IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA – A.D. 2018

CORAM: ANSAH, JSC (PRESIDING)

ADINYIRA (MRS), JSC

DOTSE, JSC

YEBOAH, JSC

BAFFOE-BONNIE, JSC

CIVIL APPEAL
NO. J4/34/2018

6TH JUNE, 2018

THE REPUBLIC

VRS

1. BANK OF GHANA

2. THE GOVERNOR (BANK OF GHANA)

3. MR. SIMON P. KYEI

4. MR. YAW AFRIFA MENSAH

5. SALIFU M. ABUKARI

6. MRS. CAROLINE OTOO .... RESPONDENTS/RESPONDENTS/RESPONDENTS

EX-PARTE: BENJAMIN DUFFOUR .... APPLICANT/APPELLANT/APPELLANT

JUDGMENT

BAFFOE-BONNIE, JSC:-

This is an appeal by the applicant/appellant/appellant hereafter called appellant, against the judgment of the Court of Appeal delivered by her ladyship Mabel M. Agyemang (Mrs.) JA. There is also a cross-appeal by the respondents in this case.

The facts of this case which admit of little controversy are as follows; Untill the 7th March, 2014, the appellant was a Deputy Manager of the first respondent Bank hereafter called the Bank. By virtue of his employment, and in line with the conditions of service of senior staff of the Bank, the appellant was granted a license to reside in the Bank's apartment at H/No.2 1st Shippi Close, East Cantonments, hereafter called the apartment. On 25th January 2011, the Bank wrote a letter to inform all occupants of the apartment to vacate the building and relocate to Adenta and Mataheko. The purpose of the said relocation was to enable the Bank redevelop the facility into a specialist hospital for staff and the general public.

All staff residing in the apartment relocated with the exception of the appellant who refused to relocate on the ground that he had a valid subsisting license agreement to stay in the property. The respondents, frustrated by the action of the appellant, took steps to evict him from the apartment. The appellant instituted an action in the High Court to prevent the respondents from evicting him. In that writ he claimed as follows;

- ***a.*** *A declaration that the conduct of defendant is in breach of the license agreement between it and the plaintiff*
- ***b.*** *A declaration that the defendant bank has acted in breach of the Senior Staff rules and Conditions of service*
- ***c.*** *A declaration that the sanctions imposed on the plaintiff is unlawful, illegal and* ***ultra vires***
- ***d.*** *An order setting aside the sanctions imposed on plaintiff*
- ***e.*** *Perpetual injunction restraining the defendant herein, their assigns, workers, servants, independent contractors, or any person claiming through them from ejecting plaintiff from his accommodation contrary to the license agreement, particularly pending the final determination of this suit.*
- ***f.*** *General damages*

The Bank entered appearance and counterclaimed as follows;

- ***a.*** *A declaration that the plaintiff's continued occupation of Flat 3, Block F, East Cantonments constitutes trespass*
- ***b.*** *An order for ejectment of plaintiff from Flat 3, Block F, East Cantonments*
- ***c.*** *Mesne profit from April, 2013 to date plaintiff moves from the flat*
- ***d.*** *Damages for trespass*
- ***e.*** *Special damages of GHC 40,000.00 per day, each day plaintiff has resided at Flat 3, Block F, East Cantonments as a trespasser*
- ***f.*** *Cost inclusive of legal fees*

While the action pended (and it is still pending), the appellant applied to the court for an order of injunction to restrain the Bank from ejecting him until the determination of the case. He sought a further order restraining the Bank from calling upon him to appear before a disciplinary committee pending the determination of the said suit. The High court granted an interlocutory injunction to restrain the respondents from proceeding against him in any Disciplinary Committee but his relief to restrain the respondents from ejecting him from the apartment was refused.

On 28th February 2014, the respondents forcibly evicted the appellant from the apartment. The Bank on 7th March 2014, by a letter summarily dismissed the appellant from its employment for "gross misconduct".

