

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA - A.D. 2020

Filed on... 3-2-2020
at 1:25 am/pm
Registrar
SUPREME COURT OF GHANA

WRIT NO.: J1/5/2020

WRIT TO INVOKE THE ORIGINAL JURISDICTION OF THE SUPREME
COURT:

ARTICLES 2, 130 and 93(2) OF THE 1992 CONSTITUTION:
RULE 45 OF THE SUPREME COURT RULES, 1996 (C.I. 16)

BETWEEN

MAWUNYO KOFI ADJAHO
Kimathi & Partners, Corporate Attorneys
No. 6 Airport Road
Airport Residential Area
Accra

PLAINTIFF

AND

- 1. ATTORNEY GENERAL**
Ministries Block O, Accra
- 2. GENERAL LEGAL COUNCIL**
Judicial Service Administration Block
Supreme Court, Accra

DEFENDANTS

TO:

- 1. ATTORNEY GENERAL**
Ministries Block O, Accra

2. GENERAL LEGAL COUNCIL

Judicial Service Administration Block
Supreme Court, Accra

IN THE NAME OF THE REPUBLIC OF GHANA you are hereby commanded within fourteen days after the service on you of the statement of the Plaintiff's case inclusive of the day of service, that you are to file or cause to be filed for you a statement of the defendants' case in an action at the suit of:

MAWUNYO KOFI ADJAHO

Kimathi & Partners, Corporate Attorneys
No. 6 Airport Road
Airport Residential Area
Accra

The nature of the reliefs sought are as follows:

- (a) A declaration that Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355) is inconsistent with the letter and spirit of Article 93(2) of the 1992 Constitution and is, therefore, void.
- (b) A declaration that the 2nd Defendant acted in excess of its powers in promulgating Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355).

- (c) An order expunging or striking down Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355).
- (d) An order directing the 2nd Defendant to issue solicitor's licenses to duly qualified lawyers, including pupils, who have taken the necessary steps to apply for same, but have not completed their pupillages.
- (e) Any other reliefs or orders this Honourable Court may deem just, convenient and proper to grant.

The capacity in which the plaintiff is bringing the action is as follows:

The Plaintiff brings this action in his capacity as a citizen of Ghana.

The address for service of the plaintiff is as follows:

MAWUNYO KOFI ADJAHO.
Kimathi & Partners, Corporate Attorneys
House No. 6 Airport Road
Airport Residential Area
Accra

The names and addresses of persons affected by the writ are as follows:

1. **ATTORNEY GENERAL**
Ministries Block O, Accra
2. **GENERAL LEGAL COUNCIL**
Judicial Service Administration Block
Supreme Court, Accra

DATED THIS 3RD DAY OF FEBRUARY 2020.



MAWUNYO KOFI ADJAH
PLAINTIFF

The Registrar
The Supreme Court
Accra

AND FOR SERVICE ON THE ABOVE-NAMED DEFENDANTS

IN THE SUPERIOR COURT OF JUDICATURE
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Judicial Service Administration Block
Supreme Court, Accra

DEFENDANTS

PLAINTIFF'S STATEMENT OF CASE
PURSUANT TO RULE 46 OF THE SUPREME COURT RULES, 1996 (C.I. 16)

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TABLE OF AUTHORITIES

Cases Cited

1. Abraham Okan Klu v. Joseph Agyei (Unreported Judgment of the Court of Appeal) Suit No. H1/130/2019 delivered on 24th October 2019.
2. Boyefio v. NTHC [1997-98] 1 GLR 768.
3. Henry Nuertey Korboe v. Francis Amosa (Unreported Judgment of the Supreme Court) Civil Appeal No. J4/56/2014 delivered on 21st April 2016.
4. Henry Nuertey Korboe v. Francis Amosa (Unreported Judgment of the Supreme Court) Review Motion No. J7/8/2016 delivered on 20th July 2016.
5. Kor v. Attorney-General & Justice Douse [2015-2016] 1 SCGLR 114.
6. Mornah v. Attorney General [2013] SCGLR (Special Edition) 502.
7. Republic v. High Court, Ex Parte Teriwajah and Nuertey Korboe [2013-2014] 2 SCGLR 1247.
8. Tuffuor v. Attorney-General [1980] GLR 637.
9. X-Tra Gold Mining Limited v. Attorney-General (Unreported) Civil Appeal No. J1/23/2015 dated 28th July 2016.

