**IN THE SUPERIOR COURT OF JUDICATURE**

**IN THE SUPREME COURT**

**ACCRA – A.D. 2017**

**CORAM: PWAMANG, JSC SITTING AS A SINGLE JUDGE**

CIVIL MOTION
NO. J8/78/2017

31ST MAY, 2017

**EBUSUAPANYIN EKUMA MENSAH ..... PLAINTIFF/RESPONDENT/RESPONDENT**

**VRS**

**NANA ATTA KOMFO II ..... DEFENDANT/APPELLANT/APPLICANT**

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# RULING

**PWAMANG, JSC:-**

The facts antecedent to this application are that the plaintiff/ respondent/respondent/respondent, to be referred to as respondent, successfully sued the defendant/appellant/appellant/applicant, hereafter to be called applicant, in the High Court, Sekondi claiming ownership of a parcel of land near Ntankorful in the Western Region. The trial court by a judgment dated December 17, 2010, granted the reliefs endorsed on the plaintiff's writ. The specific reliefs granted were as follows; a declaration of title, damages for trespassing and perpetual injunction. Being aggrieved, the applicant appelled but in a judgment dated 18th February, 2015 the Court of Appeal simply dismissed the appeal without making any orders apart from as to costs. He filled an appeal against the judgment of the Court of Appeal to the Supreme Court and applied to the lower court for an order for stay of execution but it was refused. In the present application the applicant prays this court for "an order to stay execution against

the Court of Appeal decision in this suit delivered on **18th February, 2015**" pending determination of the appeal. The respondent has opposed the application and filled affidavit in opposition.

At the hearing of the application the court drew the attention of learned Counsel for the applicants to the fact that the Court of Appeal did not make any executable order but she referred to the case of **NDK Financial Services Ltd v Yiadom Construction & Electrical Works [2007-2008] 1 SCGLR 93** as her authority for maintaining that the court could nonetheless stay the judgment of the Court of Appeal.

But in the case of **Standard Chartered Bank Ghana Ltd. v Western Hardwood Ltd [2009] SCGLR 196,** this court departed from its decision in the **NDK Finance case** so it is no longer good law. The correct position of the law is that where a judgment does not grant any executable reliefs, no order of stay of execution can be granted in respect of it.

In the circumstances I am unable to grant the applicant's prayer and I hereby refuse the application for stay of execution.

**G. PWAMANG**
**(JUSTICE OF THE SUPREME COURT)**

**COUNSEL**

PAMELA ARVOH-MENSAH FOR THE DEFENDANT/APPELLANT/APPLICANT.
J. K. ABEKA FOR THE DEFENDANT/APPELLANT/APPLICANT.