The appellant unhappy with the conduct of the Bank filed an application in the High Court seeking to cite the respondents for contempt for dismissing him and also for him to be reinstated as an employee of the Bank. He further prayed that he be reinstated into his official residence. The learned judge after reading the motion and the supporting affidavit refused the application of the appellant, holding that the respondents were not in contempt. Aggrieved by the decision of the court, the appellant filed an appeal in the Court of Appeal. The Court of Appeal found the respondents guilty of contempt and cautioned and discharged the respondents. The appellant's relief for reinstatement to his position as Deputy Manager of the Bank was however refused.

The appellant has instituted this appeal against the decision of the Court of Appeal on the following grounds:

a. *The Court of Appeal erred in refusing to order the respondents/respondents/respondents to purge themselves of the contempt by reinstating the applicant/appellant/appellant after finding the conduct of the respondent/respondents/respondents unlawful and contemptuous on the ground that the Suit was not about wrongful dismissal and that under a contract of service each party may disengage at will or in accordance with its terms…*

b. *The punishment is woefully inadequate and based on wrongful and unjustifiable grounds.*

c. *The Court of Appeal exceeded its jurisdiction by making definite prejudicial findings and pronouncement on* ***Suit No. INDL 61/13 Titled: Benjamin Duffour vrs. Bank of Ghana*** *the accommodation of which prejudice the case of the applicant/appellant/appellant.*

d. *The judgment is against the weight of evidence.*

The respondents have also cross-appealed against the decision of the court on the following ground:

> *That the Court of Appeal erred when it convicted Respondents namely, Bank of Ghana, The Governor (BOG), Simon P. Kyei, Yaw Afrifa Mensah, Salifu M. Abubakari and Caroline Otoo of contempt as they did not interfere with the judicial process nor did they breach any Court order in any way whatsoever and or howsoever.*

Even though the 4th ground of appeal was not dealt with specifically by the appellant we propose to deal with the whole appeal under the omnibus ground of "The judgment (Ruling in this case) is against the weight of evidence". After all the sum total of the

plaintiffs appeal and the respondents cross appeal is that if the honorable Justices Of the Court of Appeal had evaluated the evidence on record correctly they would not have come to the conclusion they did. The appellant in his statement of case argues that the Court of Appeal rightly found the respondents guilty of contempt and convicted them for proceeding to dismiss the applicant in flagrant breach of the court's order but failed to properly evaluate the evidence hence the minimal punishment and also their refusal to reinstate him. The respondents, on the other hand, argue that not a single one of the Respondents herein have engaged in any act(s) which have the effect of bringing the administration of justice into disrepute and or scandalizing the Court. They further stated that for an act to constitute contempt it has to be willful disobedience of an order of a court.

As has often been stated appeal is by way of rehearing so it is our intention to evaluate the evidence as settled before the trial High Court, being the findings of fact thereat made and come to a definite conclusion whether such conclusions and inferences drawn by the High Court judge were supportable.

When an appellant complains that a judgment is against the weight of evidence, an appellate court, which is considered to be in the same position as the trial court regarding the evidence, is invited to evaluate same and come to its own conclusions. The appellant in such a case assumes the burden of showing from the evidence on record the part of the judgment which is not supported by the evidence. In **Bonney v Bonney [1992-1993] GBR 779 SC**, the court had this to say:

> *"Where an appellant contended that a judgment was against the weight of evidence, he assumed the burden of showing from the evidence that that was in fact so. The argument that an appeal is by way of rehearing and therefore the appellate court was entitled to make its own mind on the fact and draw inferences from them might be so, but an Appeal Court ought not under any circumstances interfere with findings of fact by the trial judge except where they are clearly shown to be wrong, or that the judge did not take all the*

circumstances and evidence into account, or had misapprehended some evidence or had drown wrong inferences without any evidence in support or had or had not taken proper advantage of having seen or heard in support of the witnesses."

The contention of the parties before this court raises two issues: (1) whether or not the respondents by summarily dismissing the appellant were in contempt of court and (2) whether or not the respondents by evicting the appellant from the apartment had committed contempt.

