

34, 1952

In the Privy Council.

No. 41 of 1950.

ON APPEAL FROM THE WEST AFRICAN  
COURT OF APPEAL  
(GOLD COAST SESSION).

31375

UNIVERSITY OF LONDON  
W.C.1.  
9 - NOV 1956  
INSTITUTE OF ADVANCED  
LEGAL STUDIES

BETWEEN

NANA OSEI ASSIBEY III, Kokofuhene, substituted by  
Order in Council dated 30th January, 1952, in place of  
NANA KOFI ADU, Kokofuhene, Destooled (*Defendant*)

*Appellant*

AND

NANA KWASI AGYEMAN, Boagyaahene ... (*Plaintiff*) *Respondent.*

CASE FOR THE APPELLANT.

RECORD.

1.—This is an Appeal from a Judgment of the West African Court of Appeal, delivered on the 28th January, 1949, dismissing the Appeal of the Defendant-Appellant from a Judgment of the Chief Commissioner's Court, Ashanti, dated the 2nd April, 1948, and which had dismissed an Appeal by the said party from a Judgment of the Asantehene's "A" Court, dated the 6th December, 1947.

p. 42

p. 38

p. 26

2.—By a Civil Summons in the Asantehene's "A" Court, dated the 19th August, 1946, the Plaintiff in his claim stated "Plaintiff sues the Defendant herein for satisfactory and reasonable explanation as to why the latter's Akwamuhene and subjects do pay tribute to the Boagyasa Stool as far back as the reign of the then Boagyaahene Nana Asamoah Kenin by virtue of their occupation on the Boagyaa Stool land known as 'Dwoamin,' and now the Defendant has ordered his subjects on the said land not to pay the tribute to the Boagyaa Stool."

p. 1

3.—The President of the Asantehene's "A" Court, the Omanhene of Kumawu, gave Judgment in favour of the Defendant while the other members of the Court, the Oyokohene of Kumasi and the Gyasehene of Kumasi, gave a joint Judgment in favour of the Plaintiff, but the prevailing Judgment was not signed by the President.

p. 3

4.—The Defendant appealed to the Chief Commissioner's Court which, on the 5th August, 1947, allowed the Appeal with costs to the Defendant

p. 3, l. 13

CASE FOR THE APPELLANT

RECORD. in that Court, set aside both Judgments, remitted the case back to the  
 — “ A ” Court to be differently constituted, and suggested that a survey might  
 be considered as the Viewer’s Report showed the definition of the land  
 in question to be confusing.

p. 4, l. 11 5.—After being remitted back to the Asantehene’s “ A ” Court, the  
 said Court, on the 2nd September, 1947, ordered a survey of the land in  
 dispute to be made. The parties were ordered to give details of their  
 claims to the Registrar and to make a deposit towards the cost of the  
 survey.

p. 4 6.—The Plaintiff, in pursuance of the said Order, sent, on the 10  
 p. 6 15th September, 1947, to the Registrar a description of the boundaries of  
 the land claimed, while the Defendant, through his State Secretary sent  
 in his description of the boundaries, on the 18th September, 1947.

Separate 7.—E. A. Kufuor, Licensed Surveyor, on the 12th November, 1947,  
 Document made a Plan which was tendered in evidence on the 1st December, 1947,  
 p. 11 and marked Exhibit “ D.” According to his evidence he had the aforesaid  
 p. 12 particulars given by the parties before him. In addition to the parties,  
 the Chiefs of Ahuren, Assachere and Assamang came to the area. Ahuren  
 said he gave the disputed land to Kokofu while Assamang said he had no  
 boundary with Kokofu. 20

p. 2, ll. 28, 29 The plan described the Defendant as the Omanhene (Paramount Chief)  
 of Kokofu, as the Chief Commissioner’s Court had done on the 5th August,  
 1947, when remitting the case back to the “ A ” Court.

