

**IN THE SUPERIOR COURT OF JUDICATURE  
IN THE SUPREME COURT OF GHANA  
ACCRA, 2013**

**WRIT**

**No. J1/22/2012**

**24<sup>TH</sup> APRIL, 2013**

**CORAM: W. A. ATUGUBA JSC - PRESIDING  
J. ANSAH JSC  
R. OWUSU (MS) JSC  
J. DOTSE JSC  
P. BAFFOE-BONNIE JSC  
N.S GBADEGBE JSC  
V. AKOTO-BAMFO (MRS) JSC**

**ZAINABU NASKE BAKO-ALHASSAN - PLAINTIFF  
P.O.BOX 16146 K.I.A, ACCRA**

**VRS**

**ATTORNEY-GENERAL - DEFENDANT  
ATTORNEY-GENERAL'S DEPARTMENT  
ACCRA**

**JUDGMENT**

## **DOTSE JSC:**

I wish to preface this judgment by making two statements about the role of the Supreme Court when it's original jurisdiction is invoked in contemporary Ghana. Michael G. Trachtman, in the introduction remarks in his invaluable book on the U. S. Supreme Court entitled "*The Supremes Greatest Hits*", stated the following as the methods by which the Supreme Court keeps the Constitution alive. These are:

1. "First in the same way it interpretes statutes, it interprets the constitution.
2. The second is the power of the Supreme Court to decide that any act of a government official, and any law passed by a government, violates the Constitution and is therefore invalid and of no effect. This power, termed the power of "judicial review" is virtually limitless, possibly limited by the constitution itself."

From the above two methods by which the U.S. Supreme Court has been identified to keep that country's constitution alive, the same can be said of our Supreme Court under the Constitution 1992. Indeed the Ghana Supreme Court also has this interpretive and enforcement jurisdiction as well as its judicial review aspect when it exercises it's original jurisdiction.

The Ghana Supreme Court, has since the promulgation of the Constitution 1992 been called upon to interpret the Constitution in several cases. See cases like:

1. ***J. H. Mensah v A.G. [1996-97] SCGLR 320, holding 7***, where the Supreme court held thus:

*"The Supreme Court had the power to determine political questions because the cumulative effect of articles 2 (1) and (3) – (5) and 130 (1) of the Constitution was to invest in the Supreme Court an original jurisdiction to entertain all cases relating to the enforcement and interpretation of any provision of the constitution and all questions relating to the constitutionality of any enactment or any act or omission by any person."*

**2. *New Patriotic Party v A.G. (CIBA) case [1996-97] SCGLR 729 holding 1, where the court by a majority of 4 -1 held thus:***

*"all classes of persons including natural persons and corporate bodies like the plaintiff) had the capacity to bring an action in the Supreme Court under article 2 (1) for the enforcement of the 1992 Constitution."*

3. ***Agyei Twum v A. G. & Anr. [2005-2006] SCGLR 732, holding 5,*** per Date-Bah and Ocran JJSC
4. ***Asare-Baah III v A. G. & Anr. [2010] SCGLR 463 holding 3 per Wood C.J***
5. ***Federation of Youth Association of Ghana (FEDYAG) v Public Universities of Ghana & Others [2010] SCGLR 265, holding 1***

Similarly, the Ghana Supreme Court has also been requested in several other cases to strike down this or that legislation or conduct of a government official as infringing the Constitution. As a matter of fact, the twin roles of the Ghana Supreme Court in its original jurisdiction have been firmly rooted in the provision of articles 2 (1) (a) & (b) and 130 (1) (a) of the Constitution 1992. On this latter role, in which the Supreme Court acts in its power of judicial review, see the following cases for example:

1. ***Rockson v Ghana Football Association [2010] SCGLR 445 holding 1,*** where the court re-emphasised the fact that the

