**IN THE SUPERIOR COURT OF JUDICATURE**

**IN THE SUPREME COURT**

**ACCRA-AD 2020**

CORAM: DOTSE, JSC (PRESIDING)
APPAU, JSC
PWAMANG, JSC
TORKORNOO (MRS), JSC
MENSA-BONSU (MRS), JSC

CIVIL MOTION
NO. J5/46/2020

22ND JULY, 2020

REPUBLIC

VRS

THE HIGH COURT, LAND DIV. (7) ACCRA ..... RESPONDENT

EXPARTE: THE REGISTERED
TRUSTEE OF EAST DADEKOTOPON
DEVELOPMENT TRUST ..... APPLICANT

1. ADOLPH TETTEH ADJEI
2. ANAS AAREMEYAW ANAS } INTERESTED PARTIES
3. HOLY QUAYE

---

**RULING**

---

**TORKORNOO (MRS), JSC:-**

The matters in controversy in this application for an Order of Certiorari have zig-zagged between the High Court, the Court of Appeal and the Supreme Court, since 2017, and unworthily so.

**BACKGROUND**

On 8th March 2017, the 1st Interested Party herein sued the 2nd and 3rd Interested parties in a suit titled and numbered **Adolph Tetteh Adjei v Anas Aremeyaw Anas, Holy Quaye Suit No LD/0256/2017** for declaration of title to 2.0 acres of land situate at East La Dadekotopon, damages for trespass, recovery of possession and injunction to restrain further trespass. After entering appearance and without filing a defence, the 2nd and 3rd Interested Parties prayed the high court presided over by Justice Gyimah for an order to dismiss the suit on the ground that it is an abuse of process.

According to the Ruling of Gyimah J attached to the application before us as Exhibit B and dated 31st August 2017, the ground for their application was that the issue of ownership of the land in dispute had been decided by Justice Ofori-Atta in 2010 in the case of **Edward Mensah Tawiah, and Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust, Suit No BL 431/2006.** That, the parties in the dispute before Gyimah J were privies of the parties in the case decided by Ofori Atta J and therefore, the dispute regarding title to the land claimed by the 1st Interested Party herein was a matter that is res judicata.

Gyimah J also found from the affidavits and arguments of Counsels that though the judgment of Ofori Atta J had been appealed against and compromised in Terms of Settlement and a Consent Judgment that the Court of Appeal had adopted as the Appellate judgment in **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust,** that Consent Judgment had been declared to be void on account of fraud by a ruling given by Justice Abada **in Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015.**

According to Gyimah J in his ruling, it had been pointed out to him that the decision of Abada J in suit number **BMISC 720/2015** was an interlocutory decision in a different matter than what was before Gyimah J. Still, in Gyimah

J's opinion, '*a careful reading of the decision* (by Abada J) *revealed that the said decision effectively determined the rights between the parties*' (in this **Suit No LD/0256/2017** before Gyimah J).

Gyimah J went on to say that Abada J had held in his 2015 interlocutory decision in **BMISC 720/2015** that Edward Nsiah Akuetteh, who was the defendant in that suit before Abada J, and the person substituted for Ewormenyo Ofoli Quarshie at the Court of Appeal when **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust, Suit No BL 431/2006** went on appeal, was not the rightful person to have succeeded Ewormenyo Ofoli Quarshie. And as such any compromises Edward Nsiah Akuetteh made in the Court of Appeal in could not be binding on the family of Ewormenyo Ofoli Quarshie. It was also the holding of Abada J in his interlocutory decision in **BMISC 720/2015** that since the Consent Judgment in the Court of Appeal was based on this substitution, it was a fraud that was played on the Court of Appeal and the said Consent Judgment cannot stand.

