IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA, AD. 2016

CORAM: **ADINYIRA (MRS), JSC. [PRESIDING]**
BAFFOE - BONNIE, JSC.
BENIN, JSC.
AKAMBA , JSC.
APPAU, JSC.

CIVIL APPEAL
NO.J4/43/2015

1ST JUNE 2016

ANTHONY WIAFE **PLAINTIFF/RESPONDENT**

RESPONDENT

VRS.

DORA BORKAI BORTEY) **1STDEFENDANT/APPELLANT/**

APPELLANT

VICTORIA AMOO) **2NDDEFENDANT/APPELLANT**

APPELLANT

JUDGMENT

BENIN, JSC:

The plaintiff/respondent/respondent, hereafter called the plaintiff, sued out a writ of summons at the High Court, Accra against the

defendants/appellants/appellants, hereafter called the 1st and 2nd defendants respectively, claiming these reliefs:

(1) Declaration of title to all that piece or parcel of land situate, lying and being at Baatsonaa, Accra, covering an approximate area of 0.182 acre and bounded on the northeast by a proposed road measuring 122 feet 1 inch more or less, on the south-east by stool land measuring 44 feet 6 inches more or less, on the north west by a proposed road measuring 91 feet 2 inches, and on the south by stool land measuring 117 feet 2 inches-which piece or parcel of land is more particularly delineated on a site plan, as per indenture registered as No. 32000/312C/08 and stamped as AR/1426C/2008.

(2) Recovery of possession of any portion of the land being falsely claimed by defendants.

(3) General damages for trespass.

(4) An order of perpetual injunction restraining the defendants herein, their agents, workers, assigns, servants and any other persons claiming through them from interfering with plaintiff's title to the ownership, development and occupation of any portion of the parcel of land aforesaid.

The plaintiff's case as pleaded was that the land in dispute forms part of the larger stool land owned by the Nungua Stool. He obtained a grant from the Nungua Mantse Odaifio Welenchi III and the stool elders. However, as a result of the Nungua Chieftaincy dispute, he was denied registration by the Lands Commission. He was thus compelled to go to Nii Odai Ayiku IV and his stool elders one of the rival claimants to the Nungua Stool for a grant of the same piece of land. He was able to register the title per the indenture he obtained from Nii Odai Ayiku IV. He moved into possession by conveying trips of sand and stones thereon. The defendants challenged his title to the land hence the action.

By an amended statement of defence, the defendants averred that the 1st defendant acquired a large tract of land of which the area in

dispute forms a part as a native of Nungua, sometime in 1998 and has been in occupation since then. The 1st defendant contended that she fenced the land leaving a small portion in front of the land. According to her one Nii Bortei Sango allowed squatters to place kiosks and other temporary structures on the unfenced portion of the land. These squatters caused a lot of nuisance there by dumping refuse. When she called upon Nii Sango to cause the nuisance to be removed from the site, Nii Sango claimed that the land belonged to his family and that he was prepared to sell it to her. She agreed to buy this piece of land from Nii Sango at a fee of GH¢8,000.00. She paid a total of GH¢5,000.00 in two installments of GH3,000.00 and GH¢2,000.00 respectively in 2006. The said Nii Sango reneged on his promise to remove the squatters so the 1st defendant took an action against him and the squatters at the District Court and obtained judgment against them. After the squatters had vacated the land, she had cleared same of the refuse and erected a fence around it. It was after this the plaintiff trespassed upon the land in the company of one Eddie, a brother of Nii Sango to take measurements of the land. She reported the matter to the Police. Again in 2009 the plaintiff re-entered the land, broke the gate and deposited sand and stones thereon. She made a report to Police and whilst the matter was still in the hands of the Police, the plaintiff instituted this action. The defendants averred that the plaintiff's title registration was of no effect since it was not done under the PNDCL 152.