*"proper forum for the enforcement of provisions of the "Constitution relating to violation of fundamental human rights was within the jurisdiction of the High Court. However, the Supreme Court had original and exclusive jurisdiction in matters where the central issue involved the interpretation of the provisions of the Constitution relating to the enjoyment of fundamental human rights by a victim of a breach of those rights. **The Supreme Court also had jurisdiction to determine cases which had been instituted under articles 2 (1) and 130 (1) (a) to strike down legislation which were considered to be inconsistent***

*with or in contravention of some provisions relating to fundamental human rights.” Emphasis*

**2. New Patriotic Party v I.G.P [1993-94] 2 GLR 459 SC**

**3. Mensima v A. G. [1996-97] SCGLR 67**

**4. Agyei Twum v A.G. & Anr. *already referred to supra***

I have been minded to make the above introductory remarks in response to the apparent invitation made to this court by the plaintiff in her writ of summon. The Plaintiff’s writ in substance is a critique of the legal and judicial system, as in her opinion, it does not afford protection to the self-represented litigant. In a way, it is a condemnation of our Legal Aid Scheme which appears not to have any regulatory framework to ensure that persons who benefit from Legal Aid are given competent legal advice and service. It is also a call up time for the Ghana Bar Association to consider institutionalising a mandatory Pro-Bono Legal Scheme for indigent clients.

### **WHAT THEN ARE THE RELIEFS THAT THE PLAINTIFF SEEKS AGAINST THE DEFENDANT FROM THIS COURT?**

The Plaintiff has stated clearly in her writ of summons that her action is grounded on article 2 (1) of the Constitution 1992. If I understand the plaintiff fairly well, then the following are the reliefs which she claims against the Defendant, who is the principal legal advisor of the government of Ghana.

### **CLAIMS OF THE PLAINTIFF**

1. “On this I seek respectfully from the Honourable Court for answers and hopefully for formal recognition of the legal status of the non-professional in self-representing in court.
2. The Writ is to request the Supreme Court to explain **and interpret that subtle Window of Opportunity that the Constitution and other**

**laws and rules of the nation offers the non-professional to self-represent even the in formal court.** To do so for the understanding of the average citizen for whose benefit it is offered and by extension help in said formalizing of our legal status in court.

3. To find out why the window is there, why it is provided. Is it a mistake? Is the window for some specially educated non-professional?
4. I do not believe that the framers of our laws and rules, in offering that window expected full professional jobs. In any case the fact of the existence of a window of opportunity is clear from observation and use. **This window is being accessed even now, however its application and effectiveness is defective and questionable.** For the weight of practical evidence on the ground shows that most non-professionals cannot execute fully professional jobs, but is that what the Constitution and Rules of Court really expects? Full professional prosecuting from the non-professional?
5. However in case there is a reason why the window is there and yet cannot be effectively accessed, then I believe that it is the right of Ghanaians to know that reason.
6. **I am hoping if the window is a genuine effort and offer to help the non-professional access justice, then by this writ, not only will we gain the formal and legal recognition but also guidelines, a simplifying and streamlining of procedures will be laid to help us prosecute our cases effectively even if not professionally efficiently."**

From the above, it appears what the plaintiff sought to convey in so many words is to request for the granting of rights to private individuals, who are non-professional lawyers to have access to the law courts in all manner of cases and to have equal treatment just as lawyers when they conduct their own cases. To explain further, the plaintiff seeks a formalization of the rights of unrepresented litigants in the law courts such that the rules of procedure applicable in the courts of law will not work any hardship and or prejudices against the unrepresented litigant. **In this case, it must be noted that the plaintiff**

**herself is one such litigant who has in my opinion competently self represented herself in her legal cases.**

In order to understand the plaintiff properly, I think it will not be out of place to quote in extenso how she has beautifully described her situation in the statement of case that she attached to the writ of summons.

This is how the plaintiff expatiated her claims in the statement of case.