To resolve these two issues, we must first of all understand what constitutes contempt of court. Contempt of court according to **Oswald on Contempt of Court (3rd edition**) may be said to be constituted by any conduct that tends to bring the authority and administration of the law into disrespect or disregard, or to interfere with or prejudice parties, litigants or their witnesses during the litigation. The law on contempt in Ghana seems to be settled. The courts in Ghana have over the years dealt with the issue of contempt of court in several instances. In the case of **In Re Effiduase Stool Affairs (No. 2); Republic v Numapau, President of the National House of Chiefs and others; Ex parte Ameyaw II (No. 2) [1998-99] SCGLR 639**, in holding 1, the court held as follows:

" *(1) Per Acquah JSC, Sophia Akuffo JSC concurring: contempt of court was constituted by any act or conduct that tended to bring the authority and administration of the law into disrespect or disregard or to interfere with, or prejudice parties, litigants, or their witnesses in respect of pending proceedings. And contempt of court might be classified either as* direct *and* indirect *or* civil *and* criminal*.* Direct contempts *were those committed in the immediate view and presence of the court (such as insulting language or acts of violence) or so near the presence of the court as to obstruct or interrupt the due and orderly course of proceedings.* Indirect or constructive contempts *were those arising from matters not occurring in or near the presence of the court, but which tended to*

> *obstruct or defeat the administration of justice, such as failure or refusal of a party to obey a lawful order, injunction or decree of the court laying upon him a duty of action or forbearance.* Civil contempts *were those quasi-contempts consisting in failure to do something which the party was ordered by the court to do for the benefit or advantage of another party to pending proceedings, while* criminal contempts *were acts done in respect of the court or its process or which obstructed the administration of justice or tended to bring the court into disrespect."*

A respondent to a contempt proceeding may be found guilty in many ways. The party may be found guilty of direct contempt or indirect contempt which may be proved depending on the facts of the case in several ways. The proof of direct contempt seem not to be as burdensome as proof of indirect contempt. In most cases of direct contempt such as insulting the judge or a party to a proceeding, or committing acts of violence in court, the judge has the advantage of having a firsthand view of the act constituting contempt. The opposite can be said of indirect contempt where the court will have to rely on the testimony of third parties to prove the offense of contempt.

The standard of proof in contempt proceeding is well settled. Contempt of court is a quasi criminal process which requires proof beyond reasonable doubt. This is so whether the act complained of is criminal contempt or civil contempt as was rightly stated in **Comet Products UK Ltd v. Hawkex Plastics Ltd [1971] 1 All E R 1141 at page 1143-1144, CA**. The court in that case held as follows:

> *"Although this is a civil contempt, it partakes of the nature of a criminal charge. The defendant is liable to be punished for it. He may be sent to prison. The rules as to criminal charges have always been applied to such proceedings. It must be proved with the same degree of satisfaction as in a criminal charge."*

The view that contempt of court requires proof beyond reasonable doubt was rehashed in the case of **Akele v Coffie and Another and Akele v Okine and Anor (Consolidated) [1979] GLR 84-90.** It was held that:

> *"In order to establish contempt of court even when it was not criminal contempt but civil contempt, there must be proof beyond reasonable doubt that a contempt of court had indeed been committed"*

Contempt of court may be committed intentionally or unintentionally. It is no defense to a charge of contempt for a party to prove that he did not intend to commit contempt of court. In **Republic v Moffat; Ex parte Allotey [1971] 2 GLR 391**, it was held that it was no defense for a party facing attachment for contempt to swear to an affidavit deposing that he did not intend to commit contempt of court. Intentional contempt may arise in two ways:

- where a party willfully disobeys an order or judgment of a court, and

- where a party knowing that a case is sub judice, engages in an act or omission which tends to prejudice or interfere with the fair trial of the case despite the absence of an order of the court.

In cases of willful disobedience of an order or judgment of the court, the following elements have to be established:

1. That there is a judgment or order requiring the contemnor to do or abstain from doing something;

2. That the contemnor knows what precisely he is expected to do or abstain from doing; and

3. It must be shown that he failed to comply with the terms of the judgment or order and that his disobedience is willful.