The plaintiff gave evidence by himself and called the Nungua Stool which sent its Secretary to represent it as a witness. The case for the plaintiff was as pleaded that he acquired the land from the Nungua Stool who gave him a document which he was able to register with the Lands Commission, after the Commission had declined to register an earlier document issued to him by a rival claimant to the Nungua Stool. The 2nd defendant testified for the 1st defendant who she said was the true owner of the land having purchased same from Borlarbi. Having acquired the land from Borlarbi she fenced it leaving a portion which they were informed was part of a road

reservation. Later a lot of squatters encroached upon this reserved land at the instance of one Nii Sango who claimed ownership of the land. The 1st defendant negotiated with Nii Sango to purchase the land from him at an agreed price of GH¢8,000.00. She made part payment leaving a balance of GH¢3,000.00 to be paid after Nii Sango had removed the squatters from the site. However, Nii Sango failed to honour his promise to remove the squatters so the 1st defendant brought an action against the squatters and Nii Sango at the District Court. She continued her testimony that the court gave the squatters three months expiring in August 2008 to vacate the place. The 1st defendant thereafter removed the debris placed on the land by the squatters and fenced it with roofing sheets. The plaintiff broke into the fenced land and dumped sand and stones there. A report was made to the police but whilst the matter was still in the hands of the police, the plaintiff instituted this action.

Nii Sango came to testify at the instance of the defendants. He claimed the land was originally owned by his father but they sold it to Borlarbi who in turn sold it to the 1st defendant. But they reserved the area in dispute. He affirmed that he agreed to sell it to the 1st defendant but when the latter failed to pay the agreed price he re-sold it to the plaintiff and got the Nungua Manche Nii Welenchi to give the plaintiff an indenture. He admitted he prepared no indenture for the 1st defendant saying as a native of Nungua she herself could go to the Manche for a document. Borlarbi testified for the defendants to the effect that he sold the entire land including the area in dispute to the 1st defendant.

The High Court as well as the Court of Appeal gave judgment in favour of the plaintiff. The Court of Appeal upheld the plaintiff's claim that he got the land from the true owners, being the Nungua Stool and upheld the validity of his documentation as duly registered by law. The defendants have appealed to this court against the decision of the Court of Appeal on several grounds contained in the original grounds of appeal as well as in the additional grounds of appeal filed

pursuant ot leave of court. It is proposed to set them out seriatim for purposes of coherence and they are:

(i) The judgment of the Court of Appeal is against the weight of the evidence.

(ii) The Court of Appeal erred in law when it held that the registration under the Lands Registry Act, 1962 (Act 122) of plaintiff's document of title executed in 2008 in respect of land in a registration district was valid by virtue of the provisions of s. 13(3) of the Land Title Registration Act, 1986. That section applies only to instruments registered under Act 122 before the coming into force of Act 152 of 1986. The provision applicable to registration of instruments executed after 1986 is s. 135(1) of Act 152 and this section makes the registration of the plaintiff's document under Act 122 void and not capable of grounding plaintiff's claim for declaration of title.

(iii) The Court of Appeal misdirected itself on the evidence and the law and arrived at a wrong conclusion as to the nature of the interest of Nii Sango who sold the land to 1st defendant first before he later purported to sell to plaintiff. The evidence showed that the said Nii Sango exercised customary rites of ownership of a subject in respect of vacant stool land and the Court of Appeal ought to have upheld his customary determinable title to the land and not insisted on a formal documentary grant from the Nungua Stool. As a consequence of the misdirection the Court of Appeal failed to apply the customary law principle that a grant by a stool of land in which a subject has a determinable title is void.

(iv) The Court of Appeal misdirected itself as to the evidential value of receipts for payments for land; such receipts have been held by the courts to amount to prove (sic) of customary transactions in land and such transactions are not inferior to documentary transactions in their

effectiveness in transferring interests in land. But for the misdirection the Court of Appeal ought to have held that the receipts were proof of defendant's prior grant.

(v) The Court of Appeal committed error of law by failing to enforce and give effect to E.I 18 of 1983 which is an existing statute of Ghana that prohibits Nii Odai Ayiku IV from acting as the Chief of Nungua. Giving effect to it would have required the trial judge to hold that the deed of lease executed by Nii Odai Ayiku IV as Chief of Nungua of plaintiff is null and void.