Enactments Cited

1. 1992 Constitution of Ghana.
2. Legal Profession Act, 1960 (Act 32).
3. Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355).
4. Legal Profession (Professional Conduct and Etiquette Rules), 1969 (L.I. 613)
5. Supreme Court Rules, 1996 (C.I. 16).
6. Supreme Court (Amendment) Rules, 2012 (C.I. 74)

PLAINTIFF'S STATEMENT OF CASE

A. INTRODUCTION

1. My Lords, this is the Plaintiff's Statement of Case in support of the instant suit invoking the original jurisdiction of the Supreme Court to enforce the 1992 Constitution for the following reliefs endorsed on the Plaintiff's Writ:
 - (a) A declaration that Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355) is inconsistent with the letter and spirit of Article 93(2) of the 1992 Constitution and is, therefore, void.
 - (b) A declaration that the 2nd Defendant acted in excess of its powers in promulgating Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355).
 - (c) An order expunging or striking down Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355).
 - (d) An order directing the 2nd Defendant to issue solicitor's licenses to duly qualified lawyers, including pupils, who have taken the necessary steps to apply for same but have not completed their pupillages.

(e) Any other reliefs or orders this Honourable Court may deem just, convenient and proper to grant.

2. The Plaintiff is a lawyer and brings the present action in his capacity as a Ghanaian citizen.
3. The 1st Defendant is the Principal Legal Advisor to the Government against whom all suits against the State are brought pursuant to Article 88 of the 1992 Constitution.
4. The 2nd Defendant is a statutory body tasked with the regulation of the legal profession and professional legal education in accordance with the Legal Profession Act, 1960 (Act 32).

B. STATEMENT OF JURISDICTION

5. The 1992 Constitution is the Supreme Law of Ghana. Thus, any law, whether an Act of Parliament or a subordinate legislation, which is inconsistent with the 1992 Constitution is, to the extent of the inconsistency void, pursuant to article 1(2) of the 1992 Constitution.
6. Thus, Articles 2(1) and 130(1)(a) of the 1992 Constitution have clothed this Honourable Court with the exclusive original jurisdiction to interpret or enforce the 1992 Constitution. Also, pursuant to Article 130(1)(b) of the 1992 Constitution, this Honourable Court has the exclusive original jurisdiction to determine 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.

7. Thus, the 1992 Constitution has entrusted this Honourable Court with the exclusive jurisdiction and responsibility to strike down any enactment which is inconsistent with the 1992 Constitution.
8. In *Kor v. Attorney-General & Justice Douse [2015-2016] 1 SCGLR 114*, this Honourable Court authoritatively held that its jurisdiction to enforce the 1992 Constitution is distinct from and independent of its jurisdiction to interpret the 1992 Constitution. Thus, a Plaintiff is entitled to invoke the original jurisdiction of this Honourable Court to secure the enforcement of clear and unambiguous provisions of the 1992 Constitution.
9. Accordingly, the Plaintiff commences the present action pursuant to Articles 2(1) and 130(1) of the 1992 Constitution and Rule 45 of the Supreme Court Rules, 1996 (C.I. 16) to enforce Article 93(2) of the Constitution.
10. The Plaintiff, therefore, invokes the jurisdiction of this Honourable Court to strike down Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355) as being inconsistent with Article 93(2) of the 1992 Constitution because the terms of Regulation 22 of L.I. 2355 expressly contradicts section 8(4) of the Legal Profession Act, 1960 (Act 32).

C. SUMMARY OF FACTS

11. The Legal Profession Act, 1960 (Act 32) is the Act of Parliament which governs the legal profession and legal education in Ghana.