In describing this position to be a final judgment from Abada J's ruling on an application for interlocutory injunction, it was the view of Gyimah J that by reason of Abada J's ruling, Ofori Atta J's judgment of 2010 still held valid and operated as estoppel against the parties in **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust,** and their privies. He was satisfied that the 1st, 2nd and 3rd interested parties herein were privies of the parties in the case of **Edward Mensah Tawiah, Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust.** Gyimah J therefore found the doctrine of estoppel per rem judicatam operative regarding the claims of the 1st Interested Party against the 2nd and 3rd Interested Parties and dismissed this suit on 31st August 2017.

The 1st Interested Party appealed against this Gyimah J decision. In its judgment dated November 29th 2018, the Court of Appeal reversed the decision of Gyimah J as erroneous in law. The Court of Appeal found and held that the Ofori Atta J judgment had been set aside on appeal in 2015 and therefore had no force of law to bind anyone. Second, Ofori Atta J's orders directing the cancellation of the title deeds of the **East Dadekotopon Development Trust** had never been executed because the Court of Appeal had stayed execution of its orders. Further, in place of the Ofori Atta J. judgment, the parties to that suit had reached a compromise agreement on appeal, that the Court of Appeal entered as a Consent judgment regarding their claims on 27th April 2015. Thus as between the parties in **Edward Mensah Tawiah, Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust, Suit No BL 431/2006** and their privies, the final judgment on the matters settled by Ofori Atta J was the Consent Judgment entered by the Court of Appeal on 27th April 2015.

Regarding the Abada J ruling that purported to determine the rights of the parties in **Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015**, and stretch to the parties in **Edward Mensah Tawiah, Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust, Suit No BL 431/2006**, the Court of Appeal found it totally flawed in law on three premises. To quote from the judgment of the Court of Appeal on page 17

> `*In that one judgment alone, he (Abada J) flouted three fundamental rules of law; firstly he purported to set aside a judgment allegedly on grounds of fraud when that was not a relief asked for by the plaintiff. Secondly he purported to set aside the judgment of the Court of Appeal which was in breach of the principle of stare decisis and thirdly he granted declaratory reliefs without going through a full hearing which was against the principle that declaratory reliefs can only be granted after a full trial or full legal argument. Even though the said judgment has not been formally set aside, it is a void judgment that to all intents*

*and purposes, can be set aside at the instance of any legitimate party… From the analysis above, the decision of Abada J has no legal legs to stand on much less to carry some other weight*"

The Court of Appeal reversed the Gyimah J ruling dismissing the 1st Interested Party's suit, and remitted the suit back to the High Court for trial of the claims. The suit was placed before Amo Yartey J for trial. The 2nd Interested party then filed his Statement of Defence and counterclaimed for:

a) *A declaration that the Trust Deed of 10th April 2002 and Consent Judgment dated 12th July 2001 Suit No L 353/97 title Nii Kpobi Tetteh Tsuru 111 v Ato Quarshi & Ors together with the Terms of Settlement dated 11th July 2001 which knowingly took over Ataa Tawiah Tsinaiatse land without knowledge and/or consent, were void, vitiated by and tainted with fraud*
b) *An order setting aside and or cancelling the said judgment(s) or orders or terms of settlement, title documents, deeds, certificates and judgments, rulings, or orders founded or affected thereby*
c) *Any other orders just and fair*

Thus issues seem joined between the Interested Parties herein for the High Court to determine whether the 1st Interested party is entitled to his declaration of title in 2.0 acres of land and consequential reliefs of damages and injunction, or the 2nd Interested party can sustain an action against the 1st Interested Party for counterclaims that attack a 2001 Terms of Settlement and judgment in the case of **Nii Kpobi Tetteh Tsuru 111 v Ato Quarshie & Others Suit No L 353/97,** and a 2002 Trust Deed and all title deeds, certificates and judgments, rulings, or orders founded on the said judgment and Trust Deed.