(vi) The Court of Appeal erred in law by failing to apply the provisions of s. 24(1) of the Land Registry Act, 1962, (Act 122) to respondent's lease purportedly dated 15th May 2008 and made between King Odaifio Welentsi III and Numo Borketey Laweh, Gborbu Wulomo and respondent and to hold that the said instrument was of no effect for non registration.

(vii) The Court of Appeal erred in law by failing to apply the provisions of s. 8(1) of the Administration of Lands Act, 1962 (Act 123) to the respondent's leases exhibits A and B purported to have been made between Nungua Stool and respondent and to hold that the said leases are ineffective in vesting any interest in respondent for want of the Minister's concurrence.

It is now trite learning that a second appellate court should be slow in overturning the concurrent opinions of two courts below on matters of fact. This appeal raises some serious questions of law which we will address first. We will then address the factual issues that are material to the determination of the appeal before us. The appeal could be disposed of by a determination of whether Nii Sango gave the 1st defendant a valid title or not. This is the first issue to resolve because the evidence was that Nii Sango first sold the land to the 1st defendant before re-selling the same land to the plaintiff. The other issue is whether or not the plaintiff secured a valid grant

from the Nungua Stool. The legal questions raised in the additional grounds of appeal are the subject-matter of grounds (v), (vi) and (vii), supra as well as original ground (ii).

To begin with, Counsel for the defendants argued ground (v); that by E.I. 18 of 1983 Nii Odai Ayiku IV was prohibited from acting as Nungua Manche, therefore the indenture exhibit A which he executed should have been declared null and void. In effect counsel wants the court to declare that Nii Odai Ayiku IV is not the chief of Nungua and as such cannot grant a valid title to Nungua Stool lands. This a question of fact which should have been raised at the trial court because the plaintiff was entitled to lead evidence as regards the current status of Nii Odai Ayiku IV. The Lands Commission must be credited with knowledge of who is the rightful person to give away registrable documents to Nungua Stool lands. The Lands Commission is the repository of the appropriate persons to sign away stool and family lands. Thus the principle *Omnia praesumuntur rite esse acta* should be credited to the Lands Commission. Therefore the defendants who are asserting the contrary should lead evidence to rebut the presumption of regularity that is raised by the Lands Commission's act of accepting exhibit A for registration. See section 37(1) of the Evidence Act, (1975) N.R.C.D. 323. Having denied registration to exhibit B issued by Nil Wulenchi III and having admitted exhibit A issued by Nii Ayiku IV, the Lands Commission must have known the present status of Nii Ayiku IV and unless that was raised at the trial when the document was sought to be tendered the trial court was entitled to accept and rely on it. Having failed to lead evidence to rebut the presumption of regularity, the appellants could not be heard to say that Lands Commission, as well the court erred in not relying on E.I. 18 to reject exhibit A.

That it was a question of fact is particularly highlighted by the facts which gave rise to this court's decision in the Nungua Chieftaincy matters especially as affecting the status of Nii Odai Ayiku IV in the case of IN RE NUNGUA CHIEFTAINCY AFFAIRS, ODAI AYIKU IV.

ATTORNEY-GENERAL (BORKETEY LAWEH XIV APPLICANT) (2010) SCGLR 413. Among other things, Nii Odai Ayiku IV challenged the basis for his destoolment as the Nungua Manche which was affirmed by E.I. 18 of 1983, namely Nungua Chieftaincy Affairs (Nii Odai Ayiku IV) (Prohibition) Instrument. He obtained judgment at the High Court, albeit by default, on 10th May 2001. Four years later Borketey Laweh mounted a serious challenge to the status of Nii Odai Ayiku IV as Nungua Manche and succeeded in setting aside the default judgment. The proceedings continued through the Court of Appeal to the Supreme Court which finally decided in February 2010 that E.I. 18 was valid.