### **STATEMENT OF CASE**

1. **"I am convinced that the Window of opportunity for the non-professional to self-represent does indeed exist.** That it is not a mistake or an oversight. That it is probably to fulfill the Constitutional commitment and provision of giving to all citizens' equal/equitable opportunity.
2. That, the opportunity is implied in the Constitution, the Supreme Court Rules, and the Court Act etc. Also, I have had my suits accepted and I am aware of other non-professional whose suits have also been accepted in formal court.
3. I read somewhere that reasonableness is an important ingredient in Law and that reasonableness features in implied terms. Then the law describes the ordinary or average laymen clearly and excludes extremes. I think it is not reasonable to expect professionalism from non-professionals. I am stating that even though the courts accepts suits from non-professionals, it seems there is a large amount of professionalism expected both in the filing and in their prosecution and that is, like the opportunity is offered with on hand and them kept away from us with the other hand.
4. An insistence or the vague expectation of relatively full professionalism is therefore, to my mind inconsistent with the spirit in which that window is offered. It is not in harmony with the spirit of the Constitution and contravenes equity and fair access. I am therefore praying the Honourable Court to declare our (the non-professional) present situation in court as unfair and our appearance in the courtroom self-representing as within our rights, as legal and proper and for us to be treated as such. Unless of course there will be that needed clarification , that will perhaps then stop

people trying to access an improper or impossible avenue and so the courts can also stop allowing us in and giving us false hope.

5. As a reading average non-professional, when I started out I knew a few laws. When I decided to come to the formal court, I read and found out more. Yet no matter how much reading I do, I will never be able to present or prosecute like a professional. In any case, with all due respect I doubt very much that one can just read and acquire that kind of professional level legal knowledge without tuition or guidance.
6. I know my suit is asking you to take additional burdens, by stretching to accommodate the non-professional in practice as an effective non-professional within a professional system even if only in exceptional circumstances. And I know that cannot be easy. However in the interest of offering truly fair, equitable and accessible justice, I believe this will be serving your own purpose as well."

From the above, I am of the opinion that, even though the plaintiff, is not a professional lawyer, she has to a large extent, successfully managed to put forward her case in an admirable manner. To me, the case the plaintiff has put forward is a very simple one which admits of no serious complexities whatsoever.

However, learned counsel for the Defendant and Principal State Attorney, Mr. Sylvester Williams, in his statement of case, has descended quite naturally on the plaintiff in a heavy manner and requested this court to dismiss the plaintiff's action. Even though the Defendant's cannot be faulted, I believe you do not kill a fly with a bulldozer. The Defendant's should have understood the disadvantaged position of the plaintiff and reply her in that regard.

Be that as it may, having set out the plaintiff's statement of case in some detail, it is only fair and prudent that, the statement of Defendant's case, as filed by learned Counsel, Mr. Williams, be set out in some detail as well.

## **STATEMENT OF CASE FOR DEFENDANTS**

## **LAWS ON THE INVOCATION OF THE ORIGINAL JURISDICTION OF THE SUPREME COURT**

*"My Lords, I have only stated just a portion of the plaintiff's reliefs to indicate to you the extent to which the Plaintiff is abusing the process of this Court. My Lords, the original jurisdiction of this Honourable Court is conferred by the provisions of the Constitution, 1992, notably, article 130 (1) and 2 (1). Therefore, to invoke the original jurisdiction of this Honourable Court, one must bring himself/herself under articles 130 (1) and 2 (1) of the Constitution, 1992. The Plaintiff has couched his case to indicate that his action is founded on article 2 (1) of the Constitution, 1992, but in actual fact the case is not founded on that article. Article 130 (1) of the Constitution, states as follows:-*

*"130. Original Jurisdiction of the Supreme Court*

*(1) Subject to the jurisdiction of the High Court in the enforcement of the Fundamental Human Rights and Freedoms as provided in article 33 of this Constitution, the Supreme Court shall have exclusive original jurisdiction in*

*(a) all matters relating to the enforcement or interpretation of this Constitution;*

*(b) all matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under the Constitution."*

*Article 2 (1) of the Constitution, also provides thus;*

*"2. Enforcement of the Constitution*

*(1) A person who alleges that*

*(a) An enactment or anything contained in or done under the authority of that or any other enactment, or*

*(b) any act or omission of any person,*



*is inconsistent with, or is in contravention of a provision of this Constitution, may bring an action in the Supreme Court for a declaration to that effect.*

***Clearly, my Lords, in the light of the above provisions, the Plaintiff cannot and is not entitled to initiate this action in this Honourable Court. The action is not founded on any of the above quoted provisions of the Constitution. He is not asking for interpretation of provisions of the Constitution; he is not challenging any law on the basis that it was made in excess of the powers of Parliament.” Emphasis supplied.***

The Defendants then referred to the following cases to buttress their point that since the plaintiff has failed to mount her suit in the right forum, i.e. the High Court, this action must fail.

