THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA-AD 2019

CORAM: ANSAH, JSC (PRESIDING)

DOTSE, JSC

YEBOAH, JSC

PWAMANG, JSC

MARFUL-SAU, JSC

DORDZIE (MRS), JSC

KOTEY, JSC

WRIT NO
J1/07/2019

19TH JUNE, 2019

BISMARK ABORBI ARYEETEY …… PLAINTIFF

VRS

1. ATTORNEY-GENERAL

2. ELECTORAL COMMISSION ……. DEFENDANTS

JUDGMENT

PWAMANG, JSC:-

The thrust of the plaintiff's complaint in this suit which he filed on 14th January, 2019, is that the 2nd defendant, by fixing the Ayawaso West

Wogun by-election to be held on 31st January, 2019, violated Article 112(5) of the Constitution, 1992 as amended. However, he did not seek an interim order to restrain the defendant from conducting the by-election so same was held on the due date and as at the date of hearing of this case, the elected Member of Parliament for the constituency had been sworn in and taken her seat in Parliament.

In the reliefs plaintiff endorsed on his writ of summons, there is no prayer for a nullification of the by-election in the event the court holds that the conduct of the election violated the Constitution. When this was pointed out to the plaintiff at the hearing, he confirmed that he does not pray the court to nullify the by-election. This led the court to raise the issue of mootness of the case, but the plaintiff argued that the court ought nonetheless, to proceed with the case and determine the constitutionality of the by-election, claiming that the conduct of the defendant he has complained of is likely to recur.

We have examined the record before us and there is no basis for the claim by plaintiff that the conduct complained of is likely to recur. In the circumstances, it is pointless to determine the constitutionality of the by-election so we hereby dismiss the case as moot.

G. PWAMANG

(JUSTICE OF THE SUPREME COURT)

ANSAH, JSC:-

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

J. ANSAH

(JUSTICE OF THE SUPREME COURT)

DOTSE, JSC:-

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

V. J. M. DOTSE

(JUSTICE OF THE SUPREME COURT)

YEBOAH, JSC:-

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

ANIN YEBOAH

(JUSTICE OF THE SUPREME COURT)

MARFUL-SAU, JSC:-

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

S. K. MARFUL-SAU

(JUSTICE OF THE SUPREME COURT)

DORDZIE (MRS), JSC:-

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

A. M. A. DORDZIE (MRS)

(JUSTICE OF THE SUPREME COURT)

KOTEY, JSC:-

I agree with the conclusion and reasoning of my brother Pwamang, JSC.

PROF. N. A. KOTEY

(JUSTICE OF THE SUPREME COURT)

COUNSEL

DR. DOMINIC A. AYINE WITH HIM GODWIN TAMAKLOE FOR THE PLAINTIFF.

GODFRED DAME YEBOAH, DEPUTY ATTORNEY-GENERAL FOR THE 1ST DEFENDANT.

JUSTIN AMENUVOR FOR THE 2ND DEFENDANT.