p. 7, l. 22 8.—The Plaintiff, in his evidence, gave, as a tradition, a statement  
 that the land in question had been given to his Stool by the Asantehene  
 Nana Opoku Wari at the time when his own Stool was occupied by one  
 p. 7, l. 40 Asamoah Kenin. He supported his case, as regards recent history, by  
 p. 8, ll. 1-29 three documents which were tendered, accepted, and marked Exhibits  
 “ A,” “ B,” and “ C.”

p. 44 Exhibit “ A ” is a Promissory Note by the Akwamuhene of Kokofu, 30  
 Kwaku Abroneh, dated the 24th January, 1935, agreeing to pay annually  
 to the Plaintiff as cocoa tribute the sum of £35.

p. 8, l. 8 Defendant objected to the document being admitted in evidence on the  
 grounds that the agreement was entered into without the knowledge and  
 consent of the Kokofuhene who was alleged to have begged for the land.

p. 44, ll. 4, 15 In the document itself Kwaku Abroneh is twice described as  
 Akwamuhene of Kokofu. In order to appreciate the significance of this  
 description, one has to understand that the Kontire was the Commander  
 of an army in the event of the Chief himself not going to war.

The Akwamuhene is his confrere and second-in-Command. 40

As Akwamuhene of Kokofu, Kwaku Abroneh owed a military allegiance  
 to the Kokofuhene. This meant he had to defend the right, title, and  
 interest of the Kokofuhene, his Omanhene or Paramount Chief. He was

a traitor if he did not. By virtue of his occupation of land under the Kokofuhene, he was free from the obligation to pay tribute to his Chief and would only be called upon when occasion arose to contribute to Stool debts, like all other subjects of the Chief. RECORD.  
—

In his own evidence, Kwaku Abroneh says, "I am a native of Kokofu " now living at Kobrisu in the Offinsu Division. I used to be the " Akwamuhene of Kokofu and the Odikro (village chief) of Dwoamin." On his own admission, he was a native of Kokofu, second in command of the Kokofuhene army if the Chief did not go to war himself, and he was also  
10 the Odikro or civilian head of Dwoamin which presumably he administered as a subject of Kokofuhene for his chief. No better evidence could be adduced to show that Dwoamin belonged to Kokofuhene, even though this witness had acted as a rebel, signed a deed without the consent of his Paramount Chief, and then gave evidence in support of the Plaintiff. p. 12, l. 24

Exhibit " A " was wrongly admitted.

Exhibit " B " is an Application by one Kwame Asare for a Physician's  
Licence. The side note gives the date, 1944. It is in the following terms : p. 45

" Through Nana Kofi Adu,  
" Omanhene of Kokofu, Kokofu, Ashanti.

20 " To : Nana Buagyaahene, Buagyaahene.

" Nana,

" I have the honour most respectfully (to) beg to apply  
" through you for the information of Buagyaahene to grant me  
" a Native Physician Licence to carry on the duties of a Fetish  
" Bresan on his land Joamin."

" 1. That the said Fetish is able to cure diseases and to look  
" after wombs and prevent witches from causing damages to  
" human beings, etc., etc.

30 " 2. Nana, I trust the tone of this my humble Petition will  
" be mercifully entertained."

Following this application, the Plaintiff addressed a note

" To

" The Asumankwahene, Kumasi,"

p. 45, l. 27

in the following terms :—

" I certified that the said Kwame Asari the Applicant has  
" brought such Fetish on my land which can be able to cure and  
" to drive witches from causing damages to human beings." p. 45, l. 29

It is to be noted that there is nothing to show that this application was ever seen, or endorsed, by the Omanhene of Kokofu.

40 It is to be further noted that the Plaintiff certified that the Applicant had brought the Fetish on to his land in a note addressed to The Asumankwahene, Kumasi, and not to the Omanhene of Kokofu.