12. Section 8(4) of the Legal Profession Act deals with the issuance of solicitors' licenses (also referred to as practising certificates) and the duration of pupillages. It provides thus:

A person who holds a qualifying certificate and who has been enrolled as a lawyer under section 3 may be issued with a solicitor's licence, but that person is not entitled to establish an office as a solicitor unless the Council is satisfied that that person has read for a period of not less than six months in the chambers of another lawyer of not less than seven years' standing approved by the Council.

13. Section 8(4) of the Legal Profession Act establishes two (2) main points. **First**, duly enrolled lawyers who possess a qualifying certificate are entitled to be issued solicitor's licenses although such lawyers may be pupils, but pupils are not entitled to practise independently. **Second**, the minimum duration of pupillage is six (6) months.
14. The Legal Profession Act has given the 2nd Defendant the authority to make subordinate legislation in the form of Regulations¹ (in respect of legal education) and Rules² (in respect of the legal profession) with the approval of the 1st Defendant.
15. Thus, on 19th December 2017, the 2nd Defendant made the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355) with the approval of the 1st Defendant in exercise

¹ Legal Profession Act 1960 (Act 32), s 14.

² Legal Profession Act 1960 (Act 32), ss 6(3), 23, 48, and 53.

of its powers under Section 14 of the Legal Profession Act to make subordinate legislation to govern professional legal education.

16. Regulation 22 of L.I. 2355 headed, “Practising Certificate and Pupillage” provides:

A person who is called to the Bar shall not be issued with a Practising Certificate unless the person has to the satisfaction of Council completed a period of one year pupillage at an approved establishment.

17. Thus, by Regulation 22 of L.I. 2355, the 2nd Defendant introduced two (2) substantial changes to the organisation of the legal profession. **First**, pupils are now barred from obtaining a solicitor’s license until the completion of their pupillages. **Second**, the minimum duration of pupillage has now been increased from six (6) months to one (1) year.
18. Accordingly, the present action is an invitation to this Honourable Court to strike down L.I. 2355, a subordinate law made at the instance of the 2nd Defendant (an executive/administrative body) which clearly contradicts the express terms of an Act of Parliament.
19. The central issue is whether it is consistent with the letter and spirit of the 1992 Constitution of Ghana for the 2nd Defendant, an executive/administrative body, to amend/repeal an Act of Parliament through a subordinate law.
20. The instant suit, therefore, challenges the constitutionality of Regulation 22 of L.I. 2355 which purports to amend or repeal Section 8(4) of the Legal Profession Act.

D. ISSUES PRESENTED FOR DETERMINATION

21. My Lords, the following issue arises for determination by this Honourable Court:

Whether contrary to Article 93(2) of the 1992 Constitution, the 2nd Defendant exceeded its powers by promulgating Regulation 22 of L.I. 2355 which contradicts the express terms of the Legal Profession Act, 1960 (Act 32).

E. SUMMARY OF ARGUMENT

22. My Lords, the Plaintiff invites this Honourable Court to strike down Regulation 22 of L.I. 2355 which was made in excess of the 2nd Defendant's powers, contrary to Article 93(2) of the 1992 Constitution on the strength of the following arguments.
23. **First**, Parliament has the exclusive power to amend or repeal an Act of Parliament in accordance with Article 93(2) of the 1992 Constitution. Therefore, it is contrary to Article 93(2) of the 1992 Constitution for the any person or authority to purport to amend or repeal an Act of Parliament.
24. **Second**, the 2nd Defendant contravened Article 93(2) of the 1992 Constitution and exceeded its powers when it sought to amend or repeal Section 8(4) of the Legal Profession Act through Regulation 22 of L.I. 2355.
25. While Section 8(4) of the Legal Profession Act entitles duly enrolled lawyers to be issued solicitor's licenses, Regulation 22 of L.I. 2355 restricts that right by limiting the issuance of solicitor's

licenses to lawyers who have completed the one (1) year-long pupillage.

26. Also, though the minimum duration of pupillage under the Legal Profession Act is six (6) months, Regulation 22 of L.I. 2355 has increased the minimum duration for pupillage from six (6) months to one (1) year.
27. We, therefore, pray this Honourable Court to grant the reliefs as endorsed on the Plaintiff's writ.