The position then was that the Lands Registry would be dealing with Nii Odai Ayiku IV when he succeeded at the High Court and that situation could have prevailed for so long. It would not be surprising that the name of Nii Odai Ayiku IV would still appear in the records of the Lands Commission as the Nungua Manche in 2008 when the plaintiff submitted his document for registration. At the time the question of Nii Odai Ayiku's status was being battled through the courts. And unless the court's decisions were brought to the notice of the Lands Commission to enable them to rectify the records, it would be unfair to fault them for registering any document issued in the name of Nii Odai Ayiku IV. It would therefore be unjust and unreasonable in the circumstances for the court to reject Exhibit A.

Next, counsel for the defendants argued ground (vi) that the indenture made between Nii Wulenchi III and his stool elders on one side and the plaintiff was not registered under Act 122 and was thus of no effect. This argument does not take into consideration the fact that it is not the fact of registration that gives validity to a contract for the sale of land. Registration gives security of title to the assignee, vendee or lessee, but as has been held in a number of cases even registration does not guarantee title to the registrant. Thus in every case of a sale of land the first investigation is whether the assignor or lessor or vendor, as the case may be, had title to

grant. Then whether the parties entered into what in contract law passes for a valid contract. Thirdly and most important, whether the parties to the contract had reduced same into writing and both parties had duly executed it. The last one has been a requirement of statute law namely the Conveyancing Act, (1973) N.R.C.D. 175. The relevant provisions of the Conveyancing Act are contained in sections 1, 2 and 3 thereof and they provide:

Section 1-Mode of Transfer

(1) A transfer of an interest in land shall be by a writing signed by the person making the transfer or by his agent duly authorised in writing, unless relieved against the need for such a writing by the provisions of section 3.
(2) A transfer of an interest in land made in a manner other than as provided in this Part shall confer no interest on the transferee.

Section 2-Contracts for Transfer

No contract for the transfer of an interest in land shall be enforceable unless-

(a) it is evidenced in writing signed by the person against whom the contract is to be proved or by a person who was authorized to sign on behalf of such person; or
(b) it is relieved against the need for such writing by the provisions of section 3.

Section 3-Transactions Permitted Without Writing

(1) Sections 1 and 2 shall not apply to any transfer or contract for the transfer of an interest in land which takes effect……(h) by oral grant under customary law.
(2) Sections 1 and 2 shall be subject to the rules of equity including the rules relating to unconscionability, fraud, duress and part-performance.

These provisions impose a duty on parties to a sale or transfer of an interest in land, to reduce the terms into writing failing which no contract could be said to have come into being. And once the terms of the contract have been reduced into writing and duly executed the parties are bound by it. It is this contract made under this law which entitles the assignee, lessee or vendee, as the case may be, (or transferee for short) to enter the land and claim ownership thereof. The registration is a later act which is to be performed by the transferee. Therefore even if the transferee has not registered the contract document he does not forfeit his title on that account. Failure to register title may have its own consequences; like for instance if a subsequent bona fide purchaser acquires the same piece of land for value and goes ahead to register his title he may succeed in defeating the prior purchaser, assignee or lessee. Thus all the arguments that exhibit B is of no effect for lack of registration is not acceptable as long as the foundation of that document has not been challenged under the Conveyancing Act. That is, as long as Nii Wulenchi III and his elders have not been disputed to be the rightful persons to sign it, this document is valid. Nii Sango's testimony on this stood unchallenged. Therefore even if we put aside exhibit A because of Nii Odai Ayiku's signature, exhibit B would still be valid to grant the plaintiff title under the law, lack of registration notwithstanding. It can be registered at any time the Lands Commission removes recognition from Nii Odai Ayiku IV if this court's judgment is brought to their attention and Nii Wulenchi III is entered as the rightful person to give away registrable documents on Nungua Stool lands. Until that is done even application for registration under PNDCL 152 would suffer the same fate now that the Lands Commission Act, 2008 (Act 767) has placed all forms of registration under the umbrella of the Lands Commission.

