IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA AD 2014

CORAM: WOOD(MRS) C J (PRESIDING)

ANSAH JSC

ADINYIRA (MRS) JSC

OWUSU (MS) JSC

DOTSE JSC

ANIN YEBOAH JSC

BAFFOE-BONNIE JSC

GBADEGBE JSC

AKOTO-BAMFO (MRS) JSC

BENIN JSC

AKAMBA JSC

REVIEW MOTION
No. J7/10/2013

29TH JULY, 2014

MARTIN ALAMISI AMIDU - - - PLAINTIFF/APPLICANT

VRS

1. THE ATTORNEY GENERAL - - DEFENDANT/RESPONDENT

2. WATERVILLE HOLDINGS (BVI) LTD - - DEFENDANT

3. ALFRED AGBESI WOYOME - - DEFENDANT/RESPONDENT

RULING

DOTSE JSC:

Writing on the topic, "*The Supreme Court and the Power of Review" S.Y. Bimpong-Buta*, in *Volume XVII, 1989-90, Review of Ghana Law*, stated thus:

> "*Whatever lurking doubts existed in the law as to whether or not the Supreme Court (as the final appellate court in Ghana) has the power to have a second look at its previous decisions* ***with a view to correcting its errors or setting it aside on an application by a dissatisfied party were affirmatively resolved by the landmark majority decision in Fosuhene v Pomaa****, delivered on 26 November 1987. The majority in this case, made of Adade and Taylor JJSC and Abban JA, "held inter alia, that* ***the Supreme Court had jurisdiction to correct its own errors by way of review and*** *that the application for review must be "founded* ***on compelling reasons and exceptional circumstances dictated by the interest of justice".*** *Indeed, on the same day that the majority decision was given in Fosuhene, the same Judges who formed the majority in Fosuhene, also held in* ***Nasali v Addy [1987-88] 2 GLR 286*** *that the Supreme Court had the power to review its decision."*

It should be noted that, the decisions referred to supra in the article by Dr. S. Y. Bimpong-Buta, were delivered before the enactment of the Constitution 1992 and the Supreme Court Rules, 1996, C. I. 16.

Now, this review jurisdiction of the Supreme Court is provided for under article 133 (1) & (2) of the Constitution 1992 and Rules 54-60 of the Supreme Court Rules, 1996, C. I. 16.

Rule 54 (a) of C. I. 16 under which this review application has been brought by the Plaintiff/Applicant hereafter referred to as the Applicant, states as follows:-

"*The Court may review a decision made or given by it on the ground of (a) exceptional circumstances which have resulted in a miscarriage of justice.*"

Before considering the merits of the instant application, which is seeking to review the judgment of this court rendered on the 14th day of June 2013, it is worthwhile to observe that in both the *Fosuhene and Nasali cases*, the emphasis of the Supreme Court was that, a review might be granted in the following situations:

i. **Compelling and exceptional circumstances dictated by the interests of justice**

ii. **Exceptional circumstances where the demands of justice made the exercise extremely necessary to avoid irreparable damage.**

The interest of ensuring justice is therefore at the core of considerations that might lead to a grant of a review application.

With the above as a guide, let us find out the reasons why the Applicant herein is seeking the review against 1st Defendants/1st Respondents, hereafter referred to as 1st Respondent and the 3rd Defendant/3rd Respondent, hereafter referred to as the 3rd Respondent.

In his application for review of the decision of this Court dated 14th June 2013, the Applicant in an erudite statement of case, summarized the following as the grounds for the review application:

1. That the judgment of the Supreme Court in not adverting to the High Court (Civil Procedure) Rules 2004 (C. I. 47) Order 2 Rule 6 and Order 11 Rule (1) regarding the fact that the 3rd defendant/respondent's writ of summons filed in the High Court on 19th April 2010 was accompanied by a statement of claim filed at the same time in the said High Court containing averments stating clearly that the action in the High Court was for restitutionary reliefs based on the international business and economic transaction between the 2nd defendant and the Government of Ghana. That this was the suit in which the Supreme Court delivered the judgment in **Amidu v Attorney General & 2 Others**, 14th June 2013, Supreme Court (unreported) was given per incuriam, inadvertently and was fundamentally wrong and occasioned a grave miscarriage of justice to

the plaintiff/applicant and the public interest under the 1992 Constitution.

2. The Supreme Court inadvertently, patently mistakenly or unwittingly committed the basic error of attributing the facts pleaded by the 1st and 3rd defendants/respondents to the facts pleaded by the plaintiff/applicant as grounding the dispute between the plaintiff/applicant and the 1st and 3rd defendants/respondents. That this disabled the Supreme Court from deciding the real dispute between the plaintiff/applicant, and the 1st and 3rd Defendants, resulting in a patently wrong decision and occasioned a grave miscarriage of justice to the plaintiff/applicant and the public interest under the 1992 Constitution.

3. The decision and judgment of the Supreme Court declining jurisdiction to hear the plaint of the plaintiff/applicant for interpretation and or enforcement of Article 181 (5) of the 1992 Constitution against the 1st and 3rd defendants/respondents respectively and directing the plaintiff/applicant to ventilate his plaint in the High Court were each given per incuriam, inadvertently, fundamentally and patently mistakenly erroneously and or unwittingly. That this amounts to an abdication of the exclusive enforcement jurisdiction of the Supreme Court to enforce unconstitutional acts or omissions under the 1992 Constitution to the High Court and occasioned grave miscarriage of justice to the plaintiff/respondent and the public interest under articles 2 (1) (b) and 130 (1) thereof.

The above, constitute the grounds upon which the Applicant anchored this review application.

The Applicant, himself a former Attorney-General and an astute Lawyer for that matter has argued the legal grounds of the review application and in the best traditions of the Bar has referred copiously to decided cases for and against the position he has taken in this review application.

In order to put in proper context this review application, especially in terms of the arguments of the Applicant that the reliefs which this court did not grant resulted into a patently wrong decision which occasioned a grave miscarriage of justice to the Applicant and the pubic interest under the Constitution, 1992, it is considered prudent to set out in detail the amended reliefs which the Applicant claimed before the ordinary bench of the Court. Thereafter, these would then be

considered against the decision of this Court, vis-à-vis the reliefs granted by the ordinary bench.

Reliefs which the Plaintiff/Applicant claimed before the ordinary bench of this court.

1. "A declaration that the Agreement entitled "Contract for the Rehabilitation (Design, Construction, Fixtures, Fittings and Equipment) of a 40,000 seating Capacity Baba Yara Sports Stadium in Kumasi, Ghana" entered into on 26th April 2006 between the Republic of Ghana and Waterville Holdings (BVI) Limited of P. O. Box 3444 Road Town Tortola, British Virgin Islands is an international business or economic transaction under Article 181 (5) of the 1992 Constitution that could only have become operative and binding on the Government of Ghana after being laid before and approved by Parliament.

2. A declaration that the Agreement entitled "Contract for the Rehabilitation (Design, Construction, Fixtures, Fittings and Equipment) of a 40,000 Seating Capacity Ohene Djan Sports Stadium and the Upgrading of the El Wak Stadium in Accra, Ghana" entered into on 26th April 2006 between the Republic of Ghana and Waterville Holdings (BVI) Limited of P. O. Box 3444 Road Town, Tortola, British Virgin Islands is an international business or economic transaction under Article 181 (5) of the 1992 Constitution that could only have become operative and binding on the Government of Ghana after being laid before and approved by Parliament.

3. A declaration that the two Agreements each dated 26th April 2006 as stated in reliefs (1) and (2) herein not having being laid before and approved by Parliament pursuant to Article 181 (5) of the 1992 Constitution is each inconsistent with and in contravention of the said Article 181 (5) of the Constitution and consequently null, void and without operative effect whatsoever.

4. A declaration that a bridge financing agreement arising between the Republic of Ghana and the 2nd defendant, (Waterville Holding (BVI) Limited), pursuant to the two Agreements each dated 26th April 2006 is each a loan transaction within the meaning of Article 181 (3), (4) and (6) of the 1992 Constitution whose terms and conditions had to be further laid before Parliament and approved by a resolution of Parliament to be operative and binding on the Republic of Ghana.

5. A declaration that the conduct of the 1st Defendant in paying sums of money in Euros to the 2nd Defendant in purported pursuance of claims by the 2nd Defendant arising out of the said two Agreements each dated 26th April 2006 as stated in reliefs (1) and (2) herein is inconsistent with and in contravention of the letter and spirit of the 1992 Constitution, particularly Article 181 (5) thereof and is each accordingly null, void, and without effect whatsoever.

6. A declaration that all transactions and claims by the 3rd Defendant a Ghanaian citizen with one Austro-Invest Management of CH-6302 ZUG Untermuhli 6, Switzerland, (a foreign registered and wholly owned company liquidated on 26th July 2011) premised upon the said two Agreements between the Republic of Ghana and the 2nd Defendant, Waterville Holdings (BVI) Limited, constitute international business transactions within the meaning of Article 181(5) of the 1992 Constitution to be laid before and approved by Parliament to become operative and binding on the Republic of Ghana.

7. A declaration that the transactions or any purported transaction between the 2nd Defendant, Waterville Holding (BVI) Limited, (a foreign registered and resident company), 3rd Defendant, a Ghanaian citizen, with Austro-Invest Management Limited (also a foreign registered and wholly owned company now liquidated), and the Government of Ghana to syndicate foreign loans and other financial assistances from foreign financial institutions and sources that financially encumbers the Republic of Ghana for the stadia projects, the subject matter of the two Agreements each dated 26th April 2006 aforementioned constitute an international business or economic transaction within the meaning of Article 181 (5) of the 1992 Constitution for the purposed the operability of the transactions.

