

Privy Council Appeal No. 161 of 1924.

Manche Anege Akue - - - - - *Appellant*

vs.

Manche Kojo Ababio IV - - - - - *Respondent*

FROM

THE SUPREME COURT OF THE GOLD COAST COLONY.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 16TH JUNE, 1927.

Present at the Hearing :

VISCOUNT HALDANE.

LORD SHAW.

LORD WARRINGTON OF CLYFFE.

[*Delivered by* LORD WARRINGTON OF CLYFFE.]

The subject matter of the litigation in which the present appeal arises is a sum of money representing the purchase money paid by the Government of the Colony for certain lands taken by them for public purposes under statutory powers.

Rival claims were made to this money. The appellant, the Manche or chief of Sempe, claiming on behalf of communities known as Sempe and Akumaji, asserts that those communities are entitled to share in the fund. The respondent, the Manche of James Town and also the Manche of Alata asserts, that he, as Manche of Alata, is solely entitled to the fund on behalf of that community.

On the 24th July, 1918, the Divisional Court, consisting of the Chief Justice, Sir Philip Crampton Smyly, rejected the claim of the appellant and gave judgment in favour of the respondent. On the 16th May, 1924, this judgment was unanimously affirmed by the Full Court, composed of Michelin, J., and acting Judges Gardiner Smith and Aitken. Leave to appeal from this judgment to His Majesty in Council was obtained on the 18th August, 1924.

The town of Accra consists of three divisions, of which one is James Town. Each division has a Manche, or chief, who is himself subordinate to a superior chief called the Ga Manche. The respondent is the Manche of James Town.

James Town is divided into three quarters, known as Sempe, Akumaji and Alata respectively, each with its own Manche subordinate to the Manche of James Town. The appellant is the Manche of Sempe. The respondent, as Manche of James Town, claims to have vested in him all property belonging to any of the three stools of Sempe, Akumaji and Alata. This claim was formerly disputed by the Manche of Sempe, but was upheld by a judgment of the Full Court in an action by the present respondent against one Quartey.

The question at issue is whether the lands, the purchase money for which is the subject of the litigation, were lands of the three quarters of Sempe, Akumaji and Alata in common or of the quarter of Alata alone.

According to a tradition which appears to be accepted by both sides, the Alata people came into the country with one, Wetse Kojo, from Lagos in or about the year 1642. They assisted the Sempe and Akumaji people in their wars with a neighbouring tribe, and as the result the lands of the Sempe and Akumaji people were placed under the stool of Wetse Kojo, and he and his successors thus became not only Manches of Alata, but also Manches of James Town.

It was found as a fact by both Courts in the Colony that the lands in question were exclusively used and occupied by the Alatas, and it was admitted by counsel for the appellant that the finding means that those lands were originally settled by the Alatas, the several villages and so forth being founded by them. This finding is accepted by the appellant.

It was further found by both Courts that by the custom of the Ga tribe land which had been exclusively used by the inhabitants of a particular quarter of James Town belonged exclusively to that quarter.

At the trial, the contest appears to have been mainly in reference to the question of the exclusive use and occupation by the Alatas, and it does not seem to have been seriously disputed that if this were established the result mentioned above would follow.

In their Lordships' opinion no ground has been shown for interfering with the decisions of the Courts below, and the appeal therefore fails.

The appeal might be decided on the further ground that inasmuch as the land was, when taken by the Government, in the exclusive use and occupation of the Alatas, the appellant must, in order to succeed, establish that he has a better title than the respondent; in other words, that the onus is entirely on him and that he wholly fails to discharge himself thereof.

On either ground the appeal fails, and their Lordships will humbly advise His Majesty that it should be dismissed with costs.

In the Privy Council.

MANCHE ANEGE AKUE

v.

MANCHE KOJO ABABIO IV.

DELIVERED BY LORD WARRINGTON OF CLYFFE.

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