After the remission of this suit between the Interested Parties herein to the High court for trial, Abada J entered a final judgment in **Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC**

**720/2015**. This was on 21st May 2019 and is hereinafter referred to as the 2019 Abada J judgment.

In this 2019 judgment, Abada J went on an odyssey to link the suit before him that is on family succession and capacity to deal with family lands as seen from the reliefs set out earlier in this ruling, to the earlier case of **Edward Mensah Tawiah, Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust, Suit No BL 431/2006**, adjudged by Ofori Atta J in 2010. After meandering through various matters, Abada J ended by granting the three distinct reliefs claimed by the Plaintiffs before him and costs. These reliefs were:

a. *A declaration that the plaintiff in his capacity as the first son of the deceased Ewormienyo Ofoli Kwashie i.e. head of the Nuumo Ofoli Kwashie Family is the rightful next of kin, heir or successor to Ewormienyo Ofoli Kwashie*
b. *A declaration that the defendant is and cannot be the next of kin, heir or successor to the deceased, Ewormienyor Ofoli Kwashie and does not have the mandate to deal with the Nuumo Ofoli Kwashie Family lands in any manner or form whatsoever*
c. *An order of perpetual injunction to restrain the defendant from fraudulently misrepresenting and holding himself out as being the next of kin to the deceased Ewormienyo Ofoli kwashie and dealing with any or all of the Nuumo Ofoli Kwashie Family Lands in any manner or form whatsoever*
d. *Costs*
e. *Any further Orders that this Honorable Court shall deem fair and just*

For the further Orders sought in relief (e) Abada J said on page 27 of his judgment that:

> *`As regards relief (e) I shall repeat the trial courts orders in Suit No BL 431 2006 as follows*

*'It is hereby ordered that the 1st defendant issue a Land Title Certificate in the joint names of the plaintiffs in respect of the above land. Covering the 808.644 acres fully described in Cadastral Registration Map No X2926 indexed as No 05145/97 and published as No. 199 in the Weekly Spectator of 12th April, 2003 within 30 days from today.*

*It is further declared that the 2nd Defendants are not entitled to make grants of any of the plaintiffs said land*
*It is ordered that plaintiffs doth recover any part of the land contained in cadastral registration map no X2926 granted by the 2nd defendant without the consent and concurrence of the plaintiffs'.*

It is not clear who the 1st defendant that Abada J was ordering to issue a Land Title Certificate was, or who the 2nd defendant that the plaintiff was supposed to be recovering land from, was. In the suit before him, there was only one plaintiff and only one defendant.

What is clear is that there was no relief sought from Abada J concerning the Consent Judgment arrived at in **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust** in the Court of Appeal. Neither was there any relief sought from Abada J regarding the subject matter he described in 'relief e'. Nor were the Applicant herein, the East Dadekotopon Development Trust**,** and the Registrar of Lands, parties in the suit before Abada J.

Thus in arriving at a relief 'e' lifted from the judgment of Ofori Atta J in **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust Suit No BL 431/2006;** Abada J had granted the parties before him an unsolicited relief lifted from a suit that was not tried by him, that had already been reversed by a court above him.

With this state of affairs, the Applicants before us, whose land Abada J had purported to grant rights to in this '*relief e*', albeit without jurisdiction, and without hearing them, brought the Abada J 2019 judgment to the Supreme Court for an order of Certiorari to quash same. In what has been described as a '*terse ruling*' on 19th November 2019, the Supreme Court had no difficulty quashing Abada J's 2019 'relief e' with these words:

> '*On the substantive application to issue a writ of Certiorari to quash the judgment of the High Court (Probate Division) Accra dated 21st May 2019, Suit No BMISC/720/15 presided over by Abada J, we agree with the Applicants that the learned trial judge had no jurisdiction to grant the reliefs he purported to grant on page 27 of the judgment, to wit relief (e) in which the learned trial Judge proceeded to make orders granting title of 808.644 acres of land to the Plaintiffs therein. Accordingly, the said orders are hereby brought up to be quashed by certiorari and same are accordingly quashed*

Faced with history such as recounted above, one would have imagined that the Interested Parties before us would focus on ensuring that the issues in controversy in their case that had been side stepped by the short lived Gyimah ruling, and cast back down to the high court for trial would be properly tried and determined, devoid of the diet of presenting the 1st Interested Party's claims to be res judicatam through the Ofori Atta judgment that had been reversed by the Consent Judgment in the Court of Appeal, and the Abada J judgment and order that had been quashed by the Supreme Court.