8. A declaration that on a true and proper interpretation of Articles 181 (3), (4), (5), and (6) and the spirit of the 1992 Constitution the Republic of Ghana cannot incur liability for any foreign or international loan or expenses incidental to such foreign or international loan transactions without parliamentary approval of the transaction for it to be operative and binding on the Republic of Ghana.

9. A declaration that conduct of the 1st Defendant in paying or ordering the payment by the Republic of Ghana of claims raised by the 3rd Defendant with the said Austro-Invest premised upon a purported foreign or international financial engineering agreement arising out of the said

aforementioned two Agreements of 26th April 2006 and/or any other international business Agreement with the Government of Ghana which were never laid before or approved by Parliament is inconsistent with and in contravention of the letter and spirit of the Constitution, particularly Articles 181 (3), (4), (5), and (6) of the 1992 constitution thereof and are according null, void and without effect whatsoever.

10. A declaration that the High Court which purported to and assumed jurisdiction in an action commenced by the 3rd Defendant (as Plaintiff) on 19th April 2010 in Suit No. RPC/152/10 against the 1st Defendant claiming damages for breach of contract in an international business transaction contrary to Article 181 of the 1992 Constitution and entered judgment in default of defence against the 1st Defendant acted without jurisdiction: consequently those proceedings and others consequent thereupon of the said High Court are null, void, and without effect whatsoever.

11. A declaration that the conduct of the President of the Republic of Ghana in stating to the nation in an interview with Radio Gold on 23rd December 2011 that the two international business Agreements of 26th April 2006 and others incidental to it created liabilities for the Republic of Ghana for which the Government of Ghana had to pay to the 2nd Defendant, and 3rd Defendant with the said Austro-Invest as judgment debts are inconsistent with and in contravention of Article 181 of the 1992 Constitution and undermine efforts to defend the Constitution.

12. A declaration that the conduct of the 2nd Defendant in making a claim for and securing payment through mediation on an alleged breach of contract of the said two Agreements between the 2nd Defendant, (a wholly owned foreign registered and resident company) and the Government of Ghana dated 26th April 2006 when the 2nd Defendant knew that the said two Agreements were international business or economic transaction with loan components that had not been laid before and approved by Parliament under article 181 of the 1992 Constitution to become operative and enforceable is inconsistent with and in contravention of the Constitution.

13. A declaration that the conduct of the 3rd Defendant jointly with Austro Invest Management Ltd (a foreign registered and resident company subsequently liquidated abroad on 26th July 2011) in making claims upon and including the issuance of a Writ of Summons and Statement of Claim in Suit No. RPC/152/10 dated 19th April 2010 against the Government of Ghana with the written support of the 2nd Defendant and receiving

payments thereto premised upon alleged breaches of the said two Agreements dated 26th April 2006 between the 2nd Defendant and the Government of Ghana when the 3rd Defendant with the said Austro Invest Management Ltd, and the 2nd Defendant knew that the said two Agreement were international business or economic transactions which had not been laid before and approved by Parliament to become operative and enforceable is inconsistent with and in contravention of article 181 of the 1992 Constitution.

14. An order directed at the 2nd and 3rd Defendants to refund to the Repubic of Ghana all sums of money paid to them severally or jointly upon or as a result of the unconstitutional conduct of the 1st Defendant in purported pursuance of the two inoperative Agreements dated 26th April 2006 or any other unconstitutional Agreement as having been made and received by them in violation of Article 181 of the Constitution.

15. And for such further orders or directions that this Honourable Court may deem appropriate to give full effect or to enable effect to be given to the spirit and letter of the Constitution in this matter generally and particularly Articles 2 and 181 of the Constitution."

After an exhaustive discussion of the facts of the case based upon the above reliefs and the defence put up variously by the Defendants therein, the ordinary bench of this court on the 14th of June 2014 rendered a judgment which allowed some of the Applicant's reliefs, and refused some.

It is perhaps necessary at this stage to state in a nutshell, the decision of the ordinary bench in respect of the Applicant's reliefs which it granted and those that were refused. These are as follows as taken verbatim from the lead judgment:

> "*In the result, we are unanimously of the view that this Court should grant the plaintiff some, but not all, of the reliefs he seeks. The reliefs to which he is entitled, in the light of the analysis of the law and facts set out above, are as follows: Reliefs 1, 2 and 3 endorsed on the writ are hereby granted. It is not necessary to grant Relief 4, since it is subsumed in the first 3 reliefs. Relief 12 is also granted. Relief 14 is granted to the extent that the order is directed at the 2nd defendant, requiring it to refund to the Republic of Ghana all sums of money paid to it in connection with the two inoperative Agreements dated 26th April 2006 and the work done on the stadia. Orders against the 3rd defendant, if any, will have to await*

determinations made in the High Court. Any other reliefs endorsed on the plaintiff's writ which are not specified above as having been granted are hereby denied, on jurisdictional grounds, without prejudice to any reliefs that the High Court may grant in the future."

It therefore follows that, the ordinary bench granted in the main reliefs 1, 2, 3, and 14 which was only in respect of the 2nd defendant. Relief 4 was considered to have been granted as it was deemed to be subsumed in reliefs 1, 2, and 3.

With the above decision of the ordinary bench in place, it is not surprising that the Applicant has launched this ferocious attack in a judgment in which he was deemed to have emerged victorious.

In view of the grounds of this review application, we have thought it somehow prudent to refer to in extenso the erudite and well reasoned judgment of our distinguished brother Date-Bah JSC who delivered the lead judgment in that case. This is with a view to juxtapose the reasons for the refusal of some of the reliefs against those that had been granted to determine whether the decision was given per incuriam, inadvertent, and was fundamentally wrong which has occasioned a miscarriage of justice to the Applicant as envisaged under article 133 of the Constitution 1992 and Rule 54 of the Supreme Court, Rules 1996, C. I. 16 and as was argued before this review panel

The judgment of the ordinary bench states in respect of the 1st Defendant as follows:

"The 1st Defendant

The plaintiff's case against the 1st defendant is that the Attorney-General's conduct in handling the dispute with the 3rd defendant was inconsistent with and in contravention of Article 2(1) (b) of the 1992 Constitution. In his Statement of Legal Arguments, he makes the following argument in support of this contention:

> *"The subsequent conduct of the 1st Defendant in failing or refusing to defend the Government of the Republic of Ghana against the unconstitutional settlement she reached with the 3rd Defendant when the 3rd Defendant commenced the unconstitutional action against the Government of Ghana on 19th April 2010 based solely upon that settlement and her letters to the Minister of Finance and Economic Planning dated 11th March 2010, 11th April 2010 and 29th April 2010 is conduct inconsistent with and in contravention of article 181 of the 1992 Constitution. That the 1st Defendant's conduct to contravene the Article*

181 of 1992 Constitution in favour of the 3rd Defendant was purposeful and deliberate is demonstrated by the subsequent affidavit deposed to by Nerquaye-Tetteh, Chief State Attorney, for and on behalf of the 1st Defendant Hon. Mrs. Mould-Iddrisu with her authority that there was indeed no contract between the 3rd Defendant and the Government of Ghana to warrant any settlement between the 1st Defendant on behalf of the Government of Ghana and the 3rd Defendant. In the ruling of the High Court dated 9th July 2010 refusing the 1st Defendant, then personified by Hon. Mrs Mould-Iddrisu's application to set aside the terms of her own unconstitutional settlement and adopting the terms of the settlement as the consent judgment of the parties in that suit, Justice I.O. Tanko Amadu quoted the supporting affidavit of the 1st Defendant deposed to by Samuel Nerquaye-Tetteh, Chief State Attorney, on behalf of the then Attorney General at paragraph 10 of the ruling as follows:

4. *"That the failure of the Applicants to file a defence was not deliberate or in disrespect of the court but was due to an earlier position taken on the matter by the Applicants.*

5. *That the Applicants then were of the mistaken belief that there was no defence to the claim and therefore did not file a statement of defence.*

6. *That it has now come to the knowledge of the Applicants that there is a defence to the action.*

9. *Furthermore the terms of settlement stated an amount of GHc 51,283,480.59 instead of an amount of GHc41,811,480.59.*

12. *That in the circumstances, it is the prayer of the Applicant that they are granted leave to file their defence out of time to enable them defend the claim on the merits of the case."*

In paragraph 29 of the ruling the learned High Court judge had this to say in respect of the Deputy Minister for Finance and Economic Planning's letter of 4th May 2005 exhibited to Samuel Nerquaye-Tetteh's affidavit deposed to on behalf of the Attorney General Hon. Mrs. Mould-Iddrisu as Exhibit 'AG':

"29. I have no doubt in my mind that Exhibit 'AG 1' referred to in the affidavit of Samuel Nerquaye-Tetteh which is said to form the basis of the Defendant's new found defence to the Plaintiff's claim was in actual or constructive possession of the Defendant/Applicant before the terms of settlement was executed and before Exhibit 'AW1' attached to the Plaintiff/Respondent's affidavit was authorized. The Defendant/Applicant

did not find Exhibit 'AG1' sufficiently weighty to constitute a defence to the action and cannot purport to seek to do so now as same will result in permitting piecemeal litigation…"