F. LEGAL ARGUMENT AND AUTHORITIES

Whether contrary to Article 93(2) of the 1992 Constitution, the 2nd Defendant exceeded its powers by promulgating Regulation 22 of L.I. 2355 which contradicts the express terms of the Legal Profession Act, 1960 (Act 32).

28. My Lords, the Plaintiff respectfully submits that Regulation 22 of L.I. 2355 was made in excess of the 2nd Defendant's powers contrary to Article 93(2) of the 1992 Constitution for two (2) reasons.
29. First, Parliament has the exclusive power to amend or repeal an Act of Parliament under Article 93(2) of the 1992 Constitution. Therefore, it is contrary to Article 93(2) of the 1992 Constitution for the 2nd Defendant to purport to amend or repeal an Act of Parliament.
30. Article 93(2) of the 1992 Constitution provides:

Subject to the provisions of this Constitution, the legislative power of Ghana shall be vested in Parliament and shall be exercised in accordance with this Constitution.

31. Thus, Parliament is the constitutional body entrusted with the law-making power of the State. And, this power must be exercised in line with the procedure set out under Article 106 of the Constitution. Accordingly, Article 106(1) requires Parliament to make laws by passing bills assented to by the President. Article 106(1) provides:

The power of Parliament to make laws shall be exercised by bills passed by parliament and assented to by the President.

32. Also, in accordance with Article 11(1)(b) & (c) of the 1992 Constitution, other bodies may make subordinate laws where the Constitution or an Act of Parliament confers such powers on those bodies. Article 11(1)(b) & (c) of the 1992 Constitution provides:

The laws of Ghana shall comprise-

(b) enactments made by or under the authority of the Parliament established by this Constitution;

(c) any Orders, Rules and Regulations made by any person or authority under a power conferred by this Constitution.

33. In order to make a subordinate legislation, it is necessary that the proposed subordinate legislation is laid before Parliament and is

published in the gazette on the day it is laid before Parliament in accordance with Article 11(7) of the 1992 Constitution of Ghana. Article 11(7) provides:

“Any Order, Rule or Regulation made by a person or authority under a power conferred by this Constitution or any other law shall -

(a) be laid before Parliament;

(b) be published in the Gazette on the day it is laid before Parliament; and

(c) come into force at the expiration of twenty-one sitting days after being so laid unless Parliament, before the expiration of the twenty-one days, annuls the Order, Rule or Regulation by the votes of not less than two thirds of all the members of Parliament.”

34. Thus, Acts of Parliament and subordinate legislations are two distinct classes of laws.
35. Therefore, the process for promulgating a subordinate legislation cannot be applied in amending or repealing an Act of Parliament. Since the 1992 Constitution provides a special procedure for amending an Act of Parliament only that procedure may be used. Thus, this Honourable Court in *Boyefio v. NTHC [1997-98] 1 GLR 768 at 782* thus:

For the law is clear that, where an enactment has prescribed a special procedure by which something is

to be done, it is that procedure alone that is to be followed.

36. Parliament, not the 2nd Defendant or any other entity, is authorised to make, amend, or repeal an Act of Parliament. This Honourable Court espoused this position of law in **Mornah v. Attorney General [2013] (Special Edition) SCGLR 502**, where it struck down Rule 69(c)(5) of the Supreme Court (Amendment) Rules, 2012 (C.I. 74) which sought to amend the Public Holidays Act, 2001 (Act 601). This Court held at page 517 of the Report as follows:

“The issue then is whether the Rules of Court Committee can enact legislation that prohibits the Supreme Court and for that matter any other court from observing a statutory public holiday. Article 93(2) of the Constitution is clear that the legislative power of the country has been entrusted to Parliament, in accordance with the principle of separation of powers. It follows that when a law has been duly passed, subject to the Supreme Court’s power to declare it as being invalid, it is only Parliament that can amend that law...”

In conclusion, to the extent that Rule 69(C)(5) includes public holidays, it violates sections 1, 4(1) and 6 of Act 601 thereby exceeding the mandate given to the Rules of Court Committee under Article 64(3) of the Constitution and is in direct conflict with Article 93(2) of the Constitution and is thus void and of no effect.”

