**IN THE SUPERIOR COURT OF JUDICATURE**
**IN THE SUPREME COURT OF GHANA**
**ACCRA- GHANA, A.D.2014**

**CORAM:** **ATUGUBA, J.S.C. (PRESIDING)**
**ADINYIRA (MRS), J.S.C.**
**YEBOAH, J.S.C.**
**BONNIE, J.S.C.**
**AKOTO BAMFO (MRS), J.S.C.**

**CIVIL APPEAL**
**NO. J4/37/2012**

**13TH NOVEMBER, 2014**

**MADAM AKOSUA SOSU** **PLAINTIFF/APPELLANT/APPELLANT**

**VRS.**

1. **KWAME KLUTSE** **DEFENDANT/RESPONDENTS/RESPONDENTS**
2. **WILLIAM ONENAKU NTOW**

# JUDGMENT

**AKOTO BAMFO (MRS) J.S.C.:-**

On the 26th of November 2009, the Court of Appeal, by a unanimous decision dismissed in its entirety the appeal filed by the appellant herein against the judgment of the High Court dated the 14th of February of 2005. The said judgment was entered in favour of the respondent before this court.

The appellant (as plaintiff) commenced an action in the High Court against the respondent the (2nd defendant therein) and her husband, the 1st defendant claiming these reliefs;

(a) A declaration that the purported sale of H/No. A 725; Dansoman, Accra by the 1st defendant to the 2nd defendant without the consent and concurrence of the plaintiff is null and void as the said property is jointly owned by both plaintiff and the 1st defendant.
(b) An injunction restraining the defendants, their servants, agents or assigns from interfering with the plaintiff's use of the said property.
(c) An order for the recovery of the said property.

The events culminating in the instant appeal have been faithfully recounted by both the High Court and Court of Appeal in their judgments. We do not therefore propose to set them out in extenso; suffice it to say that at the end of the proceedings before the High Court; it entered judgment for the respondent. The appellant lodged a protest against the High Court decision by filling a Notice of Appeal consisting of 4 grounds seeking for a reversal of the whole judgment of the 14th of February 2005.

The Court of Appeal however in its decision virtually endorsed all the findings of fact and the law applied by the learned trial judge and dismissed the appeal. The Appeals Court however reversed the specific findings of the trial judge that Exhibit 'A', the agreement between the appellant and her husband, the 1st defendant, was proof of the appellant's joint ownership of House no. A 725, Dansoman, the subject matter of the proceedings.

Being naturally aggrieved by the decision of the Court of Appeal, the appellant filed this instant appeal. She premised her attack on 3 main grounds – namely

(a) The learned judges erred in rejecting the document Exhibit A as a fair representation of what went on between the parties thereto and thus as evidence of plaintiff/Appellants entitlement to a moiety of the property in dispute.
(b) The learned trial judges erred in using the contents of the said Exhibit A which they rejected as evidence of the lack of credibility of evidence of plaintiff/Appellant that she had no knowledge of the transaction between the defendants.
(c) The learned trial judges misdirected themselves in rejecting circumstantial evidence as to the true nature of the transaction between the parties in favour of a mere reliance on the contents of the documents between the two.

Even though she indicated that she would file additional grounds no such processes were filed. The thrust of the appellant's complaint was directed at the specific findings of facts and the inferences drawn which were generally within the provinces of both the trial and appellate court

Largely, the Court of appeal confirmed the findings of the fact and the law applied by the learned trial judge with the exception of his findings on Exhibit A, the agreement between the appellant and her husband on their joint ownership of the Dansoman property.

We are of the firm view that the Court of Appeal rightly reversed the findings of the trial judge on the issue, for the appellant, having alleged that the judgment was against the weight of the evidence, the Court of Appeal was entitled to analyze the entire record of appeal, taking into account the testimonies and all the documentary evidence and to satisfy itself that the findings were borne out by the evidence on record. TUAKWA V. BOSOM 2001-2002 SCGLR 61.

The findings are clearly supported by the evidence on record and we do not feel able to disturb same.

The Court of Appeal concurred in the findings of fact made by the trial judge, It is well settled that this court would not ordinarily interfere with the

concurrent findings of the two lower courts unless it is established with absolute clearness that some blunder or error in the face of a crucial documentary evidence or a wrong application of some principle of evidence or a finding made based on some erroneous proposition of law. ACHORO V AKANFELA 1996- 1997 SCGLR 209 and OBRASIWA II V OTU 1996-1997 SCGLR 618. None of the above criteria was satisfied by the appellants. We would therefore dismiss the appeal in its entirety as being devoid of merit and affirm the decision of the court of appeal.

**(SGD) V. AKOTO BAMFO (MRS)**
**JUSTICE OF THE SUPREME COURT**

**(SGD) W. A. ATUGUBA**
**JUSTICE OF THE SUPREME COURT**

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

**(SGD) ANIN YEBOAH**
**JUSTICE OF THE SUPREME COURT**

**(SGD) P. BAFFOE BONNIE**
**JUSTICE OF THE SUPREME COURT**

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