This Court may wish to take judicial notice of the fact that Exhibit 'AW1' referred to in the judgment is the 1st Defendant's own authorizing the Minister of Finance and Economic Planning to pay the 3rd Defendant which formed the basis of the 3rd Defendant's action of 19th April 2010 in the High Court. ***The Plaintiff submits that the determination of the 1st Defendant to disregard the decision of this Court in Attorney General v Faroe Atlantic Co. Ltd. [2005-2006] SCGLR 271 and the legitimate and constitutional opinion of her predecessor Hon. Joe Ghartey to abrogate the contract for failure to meet conditions precedent to present the Agreements to Parliament for approval showed her resolve to act in a manner inconsistent with and in contravention of the Constitution."***

"The Plaintiff's "charge" against the 1st defendant has far-reaching implications. What the Plaintiff is seeking to assert is that faulty judgment or negligence in the exercise of discretion by a Minister or public servant may be interpreted as unconstitutional conduct. ***Our view on this issue is not needed for the resolution of the case before us. This is because we do not find that any issue of interpretation or enforcement of article 181 of the Constitution arises in relation to the conduct of the 1st defendant which this Court needs to address under its original jurisdiction.*** *The provisions of article 181 are clear enough, as interpreted by the cases decided by this Court. What is called for is for the clear provisions of the Constitution to be applied to the facts as they relate to the 1st Defendant. This aspect of the present case is a classic illustration of what Acquah JSC, as he then was, urged this Court not to do in* ***Adumuah II v Adu Twum II (supra)*** *in relation to this Court's special jurisdiction under article 130:*

"This special jurisdiction is not meant to usurp or to be resorted to in place of any of the jurisdictions of a lower court. In other words, where our said jurisdiction has been invoked in an action which properly falls within a particular cause of action at a lower court, this court shall refuse to assume jurisdiction in that action, notwithstanding the fact that it has been presented as an interpretation or enforcement suit or both. For, a large number of actions which fall within specific causes can be presented in the form of interpretation or enforcement actions or both."

The Plaintiff's charge, accordingly, needs to be decided on by the High Court."

In considering the submissions of the Applicant against the 1st defendant, then personified in Mrs. Mould Iddrisu reference needs to be made to article 88 of the Constitution 1992 which deals with the office of the 1st Respondent.

We observe that it is only this office of the 1st Respondent that has been mentioned specifically in the Constitution among the other cabinet positions.

A perusal of article 88 (1) through to (6) indicate quite conclusively that the duties cast on that office are onerous and indeed very responsible. Our own understanding of the role of an Attorney-General is that the occupier of that position is so important that it should be likened to that of Caesar's wife and must therefore be deemed to be above reproach.

In view of the immense responsibilities that are cast on the office of the 1st Respondent, it will indeed be a travesty of justice to say that negligence on her part in failing to decide on a constitutional requirement which has led to a breach of the Constitution 1992 which only this court has jurisdiction to decide is a matter for another forum, possibly the High Court.

We think we fell into error in that decision and we must redeem the image of the Court by correcting it. This will not only bring dignity and honour to this Court, but also ensure that the justice which the good people of Ghana deserve is given them by people who are appointed to very high, sensitive, delicate and above all constitutionally created offices. Since these office holders are public officers, they must be held accountable for any lapses in the performance of their constitutionally mandated duties.

What then are the arguments put forward by the Applicant in support of the review application?

Fundamental Error Complained of in the Instant Review Application and Exceptional Circumstances:-

The Applicant copiously referred to reliefs in paragraphs 6, 7, 9, 10, 12, 13, 14, and 15 of his endorsement which relate to the 1st and 3rd respondents. The crux of the Applicants argument is that, the 1st and 3rd Respondents purported enforcement of the contracts dated 26th April, 2006 between the 2nd defendant therein and the Government of Ghana is unconstitutional and therefore null and void.

Applicant reiterates his arguments by making reference to the 3rd Respondents letter dated 18th August 2009 contesting the 2nd Defendants claims after the

change in Government, the attempts by the said 2nd Defendant to support the unlawful claims of the 3rd and 4th Defendants therein by the authority of a letter dated 20th April, 2010 when the 2nd Defendant knew that as an assignee of Vamed, the 2nd Defendant had taken over all the assets and liabilities of Vamed in all the stadia contracts.

The Applicant therefore contended that the 1st Defendant and it's officers at all material times acted in contravention of articles 181 of the Constitution in accepting the claims of the 3rd and 4th defendants therein for the sum of £22, 129, 411.74 or its equivalence in Ghana Cedis GH¢41, 811,480.50 as claimed for an alleged foreign or international financial engineering of resources for the Government of Ghana and authorising the Minster of Finance to pay same.

The above facts are not new. However, the arguments of the Applicant, is that, in analyzing these facts, the ordinary bench accepted the explanation of the 1st and 3rd Defendants/Respondents to the effect that there was a pending litigation between the 1st and 3rd Respondents in the High Court which sought to set aside the consent order pursuant to a default judgment of the High Court, and that because of the pendency of that suit, the Applicant herein had no cause of action vested in him under articles 2 (1) (b) of the Constitution 1992.

Referring extensively to the pleadings and arguments before the ordinary bench, as well as the judgment where for example the court stated thus:-

> "***The basis of the alleged liability of Government to the 3rd defendant is quite opaque given the nature of the action he initiated in the High Court. By the 3rd defendant's writ, filed by him as plaintiff on 6th May 2010, he claimed the following reliefs:…"***

the Applicant then re-emphasised his case, for the review application.

Before this review panel, the Applicant has been at pains to explain that the ordinary bench failed to consider the statement of claim which the 3rd Respondent, therein Plaintiff filed to establish the basis of the reliefs he claimed before the High Court, which the ordinary bench inadvertently described as opaque.

As a matter of fact, a careful perusal of the said statement of claim would have left the ordinary bench in no doubt that the 3rd Respondent herein was suing in respect of the stadia contracts, and by necessary implication called for the invocation of article 181 (5) of the Constitution 1992 which had been interpreted in a long line of cases by this supreme court.

For example, the 3rd Respondent, therein plaintiff, contended in paragraphs 3, 4, 5, 6, 7 and 8 of the statement of claim as follows:-

3. *"The plaintiff says that after the Republic of Ghana won the bid for the right to organize and host the 2nd MTN Africa Cup of Nations he led a consortium named Waterville which successfully bid and was awarded the contract for the construction of 5 new stadia and rehabilitation of the Ohene Djan, Baba Yare (sic) and El-Wak(sic) Sports Stadia in August 2006.*

4. *The Plaintiff says that the said contract was signed on 26th April 2006.*

5. *Plaintiff avers that he arranged through Bank Austria Creditanstalt a total amount of £1,106,470.587.00 for the stadia projects in addition to the construction of six hospitals and a cobalt 60 plant tissue and culture project.*

6. *Plaintiff avers that prior to making the said facility available for the tournament, an evaluation team appointed by the Ministry of Finance had " adjudged the finance offer from Bank Austria Creditanstalt arranged by the Plaintiff led consortium of M. Power Pak/AustroInvest/Waterville Holding as the most competitive and thus recommended their offer to the Government of Ghana.*

7. *Plaintiff avers that for his engineering services the government of Ghana finally agreed to pay him two percent 2% of the total project cost.*

8. *Plaintiff avers that inspite of the fact that the consortium he led won the contract for the stadia works in accordance with the laid down procedure and law with concurrent approval by the Central Tender Review Board and stated same, per a letter in August 2008 the Ministry of Education Youth and Sports unilaterally abrogated the contract and later re-awarded same to other contractors". Emphasis supplied.*

From the above statement of claim which the 3rd Respondent, therein Plaintiff filed in support of his now infamous claims against the Government of Ghana, the following issues stand out clear:-

1. The date 26th April 2006 is very significant, because it is the date on which the Government of Ghana signed two separate but similar agreements with Waterville Holding (BVI) Limited, the 2nd Defendants therein for the rehabilitation of the Ohene Djan and El-Wak Stadia in Accra and Baba Yara stadium in Kumasi.

2. The three stadia, Ohene Djan and El-Wak both in Accra and Baba Yara in Kumasi respectively which were the stadia that were referred to by the 3rd Respondent in his statement of claim filed in the High Court, were the same stadia that were referred to in the agreements of the 26th April 2006.

3. **That per the decision of this court dated 14th June 2013, the two agreements each dated 26th April 2006 for the design, construction, fixtures etc of the Baba Yara stadium in Kumasi and the Ohene Djan Sports Stadium in Accra and the upgrading of the El-Wak stadium in Accra, not having being laid and approved by Parliament pursuant to Article 181(5) of the Constitution 1992 are each inconsistent with and in contravention of the said Article 181 (5) of the Constitution and consequently null, void and without operative effect whatsoever**.

4. Flowing from the above, it would appear very clear like under the sunlight, that the contracts which the 3rd Respondent sued upon for the restitutory damages having been declared as unconstitutional, null and void cease to have any effect whatsoever.

The Applicant also anchored another leg of his exceptional circumstances on what he termed the ***Per Incuriam Decision of This Court*** vis-à-vis our previous decision in the case of **Sumaila Bielbiel v Adamu Daramani & Another** [2011] SCGLR 132. In this ruling I have decided not to consider this leg of the submissions as I fail to appreciate the point.

Thirdly, the Applicant also under the same heading argued that the decision of the ordinary bench in referring the Applicant to the High court to enforce the

unconstitutional acts or omissions of the 1st Defendant, i.e. the Attorney-General and the 3rd Respondent is patently an abdication of the exclusive and special enforcement jurisdiction of the Supreme Court to enforce the Constitution 1992, articles 2 and 130 (1) thereof.