On 23rd December 2019, barely a month after the Supreme Court decision quashing the 2019 Abada J judgment on the alleged grant of 'relief e', counsel for 2nd Interested party filed an application before Amo Yartey J to dismiss the action of the 1st Interested party herein for '*estoppel per rem judicatam the judgments (1)* ***Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust,*** *dated 7th December 2019 (sic) per Ofori Atta J* ***(2)***

***Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015*** *dated 21st May 2019 per ANTHONY ABADA J And for abuse of process*'

In his supporting affidavit, the Applicant (2nd Interested party herein) stated in paragraphs 17 and 18 that it was against the Consent Judgment entered on appeal against the Ofori Atta judgment that the suit before Justice Abada culminating in the 21st May 2019 had been initiated. This averment certainly has no truth, by a simple perusal of the claims that the plaintiffs in **Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015** took to court – which I have quoted earlier.

He continued that the 2019 judgment of Abada J specifically found fraud as admitted orally and on oath by the defendant before him, for which reason the Consent Judgment in the Court of Appeal was set aside for fraud by Abada J. This also cannot be tenable, since the jurisdiction given to Abada J to determine the matters in issue between **Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015** did not include determination of whether or not the Consent judgment should be set aside, for fraud or any other reason.

Indeed, Abada J did not pretend to make any orders regarding the Consent Judgment that was entered in the Court of Appeal dated 27th April 2015. On page 26 of his judgment, after discussing all sorts of issues regarding interlocutory injunctions on the previous page, he said '*If this is the position of the law and the Defendant having admitted openly in the well of court that his action was wrong and fraudulent then any subsequent decision, order or judgment premised on that falsehood be it the consent judgment fraudulently procured from the court of Appeal or the Supreme Court are all null and void and are accordingly set aside*'

These words cannot be found to be directed at any particular person or proceedings and can at best be ignored. It is no wonder then that the Supreme

Court ignored the body of the judgment including those words, and gave the 'terse' order quashing the 'relief e' that was crafted as part of Abada J's final orders.

The 2nd Interested Party in applying to the High Court for recognition of Abada's 2019 judgment as binding precedent against the parties in **Adolph Tetteh Adjei v Anas Aremeyaw Anas, Holy Quaye Suit No LD/0256/2017** said in paragraph 22 of the affidavit in support of the application that, from the Supreme Court decision of 19th November 2019, the Judgment of Justice Abada finding fraud against the Court of Appeal Consent Judgment was affirmed by the Supreme Court's silence on the words of Abada J on page 26, leaving it as an undisturbed holding, and that the Supreme Court's quashing order was related to '*only one inconsequential relief (e)*'. In paragraph 23, the 2nd Interested Party also said that the Supreme Court has brought finality to the status of the 2010 judgment of Justice Ofori Atta, the 2015 Consent Judgment of the Court of Appeal, and the 2019 judgment of Justice Abada, because by failing to quash Abada J's judgment fully, Abada J's judgment had the effect of setting aside the Consent Judgment entered on appeal against the Ofori Atta Judgment, and reviving the validity of the Ofori Atta judgment in the high court.

We must immediately say that this is extremely strange reasoning, given the ambit of the case that Abada J was supposed to be considering, the parties in the suit before him, the specific reliefs he granted, and his vague comments on page 26 quoted earlier, as well as the quashing of the 'relief e', which was the only element in the judgment that specifically attempted to repeat the orders in the Ofori Atta judgment of 2010.

