27 – 02 - 13

IN THE SUPERIOR COURT OF JUDICATURE, THE SUPREME COURT (CIVIL DIVISION) SITTING IN ACCRA ON WEDNESDAY THE 27TH DAY OF FEBRUARY, 2013.

CORAM: ATUGUBA J. S. C. (PRESIDING), ANSAH, ADINYIRA, OWUSU AND DOTSE JJSC.

CIVIL APPEAL

NO. J4/9/2012

ABDUL RAHMAN MUMUNI

VRS;

ALHASSAN IBRAHIM

Appellant present.

Appellant present.

Respondent absent.

Richard N. Saaka for Appellant.

BY COURT;

We have detected between pages 29 – 30 of the record of appeal evidence of a negotiated settlement in the plaintiff's, evidence to the effect that "*the house be divided into 2 parts for defendant and his people and part for*

myself and my people." Continuing the plaintiff said "*Defendant agreed I also agree for peace sake"*. In modern times, except for situations such as the Limitation Acts the courts in further aid of the maxim *interest rei publicae ut sit finis litium* will uphold an estoppel that is clearly established on the evidence though not pleaded as such. We therefore uphold the aforementioned negotiated settlement in this case and amend the plaintiff's

writ to include, in the alternative, a claim for the enforcement of the said negotiated settlement. It is therefore ordered that the said negotiated settlement be enforced according to its terms. In practical terms, we construe the said negotiated settlement, bearing in mind that customary law does the reasonable in the special circumstances of the case, as follows: the plaintiff is given the three uncompleted buildings and 4 of the completed buildings, one of which should be a unit known in popular parlance, as hall and chamber. The respondent is given the residue, ie. 7 completed rooms; one unit of which is also a hall and chamber.

The Registrar of the Circuit Court to carry out. The rents of the 5 rooms paid into court should be paid out in equal sums to both parties by the said registrar.

No order as to costs.

(SGD) W. A. ATUGUBA

JUSTICE OF THE SUPREME COURT

(SGD) J. ANSAH

JUSTICE OF THE SUPREME COURT

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

JUSTICE OF THE SUPREME COURT

(SGD) R. C. OWUSU [MS.]

JUSTICE OF THE SUPREME COURT

(SGD) J. V. M. DOTSE

JUSTICE OF THE SUPREME COURT