- 1. Aduamo II v Twum II [2000] SCGLR 165**
- 2. Tait v Ghana Airways Corporation (1970) 2 G&G 527 and**
- 3. Republic v Special Tribunal, Ex-parte Akosa [1980] GLR 592**

Based upon the above submissions and the cases referred to supra, learned Principal State Attorney, Mr. Sylvester Williams, concluded the written statement of case for the Defendant’s thus:

***“My Lords, from the reliefs being sought and the statement of case, the plaintiff does not cite any provision or act of any person or authority that is in conflict or violate a provision of the Constitution, neither does he indicate which provisions of the Constitution conflict to warrant the issue for interpretation. Indeed if the plaintiff’s suit is entertained, it would have the effect of sending this court on a wild good (sic) chase, looking for laws governing the “window of opportunity” that the plaintiff is talking about. In fact the authorities cited above indicate clearly at what time and what circumstances the original jurisdiction of this Honourable Court could be invoked. The***

***plaintiff's case does not present any genuine or real case of enforcement or interpretation of any provision of the Constitution, 1992.***

***I therefore submit that, this Honourable Court should decline jurisdiction in this matter and dismiss the Plaintiff's case."***  
***Emphasis supplied.***

## **ISSUES TO BE DETERMINED IN THIS COURT**

1. Whether or not, the unrepresented and non-professional lawyer litigant, has rights granted under the Constitution 1992 and the Rules of Procedure of the courts to freely and without any inhibition represent and or act for themselves in the courts, established under the constitution 1992 or under any other law.
2. Whether or not the plaintiff's suit is properly cognizable before this court.

I have had to summarise the memorandum of issues in order to give meaning to the age old saying that "*brevity is the soul of wit.*"

In view of the above formulations of the issues for determination, the proper and logical approach would have been to determine issue 2, first, i.e. whether the plaintiff's action is before the right forum. However, I have decided against that option since that would prevent this court from pronouncing on the thought provoking and brilliant expositions of law and fact raised by the plaintiff in her writ of summons.

I will therefore proceed to deal with the issues as formulated above in the order in which they had been stated seriatim.

## **ISSUE ONE**

**Whether or not, the unrepresented and non-professional lawyer litigant, has rights granted under the Constitution 1992 and the Rules of Procedure of the courts to freely and without any inhibition**

**represent and or act for themselves in the courts, established under the constitution 1992 or under any other law.**

Article 2 (1) of the Constitution 1992, states as follows:-

*"A person who alleges that*

*(a) an enactment or anything contained in or done, under the authority of that or any other enactment, or*

*(b) any act or omission of any person is inconsistent with, or is in contravention of a provision of the constitution, may bring an action in the Supreme court for a declaration to that effect".*

After the above reference to the Constitution, the plaintiff then stated her claims which has already been referred to supra. In sum, what the plaintiff wants from this court is a recognition of the rights of an individual who is not a trained lawyer to represent and or act for himself in the law courts without any discrimination and or limitations.

The reference to article 2 (1) of the Constitution presupposes that the plaintiff has alleged the existence of a piece of legislation which is inconsistent with the Constitution, to the extent that it grants the right to non-professional litigants to self represent themselves and takes away the said rights, or that someone in an official capacity is acting against the interests of self-represented litigants.

I have combed through the writ filed by the plaintiff, the statement of case as well as the verifying affidavit, but I have not seen any such reference to a legislation or action which the plaintiff alleges is inconsistent with the constitution.