See the case of **Republic v Sito I; Ex parte Fordjour [2001-2002] SCGLR 322**. In that case, His lordship T.K. ADZOE stated as follows:

> *"The type of contempt charged against the Appellant involves willful disobedience to the judgment or order, or other process of a Court; it must import a demand to do or abstain from doing something. A refusal to comply with that demand of the Court is what constitutes the offence of contempt which the Courts consider as an obstruction to the fair administration of justice and also as an affront to the dignity of the Court. The offence interferes with the administration of justice because it in effect denies a party his right to enjoy the benefits of the judgment or order; it is an affront to the dignity of the Court in this sense that it is viewed as an act deliberately contrived to undermine the authority of, and respect for, the Court. And the law treats it as a quasi-criminal offence to vindicate the cause of justice. Some degree of fault or misconduct must be established against the contemnor to show that his disobedience was willful."*

Also in **Republic v High Court Accra; Ex parte Laryea Mensah [1998/99] SCGLR 360**, the Supreme Court held that for an act of a party to amount to contempt of court, it must be established that he has been guilty of willful disobedience or to have willfully violated a specific order of a court.

The burden on an applicant in the case of intentional contempt (as in the present case) is to establish all three elements as stated above in order to prove his case beyond reasonable doubt. The applicant must establish that there is indeed a judgment or order in force giving rise to the issue of contempt. He must then go further to show the court that the contemnor had knowledge of the said order and the duty on him to do or abstain from doing a particular act. Lastly the petitioner must establish that the contemnor intentionally or willfully disobeyed the order or judgment of the court.

The respondents in their statement of case aver that not a single one of the Respondents herein have engaged in any act(s) which have the effect of bringing the administration of justice into disrepute and or scandalizing the Court. They further state that for an act to constitute contempt it has to be a willful disobedience of an order of a

court. True as their contention may be, we believe the respondents miss a very important aspect of contempt of court. They fail to consider the fact that contempt of court may arise where a party knowing that a case is sub judice, engages in an act or omission which tends to prejudice or interfere with the fair trial of the case despite the absence of an order of the court.

The judicial power of Ghana, by article 125(3) of the 1992 Constitution, has been vested in the Judiciary. This power cannot be fettered by any person, agency or organ including the President and Parliament. Any conduct that contravenes this provision is clearly unconstitutional and as such null and void. When a court is seized with jurisdiction to hear a matter, nothing should be done to usurp the judicial power that has been vested in the court by the Constitution of Ghana. In effect, the state of affairs before the court was seized with the matter must be preserved until the court delivers its judgment. This is so whether or not the court has granted an order to preserve the status quo or not. A party to the proceedings will be in contempt if he engages in an act, subsequent to the filing of the case, which will have the effect of interfering with the fair trial of the case or undermine the administration of justice. The conduct must be one which has the effect of prejudging or prejudicing the case even before a judgment is given.

S. A. Brobbey in his book the **Law of Chieftaincy in Ghana, 2008**, in addressing the issue of contempt arising in the absence of an order of the court, made these comments at pages 479-480:

> "*Judicial power is the authority given to courts to decide any dispute referred to it by disputants. If neither the President nor Parliament has authority to take away judicial power, it is inconceivable that any individual or group of individuals can give onto themselves the power to take it away under any circumstance. The party will be considered as having despised the court and the judicial power by any conduct on his part that brings about the removal of or reduction in that power. Such conduct will amount to contempt of court."*

In Balogun v Edusei (1958) 3 WALR 517, which was cited by S. A. Brobbey in the aforementioned book at page 483, one of the respondents, Mr. Krobo Edusei, then the Minister of Interior, issued deportation orders against four persons alleged to be Nigerians. On the following day, the alleged Nigerians filed writs of habeas corpus for a declaration that they were Ghanaians and not liable to be deported. The High Court ordered the motion to be served on the minister and the other two respondents, the Acting Commissioner of Police and the Director of Prisons. The case was adjourned. On the day the case was adjourned, the four were deported from the country. There was evidence that the respondents knew of the motion in court. They were found to be in contempt of court even though there was no proof of actual notice on them and no specific order that they should not be deported.