The Defendant objected to this document being produced in evidence  
on the ground that it was not endorsed by him. p. 8, l. 18

Separate  
Document  
p. 8, l. 29  
p. 8, l. 27

Exhibit " C " is a Native Administration Receipt Book No. 28401-500, showing individual receipts given by way of tribute to the Plaintiff.

What the Plaintiff chose to write in his Native Administration Book was his own concern. The Kokofuhene had no responsibility for the way in which such an account book was kept and over which he had no control.

p. 12, ll. 24,  
25

9.—In his evidence for the Plaintiff Kwaku Abroneh admitted, as already mentioned, that he was a native of Kokofu and Odikro of Dwoamin. This evidence was followed by that of Tradition.

p. 13, l. 17

In dealing with Exhibit " A," he said

" We went to Kokofu where the Kokofuhene's Clerk Ampoful 10  
" drew up a document for us."

p. 14, l. 30

In cross-examination he admitted that he had rebelled against the present Kokofuhene about twice when he was the Akwamuhene. He said Exhibit " A " had not been prepared when he rebelled as otherwise he could not have asked the Kokofuhene's Clerk to prepare it.

p. 14, l. 33

He denied that he had apologised for the execution of the document. He did not tell the Kokofuhene before engaging his clerk.

p. 14, l. 36

p. 14, l. 41

He said his ancestor was made the Akwamuhene by the Kokofuhene named Nana Gyami.

p. 14, l. 1

p. 14, l. 43

He agreed that Ampabam in the middle of the disputed land was built 20  
by a son of the Kokofuhene.

p. 15, l. 17

p. 15, l. 21

He did not ask the Odikro of Ampabam to sign the agreement as he had no cocoa farm. As Odikro of Dwoamin he himself represented the whole people. When asked if he had elders attached to his stool, he said " Yes," but they did not live at Dwoamin.

p. 15, l. 24

p. 15, ll. 6,  
11

As regards the village of Praa, he agreed that he had asked the consent of the Kokofuhene to build it.

p. 15, l. 34

p. 15, l. 30

In answer to the Court, he said he had been Odikro of Dwoamin for 20 years, but had only paid tribute to Boagyaa for 10 years.

p. 16, l. 5

p. 16, l. 7

Boagyaa was about 3 miles from Kokofu, but he had no knowledge of 30  
any boundaries between them.

p. 16, ll. 18,  
20

10.—Solomon Adarkwah, Linguist, gave evidence on behalf of the Chief of Assachere whose lands form a boundary with the Plaintiff from Asumensu to 3 date palm trees. This refers to the green line on Plan " D " and is outside the disputed territory. The Plan then shows Ahurenene's lands bordering the disputed territory. Going northwards the plan shows that the boundary is given as Ahurenene's land by the Defendant and as Assachere's land by the Plaintiff. The Linguist admits that this is disputed. The remainder of his evidence is of little value.

p. 16, l. 21

p. 18, l. 7

11.—The Aassmanghene, third witness for the Plaintiff, said he had a 40  
head boundary along the green line with the Plaintiff, and the Ahurenene at Bisikuntunye (Bisi Kon Troye on Plan " D," 6th square, North to South, on the East). His admission that the land to the south east of Bisi Kon

Troye is Ahurehene's land contradicts the evidence of the Assacherehene's Linguist as to the ownership at this part. RECORD.

He goes on to say that after crossing the head boundary he has a boundary with Kokofu at a place called Kyinaman which is 6 miles or so from the disputed area. p. 18, l. 10

He was not aware that the Ahurehene had presented a portion of the land to the Kokofuhene. p. 19, l. 34

