.

20

J U D G M E N T

In this case Chief Osei of Asatu claim to know the reason why Apesokubi Chief states he have no Stool land but rather have boundary with Dodis. The Chief of Asatu in his statement shows his boundary from Worawora and Guaman boundaries on the top of the Oprana Mountain, and that from a heap being road cleaning limit Asato-Apesokubi road straight to a stream by name Mutabe from where the stream is the boundary to the top of the Oprana Mountain to the end of the mountain in Asuokoko river the place known as a Owukukuamba. In support of his case he called five witnesses. The first witness evidence in support of the plaintiff's statement that Worawora people fought Apesokubis and they have to run away from their first place of abode.

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It is clear that by that time their fetish was kept in Asatu Stool land. His second witness only

talk about how Omanhene of Buem set boundary first between these two persons, 3rd Yaw Koko of Worawora evidence that Apesokubi and Asatu get boundary at Owukukuamba where Oprana hill ends in river Asuokoko. Asatos claim is correct by this evidence. The fourth witness is an ex-linguist to Nana Akpandja I & II. That the land had been sold first by Asato Chief to a German man which shows the land properly belongs to Asato. The fifth witness was called by both parties he is the Odikro of Kajebi; he said Asato have the land in dispute Apesokubi are people from Akposso Ewi they have one only village. Elder Charles representing the Ohene of Guaman said Asatu have a ruined village at Tentiane and if the seventh witness said the land belongs to Dodis his evidence is not believed. He further said he know one ruined village of Apesokubis but this Apesokubis claim of a land belongs to seventy-seven villages and towns is not correct claim. The last evidence is that of Kwasi Nyako he only directed what he was told he do not know the land.

I being the Omanhene of Buem know one only village of Apesokubi their claim of a land seventy-seven villages and towns as he said in his statement, is not correct claim.

It is also clear that this fetish of Apesokubi was kept in Asatu Stool land during the time Worawora fought and sack them.

Buem custom allowed saving of Fetishes in another man's land property.

Apesokubi Chief is guilty the land properly belongs to Asatu. The proper boundary fixed in this judgment is the top of Oprana Hill from river Asuokoko southward to stream Mutabe and down the stream to an Ntomba tree and to the road cleaning heap Asatu-Apesokubi road.

Apesokubi is to pay the whole costs of the case also trespass the oath sworn in the Tribunal.

It is known to the Tribunal that Asatu directed the Reserve Officer in cutting line through this disputed land, as the land is theirs and know it proper land already viewed in 1927.

Exhibits

"0-II"

Judgment of  
Borada Native  
Court.

21st February,  
1931

- continued.

IN THE PRIVY COUNCIL

No. 47 of 1959

ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL

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IN THE MATTER of PROPOSED KABO RIVER FOREST  
RESERVE

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B E T W E E N :

NANA KATABOA II, Ohene of Apesokubi  
(Claimant) Appellant

- and -

NANA OSEI BONSU, Ohene of Asato  
(Claimant) Respondent

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R E C O R D O F P R O C E E D I N G S

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