RESPONSE OF RESPONDENTS

1ST RESPONDENTS

Before us in this Court, and during this review application, the current Attorney-General, personified in the person of Mrs. Marietta Brew Appiah Oppong, has taken a stance which we consider as very principled and worthy of commendation.

The position taken by the 1st Respondent is that of acceptance and avoidance. Whilst accepting the fact that the Applicant is entitled to ask for this review application, they seek to avoid it on the grounds that, the facts alluded to, in the judgment of the ordinary bench, being as they were pleadings put forward by them therein as 1st Defendants was indeed to justify the actions of the Attorney-General at all times material to the cause of this action, (Mrs. Mould Iddrisu) were only pleaded therein to inform this Court that most of the reliefs being claimed by the Applicant herein were similar to those being claimed by the 1st Respondents therein as plaintiffs against the 3rd Respondent herein, therein as defendants in the High Court.

Concluding their submissions before this Court, the 1st Respondents stated as follows:-

> "*It is our humble submission my Lords that the Plaintiff-Applicant's quest for review is within the ambit of the law. (See rule 54 of C. I. 16)"*

3RD RESPONDENTS RESPONSE

The response of the 3rd Defendants is in tune with the familiar refrain of those opposed to grant of the review jurisdiction of this court. In the main, the 3rd Respondent argued thus:-

That the Applicant has failed to establish the existence of exceptional circumstances which have resulted into a miscarriage of justice. Relying on well known cases such as **GIHOC Refrigeration & Household Products (No. 1)**

Hanna Assi (No. 1) 2007-2008 SCGLR per Date-Bah JSC at 12, **Afranie v Quarcoo [1992] 2 GLR 561, at 591-592** per Wuaku JSC, **Arthur v Arthur**, unreported review motion of this Court N. J4/19/2013 dated 4th February 2014, per Dotse JSC, and others, learned Counsel for the 3rd Respondents forcefully contended that the review jurisdiction is not intended to provide a further avenue for an appeal.

Based on the above legal principles that the review jurisdiction is not an avenue for a further appeal, learned counsel for the 3rd Respondent argued strenuously as follows:-

1. That since the statement of claim of the 3rd Respondent in support of his claim against the 1st Respondents in the High Court, had been attached to the documents annexed to the Applicants case before the ordinary bench, it should be understood that they were taken into consideration by the ordinary bench in the rendition of their judgment.

2. Secondly, the 3rd Respondent contended that there is nothing remotely connecting the stadia contracts to the 3rd Respondents case against the 1st Respondent before the High Court as was contended by the Applicant. Learned Counsel for the 3rd Respondent therefore contended that the reference to stadia contracts is not a reference to the contracts of 26th April, 2006 which this court has declared as unconstitutional, void and of no effect.

3. Thirdly, learned counsel for the 3rd respondent contended that the method adopted by the Applicant in seeking to set aside a subsisting and valid judgment obtained by the 3rd respondent from the High Court is wrong procedurally. It was further contended that the Applicant cannot set aside the judgment by invoking the original jurisdiction of the court as he has done.

FUNDAMENTAL ISSUE FOR DETERMINATION

In the main, the real and genuine issue that calls for determination is whether the Applicant is entitled to the grant of the reliefs he seeks as per the review application or that the application must be refused on the grounds urged upon this court by the 3rd respondent.

PRINCIPLES FOR GRANT OF REVIEW

This therefore calls once again for the circumstances that may entitle this court to grant a review application. The Supreme Court, in the case of **Nasali v Addy [1987-88] 2 GLR**, 286 at 288 set out the parameters by which review applications are considered by this Court. It was thus held in the above case as follows:

> *"The Supreme Court had power to correct its own errors by way of review. However an application merely seeking to reopen the appeal under the guise of a review, could not be encouraged.* ***The jurisdiction was exercisable in exceptional circumstances where the demands of justice made the exercise extremely necessary to avoid irremediable harm to an applicant.*** *All persons who had lost a case were likely to complain of miscarriage of justice but, in the absence of exceptional circumstances such complaints were a poor foundation for the exercise of the review power for* ***it was only in exceptional circumstances that the interest rei publicae ut sit finis litium principle yielded to the greater interest of justice. Fosuhene v Pomaa [1987-88] 2 G.L.R. 105, S.C. cited." Emphasis supplied.***

The Supreme Court also in an elaborate manner dealt at length with this review jurisdiction in the case of **Agyekum v Asakum Engineering and Construction Ltd. [1992] 2 GLR 635** per Francois JSC at 651 as follows:

> ***"The Supreme Court has expressed the view many times before, that the review jurisdiction does not provide a platform for rehearing previous legal positions, whatever new learning and erudition are thrown into the melting pot, The acid test remains as always the existence of exceptional circumstances and the likelihood of a miscarriage of justice that should provoke the conscience to look at the matter again****. I would consequently, for my part, reject the invitation to traverse known corridors, revisiting the pros and cons of argument only to conclude that a stance remains unswervingly unshaken. I am also firmly against the attempt to turn the review jurisdiction into a further avenue of appeal. We have no constitutional powers to do so." Emphasis supplied*

Bamford Addo JSC in the case of **Attieh v Koglex (GH) [2001-2002]** SCGLR 947 quoted with approval the decisions of Taylor JSC in the **Nasali V Addy and Fosuhene** cases as follows:-

> *"In the **Fosuhene case [1987-88] 2 GLR 105**, I demonstrated… that the jurisdiction is exercisable in exceptional circumstances **where the demands of justice make the exercise extremely necessary to avoid irremediable harm to an applicant." Emphasis supplied.***

The Supreme Court, had in a ground breaking and epoch decision in the celebrated case of **Hanna Assi (No.2) v GIHOC Refrigeration & Household Products Ltd. (No. 2)** [2007-2008] I SCGLR 16, where the majority of the Court speaking through Prof. Modibo Ocran JSC of blessed memory set out in an authoritative fashion guidelines which this court must apply in review applications. This was done by the review of many of the decided cases dealing with the Supreme Court jurisdiction of review.

In view of the many lessons and parallels which we want to draw from the said decision, especially It's insistence on the need to do substantial justice when the need arises, we would refer in extenso to the said Ruling as follows, per Prof. Ocran JSC of blessed memory:

> *"In my opinion, it was a mistake on the part of the Court of Appeal not to have granted the applicant a declaration of title simply because he did not specifically include that relief in his pleadings.*
>
> ***It was a mistake that was regrettably repeated in the majority opinion when we sat as a regular Supreme Court bench in this case to consider the cross appeal: and we should seize the opportunity on this review to rectify this error, because it would cause a substantial miscarriage of justice for the applicant**.*
>
> *There has been a major disagreement between some of us on this case at various stages of our deliberations. It is clear that this disagreement reflects differences in our respective judicial philosophies, quite apart from differences in our interpretation of the rules of procedure. My Lords, permit me to restate parts of my opinion on this cross-appeal when the case came before us as an ordinary panel. I wrote at the time (as stated in **Gihoc Refrigeration & Household Products Ltd v Hanna Assi** [2005-2006] SCGLR 458 at 488-489) that:*

"The position taken on the cross-appeal in the lead opinion delivered by my learned brother Dr Date-Bah JSC, not only reduces our substantive holding into a Pyrrhic victory for the defendant; but it may also mean that the latter might have to return to court in a fresh suit to seek a formal declaration of title for self-protection in the future as regards third parties. ***Such a position does not bode well for judicial economy and the need to defuse unnecessary court litigation. It is the sort of judicial stiffness that we, as the final court of the land charged with the administration of justice, should be hesitant to embrace.***

…Given the position we have all taken on the substantive appeal as regards title to the land, and the background threats to the defendant's quiet enjoyment of his property, I wonder why we should then shy away from a positive declaration of title in the latter's favour. If we take away the issue of title and related matters of license, there is virtually little else left to decide in this case. The core issue sounds like a declaration of title; it smells like a declaration of title; it feels like a declaration of title; and it looks like a declaration of title. Why not end our judgment with a declaration of title, unless there is a rule of law specifically and unequivocally disallowing this course of action even at the level of the Supreme Court? Is there actually a rule of procedure or substantive law that commands us to take the position that we cannot positively declare title in favour of the defendant?

The answer I gave at that time was a definite No!"

After narrating at length, the salient facts and law in the case, Prof. Ocran JSC continued the judgment in the Hanna Assi (No.2) case as follows:-

"In the opinion I offered at the ordinary panel of the Supreme Court, I cited and adopted the rule in ***Chahin v Boateng*** *[1963] 2 GLR 174, SC. In that case, there was no counterclaim; and yet the Supreme Court, relying on rules 31 and 32 of the Supreme Court Rules, 1962 (LI 218), made it clear that it had power to* ***make any order necessary for determining the real question in controversy in the appeal; and to give any judgment and make any order that ought to have been made.*** *Further, that such powers might be exercised by the court notwithstanding that the appellant may have asked that part only of a decision may be reversed or varied, or that such respondents or parties may not have appealed from or complained of that decision. There are*

echoes of the 1962 rules in our current Supreme Court Rules, 1996 (CI 16). In the instant application for review currently before us, it is worth noting that the applicant, as the respondent in the appeal before the Supreme Court, had actually raised the declaration of title in the form of cross-appeal. He had not been silent about his intentions.