12.—Kyeame (Linguist) Akwasi Yeboah as representing the Defendant gave evidence. p. 19, l. 5  
 10 “The Ahurehene is the father of the Kokofuhene Gyami.  
 “The Kokofuhene approached him for a portion of land on which to make  
 “farms. The Ahurehene said he had fought Owusu Akyim Tenten, whose  
 “land he had taken and so the Kokofuhene should take a portion of that  
 “conquered land. The Ahurehene said he had a boundary with the  
 “Assamanghene. He said the Kokofuhene should start from Bisikuntunye  
 “(Bise Kon Troye already noted on Plan “D”) to the Akosua stream, where  
 “the Assamanghene's lands lie, thence to a Dupon tree, which is the  
 “boundary with Boagyaa, thence to Hyedua to twin Wawa trees, thence  
 “to Onyine tree, thence to Bisiasi-Dwoamin motor road, thence to Praa  
 “Nkwanta, thence to the source of the Praa, thence through River Praa  
 20 “with the old deserted Praa village on the left, thence to Assamuasu Aboye.  
 “This is the end of Boagyaa lands.” Aboye means confluence. Thus,  
 according to the Linguist, the boundary between Kokofu and Boagyaa ends  
 where the Bosompra and the Assamuasu rivers meet. This is defined on the  
 Plan. Thereafter, the witness says, the boundary is with the Ahurehene  
 round the disputed area back to the starting point at Bise Kontroye. p. 19, l. 17

He goes on to say that there are 5 deserted villages on the disputed area ; that there is a fetish rock named Gyabimbuor on which the Kokofu offer sacrifice ; and that the deserted villages are Ampabam, Praa, Dwoamin, Yaa Asantewa and Odumasi. p. 19, l. 26

30 On being examined by the Court, witness said that the Dwoamin land was given to Kokofu during the time of Nana Gyami (1700) when Nana Osei Tutu was the Asantehene (1697 to 1730) ; that the Odikro of Dwoamin, Defendant's caretaker, is subservient to the Akwamuhene of Kokofu ; that the Kokofuhene, has other lands ; and that Kokofu is 6 miles from the area in dispute. p. 21, l. 32  
p. 21, l. 45  
p. 22, l. 6  
p. 22, l. 20

13.—Atta Gyamfi II, Ahurehene, in his evidence on behalf of the Defendant, said that his ancestor Amofa, married a Kokofu Royal who bore Nana Brayieh, Nana Manu Ama and Nana Gyami ; that Nana Gyami became Kokofuhene and asked his father for a portion of land for his wife to farm on ; that as a result of this request the Ahurehene presented the Dwoamin land to his son, the Kokofuhene ; that the Kokofuhene built the village of Praa for his wife on the land ; that the Ahuren elders consented to the gift of the land on the terms that the Kokofuhene was to send annually to the Ahuren Stool drink for a libation and a sheep for sacrifice, a custom observed till now ; and that on the occasion of the gift the Kokofuhene p. 23, l. 5