Also, in In re Onny (Contemnor) [1967] GLR 386 at page 483 of the same book, the applicant as the head of the Ghana Society of Religious Liberals had a dispute with other members of the society as to who was entitled to run a lottery on behalf of the society. Pending the determination of the dispute, the High Court made an interim order suspending the operation of the lottery. On behalf of the Principal Secretary, the Principal Assistant Secretary (PAS) wrote a letter suspending the license of the society and implying that the applicant had misappropriated funds belonging to the society. Counsel for the applicant applied for attachment for contempt of the PAS. It was held that the action of the PAS amounted to contumeliously questioning the conduct of the court. It was aimed at prejudicing the fair trial of the substantive case and thus to interfere intentionally with the administration of justice. He was convicted for contempt of court. The conviction was upheld on appeal to the Court of Appeal as digested in (1968) CC 51

In the instant case, the Court of Appeal held that the respondents were in contempt of court because by terminating the appellant's employment they made a mockery of the proceedings of the court and the order emanating from the said proceedings. At page 167 of the record of appeal the court made the following findings:

> *"Yet it seems to us that the conduct of the respondents was in utter disregard of the order of the court, for while they did not technically disobey the court's order because they did not place the appellant before any disciplinary committee, they made mockery of the proceedings of the court and the order emanating from the said proceedings, when they terminated the employment of the appellant. The effect of their conduct was that while the respondents were well aware of the order of the court which was aimed at holding the issues of discipline in abeyance until the final determination of the suit, they, in willful disobedience, failed to comply therewith…"*

What is the order that was made by the trial High Court? At page 35 of the record of appeal the said order of the High Court can be seen as follows:

> *"(a) That the Defendant/Respondent herein, its agents, departments, bodies, management, workers, servants or any person acting under its instructions or orders are restrained from interfering in any manner the pendency of this suit by inviting or compelling the applicant to appear before any Disciplinary Committee or proceed against him in any disciplinary committee;…"*

The Court of Appeal's interpretation of the above order of the court is that the order was aimed at holding the issues of discipline in abeyance until the final determination of the suit and therefore the respondents in summarily dismissing the appellant was in contempt of court. Does it then mean that after the High Court gave the said order, the respondents were completely barred from taking any disciplinary action against the appellant until the final determination of the matter before the High Court? We think not. Such a literal interpretation of the order of the High Court is unreasonable and will lead to manifest absurdity.

In construction of all documents that are brought before the courts, we ought to be mindful of these words in the Interpretation Act, 2009 (Act 792):

"The general rules for the construction or interpretation used by the Courts were formulated by the Judges and not enacted by Parliament. From the Mischief Rule enunciated in Heydon's Case [(1584) 3 Co. Rep. 7a; 76 E.R. 637] to the Literal Rule enunciated in the Sussex Peerage Case [(1844) ll.Co & F 85; 8 E.R. 1034], to the Golden Rule enunciated in Grey v Pearson [(1857) 6 H.L.e. 61; 10 E.R. 1216] the Courts in the Commonwealth have now moved to the Purposive Approach to the interpretation of legislation and indeed of all written instruments. The Judges have abandoned the strict constructionist view of interpretation in favour of the true purpose of legislation.

The Purposive Approach to interpretation takes account of the words of the Act according to their ordinary meaning as well as the context in which the words are used. Reliance is not placed solely on the linguistic context, but consideration is given to the subject-matter, the scope, the purpose and, to some extent, the background. Thus with the Purposive Approach to the interpretation of legislation there is no concentration on language to the exclusion of the context. The aim, ultimately, is one of synthesis."