The majority in the ordinary panel had assigned a sacrosanct quality to pleadings that cannot be justified either in procedural law or in policy terms. As recently as 28 February 2007, in the counterpart application to this review application – the earlier one brought by the respondent in Suit No CM J7/1/2007, namely, ***Gihoc Refrigeration & Household Products Ltd (No 1) v Hanna Assi (No 1)*** *[2007-2008] SCGLR 1 – this same review panel decided (per Atuguba JSC) that pleadings, as initially filed in a case, could not be said to be watertight throughout the proceedings so as to render impossible any additions or amendments through evidence adduced in court or the agreement of the parties to consider other issues. Moreover, since an appeal was in the nature of a re-hearing, a party, and, indeed, the court itself, could throw in a fresh issue or fresh matter of evidence for consideration. As long as there is the opportunity for full argumentation by the parties, the potential natural justice problem of surprise did not arise.*

I think at this point in our review jurisprudence we all understand the special jurisdiction of the Supreme Court in these matters. Reviews are not appeals; and jurisdiction must be founded on one of the legs of complaints elucidated in CI 16: see ***Mechanical Lloyd Assembly Plant Ltd. v Nartey*** *[1987-88] 2 GLR 598 SC;* ***Bisi v Kwayie*** *[1987-88] 2 GLR 295, SC;* ***Nasali v Addy*** *[1987-88] 2 GLR 286, SC;* ***Ababio v Mensah*** *(No 2) [1989-90] 1 GLR 573, SC;* ***Quartey v Central Services Co Ltd*** *[1996-97] SCGLR 398;* ***Pianim (No 3) v Ekwam*** *[1996-97] SCGLR 431;* ***Koglex (Gh) Ltd v Attieh*** *[2001-2002] SCGLR 947; and* ***Attorney-General (No.2) v Tsatsu Tsikata (No 2)*** *[2001-2002] SCGLR 620, etc.*

My reading of some of the main cases on Supreme Court review jurisdiction indicates that standards other than the presence of fundamental error committed inadvertently have been enunciated and applied in some cases. It is worthy of note that neither the 1992 Constitutional provision, namely, the article 133 (1), nor the rules of court made thereunder, namely, the Supreme Court Rules, 1996 (CI 16), r 54 (a) and (b) makes any reference to a "fundamental and inadvertent error"

as preconditions for review. This latter language crept in later through judicial interpretation in some of the review cases.

Taylor JSC *in the same case, went ahead to suggest some criteria which could, in appropriate cases, be indicative of exceptional circumstances calling for review, thereby implying that situations other than fundamental error could create such exceptional circumstances. He listed the following criteria at page 638 (supra):* ***matters discovered since judgment was entered; where a judgment or order is void; decisions given per incuriam for failure to consider a statute or case law or fundamental principle of procedure and practice; and the constitutional call on the Supreme Court to depart from previous decisions when it appears right to do so****. Taylor JSC described the last criterion as "a sort of omnibus criterion covering all other cases not falling within the three classes I have itemized…"*

In ***Quartey v Central Services Co Ltd*** *(supra) Abban CJ repeated Adade's description of review in Mechanical Lloyd as a special jurisdiction which should be exercised only in exceptional circumstances. He then went further to state (at page 399 of the Report) that:*

"This implies that such an applicant should satisfy the court that there has been some fundamental or basic error which the Court inadvertently committed in the course of considering its judgment."

Abban CJ repeated the same language in ***Pianim (No 3) v Ekwan*** *(supra) at page 438.*

In Attorney-General (No 2) v Tsatsu Tsikata (No 2) (supra), nearly all the eleven justices adopted the fundamental and inadvertent error standard; except that, while the majority sought to prove that a fundamental error had occurred, the minority were at pains to show that no such error had been committed by the ordinary panel of the Supreme Court."

After further review of some of the cases already referred to supra, Prof Ocran, continued his opinion in the case thus:

"In ***Bisi v Kwayie*** *(supra), decided on 8 November 1988, i.e. some months after Mechanical Lloyd, the Supreme Court again spoke in terms of a show of exceptional circumstances. Taylor JSC described such circumstances (at page 298 of the Report) as being* ***"of such a nature as to convince the panel of the Supreme Court or a majority thereof***

that it is right for the judgment to be reversed in the interests of justice". *At one point in his opinion, he referred to the need to convince the court that it had committed an error, but there was never a reference to a fundamental error.*

The judgment in **Hanna Assi (No. 2)** was concluded thus:

"Underlying all these later cases on conditions for grant of review, ***is the basic concern that reviews should be motivated by a desire to do justice in circumstances where the failure to intervene would amount to a miscarriage of justice. The question was asked at some point in our last hearing in this application:*** *"What is justice?" I would refer to justice in this context not simply in the Aristotelian sense of commutative or rectifiable justice; but more importantly to justice as an external standard by which we measure the inner quality of the law itself. Upon reviewing all these precedents, I have arrived at the conclusion that the case presently before us is reviewable, because the effect of our failure to correct the majority decision handed down at the ordinary panel of this court would be to brush aside a legitimate case of exceptional circumstances that would in turn result in a miscarriage of justice. I would adopt the definition of miscarriage of justice as "****prejudice to the substantial rights of a party."***

And I base my opinion on the real likelihood that applicant would be confronted with a brickwork defence of res judicata if he should attempt to return to the High Court to file a fresh case of recovery of title.

My Lords, if we do not grant the applicant's request for a formal declaration of title in this court but ask him to go back to the High Court to seek that relief under the circumstances of this case, ***we would be undercutting the importance of judicial economy and at the same time unduly increasing the cost of the citizen's access to justice.***

More importantly, if the applicant's case were thrown out in the High Court on grounds of res judicata, we would have unwittingly contributed to a gross miscarriage of justice."

Having referred in detail to some of the locus classicus decisions on how the review jurisdiction of this Court is exercised, it is at this stage necessary to relate them to the facts of this case.

In the first place it must be understood that, it does appear convincingly clear that the ordinary bench of this Court did not refer copiously to the statement of claim which the 3rd respondent filed in support of the writ of summons for which he was granted the judgment in the High Court which the Applicant has sought to nullify.

Grounds

1. That the judgment of the ordinary bench did not advert its mind to the statement of claim filed by the 3rd Respondents in the case at the High Court against the 1st defendants contrary to order 2, Rule (6) and order 11 Rule (1) of C. I. 47.

At this stage, let us refer to portions of the lead judgment on this matter and relate them to the law on the review jurisdiction of this Court. The lead judgment on this reads as follows:

> *"In his own Statement of Case, the 3rd defendant indicates clearly that he is not relying on the two terminated CAN 2008 agreements, but neither does he furnish sufficient evidence of an independent contract on which he relies. Assuming, without admitting, that the 3rd defendant's stance is supported by the facts upon which the litigation in the High Court is founded, there is thus a twilight area of contested liability which could be construed as either based on restitution, but linked to the ineffective rights under the terminated CAN 2008, or based on non-existent or fraudulent rights and therefore flawed. This twilight area of liability, to the extent that it relies on restitution, calls for constitutional interpretation to clarify the scope of article 181(5) of the 1992 Constitution in relation to rights which are not contractual but related to the contract rights nullified under that provision. To the extent that it is based on non-existent or fraudulent rights, it would be subject to the jurisdiction of the High Court, since it would not come within the exclusive original jurisdiction of this Court, which has been invoked by the Plaintiff's writ. If, contrary to the 3rd defendant's assertion in his Statement of Case, he is in fact relying on the ineffective agreements of 26th April, then again this would be a matter within the jurisdiction of the High Court, since it would not require further constitutional interpretation than the existing case law has already provided. A careful analysis of the facts of this case is therefore necessary to determine this issue of jurisdiction. It has been shown before this Court that there is litigation, initiated by the 1st defendant, in the High Court relating to whether the 3rd defendant has any contract rights against the*

1st defendant and whether he is guilty of fraudulent misrepresentation. That is where that litigation belongs and it should not be replicated in this forum. This present action relates to the effect of article 181(5) of the 1992 Constitution and whether it has any applicability to the facts of this case. Also in issue is what consequential orders this Court may make, if it finds that article 181(5) has been infringed."

After beautifully setting out the facts and the law, the lead judgment of the ordinary bench concluded the matter in these terms.

"The Plaintiff's Statement of Legal Arguments seeks to establish that the 3rd Defendant's claim for fees and interest embodied in his amended writ of 6th May 2010 in fact arises from the two terminated agreements of 26th April 2006. Since those agreements never became legally enforceable contracts, it has to be inferred that, on his arguments, the obligations in issue come within the twilight zone earlier referred to which require constitutional interpretation to determine whether the penumbra effect of article 181 makes them also unconstitutional. This Court has jurisdiction to determine whether restitutionary rights claimed in relation to the two terminated agreements are valid, in the light of article 181. In this connection, we think that a distinction should be made between the effect, on the one hand, of illegality of contract and, on the other hand, of unconstitutionality of contract on restitutionary rights."

We have already copiously referred to the statement of claim filed by the 3rd Respondent, in the High Court and drawn the necessary equivalents between it and the 26th April 2006 International Contracts which this Court has declared as unconstitutional because of the non-compliance with article 181 (5) of the Constitution 1992.

That being the case, this court should have critically read alongside the statement of claim with the opaque writ of summons which was amended twice in the High Court without any objection. Indeed if that had been done, the twilight area would have become very bright as if the sun had just risen from the east.

We have drawn the necessary linkages between the statement of claim which the 3rd Respondent filed in the High Court and this no doubt makes it clear that he was suing on the stadia contracts which we have declared unconstitutional, null and void.