- RECORD. gave 2 bottles of gin as "aseda." An Aseda is a thank-offering given to a person or persons from whom some gift or benefit has been received. The presentation and acceptance of an Aseda make it difficult or impossible for either the donor or donee later to repudiate the transaction.
- p. 23, l. 15 Witness then goes on to tell of lands which his ancestor had given to an ancestor of the Plaintiff.
- p. 23, l. 23 The land presented to the Kokofuhene was given during the time of the Asantehene Nana Osei Tutu, while the land presented to the Boagyaahene was given during the time of the Asantehene Nana Poku Wari.
- p. 23, l. 36 He then gives the boundary in accordance with these gifts, showing 10 that the disputed area belongs to Kokofuhene. When cross-examined about prior litigation, the witness said that this litigation referred to Besiase and Twereso land, which had been presented to the Plaintiff's ancestor (and is outside the disputed area). Plaintiff asked witness if he knew that one Kwasi Akora paid tribute for a farm near Dwoamin. Witness said he did not know.
- p. 24, l. 20 The Court thereupon called this man Kwasi Akora who was in Court, and asked him the question—
- p. 24, l. 29 "Do you pay tribute to the Plaintiff?"
- Kwasi Akora replied: "Yes, I have paid only once, but I was 20  
"made to understand it was being sent to Kokofuhene."
- p. 27, l. 10 14.—The Asantehene's "A" Court, in giving Judgment on behalf of the Plaintiff, on the 6th December, 1947, said that the weight of evidence was in favour of the Plaintiff; that the Plaintiff had been in undisturbed possession for many years; that the Defendant being unaware about tribute being paid could not be believed; that it could not be believed that the Ex-Akwamuhene executed the agreement to pay tribute during the period of his rebellion; that his successor who paid was not a rebel; that the fact that Kwame Asare, a Kokofu subject, did not apply at Kokofu for a Physician's Licence, but from Kumasi, showed that he knew that 30  
the land on which he lived belonged to the Plaintiff; that because the Assamanghene, who had been called as a witness by the Defendant at the previous hearing, was not called by him as a witness at the present hearing, made the Court believe his evidence was true; that three subjects of the Ahurenhene paid tribute to the Plaintiff; and that if the Ahurenhene had presented the land to an ancestor of the Defendant, why had his subjects paid tribute to the Plaintiff?
- p. 27, l. 12
- p. 27, l. 14
- p. 27, l. 18
- p. 27, l. 27
- p. 27, l. 31
- p. 27, l. 39
- p. 27, l. 47
- p. 29 15.—The Kokofuhene, on the 19th February, 1948, filed Grounds of Appeal to the effect that the Judgment was wrong in law because Kwahu Abroneh, Ex-Akwamuhene of Kokofu who negotiated the agreement to 40  
pay an annual rent of £35 to the Boagyaahene never consulted the Kokofuhene, sole owner of the Dwoamin lands, and that without such consent, knowledge or confirmation with his name as a signatory any such document or agreement could not be accepted as valid; that the Dwoamin lands formed a group consisting of Dwoamin, Ampabami and Praah, each

of which had an Odikro or village chief, and that no head of the group could clandestinely or otherwise negotiate any agreement with any individual outside, without the consent and confirmation of the Kokofuhene or of the other heads of the groups mentioned; and that there is no evidence on record that the application of Kwame Asare for a Physician's licence did ever come to the Kokofuhene's knowledge or that he ever referred it to the Boagyaahene to issue it.

RECORD.

16.—On the 12th March, 1948, the Kokofuhene filed Additional Grounds of Appeal to the effect.

- 10           1. (a) That the suit cannot be determined and decided p. 30, l. 3  
solely and simply by evidence of recent acts of occupation but by  
evidence of original root of title ;  
          (b) that the Boagyaahene when asked why he did not  
subpoena the Gyasehene of Kumasi if it were true that he originally  
acquired the land from him, evaded the issue by saying " because  
" I have been in undisturbed possession for many years " ;  
          (c) that the Asantehene's " A " Court in finding for the  
Boagyaahene on recent acts of occupation in Exhibits " A,"  
1935, and " B," 1944, cannot stand ;
- 20           (d) that any collection of cocoa tribute could only be  
shown for little over 10 years.
2. (a) that incontrovertible evidence of ownership of land  
in Ashanti custom is the ownership of cemeteries, ancient  
settlements and village on the land ;
- (b) that the Boagyaahene could point to no such evidence p. 30, l. 18  
to support his claim ; p. 30, l. 22
- (c) that the Kokofuhene proved beyond reasonable doubt, p. 30, l. 24  
including the admissions by Boagyaahene and his witnesses, that  
he owns 5 deserted villages on the land, has a fetish rock named  
Gyabimbuor on the land on which his people offered sacrifice  
to this day ;
- 30           (d) that the Odikro or village chief of Dwoamin is in fact p. 30, l. 29  
the Akwamuhene of Kokofu ;
- (e) that on the Plan, Exhibit " D," Ampabam is shown as p. 30, l. 33  
a cemetery ;
- (f) that the rebel Akwamuhene, Kwaku Abroneh, admitted  
in his evidence that the village of Ampabam was built by the p. 30, l. 35  
Kokofuhene's son and that the village of Praah was built specially  
for the senior wife of Kokofuhene ;
- 40           (g) that the steady accumulation of settlements is p. 30, l. 37  
cumulative evidence of the rooted title of Kokofuhene,
3. (a) That the allegation by Kwaku Abroneh that his p. 30, l. 40  
ancestors obtained the land in dispute from the Boagyaahene can  
not be true because it is impossible that the Akwamuhene of

RECORD.