37. Indeed, Parliament itself cannot sanction the amendment of an Act of Parliament through subordinate legislation. Thus, in the celebrated case of *Tuffuor v. Attorney-General [1980] GLR 637 at 656*, it was held that:

No person can make lawful what the Constitution says is unlawful. No person can make unlawful what the Constitution says is lawful. The conduct must conform to due process of law as laid down in the fundamental law of the land or it is unlawful and invalid.

38. It is worthy of note that this Honourable Court in *X-Tra Gold Mining Limited v. Attorney-General (Unreported Decision of the Supreme Court) Civil Appeal No. J1/23/2015 delivered on 28th July 2016 at page 11* held that whilst Parliament may authorise another person or body to amend the schedule to a law in order to carry out an executive functions assigned to that person, it is contrary to Article 93(2) of the 1992 Constitution for Parliament to otherwise authorise the amendment of an Act of Parliament. This Honourable Court thus stated as follows:

The relevant provision is article 93(2) of the Constitution which has vested Parliament with the legislative power of the state. Any Act of Parliament takes precedence over provisions in a subordinate legislation passed pursuant to an Act of Parliament; therefore any such subordinate legislation or provision thereof which is inconsistent with and in contravention of an Act of Parliament is void to the extent of the inconsistency. Parliament itself has the

responsibility to pass Acts of Parliament, whereas subordinate legislation may be passed by other persons outside Parliament but must be laid before Parliament to give same legal validity. Thus an Act of Parliament may only be amended by another Act duly passed by Parliament. That is the general principle which ensures that Parliament's mandate under the principle of separation of powers is adhered to. Thus prima facie an Act of Parliament may not be amended by a subordinate legislation.

But this is not an invariable rule when it comes to the Schedule to an Act. The Schedule sometimes includes forms, or transitional provisions which remain in force until the main provisions in the Act may be brought into force, or an International Treaty whose terms may be renegotiated without reference to Parliament, or fees that may be charged by an institution or a person for some service rendered to the public. In such instances it is possible for the parent Act to entrust the responsibility of revising the forms or fixing the fees to a body or person outside Parliament."

39. Thus, this Honourable Court concluded at page 22 as follows:

"In the light of the foregoing, the Minister has no power under Act 793 to add to the list. Hence his inclusion of the Office of the Administrator of Stool Lands Act, (Act 481) was a clear breach of Article 93(2) of the Constitution. This is because he had effectively

amended sections 1 and 2(1) of Act 793 by subordinate legislation when he was only authorized to amend the Schedule. He has also impliedly taken over the function given to the Minister of Mines under Act 703 through an implied repeal of section 23(1) of the said Act. And indeed such authorization could not even be given by Parliament which is under a duty to perform its task under the Constitution.”

40. Thus, the law is settled that Parliament has the exclusive power to make, amend, or repeal an Act of Parliament under article 93(2) of the 1992 Constitution.
41. Second, the 2nd Defendant contravened Article 93(2) of the 1992 Constitution and, thus, exceeded its powers when it sought to amend or repeal Section 8(4) of the Legal Profession Act through Regulation 22 of L.I. 2355.
42. Section 8(4) of the Legal Profession Act provides that a person who holds a qualifying certificate and who has been enrolled as a lawyer is entitled to be issued with a solicitor’s license. Section 8(4) of the Legal Profession Act provides:

A person who holds a qualifying certificate and who has been enrolled as a lawyer under section 3 may be issued with a solicitor’s licence, but that person is not entitled to establish an office as a solicitor unless the Council is satisfied that that person has read for a period of not less than six months in the chambers of

another lawyer of not less than seven years' standing approved by the Council.

