

IN THE SUPERIOR COURT OF JUDICATURE
IN THE COURT OF APPEAL
ACCRA – A.D. 2023

CR/158/2018

THE REPUBLIC

APPELLANT

VRS.

1. STEPHEN KWABENA OPUNI
2. SEIDU AGONGO
3. AGRICULT GHANA LTD

1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT

NOTICE OF APPEAL

TAKE NOTICE that the appellant herein being dissatisfied with the ruling of the High Court presided over by His Lordship Justice Kwasi. A Gyimah, delivered on 4th April 2023, hereby appeal to the Court of Appeal on the grounds stated herein.

1. THE DECISION COMPLAINED OF:

The order directing that the trial be started de novo.

2. GROUNDS OF APPEAL

- i. The trial judge misdirected himself in the application of the principles regarding adoption of evidence in a trial.

Particulars of misdirection

- a. The holding that, a decision to adopt evidence in the matter amounts to “*adopting every act and decision that has been taken by the previous judge*”, failed to consider that the material factor

in adoption of evidence is the evidence properly so-called led at the trial, and not other unrelated matters.

- b. The so-called “suspicious and allegation of unfairness” have already been pronounced upon by the trial court as well as courts superior to the trial court and therefore have become *res judicata*.
 - c. The learned judge ignored the point that the only motion pending before the trial court was an application for the previous judge to recuse himself which had been rendered moot by the judge’s retirement and subsequent placement of the case before the learned judge.
 - d. The learned judge in relying on irrelevant factors already disposed of by the Superior Courts, unfairly gave the accused persons a second bite at the cherry.
 - e. The learned judge erred in ignoring the right and duty of the Republic to efficiently prosecute crime and placing premium on the presumption of innocence of the accused person.
- ii. The learned trial judge exercised his discretion wrongly in arriving at a conclusion that, he will be “*saddled with the same suspicions and allegations of unfairness levelled against the current state of proceedings*”, which have already been dealt with by the Supreme Court.
- iii. The decision of the trial judge to start the trial *de novo* has occasioned a miscarriage of justice as it will hinder an efficient trial of the accused persons in the instant case.
- iv. The ruling of the court was contrary to the principles of fair trial contained in Article 19 of the Constitution and as decided by the Supreme Court in *Republic v. Eugene Baffoe-Bonnie* [2020] Crim. LR 343.

- v. The learned trial judge erred, in the circumstances of the instant case, in placing undue premium on the need to assess the demeanor of the witnesses called at the trial.

3. PARTICULARS OF THE PROCEEDINGS IN COURT

- i. Date of Ruling: 4th April 2023.
- ii. Court from whose decision this appeal is made: Land Court 2.


4. RELIEFS SOUGHT

A setting aside of the ruling directing that the trial be started de novo and a further order that evidence led at the trial so far be adopted by the trial judge.

5. PERSON AFFECTED BY THE APPEAL

- a) STEPHEN KWABENA OPUNI
HOUSE NO. 5, PASEOE ESI,
AIRPORT HILLS, ACCRA
- b) SEIDU AGONGO
HOUSE NO. 18, SALAMANDER STREET,
COMMUNITY 18, LASHIBI
- c) AGRICULT GHANA LTD
HOUSE NO. 18, SALAMANDER STREET,
COMMUNITY 18, LASHIBI

DATED AT THE OFFICE OF THE ATTORNEY-GENERAL AND MINISTRY OF JUSTICE, ACCRA THIS 4TH DAY OF APRIL 2023.


YVONNE ATAKORA OBUOBISA
DIRECTOR OF PUBLIC PROSECUTIONS
FOR: ATTORNEY-GENERAL

THE REGISTRAR
HIGH COURT
ACCRA

AND TO THE RESPONDENTS OR THEIR COUNSEL WHOSE ADDRESS FOR
SERVICE ARE AS FOLLOWS:

1. **THE 1ST RESPONDENT OR HIS COUNSEL, SAMUEL M. CUDJOE, LAW
TRUST COMPANY, NO. 27 CASTLE ROAD, ADABRAKA, ACCRA.**
2. **THE 2ND & 3RD RESPONDENTS OR THEIR COUNSEL, BENSON
NUTSUKPUI, NO. 35 LABONE CRESCENT, LABONE**