On this subject it is relevant to recite with approval what counsel for the plaintiff said in his statement of case: *'My Lords, the Appellant's complaint is premised on the absence of registration of the conveyance and refers to section 24(1) of.....Act 122 requiring*

registration for the conferment of legal effect to the said document. However, my Lords, in the case of ASARE v. BROBBEY (1971) 2 GLR 331 at page 337 the Court of Appeal in its judgment observed as follows:

"…….when Section 24(1)……of the Land Registry Act provides that a document shall be of no legal effect until it is registered, it means that the document and its contents cannot have any legal effect until registration has been completed. This also means that the document is not valid for all purposes because the formality of registration is necessary to complete its validity……"

My Lords, the above case was quoted in the case of AMUZU v. OKLIKAH (1997-98)1 GLR 89 with modification, upon application of the Conveyancing Act….as follows:

"With due respect to the Court of Appeal in the above case, even though I agree that with regards to the effective enforcement of a document, the document need be registered, save for fraud, to take priority over all other unregistered documents, I do not think an unregistered document is not valid for all purposes. It is required under section 1(1) of ……NRCD 175 that a transfer of an interest in land, 'shall' save for the exceptions, be in writing……It follows that if a document affecting land is in writing, it could be enforced even if not registered, the document could be used against the vendor who seeks to overreach the interest of the holder that document, and the holder of that document can also use the unregistered document in an action for specific performance……'

My Lords, the respondent is of the opinion that the conveyance executed by King Odaifio Wulentsi in favour of the respondent complies with the requirement under……NRCD 175 and therefore transfers title from the grantor to the respondent. Having submitted same to the Lands Commission for purposes of registration, the respondent is deemed to have also complied with the appropriate

law, save administrative process to validate the transfer, and to give legal effect of the content.'

It is by the Conveyancing Act that a transfer of an interest in land is effected whether the grant is under customary law or otherwise, for even customary grants are required to be recorded in the appropriate registry. The court should not downplay the relevance and importance of the purpose of the Conveyancing Act and relegate it to the background and give prominence to the laws requiring registration, lest the latter laws should be used to defraud persons who had genuinely secured grant of land but had not succeeded in registering same. We will talk about this a little bit more in this decision. Once there was a valid contract between the Stool of Nungua and the plaintiff over vacant Nungua Stool land, the law was satisfied and that document would prevail against every other claimant except one who was able to produce a superior title; that is, a bona fide purchaser who has duly registered his title.

Thirdly, counsel for the defendants argued ground (vii), that exhibit A did not secure the consent of the Minister as required by Act 123 thereby rendering same of no effect. This ground was argued at length by both parties. Here again, we agree with counsel for the plaintiff that it is a question of fact whether the Minister's consent was secured or not and therefore it ought to be raised at the time the document is sought to be tendered for the necessary evidence to be adduced. This view accords with the opinion expressed by Atuguba JSC, in his concurring opinion in the case of REPUBLIC v. CIRCUIT COURT, ACCRA; EX PAARTE KOMELEY ADAMS & Others (KOMIETTEH ADAMS (substituted by) OTSIATA IV INTERESTED PARTY) (2012) SCGLR 111 at page 114 in these words:

"*I agree that Ashong-Yakubu J. was wrong in quashing the judgment, the subject-matter of the application for certiorari, on the ground that the conveyance of title did not have the requisite ministerial concurrence in breach of the Administration of Lands Act 1962 (Act 123). A court cannot give a judgment contrary to statute. However,*

for my part, I cannot, in the instant case, see such an error on the face of the record. I know of no law which states that the concurrence of the Minister when obtained must be stated on the face of the conveyance. Indeed, it is trite law that such concurrence need not need not be contemporaneous with the grant but can validly and subsequently be obtained after the execution of the conveyance. It may well be that such concurrence was not obtained before or at the time of the circuit court's judgment in this case. However, such error, if there be, has not been carried on the face of the record in this case. If that error therefore exists it must be a latent error and certiorari does not lie for latent errors."