43. Section 8(4) of the Legal Profession Act thus establishes two (2) main legal propositions. **First**, duly enrolled lawyers are entitled to be issued a solicitor's licenses even though they may be pupils, but such pupils may not establish their own practice. **Second**, the minimum duration for pupillage training is six (6) months.
44. My Lords, the Plaintiff, thus, submits that under Section 8(4) of the Legal Profession Act, the issuance of solicitor's licenses is not designed to be an authorization for independent legal practice. Rather, the solicitor's license is simply an authorization to practice law.
45. However, Regulation 22 of L.I. 2355 purports to amend Section 8(4) of the Legal Profession Act. Regulation 22 of L.I. 2355 which is headed, "Practising Certificate and Pupillage" provides:
- A person who is called to the Bar shall not be issued with a Practising Certificate unless the person has to the satisfaction of Council completed a period of one year pupillage at an approved establishment.*
46. My Lords, by Regulation 22 of L.I. 2355 the 2nd Defendant introduced two (2) substantial changes to the organisation of the legal profession.
47. **First**, pupils are now barred from obtaining a solicitor's licenses until the completion of their pupillages contrary to Section 8(4) of the Legal Profession Act. **Second**, the minimum duration of

pupillage has now been increased from six (6) months to one (1) year contrary to Section 8(4) of the Legal Profession Act.

48. My Lords, the Applicant, therefore, submits that Regulation 22 of L.I. 2355 and Section 8(4) of the Legal Profession Act are irreconcilable. Thus, L.I. 2355 has sought to impliedly amend/ repeal Section 8(4) of the Legal Profession Act contrary to Article 93(2) of the 1992 Constitution.

49. My Lords, Regulation 22 of L.I. 2355 is startling, considering that pupils, like other duly enrolled lawyers, are ordinarily entitled to practice law pursuant to Section 2(a) of the Legal Profession Act. Section 2(a) of the Legal Profession Act provides:

A person whose name is entered on the Roll kept under Section 6

(a) is entitled, subject to section 8, to practise as a lawyer, whether as a barrister or solicitor or both, and to sue for and recover the fees, charges and disbursements for services rendered as a lawyer, and...

50. Thus, by the terms of the Legal Profession Act, a lawyer is entitled to be issued a solicitor's license so long as they have a qualifying certificate and have been duly enrolled.

51. Furthermore, Rule 4(1) of the Legal Profession (Professional Conduct and Etiquette Rules), 1969 (L.I. 613) clearly indicates that pupils are entitled to practice law. Rule 4(1) of L.I 613 provides:

A lawyer shall not practise unless he is a member of professional chambers or the pupil of such a member.

52. My Lords, considering that pupils, being duly enrolled lawyers, are entitled to practice law under Section 2(a) of the Legal Profession Act and Rule 4(1) of L.I. 613, pupils are entitled to obtain solicitor's licenses from the 2nd Defendant in order to practice lawfully.

53. Indeed, under Section 8(5) of the Legal Profession Act, the 2nd Defendant may only refuse to issue a solicitor's license to a lawyer on grounds of misconduct. Section 8(5) provides:

The Council may, before issuing a solicitor's licence to a person, require that person to produce evidence specified by the Council showing that that person has not been found guilty of professional misconduct in the Republic or in any other country.

54. Therefore, a wholistic and purposive reading of the Legal Profession Act demonstrates that since lawyers are already entitled to practice law, solicitor's licenses must be issued to all lawyers who duly apply for same as of right, unless the lawyer has been found guilty of professional misconduct in Ghana or any other country.

55. My Lords, the present state of affairs, requiring pupils to undergo pupillage training without a solicitor's license, therefore, has dire consequences both for the pupil and the public, to whom lawyers undoubtedly owe a duty.

56. A pupil who is expected to practice law whilst studying under the feet of his pupil master risks incurring criminal liability if he fails to obtain a solicitor's license under Section 8(6) of the Legal Profession Act. Section 8(6) of the Legal Profession Act provides:

A person who practices in contravention of this section commits an offence and is liable on conviction to a fine not exceeding two hundred penalty units and shall not maintain an action for the recovery of fees, reward or disbursement on account of, or in relation to, an act or proceeding done or taken in the course of that practice.