What is the purpose of the order of the court cited above considering the facts and circumstances leading to appellant's action in the High Court? From the pleadings of the parties at the High Court it can be construed that the purpose of the injunction was to restrain the respondents from taking disciplinary action against the appellant **for his refusal to relocate from the apartment**. In effect, the Bank, from the injunction granted by the High Court, could not in any way invite the appellant to a disciplinary committee with the purpose of punishing him for his refusal to relocate from the apartment. However, the said injunction cannot be said to have barred the Bank from taking any other disciplinary action against the appellant pending the final determination of the matter. Such a construction will be absurd and inconsistent with the purpose of the injunction given by the High Court.

If this court is to hold that no disciplinary action could be taken against the appellant until the final determination of the matter, then assuming the appellant gives out confidential information or even burns down the Bank, then it means that no disciplinary action can be taken against him until his case before the High Court has been settled. Such an interpretation would amount to an "interlocutory immunity" from all forms of disciplinary actions in favour of the appellant. This would clearly be contrary to law and good conscience. We therefore hold that on the true and proper construction of the orders of the High Court, the court did not prevent the Bank from taking any other disciplinary action against the appellant in future other than a disciplinary action for his refusal to relocate.

The appellant in paragraph 18 of his affidavit in support of his motion for contempt averred as follows:

> *'That despite the pendency of Suit No. INDL/61/13 (Exhibit "A"), the Injunction Order (Exhibit "C") restraining the Bank of Ghana from inviting or compelling me to appear before any disciplinary committee, or proceed against me in any disciplinary committee to the knowledge of the respondents, the Respondents' Bank has proceeded to dismiss me for failing to vacate my official residence. See exhibit "K'"*

The averment of the appellant raises the issue of intentional contempt arising from a willful disobedience of an order of the court.

The Court of Appeal was of the view that the act of the respondents in summarily dismissing the appellant without placing him before the disciplinary committee was to make a mockery of the proceedings of the court and the order emanating from the said proceedings. The court therefore held that the respondents had willfully disobeyed the court order and therefore were in contempt. We think that this conclusion by the Court of Appeal is correct. As already demonstrated, the order of the High Court did not bar the Bank from taking any other disciplinary action against the appellant but barred the Bank from taking disciplinary action against the appellant for his refusal to relocate. But

clearly the respondents act was geared towards making a mockery of the proceedings of the High Court or the order emanating from the said proceedings. Exhibit K (at page 36), which is the letter summarily dismissing the appellant, did not state the reason for the dismissal of the appellant. So the actual basis of the dismissal is unknown. Again, the respondents have said that the summary dismissal was unconnected with the matter before the court but rather it was due to the applicant's misbehavior subsequent to the courts orders. They said the applicant violated his conditions of employment by engaging in unlawful acts that entitled the bank to summarily dismiss him.

This reasoning can be gathered from the 4th respondent's affidavit in opposition to the motion for contempt. In paragraph 5 of the said affidavit (at page 40 of the record) he stated that the appellant was dismissed for engaging in acts which breached the terms of his conditions of employment and rules governing senior staff of the Bank.

However judging from the series of events that led to the applicant's summary dismissal it will be right to say that the respondent bank deliberately disobeyed the court order not to invite or compel the applicant to "appear before disciplinary committee or proceed against him in any disciplinary committee." Though they did not invite or compel him to appear before a disciplinary committee, they disingeniously "**summarily dismissed**" him for**"gross misconduct**".

Again judging from the contents of the letters dated 17th and 28th February respectively, the applicant was dismissed (which was disciplinary in nature) as a result of his failure to relocate from the building in dispute. Part of the letter of the 17th February read

*"We have noted with concern the fact that as at today February 17, 2014**, you have failed or refused to relocate to the newly allocated house** at MIGHE. Your conduct is a breach of Article 10(1) of the Senior Staff Rules and conditions of service which states that:*

"An officer shall conform to and abide by the rules governing his service in the bank and shall observe, comply with and obey all lawful orders and directives which from

time to time may be given him by any person or persons under whose jurisdiction superintendence or control he may for the time being be placed"

Accordingly you are warned to desist from **willfully refusing to obey legitimate and reasonable instructions which constitute gross misconduct** in the bank"(Emphasis added)

The letter dated dated 28th Feb. 2014 had similar words. They were both headed "WARNING".