We agree with this statement expressed above that the Ministerial consent could be taken subsequent to the execution of the document of transfer and may be embodied in a different document. Therefore when a registered document is sought to be tendered the presumption is that all necessary consents have been obtained prior to registration. Therefore the party who thinks otherwise should raise the question on the record and ask that the consent be produced, failing which the presumption of regularity would apply. Besides, on the same principle as applied to registration, the lack of ministerial consent per se does not render the deed of transfer invalid for all purposes, it is valid as between the parties thereto and as against a third person who also obtains title from the same grantor except he succeeds on a plea of bona fides as explained above.

The other legal ground raised in this appeal is contained in ground ii, supra. In short the argument is that with the effective commencement of PNDCL 152 following the declaration of Accra as a registrable district, Act 122 ceased to apply for purposes of registration of land in Accra. Therefore the purported registration of exhibit A by the Lands Commission was of no effect. This ground was not pursued by counsel for the defendants as he did not argue it at all. It is thus taken to have been abandoned. And even if the

argument had succeeded it would have had no effect on the appeal as exhibit B would still be valid to transfer the land from the Nungua Stool acting on its own or at the instance of Nii Sango, to the plaintiff. Ministerial consent and registration could follow later. But as held above, exhibit B could not be set aside as same would be unjust. As Act 122 remains law, registration under it is still acceptable save that the holder stands a risk of being defeated on account of priority of registration by another person who has registered under PNDCL 152. And even under section 13(3) of PNDCL 152 persons who had registered under Act 122 were required to re-register under the new law. Thus registration under Act 122 must be followed by a re-registration under PNDCL 152 in order to secure the indefeasible title that the new law ensures to the holder. But registration under Act 122 gives notice of an interest in the land to a subsequent grantee of the same land and puts him on the inquiry which a search result will disclose.

Counsel argued grounds I, iii and iv, together. These grounds are largely based on facts. The evidence shows that the land forms part of Nungua Stool land which Nii Sango's family reduced into their possession. The permission granted to the temporary occupants by Nii Sango was sufficient to constitute possession. And in accordance with customary law, NII Sango had every right to alienate the land, but this right is subject to statute law.

The 1st defendant is also a native of Nungua but she was not the person who took the possessory title to this land. Nii Sango did not abandon the land so as to entitle the 1st defendant to acquire it by customary law. Thus the alienation by Nii Sango would have to follow the laws of the country. Counsel for the defendants sought to avoid the provisions of the Conveyancing Act by claiming it was a customary transaction between Nii Sango and the 1st defendant but it was not. The transaction was duly caught by the Conveyancing Act which required writing to evidence a contract for the sale of land. The evidence is clear that the 1st defendant and Nii Sango agreed on

the purchase price. A receipt was issued to cover the first two part-payments, exhibit 2. This receipt only says that it is for land situate on the Spintex Road. A receipt may be sufficient writing if it describes the land by stating its location, dimensions and if it is plotted, the plot number. But this receipt lacks any description of the land or its dimensions and boundaries. From the evidence of Nii Sango he was waiting for the 1st defendant to complete the payment before he would take any further step. That evidence was contrary to the evidence of the second defendant who said the payment was to be completed only after Nii Sango had ejected the squatters. Thus the defendants and the witness were not agreed as to the terms of the sale contract as regards time for completion. Besides, it is clear that being Nungua Stool land it is only the stool that could give a title holder a registrable instrument. It follows that the Nungua Stool could not be left out of any sale contract since it has to give out the documentation. The evidence is clear the defendants did not have any document from the Nungua Stool. This appeal could be resolved on these grounds alone as the 1st defendant had no valid contract of sale from Nii Sango, the receipt could be referable to any piece of land on the Spintex Road and the Nungua stool gave her no document to confirm the sale.

