IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA – A.D. 2017

CORAM: ANIN YEBOAH JSC (PRESIDING)
BAFFOE- BONNIE
GBADEGBE JSC
AKOTO BAMFO (MRS) JSC
PWAMANG JSC

CIVIL APPEAL

NO:J4/11/2016

26TH JANUARY, 2017

AKUA NSOWAA
AKOSUA AMPONSAH FOR HERSELF
AND ON BEHALF OF ATTA KWADWO
AND ATAA ADWOA
KWAKU NSIAH, CUSTOMARY SUCCESSOR
OF THE LATE KOFI AMPONSAH AND
KWADWO TIWAA **PLAINTIFFS/APPELLANTS**
/APPELLANTS

VRS

TOAYIRI BAMBA
HAJIA MAMAA **DEFENDANTS/RESPONDANT**
/RESPONDANTS

JUDGMENT

ANIN-YEBOAH JSC:

The facts of this case appear not to be seriously controverted and fall within a very narrow compass. The house in dispute described as H/NO C78 (now B7/2) Wenchi in the Brong Ahafo Region was originally owned by one Seidu Manje alias Seidu Banda, alias Asiedu Manje.

The plaintiff/appellants/appellants who for sake of brevity shall be referred to as the appellants commenced action at the High Court, Wenchi against the defendants/respondents/respondents who shall be referred to in this delivery as the respondents. The first appellant is the niece of one Kofi Amponsah, the father of the second appellant. The third appellant is the customary successor of the said Kofi Amponsah. The respondents are the descendants of Seidu Manje and they claimed he was their grand uncle.

It was the case of the appellants that Kofi Amponsah in his lifetime bought the house in dispute from Seidu Manje. This assertion was denied by the respondents as they contended that Seidu Manje never at any point in time sold the house to Kofi Amponsah but that Seidu Manje only pledged a portion of the house to Kofi Amponsah for an amount of ε1. In the trial court, the appellant sought a declaration of title in respect of the disputed property and the

respondents also counterclaimed for substantially the same reliefs as claimed by the appellant.

We have carefully considered the evidence and had regard to the written submissions submitted by the parties and wish to express our opinion on the matter in relatively few words. In our view the appellants have not been able to persuade us that the decision of the leaned justices of the CA was perverse and or unreasonable such as to justify intervention in respect of the decision on appeal which turns primarily on issues of fact.
However, we wish to refer to a point of procedural importance which was glossed over by the two lower courts. At the hearing of the application for directions subsequent to close of pleadings, the plaintiffs set down nine

issues for determination by the trial High Court. For a better understanding of the observations we reproduce the issues as follows:

a) Whether or not the plaintiffs are entitled to the reliefs being sought.
b) Whether or not the defendants are entitled to this counterclaim.
c) Whether or not the disputed house was sold by Seidu Manje to the late Amponsah.
d) Whether or not the late Amponsah paid a valuable consideration to Seidu Manje for the sale of the house to him.

e) Whether or not the late Seidu Manje swore to an affidavit that he has not sold the house to the late Kofi Amponsah.
f) Whether or not the late Kofi Amponsah subsequently gifted the rooms to the plaintiffs.
g) Whether or not the late Amponsah paid property rates to the Wenchi Assembly and after his death payment has been make in his name to date.
h) Whether or not the defendants are laying adverse claim to the disputed house.
i) Whether or not the 1st defendant sent the 1st plaintiff to CHRAJ, Wenchi and was found liable hence they are estopped by the decision from relitigation the matter.
j) Whether or not a portion of the late Manje's house was pledged to the late Kofi Amponsah.

At the applications for directions stage, the learned judge formed the view, rightly in out opinion, that the issue of whether the disputed house was pledged or sold ought to be tried first. To make it clearer this was what the learned trial judge from the court noted of 3/05/2012 said:

> *"BY COURT: As a way of granting directions I direct that the issue whether the house was sold or pledged be tried first".*

We agree with the learned trial judge that this was the main issue for decision and a determination of it could determine the entire case.

Although, as said earlier, we are in agreement with learned trial judge on the view of the future course of the proceedings which he took at the hearing of the application for directions, we think that since the parties had formulated several issues for trial numbering (A-J), he should have sought their opinion before giving his direction on his view of the issues to. We are also of the opinion that although the judge who presides over the hearing of the applications for directions has an important role to play in directing the future course of the trial for the purpose of moving the action towards a more expeditious disposal, having regard to the critical role that directions play in our jurisprudence, he is required to offer an opportunity to the parties through counsel before pronouncing in the matter as he did. Notwithstanding this, the said course of proceeding had subsequently in the trial court has not occasioned prejudice to either party such as to being an instance of miscarriage of justice. Accordingly, nothing of substance results from the conduct of the learned trial judge and the views herein expressed are intended future guidance only.

Secondly it must also be made clear that if a court of law at the applications for directions stage sets an issue for determination as was rightly done in this case, the trial court must confine itself to that single issue and prevent the parties and the court itself from

veering outside that central issue to the other issues. In such a case, the trial judge should limit the evidence tendered at the trial to the single issue in order not to prejudice its determination of the issue being tried.

For these reasons, we dismiss the appeal herein and affirm the decision of the Court of Appeal.

(SGD) ANIN YEBOAH
JUSTICE OF THE SUPREME COURT

(SGD) P. BAFFOE - BONNIE
JUSTICE OF THE SUPREME COURT

(SGD) N. S. GBADEGBE
JUSTICE OF THE SUPREME COURT

(SGD) V. AKOTO BAMFO (MRS)
JUSTICE OF THE SUPREME COURT

(SGD) G. PWAMANG
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