From the writ of summons, it is clear that the plaintiff has invoked the original jurisdiction of this court, as the heading of the writ indicates.

Articles 130 (1) and (2) of the constitution confer the original jurisdiction on the Supreme Court in the following terms:-

(1) *"Subject to the jurisdiction of the High Court in the enforcement of the fundamental Human Rights and Freedoms as provided in article 33 of this constitution, the Supreme Court shall have exclusive original jurisdiction in*

(a) *All matters relating to the enforcement or interpretation of this constitution; and*

(b) *All matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under this Constitution."*

Article 130 (2) simply provides that whenever an issue related to clause (1) of article 130 arises in any proceedings in any other court, other than the Supreme Court, that court shall stay the proceedings and refer the question of law involved to the Supreme Court and that Court shall dispose of the case in accordance with the interpretation of the Supreme Court.

Quite clearly, article 130 (1) (b) is definitely not one of the articles that the plaintiff can rely upon in her quest to establish her claims.

**It is interesting to note and observe that, the mere fact that, the plaintiff, has been able to file this writ as an individual not trained in the law in an action in the Supreme Court in which she is acting for herself means that, there is indeed rights which enabled her to do that as had been acknowledged by her.**

As a matter of fact, the way the provisions of article 130 (1) of the Constitution 1992 have been couched, it is clear to me that the rights enshrined therein are available to any person who considers it worthwhile to make use of the said provisions. That is what the plaintiff has done in the instant case.

Pursuant to articles 33 (4), 64 (3) and 157 (2) of the Constitution 1992, the Rules of Court Committee laid the Supreme Court Rules, 1996 C. I. 16 which constitute the Rules of procedure that govern the conduct of cases in the Supreme Court, subject to amendments introduced by C. I. 74.

Part IV of C. I. 16 deals with the original jurisdiction of the Supreme Court. Rules 45 (1) (2) (3) and (4) and 46 (1) (2) and (3) of C. I. 16 provide as follows:-

#### **45. Invoking original jurisdiction**

- (1) *"Except as otherwise provided in these Rules, an action brought to invoke the original jurisdiction of the Court shall be commenced by writ in the Form 27 set out in Part Three of the Schedule which shall be signed by the plaintiff or counsel for the plaintiff.*
- (2) *The writ shall set out as concisely as possible the nature of the relief sought by the plaintiff and shall state*
  - (a) *The full name of the plaintiff and the capacity in which the action is being brought;*
  - (b) *The address of the plaintiff and of the counsel for the plaintiff which shall be an address for service;*
  - (c) *the names and addresses of the parties who may be directly affected by the action; and*
  - (d) *any other particulars that the Court may direct*
- (3) *A copy of the writ shall be served on each of the parties mentioned in the writ as directly affected who shall be considered as the defendants and on the Attorney-General if not named specifically as a defendant.*
- (4) *The Court may, on its own motion or on the application of a party, order that any other person shall be made a party to the action in addition to or in substitution for any other party.*

#### **46. Statement of plaintiff's case**

- (1) *The plaintiff may file a statement of case for the Plaintiff with the writ, or shall within fourteen days of the filing of the writ file the statement of the plaintiff's case.*
- (2) *The statement of the plaintiff's case shall state,*
  - (a) *The facts and particulars, documentary or otherwise, verified by an affidavit, on which the plaintiff seeks to rely;*
  - (b) *the number of witnesses to be called; and*
  - (c) *a list of the decided cases and of the Statute law on which the plaintiff intends to rely.*
- (3) *Where a statement of the plaintiff's case is not filed within fourteen days of the filing of the writ, the respondent may apply to the Court to have the action struck out.*

From the above, it is clear that there is indeed no provision in C. I. 16 (the Rules of the Supreme Court) prohibiting persons who are not lawyers and who are desirous of initiating a suit in the Supreme Court, or defending suits in the Supreme Court from doing so if they so wish.

There is therefore abundant evidence that, neither the Constitution nor C. I. 16 prohibits parties or persons who are non-lawyers from acting for themselves in court if they so wish. I have observed that, the Plaintiff has not complied with the fine details of Rules 45 and 46 of C. I. 16, but the Court has allowed her. More of this later.