Be that as it may, when Amo Yartey J considered this application and these averments, he also said on page 11 of his ruling on the application before him concerning the proceedings in the Supreme Court quashing the Abada J judgment of May 2019:

'*It is emphatic and clear that the Supreme Court only quashed orders made in relief (e) of page 27 of Justice Abada's judgment and not the entire Judgment or any one part thereof. Thus aside holding (e), the rest of the Judgment of Justice Abada was not disturbed by the Supreme Court. As counsel for the Applicant rightly put it this by correlation means that the Consent judgment entered by the court of appeal on the 27th April 2015 is no longer valid as it has been set aside in Justice Abada's judgment of 21st May 2019. The Supreme Court did not disturb that holding. It is my considered view that the valid judgment as between the grantors of the parties is that of Justice Ofori Atta J which was delivered on the 7th December 2010 in favor of the then Plaintiffs that was restored. The issue as to who owns Opintin lands in the case of Adolph Tetteh Adjei v Anas Aremeyaw & Holy Quaye is res judicata per the judgment of Ofori Atta J which involved their respective grantors*.'

Amo Yartey J went on to hold that since the Land Title Certificate of the Trust through which the 1st Interested Party traces his title to has been found to be a product of fraud and declared null and void by Ofori Atta J, the issue of ownership of the land claimed by 1st Interested party is also res judicata and the Trust and their privies are estopped from reopening the same matter again. He found his way clear to summarily dismissing the action sent to him to try on the principle of estoppel per res judicatam.

**APPEAL**

We note 2nd Interested Party's counsel's submissions that an appeal has been filed in the Court of Appeal against this same ruling brought to us to quash and written submissions have been placed before the Court of Appeal

Notwithstanding this appeal, it is important to appreciate the critical difference between the supervisory jurisdiction of the Supreme Court that allows the court to quash decisions made without jurisdiction or through grevious errors of law apparent on the face of the record, and the appellate jurisdiction that allows a reversal, variation or affirmation of a decision. In the grant of an order for

Certiorari, the order cures faulty foundations on which a judicial decision cannot be built, by removing the unseemly decision from the corpus of decisions in the jurisdiction. Such faulty foundations include when a court acts without jurisdiction, including the violation of rules of natural justice, or in excess of its jurisdiction by purporting to determine matters not included in those before it, or a court grounds a decision on an error of law that is so incurably bad that the decision itself is a nullity. As held by the Supreme Court speaking through Barmford Addo JSC in **Republic v High Court, Accra; Ex Parte Industrialization Fund for Developing Countries and Another 2003-2004 1SCGLR 348** at 354, '*When the high court, a Superior Court, is acting within its jurisdiction, its erroneous decision is normally corrected on appeal whether the error is one of fact or law. Certiorari, however, is a discretionary remedy, which would issue to correct a clear error of law on the face of the ruling of the court; or an error which amounts to lack of jurisdiction in the court so as to make the decision a nullity*'

Cases that are properly tested in the appellate process are decisions in which the court had a proper basis for arriving at the decision, and the court does so within the firm walls of the law of procedure and the substantive law of the matters in issue. The only complaint against such decisions is that part or all of the decision may be wrong, given the proper interpretation or application of law, and evaluation of fact. The exercise on appeal determines whether the decision is correct in fact and law. The exercise done in the Supreme Court when it exercises supervisory jurisdiction with orders of certiorari determines whether the decision is valid at all, given the lack of jurisdiction, and fundamental error of law that is apparent on the record.

**CONSIDERATION**

In the present case, since the 'judgments' and 'holdings' on which Amo Yartey J arrived at a finding of estoppel per res judicatam were themselves non existent, there is no value in allowing the decision of Amo Yartey J to be evaluated for correctness in the Court of Appeal. We have no difficulty in

granting the order of certiorari to quash the decision of Amo Yartey J given on 30th March 2020.