Seven days after the second letter, that is, on 7th March 2014, the applicant received his letter of dismissal. The opening sentence said

"**The Board of Directors of the Bank has summarily dismissed you from the employment of the bank with effect from 7th March 2014 for gross misconduct."**

Yet the respondent wants this court to believe that the applicant's dismissal was for something else other than his refusal to vacate the premises. We are not convinced by this argument.

'

We ought to remind ourselves that the standard of proof in contempt cases is proof beyond reasonable doubt. The burden of proof is on the appellant in this case. For the appellant to succeed in establishing contempt, he must adduce cogent and credible evidence to prove beyond reasonable doubt that his summary dismissal amounted to a willful disobedience of a court order. This, we believe the appellant has done. The appellant has demonstrated to this court with cogent evidence that the reason for his summary dismissal was due to his failure to relocate from the apartment. The Bank would be in contempt if the reason for the summary dismissal was the appellant's failure to relocate from the apartment. The appellant has been able to establish this.

We will therefore hold that the act of the Bank in summarily dismissing the appellant was in contempt of court.

We will refrain from discussing the merits of the appellant's summary dismissal because that is not the case before this court. The case before this court is for us to determine whether the act of the respondents in summarily dismissing the appellant and ejecting him from his official residence amounted to contempt. The court has a duty to direct parties in the conduct of their case; however, it is not the duty of the court to do a party's case for him. However we believe the right course of action open to the appellant in this instance is to institute an action for wrongful dismissal if he is aggrieved by the decision of the Bank. He can only be reinstated, as the appellant is asking this court to do, after a court of competent jurisdiction has gone into the merits of an action for wrongful dismissal. This court cannot reinstate the appellant since the gravamen of the matter leading to this appeal is one of contempt and not a case of wrongful dismissal.

Still on the contempt, the next issue to determine is whether the respondents in ejecting the appellant from his official residence were in contempt of court. In the instant case, there is no order on record which prevents the respondents from ejecting the appellant from the apartment. In fact, the appellant's application for interlocutory injunction to restrain the respondents from ejecting him from the apartment was refused. The respondents in their statement of case aver that in the absence of an order of the court restraining them from ejecting the appellant and relocating him, they acted well within their right when they relocated the appellant. In the absence of an order of the court, the case before us is one of contempt arising from an act which tends to prejudice or interfere with the fair trial of the case. One of the reliefs of the appellant in his writ read,

> *"e. Perpetual injunction restraining the defendant herein, their assigns, workers, servants, independent contractors, or any person claiming through them from*

ejecting plaintiff from his accommodation contrary to the license agreement, particularly pending the final determination of this suit."

The claim of the appellant in paragraph 3 of his statement of claim at the High Court is that he is a licensee of the Bank. A licence can be defined as a permission given by a person with an interest in land to another person to use the land or part of it which without such permission would have amounted to trespass. A licence does not pass an interest in land nor does it transfer property in the land. It can be distinguished from easement, leases and tenancies which transfer proprietary rights. The plaintiff in the said statement of claim averred in paragraph 3 that there exist a valid licence agreement governing his occupation of the apartment with specific terms and conditions which he has complied with but the respondents refused to comply. The said licence agreement is not part of the record before this court.

Irrespective of the type of licence being held by the appellant, the grant of a perpetual injunction restraining a licensor from ejecting his licensee is highly doubtful. An injunction may be obtained in cases of a licence coupled with an interest and a contractual licence. However to hold that such an injunction includes a perpetual injunction in the absence of any cogent evidence to aid the court would be untenable. This however in our view is a matter for the High Court to determine on its merits.

It is our considered opinion that the Court of appeal got it wrong when it found the respondents to be in contempt for taking steps to eject the applicant. After all the applicant's application to have the court restrain the respondents from ejecting him had been specifically refused.

Having been found in contempt for summarily dismissing applicant, the cross appeal fails..