The foregoing is not to say that the burden of proof has been shifted unto the defendants. No. the plaintiff assumed the burden of proof throughout in the absence of a counterclaim. But the courts below were satisfied that the plaintiff had successfully discharged the evidential burden that the case placed on him. He got a grant from Nii Sango without notice of any prior grant to somebody else. He had duly conducted a search at the Lands Commission which confirmed the land was vacant, see page 160 of the record. The Nungua stool also conducted a site inspection by five persons whose report at page 156 of the report also confirmed the land to be part of their stool lands. The evidence shows that as at May 2008 when Nii Wulenchi II gave him Exhibit B the 1st defendant had not fenced the land. The defence case was that it was after the expiry of the three

months the District Court gave the squatters to quit that she cleared the site and fenced it. The 1st defendant went to the District Court with the writ on 19th May 2008, see page 170 of the record, at a time exhibited B had already been executed on 15th May 2008. We are not told when the District Court made the order. Even if for the purposes of argument the court made the order the same day the writ was filed the three months would expire on 18th August 2008. As at that time the rival stool claimant had given the plaintiff the indenture exhibit A on 2nd July 2008. So any attempt to say that the place had been fenced and that the plaintiff saw it and nevertheless went ahead to acquire the land was plainly false. The plaintiff could not therefore be fixed with any notice of any encumbrance on the land.

The plaintiff followed it up by securing the approval of both rival claimants to the Nungua stool each of whom, together with his elders, gave him an indenture, exhibits A and B. He succeeded in registering one of them with the Lands Commission. Counsel for the defendants argued that the document which was not registered passed no title, that is exhibit B. And in respect of exhibit A counsel argued that it suffered from two legal defects, namely E.I. 18 of 1983 had withdrawn recognition from Nii Odai Ayiku IV so he was not the chief of Nungua therefore his signature on exhibit A rendered same void. Next, being stool land the transaction ought to have received the consent of the Minister of Lands, so the absence of that consent rendered the grant ineffectual. We have aready disposed of these matters.

We would have thought that these two documents could be admitted to confirm the fact that whoever is the rightful occupant of the Nungua Stool had made a direct grant of vacant stool land to the plaintiff or had given his blessing to the transaction between Nii Sango and the plaintiff since they satisfy the requirements of the Conveyancing Act without notice of any encumbrance. Thus as between the plaintiff and the 1st defendant the former has established a claim to the land.

In a case like this, the issue of registration and the Minister's consent would only arise if there is a valid contract of sale under the Conveyancing Act. Unless the court gives recognition to such document that satisfies the requirements of the Conveyancing Act, unscrupulous persons would engage in multiple sale of land when a first valid contract is yet to go through the process of registration. The lack of Ministerial consent and registration would thus become instruments of fraud notwithstanding the validity of the contract within the meaning of the Conveyancing Act. If counsel's arguments are accepted it would mean that even the Nungua stool, whether rightfully occupied by Nii Odai Ayiku or Nii Wulenchi as well as Nii Sango could turn around and reject the documents they had executed for the plaintiff because one could not be registered and because the Minister had not given consent.

These registration laws are particularly applicable when matters of priority come into play. The 1st defendant who holds no valid contract cannot therefore rely on lack of Ministerial consent and registration under PNDCL 152 to defeat the plaintiff's deeds which create estoppel by deed and conduct against Nii Sango and the Nungua Stool. And to recap, the plaintiff has a valid document from the Nungua Stool fully concurred in by Nii Sango, though he has not succeeded in registering it through no fault of his. He also holds a document which he has registered which we are not able to set aside for reasons explained herein, even though he is yet to re-register under PNDCL 152. The 1st defendant has no valid contract with Nii Sango and has received no document from the Nungua Stool.

We do not intend to go into further details as we dismiss the appeal and endorse the orders made by the trial High Court.

(SGD) A. A. BENIN
JUSTICE OF THE SUPREME COURT

(SGD) S. O. A. ADINYIRA (MRS)

JUSTICE OF THE SUPREME COURT

(SGD) P. BAFFOE- BONNIE

JUSTICE OF THE SUPREME COURT

(SGD) J. B. AKAMBA

JUSTICE OF THE SUPREME COURT

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