IN THE SUPERIOR COURT OF JUDICATURE, THE SUPREME COURT (CIVIL DIVISION) SITTING IN ACCRA ON TUESDAY THE 15TH DAY OF DEC, 2010.

CORAM; AKUFFO J.S.C.(PRESIDING), BROBBEY, DR. DATE-BAH, ADINYIRA,

B. BONNIE, ARYEETEY AND A. BAMFO, JJ.S.C.

CIVIL MOTION

J7/11/2010.

HALLE AND SONNS S. A.

VRS;

BANK OF GHANA & ANOR.

Parties absent.

Attah – Akyea for Applicant.

J. K. Agyemang Esq. for Respondent.

Counsel makes oral application for extention of time to file the application for review application had lapsed.

Counsel for respondent does not oppose the application for extension of time.

BY COURT;

The application for extension of time is granted taking into account the fact that the Respondent is not opposing the same. Counsel may therefore proceed.

Counsel for the Applicant moves application for Review in other pleadings filed.

Submits that the High Court's summary judgment was an interlocutory decision not final and therefore there was no jurisdiction under the Court of Appeal Rules (R. 9) to grant extension of time after the 21 days expired.

Submits the judgment didn't determine the final rights of the parties. When summary judgment is set aside trial on the merits was ordered. Therefore submits as interlocutory judgment, the time for filing the appeal could not be extended. Refers to farce Atlantic case, opinion per Twum JSC and says it was aluter.

Submits that when a matter is not heard on the merits, it can only be interlocutory. Refers to case of Koranteng vrs; Amoako as in support also refers to Atta Kwadwo vrs; Badu.

Counsel for Respondent counters that the claim that the matter was not disposed of finally in the High Court's Summary Judgment is false. All the issues were finally dealt with. Judgment after trial & fifa ever filed thereafter nothing further was left for adjudication. Koranteng vrs: Amoako was firmly in tune with Ghanaian case law that whether the decision was final or not depended on the nature of the order made.

OPINION BY COURT;

There is no doubt in the mind of the Court that the judgment of Kusi – Apou J. though summary, was final in nature. It is not whether or not a judgment, if overturned on appeal would be sent back to the trial court for trial on the merits that determines the question of its finality. Rather, in Ghana, the crystallised position is that the determining factor is whether or not the court's orders, by nature, disposed of the disputed issues between the parties. In this case the High Court dealt with all the claims and made orders thereon, even including the question of interest, thereby enabling the successful party to properly file entry of judgment and even commence execution by issuing a writ of fifa.

Consequently this court in arriving at its decision committed no error whatsoever, and the application herein, for review, fails.

COSTS.

Costs in an amount of GH¢3,000.00 are hereby ordered to be paid to the Respondent by the Applicant.

[SGD] S. O. AKUFFO [MS]

[JUSTICE OF THE SUPREME COURT]

[SGD] S. A. BROBBEY.

[JUSTICE OF THE SUPREME COURT]

[SGD] DR. S. K. DATE-BAH

[JUSTICE OF THE SUPREME COURT]

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

[JUSTICE OF THE SUPREME COURT]

[SGD] P. BAFFOE-BONNIE.

[JUSTICE OF THE SUPREME COURT]

[SGD] B. T. ARYEETEY

[JUSTICE OF THE SUPREME COURT]

[SGD] V. AKOTO-BAMFO [MRS.]

[JUSTICE OF THE SUPREME COURT]

COUNSEL:

ATTA AKYEA FOR THE PLAINTIFF/APPELLANT/APPELLANT

J. K. AGYEMANG FOR THE 1ST DEFENDANT/RESPONDENT/RESPONDENT.