Kokofu arriving from Denkyira and accorded high rank at Kokofu, could have acquired land for settlement without the previous knowledge of the Kokofuhene ;

p. 31, l. 2

(b) that the said statement is inconsistent with the point made by the Boagyaahene that it was the Kokofuhene who begged for the land from him for the Akwamuhene of Kokofu ;

p. 31, l. 4

(c) that the straightforward and reliable evidence of the Ahurenhene was that his stool gave land at Dwoamin to Kokofuhene and land at Besiase to Boagyaahene ;

p. 31, l. 7

(d) that the Ahurenhene having conquered these lands 10 from Owusu Akyem Tenten was then in a position to make the grants mentioned ;

p. 31, l. 8

(e) that the Boagyaahene up to the Yaa Asantewa war (1900) acknowledged the overlordship of Ahurenhene by annual services performed by him at Ahuren, and this supports the grant of Besiase lands by Ahurenhene and the original root of title to these lands being in the Ahurenhene ;

p. 31, l. 12

(f) that the placing of the Akwamuhene of Kokofu as Odikro, or village chief, at Dwoamin, supports the evidence that the Dwoamin lands were given to Kokofuhene with the original 20 root of title being in the Ahurenhene.

p. 31, l. 15

4. That the Plaintiff and his principal witness did not tell the truth is evidenced by their admission that the Kokofuhene Nana Gyami died in the reign of Nana Osei Tutu (1700) and yet asserting he was alive in the reign of Tutu's successor, Nana Opoku Wari. Nana Gyami, first king of Kokofu, was dead before Nana Poku Wari ascended the Gold Stool.

p. 31, l. 24

5. That all the acts of pretended ownership were such as could have been performed by the Plaintiff without the knowledge of Kokofuhene and that the paying of tribute does not involve doing 30 any material act to the land itself.

p. 31, l. 28

6. That Exhibit " A " being neither signed nor witnessed by any of the chiefs or headmen of the Dwoamin villages, nor by any elder is conclusive proof that it cannot bind any stool. For no Stool can be bound where a chief only signs a paper without at least a linguist or an elder testifying to the same.

p. 31, l. 33

7. That the Kokofuhene cannot be said to have slept on his rights for as soon as he learned that the rebel ex-Akwamuhene had executed Exhibit " A " he immediately challenged the Plaintiff right to levy tribute. 40

p. 31, l. 42

8. That the Kokofuhene at all times exercised the customary and traditional right of overlord or owner in respect to the Dwoamin lands, and that the hind leg of the bullock killed as a sacrifice for the new Dwoamin market was given to the Kokofuhene as tribute ; that this was done openly at a time when both the Boagyaahene



and the Ahurenhene were aware of the fact ; and that this is an indefeasible acknowledgment of the Kokofuhene's title to the land in dispute. RECORD.  
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9. That any farmers who paid tribute in their individual capacities to the Plaintiff could not bind or estop the Stool of Kokofuhene. p. 32, l. 6

17.—That the Chief Commissioner's Court in giving judgment on the 2nd April, 1948, merely said p. 38

10       “ Having read the record of the Lower Court together with  
“ grounds of appeal, I can see no reason to interfere with the  
“ judgment given by the Asantehene's “ A ” Court on the  
6th December, 1947. Appeal is therefore dismissed. Costs to be  
“ taxed and paid by Appellant.”