57. Furthermore, this Honourable Court has on several occasions taken the position that processes filed, or proceedings partaken in by lawyers without a valid solicitor's license are a nullity.³
58. Following the decisions of this Honourable Court, the Court of Appeal unanimously nullified proceedings conducted by a pupil in Abraham Okan Klu v. Joseph Agyei Laryea (Unreported) Suit No. H1/130/2019 dated 24th October 2019.
59. Considering that the issuance of a solicitor's license is not an authorisation for pupils to practice independently, Regulation 22 of L.I. 2355 is an unjustified restriction on pupils' right to practice law and, thus, contrary to the public interest.

³ Republic v. High Court, Ex Parte Teriwajah and Nuertey Korboe [2013-2014] 2 SCGLR 1247; Henry Nuertey Korboe v. Francis Amosa (Unreported) Civil Appeal No. J4/56/2014 dated 21st April 2016; and Henry Nuertey Korboe v. Francis Amosa (Unreported) Review Motion No. J7/8/2016 dated 20th July 2016.

60. My Lords, the Plaintiff, therefore, submits that the 2nd Defendant contravened Article 93(2) of the 1992 Constitution and exceeded its powers when it sought to amend or repeal Section 8(4) of the Legal Profession Act through Regulation 22 of L.I. 2355.

61. Accordingly, this Honourable Court ought to exercise its powers under articles 2(1) and 130(1) of the 1992 Constitution to strike down Regulation 22 of L.I. 2355.

G. CONCLUSION

62. In sum, the Plaintiff invites this Honourable Court to strike down Regulation 22 of L.I. 2355 as being made in excess of the 2nd Defendant's powers contrary to Article 93(2) of the 1992 Constitution and prays that this Honourable Court grants the following reliefs:

(a) A declaration that Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355) is inconsistent with the letter and spirit of Article 93(2) of the 1992 Constitution and is, therefore, void.

(b) A declaration that the 2nd Defendant acted in excess of its powers in promulgating Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355).

- (c) An order expunging or striking down Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355).
- (d) An order directing the 2nd Defendant to issue solicitor's licenses to duly qualified lawyers, including pupils, who have taken the necessary steps to apply for same, but have not completed their pupillages.
- (e) Any other reliefs or orders this Honourable Court may deem just, convenient and proper to grant.

RESPECTFULLY SUBMITTED

DATED THIS 3RD DAY OF FEBRUARY 2020.



**MAWUNYO KOFI ADJAHO
PLAINTIFF**

The Registrar
The Supreme Court
Accra

AND FOR SERVICE ON THE ABOVE-NAMED DEFENDANTS

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA - A.D. 2020

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MAWUNYO KOFI ADJAHO
Kimathi & Partners, Corporate Attorneys
No. 6 Airport Road
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Accra

PLAINTIFF

AND

- 1. ATTORNEY GENERAL**
Ministries Block O, Accra
- 2. GENERAL LEGAL COUNCIL**
Judicial Service Administration Block
Supreme Court, Accra

DEFENDANTS

AFFIDAVIT OF FACT

PURSUANT TO RULE 46 OF THE SUPREME COURT RULES, 1996 (C.I. 16)

I, **Mawunyo Kofi Adjaho**, of House No. 20, 5th Circular Road Extension, Labone in the Greater Accra Region of the Republic of Ghana and a lawyer at Kimathi & Partners, Corporate Attorneys do make oath and say as follows.

1. That I am the Plaintiff herein and Deponent hereto.
2. That I am a citizen of the Republic of Ghana.
3. That I am invoking the original enforcement jurisdiction of this Honourable Court in fulfilment of my constitutional obligation to defend the 1992 Constitution and its supremacy.
4. That I am challenging Regulation 22 of the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355), made by the 2nd Defendant on 19th December 2017, as being inconsistent with Article 93(2) of the 1992 Constitution and section 8(4) of the Legal Profession Act, 1960 (Act 32).
5. That all facts stated in the Statement of Case are true and accurate to the best of my knowledge.
6. That in accordance with the Rules of this Honourable Court, I verify the facts as stated in the Statement of Case.

WHEREFORE, I swear to this affidavit in good faith.

SWORN AT ACCRA THIS 3rd }
DAY OF FEBRUARY 2020 }



DEPONENT

BEFORE ME



GILBERT ADJEI - LARBI
c/o BOX AN 19767
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