The grevious error committed in the 30th March 2020 decision stared stark on the face of the application placed before the Judge through the words 'estoppel per rem judicatem the judgments (1) **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust,** dated 7th December 2019 (sic) per Ofori Atta J **(2) Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015** dated 21st May 2019 per ANTHONY ABADA J *And for abuse of process*'

On the very face of the application, the two judgments cited as grounding estoppel per rem judicatem were judgments that the court knew or ought to have known were non-existent. The Ofori Atta J decision in the case of **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust** had been compromised in Terms of Settlement entered as a Consent Judgment in the Court of Appeal. The only relevant decision in that case that may be cited therefore is the Court of Appeal judgment.

In the same way, the subject matter of Abada J's decision of 2019, had no relation to the Interested Parties herein who were the parties before Amo Yartey J. The only part of Abada J's decision of May 2019 in **Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015,** that applied to the interests and title of the Trust, who the 2nd Interested Party insisted were the head grantors of the 1st Interested Party's land, had been quashed by the Supreme Court. The High Court therefore had no reason to even entertain the application on the very face of it. Therein lies the fundamental and grevious error on the face of the decision.

It is no wonder then that to justify a consideration of the application, Amo Yartey J ignored the fact that the Supreme Court's order quashing Abada J's

purported relief (e) removed any linkage between Abada J's judgment and the Ofori Atta J judgment of 2010. After ignoring the import of the quashed positive orders, the trial Judge purported to reach into the rest of Abada J's decision to find a holding that the Court of Appeal Consent Judgment had been set aside on page 26, when the relevant statement on page 26 was crafted in obscure terms directed at no party and no proceeding. It was not a holding flowing from the claims and issues presented to the Judge to try. From this 'derived meaning', the trial Judge then found a revival of the Ofori-Atta J's judgment, before he could apply this Ofori Atta judgment as binding precedent to the claims before him. The entire exercise constituted a '*fundamental, substantial, material, grave and serious error such as rendered the decision a nullity.'* See the Supreme Court's decision in **Republic v Court of Appeal; Ex Parte Tsatsu Tsikata 2005 – 2006** SCGLR where the court said that the supervisory jurisdiction of the Supreme Court ought to exercised in those manifestly plain and obvious cases, '*where there are patent errors of law on the face of the record, which errors either go to jurisdiction* ***or are so plain as to make the impugned decision a complete nullity****.'(emphasis mine)*

Since this application is being vigorously contested by the 2nd Interested Party, the party's whose invitation to err was acceded to by Amo Yartey J, we will end by setting out other factors that we find to be manifestly evident that the 2nd Interested Party seems to be missing in his submissions before us.

The jurisdiction given to any court to determine a suit is conferred by the pleadings and claims of the parties. As stated ad nauseam from cases such as **Esso Petroleum Co Ltd v Southport Corporation 1956 AC 218**, quoted with approval by Ghana's Supreme Court per Adumua Bossman JSC in **Dam v J. K. Addo and Brothers, 1962 2 GLR 200 at 204**, the function of pleadings is to give fair notice of the case which has to be met so that the opposing party may direct his evidence to the issue disclosed by them. When the pleadings center on a particular subject matter and legal position, the court is bound to consider the case submitted by the parties and determine whether or not they

are entitled to the reliefs sought by reason of the case made to the court. The acceptance of a case that is different from the case that a party put forward in their pleadings is '*unjustifiable and fundamentally wrong'* and must always be struck down.

How much more then, can a judge be construed as having reached a binding decision, when the discussion he introduces into his judgment concerns matters outside of the case submitted to him for trial, and the parties before him? The total lack of jurisdiction of Abada J regarding all issues concerning the Consent Judgment entered into at the Court of Appeal was evident in his deft side stepping of any declarations concerning that Consent Judgment. His statements at the head of page 26 of his judgment were left conveniently vague, and the '**relief e'** he adopted from Ofori Atta J's Judgment and purported to grant to the parties before him was without any basis, and rightly quashed by the Supreme Court on 19th November 2019.