On the surface, one might be tempted to summarily dismiss the plaintiff's writ as not satisfying the test that has been laid down in cases over the years:

See cases like the following:

**1. Edusei v A. G. [1996-97] SCGLR 1,**

## **2. Tait v Ghana Airways Corporation, 1970 2 G & G 527**

## **3. Yiadom v Amaniampong [1981] GLR 3, at 8**

However, I have restrained myself from such a course of conduct because of my realization that, at the highest level of generality, the Supreme Court should be construed as acting as the guardians of human and constitutional rights. In this respect, the interpretative obligation imposed on the court is a very extensive one and in reaching a decision, the court has to make a selection from a number of possible ways in which impugned legislation if any could have been construed or affected by the power of judicial review. But in this case, there is no such problem as no legislation has been cited to necessitate the invocation of the powers of this court.

However, what has to be noted is that, strict adherence to form has given way to substance. What this means is that, despite the existence of laws and especially procedure rules for the courts, non compliance with procedure rules based on form will not lead to the striking down of an action provided it contains substance.

Looking at the plaintiff's writ as a whole, even though one can state that it does not conform to the Rules as set out supra as well as Form 27 of C. I. 16, yet in substance, what the plaintiff wanted from this court has been accurately captured in the words used by her.

For example, it should even be satisfactory if the plaintiff were to have written her complaints in a letter to the court, and provided the nature of the complaint can be well understood, such a plaintiff should not be denied reliefs. Courts all over the common law jurisdiction are striving to achieve substantial justice in ensuring that they move away from the straight jackets of mechanical application of rules of procedure.

It is in this respect that I am of the opinion that the plaintiff's writ of summons satisfactorily meets the requirements of the substantial justice principle and by that, strict compliance with rules of procedure will not be allowed to defeat the aims of substance discernible from the pleadings of the plaintiff.

This does not however mean that, courts should for example overlook fundamental breaches of procedure in the initiation, conduct and prosecution of actions before them. However, whenever a law or rule of procedure stipulates the commencement of an action by writ, or petition, motion or by any specific process, it is by that process alone that the action is to be commenced.

Similarly, if a law or rule of procedure stipulates that an action is to be commenced within 90 days from when the cause of action first arose unless time is extended by the court, or a specific time line is specified for taking of an action or filing a process, it is within those specific timelines that the action is to be taken unless time is extended.

What should be noted therefore is that, timelines provided in the Constitution, substantive laws and procedure rules have not been provided for nothing. They are meant to be complied with, and whether you are a self represented non professional litigant or not, you must be seen to be compliant. **To the extent that the Plaintiff seeks to ask for special concessions for the self represented non professional litigant and to that extent**, it has to be noted that we cannot have a pluralistic or dualist system of procedure for the self represented and the represented litigant. As matters stand now, and based on the discussions supra, it is my contention that the rights being enjoyed by the plaintiff, as a non professional and self represented litigant have not been infringed in anyway. Issue one, as set out supra, has therefore been resolved against the plaintiff.

## **ISSUE TWO**

**Whether or not the plaintiff's suit is properly cognizable before this court**



In my exposition on issue one which has just been disposed off, I discussed the provisions of articles 2 (1) (a) and (b) 130 (1) (a) & (b) of the Constitution 1992. In that discussion I stated quite clearly, that the plaintiff does not seem to bring her action under the said articles.

The Plaintiff seems to be under some wrong notion that self represented non lawyer litigants have serious constitutional or legislative prejudices which works against them in the pursuit of their cases in court.

I have however pointed out from the beginning of this judgment that the Supreme Court has two basic jurisdictional roles when its ordinary original jurisdiction is invoked.

Has the plaintiff indicated which constitutional provision that she wants to be interpreted or enforced to give her the rights she claims in her writ? The answer is a big no. Not only has the plaintiff been unable to identity any constitutional provision that has been infringed, but has also been unable to identify any alleged infringement whatsoever.