Besides, it must also be noted that this Court, is the final appellate court. Once this Court has pronounced on the unconstitutionality of an act which renders null and void contractual terms and or agreements, it will be in tune with the principle of judicial economy as was stated by Prof. Ocran JSC in his erudite Ruling in Hanna Assi (No. 2) already referred to as follows:-

> "*My Lords if we do not grant the applicants request for a formal declaration of title in this Court but ask him to go back to the High Court to seek that relief under the circumstances of this case, we would be undercutting the importance of judicial economy and at the same time unduly increasing the cost of the citizen's access to justice."*

Indeed, if we stick to our decision in the ordinary bench, we would unwittingly have contributed to gross miscarriage of justice. This is because there is no guarantee that we can predict the outcome of the High Court decision.

The ordinary bench should not have been too mechanical in their approach to the reliefs the Applicant asked for. Again, let me quote Prof. Ocran JSC in this Hanna Assi (No.2) where he stated as follows:-

> "*It is the sort of judicial stiffness that we as the final court of the land charged with the administration of justice should be hesitant to embrace."*
>
> *And I implore my brethren in this review panel to rise to the occasion and bring to an end this comedy of errors that has virtually ridiculed the legal and judicial systems and exposed it to scorn. A final court such as this Supreme Court must feel emboldened to give decisions such as are aimed at doing substantial justice. The opportunity beckons us in this review application and I will not hesitate to embrace it. The real issues in controversy will thereby be dealt with.*

The Applicant in this case is a private citizen who has taken it upon himself what a former 1st Respondent refused to do, or did very late such that the whole nation especially its Judicial and Legal systems have been stretched beyond acceptable limits.

It is within this remit, that we find that the ordinary bench has committed an error in not critically linking the Statement of claim of the 3rd Respondent to the opaque writ of summons.

Now that our attention has been drawn in this review application, we are of the considered opinion that in the interest of justice, the review jurisdiction of this court must be exercised, the dominant consideration for the grant or refusal of this review jurisdiction of this court has been justice, based upon the various

considerations of justice in the many cases that have been decided over the years.

The cumulative nature of these decisions gives us the impression that, the Courts are concerned in ensuring that their refusal to grant a review where the need arises does not result into a failure of justice. The Court's basic existence is to do justice, and if by a combination of factors, mostly human and sometimes deliberate and intentional a nation has been made to come to terms with the payment of huge and uncontested judgment debts such as in the instant case, then a Court of last resort like this Supreme Court must imbibe the principles of justice which is it's primary duty and responsibility by ensuring that the unconstitutional contracts or agreements are not given a glimmer of life or hope, after the authoritative pronouncements by this Court on article 181 (5) of the Constitution 1992 which declared such agreements not laid before Parliament as unconstitutional, null and void and of no effect.

This principle of ensuring that justice is done in review cases cannot be wished away, because it is at the heart of all the notable decisions.

For example, in **Fosuhene v Pomaa** already referred to supra, Taylor JSC of blessed memory stated on this abstract thing called justice thus:

> "*…nevertheless if there are compelling reasons indicating that the* ***interests of justice demand*** *that it is right so to do, we can rehear a case previously decided by us so as not to perpetrate and perpetuate blatant injustice."*

He continued in the same case and stated that *"in the greater interests of justice"* the court has power to review.

In **Nasali v Addy**, already referred to, Taylor JSC again stated:

> "*the jurisdiction is exercisable in exceptional circumstances where the demands of justice make the exercise extremely necessary to avoid irremediable harm to an applicant."*

Similar descriptions were stated in cases like **Bisi v Kwayie** and **Koglex v Attieh** all referred to supra.

Francois JSC of blessed memory put the matter to rest in his decision in the case of **Agyekum v Asakum Engineering & Construction Ltd.** already referred to as follows:

> "*The acid test remains as always the existence of exceptional circumstances and the likelihood of a miscarriage of justice that* ***should provoke the conscience to look at the matter again."***

Indeed the facts and bizarre circumstances of this case are enough to provoke our conscience in ensuring that justice is done to the good people of this country.

In this Court, we are only called upon to review our decision on the ordinary bench. Our decision in the review case will be without prejudice to any decision that may be given in the cases pending in the High Court, especially in the criminal prosecution that the 3rd Respondent is facing. However, if our decision in this review application leads to favourable decisions for the 1st Respondent in the civil and criminal prosecutions, then so be it.

Having identified our failure in the ordinary bench to have critically analysed the statement of claim of the 3rd Respondent herein, therein plaintiff in the High Court as an error, which is an exceptional circumstance, then there is the corresponding need on our part to review that decision.

By the majority decision in the celebrated case of Hanna Assi (No.2) already referred to in extenso, Prof. Ocran JSC has stated that such an error need not be labeled as fundamental.

Under the above circumstances we will accept as logical and legitimate, the Applicants application for review under the above head and grant same.

Ground 2

Whether the ordinary bench attributed facts pleaded by the 1st and 3rd Respondents to the Applicant

On this ground of the application for the review jurisdiction, Applicant made really strenuous efforts to establish the fact that the ordinary bench in their judgment attributed facts pleaded by the 1st and especially the 3rd Respondents to appear as if these were the pleadings of the Applicant.

For example, it appears that the narrative of the facts on pages 1 to 14 thereof of the judgment highlighted in the main, the pleadings of the Respondent. Then in the last paragraph of page 14 is stated the following:

> ***"Against the backdrop of the facts as set out above, the plaintiff has sued the defendants in this action invoking the original jurisdiction of this court."***

In support of some of these assertions which the Applicant claimed amounted to attributing to him pleadings of the 1st and 3rd Respondents, he forcefully stated in his statement of case the following rendition which we refer to just for emphasis:

> "*From pages 6 to 14 of the said judgment of 14th June 2013 the Supreme Court set out in quotes from the pleadings of the 1st and 3rd defendants/respondents the letter of 18th August 2009, the 3rd defendant wrote to the Government asserting a joint claim with the 2nd defendant as leader of the 2nd defendants consortium and the amounts due from the*

Government which the 2nd defendant was grossly exaggerating (see pages 6 to 9 of the judgment); the Solicitor of the 2nd defendant, Tetteh & Co's letter dated 20th November 2013 contradicting the 3rd defendants (see pages 9 to 10 of the said judgment) the 3rd defendant's twice amended endorsement in its final form filed on 6th May 2013 (see page 11 of the said judgment thereof) and the Terms of settlement which were filed with the High Court on 4th June 2010 (see pages 11 to 14 of the said judgment). The Terms of Settlement quoted in extenso in the judgment repeats the original endorsement on the 3rd defendant's writ as plaintiff filed on 19th April 2010 in the High Court and the two subsequent amendments that culminated in the final amendment on 6th May 2010. These versions of the facts as stated in the 1st defendant and 3rd defendant's statements of cases and exhibits are attributed to plaintiff as forming the ***"backdrop" of the plaintiff/applicants case".*** *Emphasis supplied.*

The Applicant then contended further in his statement of case that, based on the foregoing, the ordinary bench after relying so heavily on the 3rd defendants final amended writ, concluded on pages 23-24 of the judgment of the famous quote already referred to which commences as follows:-

> ***"The basis of the alleged liability of Government to the 3rd defendant is quite opaque given the nature of the action he initiated in the High Court."***

Can these attribution of facts to appear as if they were facts pleaded by the Applicant or is it a case of too much reliance on the facts actually pleaded by the 1st and 3rd defendants and really attributed to them that has led the ordinary bench to have inadvertently, unwittingly or patently mistakenly committed errors

in the said judgment such that an exceptional circumstance has arisen leading to the occurrence of miscarriage of justice?

On page 25 of the judgment of the ordinary bench is a rendition by this Court which has already been referred to supra and which seems to give credence to the conclusions reached by the ordinary bench in abdicating jurisdiction in the matters concerning the 1st and 3rd defendant in particular. These factors led the ordinary bench to conclude that **there was absence of evidence that the 3rd defendant** was a party to the 26th April 2006 agreements. This notable decision has had far reaching effect on the fortunes of the case of the Applicant in respect of the reliefs which he sought before the court.

Considering the fact that the impression might wrongly be given that it was because of the wrong attribution of the facts pleaded in the judgment to the Applicant (which is false anyway) that is why those conclusions were reached.

Under the circumstances, despite the insistence of the 3rd Respondent that the Applicant has not made a strong case for review, we are of the considered view that, if the correct attribution of the pleaded facts had been made, perhaps, the conclusion reached by the court would have been different.

3. This now leads us to the last issue which is that by the judgment of the ordinary bench in abdicating their jurisdiction to enforce the unconstitutional acts or omissions of the 1st and 3rd defendants, under the Constitution 1992, to the High Court, a grave miscarriage of justice to the Applicant and the public interest under articles 2 (1) (b) and 130 (1) of the Constitution has been occasioned.

The evidence for this from the lead judgment is as follows:-

"The absence of evidence that the 3rd defendant was a party to the 26 April agreements has a significance for the jurisdiction of this Court over him in this case. It makes it difficult to accept the Plaintiff's contention that this Court should assume jurisdiction to interpret article 181(5) of the 1992 Constitution in relation to him also. The declarations sought by the Plaintiff relate to those agreements. Accordingly, since the 3rd defendant is not a party to the agreements, he would not be a proper subject of the jurisdiction of this court, unless he is the beneficiary of restitution that is within the penumbra effect of article 181(5) of the 1992 Constitution.