The firm legal position is that consent judgments are binding as contracts, and not even appealable. In order to be free of them, fresh action must be taken by the parties to the consent judgment to vacate them for critical reasons that would invalidate a compromise not contained in the judgment or order. See **Halsbury's Laws of England (4th Edition) Volume 26**; also Azu Crabbe JSC speaking for the Court of Appeal in **In re Arthur, Abakah v Attah-Hagan 1972 1 GLR at page 442**, and the high court decision of Dordzie J as she then was, in **Lutterodt v Nyarko 1999– 2000 1 GLR 29**

Thus, under no stretch of imagination can a Judge give an unsolicited order setting aside a consent judgment entered into by parties who are not in the suit before him, and without an action that passes stringent conditions being fully tried before him. With this background, Abada J's comments regarding consent judgments '*procured from the court of Appeal or the Supreme Court*' found on page 26 of his judgment cannot even be entertained as lying in the realm of judicial decisions, much more found an order of res judicatam.

The trial judge allowed himself to entertain an application premised on the reversed Ofori Atta judgment in **Edward Mensah Tawiah, Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust**, and the quashed Abada J decision in **Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015, -** as it pertained to La lands described in the 'relief e' that Abada J granted. This is the error that rendered his decision a nullity.

In conclusion, we must state clearly the following positions for the direction of the parties involved in these cases.

1. Following the judgment entered by the Court of Appeal in **Edward Mensah Tawiah , Ewormenyo Ofoli Kwashie v The Ag Chief Registrar of Lands and The Trustees, East Dadekotopon Development Trust,** the Ofori Atta 2010 judgment ceased to have force of law. It was reversed in its entirety.

Following the quashing of the 'relief e' in Abada J's 2019 judgment in **Daniel Ofoli Ewormienyo v. Edward Nsiah Akuetteh and numbered BMISC 720/2015**, the remainder of that judgment related only to the first four reliefs that were the subject matter of the claims before the court. These two judgments cannot therefore provide a foundation for a finding of estoppel per res judicatam in favor of the Interested Parties before us in this suit titled **Adolph Tetteh Adjei v Anas Aremeyaw Anas, Holy Quaye Suit No LD/0256/2017**.

The 2nd Interested Party Counsel has raised the preliminary point of law that this application is incompetent, having been filed 92 days after the ruling and orders sought to be quashed and contrary to Rule 62 of the Supreme Court 1996 CI 16 as amended by Supreme Court (Amendment) Rules, 1999 CI 24.

We note that Applicant was not a party to the proceedings in question, though affected by the Orders. The date on which the Applicant was served with the ruling herein has not been established before this court.

We are satisfied that the time limit for filing processes may not be invoked against the applicant herein given the above circumstances.

Let the proceedings of 30th March 2020 ruling and orders made by Amo Yartey J in suit titled **Adolph Tetteh Adjei v Anas Aremeyaw Anas, Holy Quaye Suit No LD/0256/2017** dismissing the suit be brought up for purposes of being quashed and are hereby quashed.

The Registrar of the Land Division of the High Court is to place the case of **Adolph Tetteh Adjei v Anas Aremeyaw Anas, Holy Quaye Suit No LD/0256/2017** before another Judge for continuation and determination of the matters in controversy between the parties.

**G. TORKORNOO (MRS)**
**(JUSTICE OF THE SUPREME COURT)**

**V. J. M. DOTSE**
**(JUSTICE OF THE SUPREME COURT)**

**Y. APPAU**
**(JUSTICE OF THE SUPREME COURT)**

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

**PROF. H. J. A. N. MENSA-BONSU (MRS)**
**(JUSTICE OF THE SUPREME COURT)**

**COUNSEL**

EZRA ALABI BORQUAYE FOR THE APPLICANTS.

EMMANUEL BRIGHT ATOKOH FOR THE 1ST INTERESTED PARTY.

DAVID AMETEFE FOR THE 2ND INTERESTED PARTY.