Secondly, the plaintiff in my opinion has also not been able to establish that an enactment has been made in excess of the powers conferred on Parliament. Despite the fact that, the plaintiff mentioned only article 2 (1) (a) and (b) of the Constitution 1992 as the provisions under which she filed her writ, she could have succeeded if she had brought herself under the provisions of article 130 (i) (a) Constitution 1992.

It has to be noted therefore that, whilst it is article 2 (1) (a) and (b) which confers the right on citizens to bring actions to invoke the original jurisdiction of the Supreme Court, it is article 130 (1) (a) which sets out the parameters of the jurisdictional limits of the Supreme Court.

I have looked at some of the cases referred to by learned counsel for the Defendant in his submission that the plaintiff has initiated her action in the wrong forum.

For example in the **Aduamo II v Twum II**, case already referred to supra, the Supreme Court in explaining its unanimous decision why it dismissed the action explained that, its enforcement jurisdiction was a special jurisdiction and was not meant to usurp, or to be resorted to in place of the jurisdiction of lower courts. The Supreme Court explained that it was a special jurisdiction meant to be invoked in actions **raising genuine or real issues of constitutional interpretation or enforcement of the constitution or whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under the Constitution.**

Applying the same principles that the court would reject an invitation to assume its original jurisdiction under articles 2 (1) and 130 (1) (a) of the constitution 1992 where an action had been presented as an enforcement action, the Supreme Court struck out the case of ***Bimpong-Buta v General Legal Council [2003-2004] 2 SCGLR 1200.*** See also cases of:

***1. Yeboah v J. H. Mensah [1998-99] SCGLR 492 and***

***2. Yiadom I v Amaniampong already referred to***

It must therefore be apparent that, the Ghana Supreme Court has been consistent in its rejection of suits which are dressed up as constitutional cases under articles 2 (1) (a) and (b) and 130 (1) (a) of the Constitution 1992, whilst in truth and substance they are not.

On the basis of the above decided cases and the consistent practice of the Supreme Court, I will accept the invitation made to this court by learned counsel for the Defendants and hold that this court decline jurisdiction in the matter. This is because the plaintiff despite her bold attempts has not raised genuine or real issues of constitutional interpretation or enforcement, and or that an enactment had been made in excess of the powers conferred on Parliament to warrant the exercise of this courts power of judicial review.

## **CONCLUSION**

On the basis of the above, this court hereby dismisses the plaintiff's claims as not properly made out. I will however commend the plaintiff for her tenacity and persevering spirit. The plaintiff's complaints actually call for a review of the Legal Aid Scheme Act, 1997 Act 542. This will ensure that the conduct of Legal Aid cases assigned to Lawyers is monitored by the authorities of the scheme to prevent the re-occurrence of the harrowing experience of the plaintiff.

The time has also come for the Ghana Bar Association to initiate some form of mandatory Pro-Bono Legal Service for each legal year as happens in some states of the U. S. By such a scheme, Lawyers will give back to society what they have benefited from it by undertaking a minimum number of hours of Pro-bono service. Plaintiff for example could have benefited from such a scheme if it had been in place, since she fell out with her own lawyers and those from the Legal Aid.

Save for the above friendly comments, the Plaintiff's actions are dismissed.

**J. V. M. DOTSE**

**JUSTICE OF THE SUPREME COURT**

**W. A. ATUGUBA**

**JUSTICE OF THE SUPREME COURT**

**J. ANSAH**

**JUSTICE OF THE SUPREME COURT**

**R. C. OWUSU (MS)**

**JUSTICE OF THE SUPREME COURT**

**P. BAFFOE-BONNIE**

**JUSTICE OF THE SUPREME COURT**

**N. S. GBADEGBE**

**JUSTICE OF THE SUPREME COURT**

**V. AKOTO-BAMFO (MRS)**

**JUSTICE OF THE SUPREME COURT**

**COUNSEL**

**NO REPRESENTATION FOR THE PLAINTIFF.**

**SYLVESTER WILLIAMS (PSA) FOR THE DEFENDANT.**