It has already been pointed out that the endorsement on the 3rd defendant's writ of summons against the 1st defendant, which resulted ultimately in the consent judgment against the State, is not explicit about the contractual or other legal basis pursuant to which it was brought. In response to this fact, the plaintiff has made extended submissions aimed at establishing that the High Court should have declined jurisdiction over the writ on the ground that it lacked jurisdiction because of the failure of the 3rd defendant to endorse a cause of action on his writ.

While this is an interesting argument, it is not one that this Court is obliged to consider under its original jurisdiction. In other words, it does not call for constitutional interpretation or enforcement, as this phrase has been interpreted in the case law.

It is the High Court which should determine the issues raised by the Plaintiff's Statement of Legal Arguments in relation to the 3rd defendant. Those issues relate to whether there was any privity of contract between the 3rd defendant and the Government of Ghana; whether the 1st defendant's writ of 19th April 2010 in the High Court was based on the two

terminated agreements or an independent financial engineering agreement; whether the 3rd defendant's writ against the 1st defendant was endorsed with any enforceable cause of action; etc. ***From the exhibits in this case, it is clear that those issues are already in controversy in the High Court, at the suit of the 1st defendant.*** *The clarification and interpretation that we have made in this case about the scope of article 181(5) of the 1992 Constitution, together with the earlier interpretations made by this Court in The* ***Attorney-General v Faroe Atlantic Co. Ltd****. [2005-2006] SCGLR 271 and* ***The Attorney-General v Balkan Energy Ghana Ltd. 2 ors.*** *Unreported, 16th May, 2012,* ***should assist the High Court in determining the matters which do not come within the ambit of the exclusive original jurisdiction of this Court under article 130(1) of the 1992 Constitution****. There is no fresh issue for interpretation or enforcement that requires the invocation of this Court's original jurisdiction.* ***It should be stressed that it is not optional for this Court to decide whether issues of constitutional interpretation already settled by stare decisis or issues relating to privity of contract etc. should be dealt with by the High Court or by this Court. This is a jurisdictional issue and therefore unless the plaintiff is able to demonstrate that particular issues come within the exclusive original jurisdiction of this Court, this Court is obliged to decline jurisdiction. This Court's refusal of jurisdiction is, however, without prejudice to the merits of the plaintiff's case when it is put forward in the appropriate forum."***

It must be noted that the Applicant did not conceal the capacity under which he brought the action against the Respondents before the ordinary bench. He

brought the action under article 2 (1) (b) and 130 (1) (a) of the Constitution 1992.

It is because of this special jurisdiction of the Supreme Court that any person can come within the ambit of the above constitutional provisions and invoke the original jurisdiction of the Supreme Court.

One need not have any special interest, locus or capacity in the matter before invoking the jurisdiction of the Supreme Court.

From the above analysis, it is quite apparent that, the statement in the judgment of the ordinary bench to the effect that *"This court's refusal of jurisdiction is however, without prejudice to the merits of the plaintiff's case when it is put forward in the appropriate forum."* Is without doubt completely shutting the door on the Applicant in so far as he seeks to exercise his constitutional rights as a public spirited person and or citizen vigilante in the Supreme Court.

We are of the view that, had the ordinary bench adverted its mind to the fact that, the Applicant will lack capacity in the High Court or indeed any other forum, then possibly the directive and statement made above to the effect that Applicant should vindicate his rights in the appropriate forum will definitely not have been made.

Secondly, it is also important for this Court to consider the effect of its decision in this case in the interpretation it has given article 181 (5) of the Constitution 1992 especially as it affected the CAN 2008 Stadia Agreements dated 26th April 2006. Once the invalidity of these Agreements have been pronounced, declaring them unconstitutional and therefore null, void and of no effect, this Court should have proceeded further to complete all the pending businesses before it. This is

all part of the principle of judicial economy that Prof. Ocran JSC of blessed memory referred to in Hanna Assi (No.2) already referred to.

As matters stand now, there is a real danger, that a High Court which is the appropriate forum that this court referred to may itself give a contrary and conflicting decision quite apart from what this court has given.

The review application in our opinion is an opportunity for the Supreme Court to level up the playing field and give one harmonious judgment for all the persons connected with this 26th April 2006 CAN 2008 Stadia Agreements and other related matters to know their positions and bring everything to closure.

Thirdly, it must be noted that, the Supreme Court is the Court of last resort for all. Therefore, the Supreme Court must not only ensure that there is substantial justice for all, but see to it that it is applied to all. The tendency where state resources are allowed to be dissipated must be brought to an end.

In any case, even though admittedly there are suits and cases pending in the High Court against the 3rd Respondent, the pace of those suits are nothing to write home about such that a zealous and public spirited person like the Applicant be made to tie his fortunes to such a snail pace driven suit. This will be denying him his rights which he seeks for the public.

Finally, we are of the view that, this review application should resist any attempt to use this Court as a conduit by which any acts of unconstitutionality in the siphoning of public funds will be given a semblance of authority and judicial blessing. The Supreme Court must at all times prevent a total failure of justice.

Taking all the above factors into consideration, it does appear to us sufficiently clear that by the inadvertence, unwittingness, patently mistaken etc of the ordinary bench in abdicating jurisdiction and directing the Applicant to the

appropriate forum, an error has been committed and this by our estimation has resulted into miscarriage of justice. This according to the authorities can be remedied by the review jurisdiction. We will thus on this ground as well allow the review jurisdiction. We will conclude this judgment by referring again to S.Y. Bimpong Buta's article in the Review of Ghana law. Page 210 already referred to as follows:

> ***"However, if the review jurisdiction of the Supreme Court is to serve as a genuine procedural mechanism which enables our Supreme Court to correct and reverse a basic and fundamental error inadvertently committed, then their lordships in the Supreme Court must (with the utmost respect) be prepared to admit that such a mistake had been made and graciously correct it when the golden opportunity offers itself as was the case in Ababio v Mensah, Supreme Court, 16th July 1989; digested in [1989-90] GLRD 60."***

We endorse the above statement and state that the review jurisdiction must serve as a genuine and real procedural mechanism which should sparingly be used to correct and reverse basic errors inadvertently or unwittingly committed by the ordinary bench to prevent total failure of justice such as the instant case.

CONCLUSION

In the premises, on the basis of the above renditions, this review application succeeds as follows:

Of the Applicant reliefs before the ordinary bench, reliefs 6, 7, 13 and 14 in so far as these relate to the 3rd Respondent, therein 3rd Defendants are accordingly allowed and granted.

In respect of the 1st Respondent, therein 1st Defendant, relief 9 which applies to it, is accordingly granted.

It must be noted that, in granting relief 10, we have taken into consideration the fact that having already declared as unconstitutional, null and void and of no effect the agreements of 26th April, 2006 there is no harm in granting the said reliefs. It actually flows from the decision of the ordinary bench and should have been granted in any case.

The review application thus succeeds in terms as has been stated supra in the body of the ruling.

(SGD) J. V. M. DOTSE

JUSTICE OF THE SUPREME COURT

WOOD (MRS) C J:-

I have had the privilege of reading the lead opinion authored by my respected brother Dotse JSC. I agree with the findings and conclusions expressed in this well reasoned decision. I am entirely in agreement with the conclusion that, applicant is entitled to the reliefs 9 and 10, 13 and 14, all of which inexorably flow, by logical extension, from the proven facts and the primary finding that the:

"…agreements of 26th April 2006 are unconstitutional, void and of no effect".

A contrary decision, denying Plaintiff/ Applicant these reliefs, would have left a substantial gaping hole in the justice to which on the facts and the law, the applicant is deservedly entitled.

I am however constrained in this short concurring opinion, to address one outstanding issue which came up for consideration at the initial stages of these proceedings.

At the hearing of this application, we unanimously dismissed a preliminary objection raised by the 3rd Defendant/Respondent; reserved our reasons for dismissal for same to be embodied in the final decision of this honourable court, and ordered a hearing of the substantive motion on the merits. My able brother, in his in depth analysis of this case, has so comprehensively and neatly set out the background facts that no useful purpose would be served by restating them. I would only make a short summation of those relevant facts which I think for purposes of clarity need to be repeated.

Mr. Martin Amidu, being clearly dissatisfied with the unanimous decision delivered by the ordinary bench of this court on the 14th of June 2013, sought via its review jurisdiction to correct what he described as palpable errors, which if left uncorrected would result in a grave miscarriage of justice not only to him, but the public in whose interest the constitutional action was initiated.

The application for review was brought under Article 133 (1) of the 1992 Constitution and Rule 54 of the Supreme Court Rules,

1996, CI 16 and following the language of the statutory instrument, grounded on:

"Compelling and exceptional circumstances which have resulted in a miscarriage of justice".

The dismissal of the legal objection however, had very little to do with applicant's deployment of the use of the exact legal terminology and much more to do with the justice of his case. Accompanying the motion and verifying affidavit was a statement of case, which from the result of the search which was exhibited, had not been signed by the applicant. Although a member of the panel drew our attention to the fact that she had a signed copy, we nonetheless proceeded on the premise that the official position, as evidenced by the official records is that, the statement of case was not authenticated by applicant's signature.

The 3rd Respondent thus sought as per the notice filed, to have the hearing of review application truncated; with the motion being dismissed in limine, on a preliminary point of law. The legal objection read:

"In view of the fact that the statement of case accompanying the application for review is not signed by plaintiff, the said process remains a draft and should be struck out as being a nullity since it cannot be relied on or referred to by the court."

The crux of Counsel's argument was that the statement of case accompanying the application was completely void for want of

signature as was mandatorily required by law. He relied on the following written argument to justify this proposition.