The second ground of appeal by the appellant was that having found the the respondent guilty of contempt, the punishment of "cautioned and discharged was too

lenient in the peculiar circumstances of this case and were based on wrongful and unjustifiable grounds.

To address this ground of appeal we will just refer to the case of REPUBLIC v NUMAPAU AND OTHERS; EX PARTE AMEYAW II [1999-2000] 2 GLR 629. In holding 3, the court held as follows:

> *"In contempt proceedings of the genre that came before the court in the instant case, the substantial interest at stake was the dignity of the courts and the integrity of the administration of justice; and it was consequently a public one. Hence, once the court made the determination that the conduct of the respondents did not constitute contempt, the interest of the public and the administration of justice had been adequately served, and the role of the applicant as a faithful public servant, for the purposes of the protection of the judicial process, ceased. For the applicant to proceed further to apply for review was to personalise the objectives of the contempt of court process.*

One of the main objectives of the offence of contempt of court is to protect the dignity of the court. The courts have been set up to ensure peaceful settlement of disputes and for the maintenance of law and order. It is in the general interest of members of the community that the authority vested in the courts to protect them is not trampled upon. Any act which therefore seeks to emasculate the authority of the courts should not be countenanced. The members of the community must at all times have confidence and hope in the authority of the courts to deliver justice. The concept of contempt of court is to prevent unjustified interference in the authority of the court. It is also designed to prevent any act which seeks to damage the dignity of the court. Contempt of court is not there to protect the dignity of any one individual person but the overall dignity of the justice delivery machinery.

The duty to protect the dignity of the court is not vested in judges alone. Where contempt is ex facie curia, i.e. contempt committed outside the court, it is duty of litigants and in some cases the Attorney General to bring proceedings to commit the

contemnor for contempt. However, litigants in such cases should be mindful not to assume that the essence of the contempt proceedings is to protect their dignity or for their personal satisfaction. The appellant in accordance with his public duty started the contempt proceedings in the High Court. His role to protect the dignity of the court ceased once the Court of Appeal found the respondents guilty and convicted them for contempt. The appellant by appealing to this court for an enhanced punishment seems to have personalized the contempt application. This court cannot grant the personal satisfaction the appellant is seeking in this case. His relief for an enhanced punishment is therefore refused.

To conclude, we will like to end with what we quoted from **Bonney v Bonney (supra)**:

> *"Where an appellant contended that a judgment was against the weight of evidence, he assumed the burden of showing from the evidence that that was in fact so. The argument that an appeal is by way of rehearing and therefore the appellate court was entitled to make its own mind on the fact and draw inferences from them might be so, but an Appeal Court ought not under any circumstances interfere with findings of fact by the trial judge except where they clearly shown to be wrong, or that the judge did not take all the circumstances and evidence into account, or had misapprehended some evidence or had drown wrong inferences without any evidence in support or had or had not taken proper advantage of having seen or heard in support the witnesses."*

After evaluating the evidence on record and the judgment of the Court of Appeal, we hold that Court of Appeal was right in holding that the act of the Bank in ejecting the applicant from the house was not in contempt but their act of summarily dismissing the appellant amounted to contempt of court. The appellant's appeal for enhanced sentence however fails and the respondents' cross-appeal also fails and both are dismissed.

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

ANSAH, JSC:-

I agree with the conclusion and reasoning of my brother Baffoe-Bonnie, JSC.

J. ANSAH
(JUSTICE OF THE SUPREME COURT)

ADINYIRA (MRS), JSC:-

I agree with the conclusion and reasoning of my brother Baffoe-Bonnie, JSC.

S. O. A. ADINYIRA (MRS)
(JUSTICE OF THE SUPREME COURT)

DOTSE, JSC:-

I agree with the conclusion and reasoning of my brother Baffoe-Bonnie, JSC.

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

YEBOAH, JSC:-

I agree with the conclusion and reasoning of my brother Baffoe-Bonnie, JSC.

ANIN YEBOAH
(JUSTICE OF THE SUPREME COURT)

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SAMUEL CUDJOE FOR THE RESPONDENTS/RESPONDENTS/RESPONDENTS.