18.—Grounds of appeal were filed on the 28th May, 1948, as follows :— p. 39

20       1. Long occupation or possession cannot, according to the  
customary Law, ripen into ownership. The Asantehene's “ A ”  
Court, in view of the evidence of the original and continuous  
ownership in the Appellant, was wrong in making a *declaration*  
of ownership in favour of the Respondent upon the sole evidence  
of recent acts of occupation.

2. The Respondent was unable to lay claim to any ancient  
settlements or landmarks of long occupation. The Appellant's  
Stool and people proved their prior and continuous occupation of  
the land by their possession of ancient landmarks, fetish rocks,  
villages and cemeteries. The Court below should have so found.

30       3. It is compatible and consistent with the customary practice  
for the Respondent's principal witness, Kwaku Abroneh, who lives  
on the land in dispute as a sub-chief under the Appellant's  
Paramount Stool to have been granted that land at the time he,  
Abroneh, was made a sub-chief (Akwamuhene) by the Appellant.  
It is palpably inconsistent with custom, and with the evidence on  
record, for a sub-chief to have obtained the land he lives on  
independently, and without the knowledge of his overlord or  
Paramount Stool.

4. There is no validity in Exhibit “ A ” upon which the  
Respondent and the Court below relied. Exhibit “ A ” cannot in  
law bind the Appellant's Stool or any Stool interested in the land  
as against the Respondent because it was not executed on the  
authority of a Stool.

40       5. The judgment is against the weight of evidence.

19.—The Judgment of the West African Court of Appeal was delivered  
on the 28th January, 1949, in one sentence, as follows :— p. 42

“ Appeal dismissed with costs assessed at £26 1s. 0d.”

**RECORD.** 20.—Leave to appeal to His Majesty in Council was granted on the  
 p. 43 19th July, 1949.

21.—The Appellant Nana Kofi Adu, Kokofuhene, was destooled and Nana Osei Assibey III, Kokofuhene, was elected in his place. The West African Court of Appeal thereupon substituted the new Stool Holder in place of the former one on the record.

By an Order in Council dated 30th January, 1952, Nana Osei Assibey III, Kokofuhene, was substituted for Nana Kofi Adu, Kokofuhene, as Appellant.

22.—The Appellant humbly submits that the said Judgment of the 10 West African Court of Appeal, dated the 28th January, 1949, which affirmed a Judgment of the Chief Commissioner's Court, dated the 2nd April, 1948, and which again affirmed a Judgment of the Asantehene's "A" Court, dated the 6th December, 1947, is erroneous and should be reversed and this Appeal allowed with costs throughout, for the following, among other

### REASONS

1. BECAUSE the various grounds of Appeal set forth in paragraphs 15, 16 and 18 hereof are correct.
2. BECAUSE the Judgment of the West African Court of Appeal was wrong in not dealing with the said grounds of 20 Appeal.
3. BECAUSE the Judgment of the West African Court of Appeal was wrong in not giving any reasons as required by Rule 16 of the Judicial Committee Rules, 1925.
4. BECAUSE the West African (Appeal to Privy Council) Order in Council, 1949, in Section 16 thereof, reiterates the words of the said Rule 16.
5. BECAUSE the said requirement is in these words—  
 “ The reasons given by the judge, or any of the judges,  
 “ for or against any Judgment pronounced in the course of 30  
 “ the proceedings out of which the Appeal arises, shall by  
 “ such judge or judges be communicated in writing to the  
 “ Registrar and shall be included in the Record.”

T. B. W. RAMSAY.

In the Privy Council.

No. 41 of 1950.

ON APPEAL FROM THE WEST AFRICAN COURT  
OF APPEAL (GOLD COAST SESSION).

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BETWEEN

NANA OSEI ASSIBEY III, Kokofuhene,  
substituted by Order in Council dated  
30th January 1952, in place of NANA  
KOFI ADU, Kokofuhene, Destooled  
*(Defendant) Appellant*

AND

NANA KWASI AGYEMAN, Boagyaahene  
*(Plaintiff) Respondent.*

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CASE FOR THE APPELLANT

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BURCHELLS,  
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