"A statement of case is part of the mandatory process that would have to be filed in this court to enable the court's review jurisdiction to be properly invoked. Together with a motion paper and supporting affidavit, the statement of case must be signed by either the applicant or his counsel and filed at the court's registry within the time frame stipulated by the rules of procedure.

See (a) Article 133 (1) of the 1992 Constitution

(b) Rule 54 of the Supreme Court Rules (CI 16)."

Counsel's contended that non-compliance with the mandatory requirement that the statement of case be signed is not a mere irregularity but incurably so bad that it renders the unsigned statement a complete nullity and of no effect. To buttress this argument counsel equated a statement of case in a review application to a writ of summons, the process used in initiating most civil actions in the High Court and the Circuit Courts, both courts of first instance. He relied on the dictum of Dr. Twum JSC in Republic v High Court, Tema; Exparte Owners of MV ESSCO Spirit (Darva Shipping SA Interested Party) [2003-4] SCGLR 689, at 694, to press the point. In that case, the learned Justice had observed inter alia:

"For example, a writ not authenticated by the signature of the plaintiff or his solicitor is a nullity."

Counsel's urged that by parity of reasoning an unauthenticated statement of case in support of a motion to review brought under Article 133 of the 1992 Constitution must suffer the same fate and should be declared a nullity.

I do appreciate counsel's concern about the falling standards of legal practice in our jurisdiction; relative in particular, to the growing number of court processes that are filed in total disregard to the procedural rules of court. I also do understand his anxiety about the seeming complicity of the courts in not exacting strict legal accountability, but rather choosing to encourage mediocrity, by aiding the complacent and slothful to find refuge under the "waiver of non-compliance rule" as provided under the various procedural rules, as for example, CI 16 and also the substantial justice principle.

This notwithstanding, I find no logical basis for equating a writ of summons as provided under the High Court Civil Procedure Rules,(CI 47), with a statement of case. It must be made clear from the outset that, the indiscriminate and blanket application of legal principles enunciated on the particular legal and factual circumstances of a given case, is not in accord with law or sound judicial policy.

The ground on which counsel sought to avoid a resolution of the review motion on the merits is clearly not supportable in law.

The Article 133 of the 1992 Constitution and the Rule 54 of the Supreme Court Rules CI 16, read respectively;

Article 133 (1)

"The Supreme Court may review any decision made or given by it on such grounds and subject to such conditions as may be prescribed by rules of court."

Rule 54(a)

"The application for review shall be by motion supported by an affidavit and **accompanied by a statement of the applicant's case; clearly setting out and fully arguing all relevant grounds on which the application relies.**"(Emphasis supplied)

Although it is a mandatory legal requirement that all review applications must be accompanied by a written statement of case within the time lines stipulated under the Rule 54 of CI 16, neither the Article 133 of the 1992 Constitution nor the Rule 54 (a) of CI 16 expressly or impliedly imposes on an applicant who invokes the jurisdiction of this court in terms of article 133 of the 1992 Constitution, any such mandatory legal requirement, that the accompanying statement of case must be signed, or risk being declared a nullity.

It being trite learning that statutory rules must be read as a whole, not piecemeal and construed purposively to advance rather than defeat the legislative purpose and by implication justice, it is difficult to appreciate from both the constitutional and statutory point of view the basis for the preliminary objection and the arguments in support thereof. Even more disturbing is the further argument that non compliance with the

said mandatory rule, is not a mere irregularity but incurably bad; namely, that such non compliance cannot even be saved by an invocation of the court's discretionary power of waiver as provided under Rule 79 of CI 16.

Undeniably, in court room business, plain good sense and ordinary prudence justifies the authentication of a statement of case filed under the rule 54 of CI 16. And commendably, the practice or convention has been that parties or Counsel do authenticate such documents. But the argument that cannot by any stretch of imagination be supported is the importation into the existing rule any such mandatory legal obligation and whose breach should attract the ultimate sanction of nullity.

The signing of statement of case is a commendable rule of convention or practice which we would promote and encourage. It must be understood that this ruling is not to be interpreted as the judicial blessing of its abolition.

What we have tried to do is to provide a legal answer to the simple question whether given the significant purpose of the self-explanatory rule 54 (a) of CI 16, the failure to authenticate by appending one's signature to a statement of case invalidates the statement.

And our simple answer is that the ambit of the rule, namely, that the statement of case must set out clearly and in full, by way of argument the relevant ground on which the application is grounded, would not justify an elevation of the conventional

practice (of signing a statement of case) into a mandatory legal requirement. The significant purpose of authentication by signature is to verify the statement as being genuinely and truthfully the deed of the person whose signature appears there-under. Thus, for example, it is the accompanying affidavit, a sworn written statement, which sets out the bare facts including the ground(s) on which the application is grounded, that must unavoidably be signed by the deponent, failure of which would render it of no effect, but certainly not the statement of case. The legal requirement that an affidavit is to speak to facts only and must also not be argumentative thus imperatively provides the avenue for the statement of case to set out in written form full the arguments in support of those facts deposed to in the affidavit. This represents the scope of rule 54 of CI 16.

But what indeed makes this objection plainly untenable is the fact that the applicant did in truth verify the authenticity of his accompanying statement of case via his affidavit. Significantly, the two main documents, which the statement of case hinges on, namely, the motion and supporting affidavit, were all signed by the applicant, and they both expressly make reference to the applicant's accompanying statement of case, whose contents relate to no other case but the specific review application before the court. Thus the signed affidavit of Martin Alamisi Amidu, the applicant, reads:

"Wherefore I swear to this affidavit in support of my application for review and in verification of my statement of case accompanying this application."

Given these plain facts and the law, little wonder that we had no difficulty in dismissing the preliminary objection.

(SGD) G. T. WOOD (MRS)

CHIEF JUSTICE.

BENIN, JSC:-

I have had the benefit of reading in advance the decision just delivered by my able and respected brother Dotse, JSC, and I am in full agreement with it. I only wish to stress one point concerning the illegality of the contracts that enabled Mr. Alfred Agbesi Woyome, 3rd respondent herein to make a claim against the Government of Ghana, represented herein by the Attorney-General, 1st respondent. I will not recount the facts which have been set out in detail in the lead judgment, save such as are material to the opinion I am about to render. The ordinary bench declared the agreements, between the Government of Ghana and Waterville, 2nd respondent, hereafter called the Agreements, as unconstitutional, void and of no effectl and consequently illegal. There was no direct contract between the 3rd respondent and the Government of Ghana, but the 3rd respondent was paid some money for sourcing funds to finance the projects captured under the Agreements. From the averments by the 3rd respondent in the suit pending before the High Court the payments to him arose out of the Agreements being a percentage of the contract sums he claimed he became

entitled to for services rendered to ensure a successful performance of the Agreements.

Thus the appropriate principles of the law of contract would apply to whatever contract the 3rd respondent relied upon to secure the benefits paid to him. The original contracts, that is the Agreements, having been declared illegal and thus unenforceable, any reliance on them to secure a benefit, like those claimed by the 3rd respondent herein, under the Agreements or any agreement that took its roots from the original illegal and unenforceable Agreements is equally tainted with illegality and unenforceability; even though standing on its own it might not be illegal.

The law on this is stated very clearly by the authors of Halsbury's Laws of England, 4th edition, Reissue, vol. 9(1) paragraph 878 at page 634 as follows:

'A contract…..not itself illegal will be tainted with illegality and hence be unenforceable if it is founded upon another, illegal, contract…….The principle is not confined to transactions between the parties to the original illegal contract…..However, where a third party is involved, he may enforce the agreement……if he had no knowledge of the illegal object or nature of the original contract. Notwithstanding the general rule, the second contract will be enforceable if, though factually connected with the original illegal contract, it is remote from it and cannot be said in reality to spring from, or be founded on it.'

In this case the 3rd respondent had pleaded before the High Court that he was paid 2% of the contract sums in respect of the Agreements for the role he played in sourcing funds, what was described as financial engineering, for the projects which are the subject-matter of the Agreements. Thus the benefits due to the 3rd respondent flow directly from the Agreements, and do not have an independent or remote existence; they could not be divorced from the Agreements. It is also clear that he was fully aware of the Agreements and was connected therewith all along and must be deemed to be aware of their illegality. Hence the exception or proviso to the principle cited above does not apply to whatever agreement the 3rd respondent relies upon for his claim; that agreement is equally tainted by illegality and is thus unenforceable.

With these few words I entirely agree with the views, reasoning and conclusion provided in this review as I have already stated.

(SGD) A. A. BENIN

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) ANIN YEBOAH

JUSTICE OF THE SUPREME COURT.

(SGD) P. BAFFOE BONNIE

JUSTICE OF THE SUPREME COURT.

(SGD) N. S. GBADEGBE

JUSTICE OF THE SUPREME COURT.

(SGD) V. AKOTO BAMFO (MRS.)

JUSTICE OF THE SUPREME COURT.

(SGD) J . B AKAMBA

JUSTICE OF THE SUPREME COURT.

COUNSEL

PLAINTIFF/APPLICANT APPEARS FOR HIMSELF.

MRS. DOROTHY AFRIYIE-ANSAH (CHIEF STATE ATTORNEY) WITH HER STELLA BADU (CHIEF STATE ATTORNEY) FOR THE 1ST DEFENDANT /RESPONDENT

OSAFO- BUABENG WITH HIM REYNOLDS TWUMASI FOR THE 3RD DEFENDANT /RESPONDENT