

G.H.L.G.3

43, 1961

IN THE PRIVY COUNCIL

No.22 of 1957

ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL

(GOLD COAST SESSION)

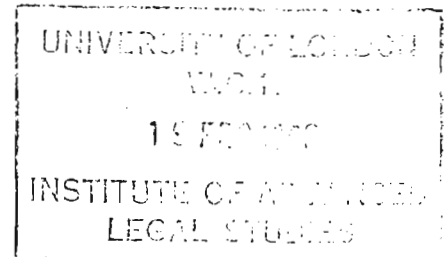
B E T W E E N :-

1. KVAMI BADU
 2. KVESI AYIAH
 3. KVESI TEKYE
 4. NANA ABA YAA (substituted for KWESI EDUAMOAH deceased)
 5. KOFI ADJEI (substituted for KWAMI OTSINKORANG deceased)
 6. VINCENT KOFI NINSON (substituted for KWAKU ESSEL deceased)
- all of Nyakrom (Defendants)

1. V.K.NINSON
 2. G.N.HAYFORD
- all of Nyakrom
(Co-Defendants) ... Appellants

-and-

1. AMBA AMOABIMAA, Queen Mother of the Ampiakoko Section of the Yego Family and
 2. KOFI BOYE, the Family Linguist of the said Family, on behalf of themselves and as representing the other members of the said Family of Apaa Quarters Nyakrom
- ... (Plaintiffs) ... Respondents



63620

RECORD OF PROCEEDINGS

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London, S.W.1.
Solicitors for the Appellants

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

B E T W E E N :-

- 1. KWAMI BADU
- 2. KWESI AYIAH
- 3. KWESI TEKYE
- 4. KWESI EDUAMOAH
- 5. KWAMI OTSINKORANG
- 6. KWAKU ESSEL
(all of Nyakrom)
(Defendants)

- 1. V.K.NINSON
- 2. G.N.HAYFORD
all of Nyakrom
(Co-Defendants) Appellants

--and--

- 1. AMBA AMOABIMAA, Queen
Mother of the Ampiakoko
Section of the Yego
Family and
- 2. KOFI BOYE, the Family
Linguist of the said
Family, on behalf of
themselves and as
representing the other
members of the said
Family of Apaa Quarters
Nyakrom ..(Plaintiffs)
Respondents

RECORD OF PROCEEDINGS

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ON APPEAL

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

B E T W E E N:

- 10 1. KWAMI BADU
 2. KWESI AYIAH
 3. KWESI TEKYI
 4. KWESI EDUAMOAH
 5. KWAMI OTSINKORANG
 6. KWAKU ESSEL
 all of Nyakrom
 (Defendants)
1. V.K.NINSON
 2. G.N.HAYFORD
 all of Nyakrom
 (Co-Defendants) ... Appellants
- and-
- 20 1. AMBA AMOABIMAA, Queen Mother of the
 Ampiakoko Section of the Yego Family and
 2. KOFI BOYE, the Family Linguist of the
 said Family, on behalf of themselves and
 as representing the other members of the
 said Family of Apaa Quarters Nyakrom
 (Plaintiffs) ... Respondents

RECORD OF PROCEEDINGS

No.1.

COURT NOTES

In the Agona "B"
Court

30 IN THE AGONA NATIVE COURT "B" WESTERN
 PROVINCE GOLD COAST COLONY, held at Swedru
 on Tuesday the 15th day of September, 1953.

No.1
 Court Notes 15th,
 22nd September and
 9th, 23rd October
 1953.

Present:-

1. Gyasehene Kofi Amponsah II - President
 2. Opanyin Kwami Krow - Member
 3. Yesufu Wangara - -do-

In attendance - Kwami Akyer Nkrumah ..
Registrar (AG).

Suit No. 383/53

In the Agona "B"
Court

No.1

Court Notes 15th,
22nd September and
9th, 23rd October
1953.

Amba Amoabimaa Queen Mother of the
Ampiakoko Section of the Yego Family
and 2. Kofi Boye the Family Linguist
of the said Family on behalf of them-
selves and as representing the other
members of the said Family of Apaa
Quarters, Nyakrom ... Plaintiffs

-versus-

1. Kwami Badu 2. Kwesi Ayiah
3. Kwesi Tekyi 4. Kwesi Eduamuah
5. Kwami Otsinkorang and 6 Kweku
Essell, all of Nyakrom Defendants

10

15th September 1953

Claim:- The Plaintiffs claim on behalf of
themselves and as representing the other
members of the Ampiakoko Section of the
Yego Family of Apaa Quarters, Nyakrom is
against the Defendants herein for a declar-
ation that all that piece of land compris-
ing three parcels of land generally known
as and called Buafi (Obuafi) land, Bosompa
land, and Otsinkorang land which entire
piece of land is bounded on the North by
Anamasi Stool land on the South by Nkum
Stool land and Nteduasi Nsona Family Stool
land on the East Akoroso Stool land and on
the West by Odoben Mankrado Stool land were
acquired or founded by Ampiakoko the ances-
tor of the Plaintiffs herein, and that the
above-mentioned and described lands were
not founded by the ancestors of the Defend-
ants herein as is being claimed by the
Defendants herein.

20

30

(b) For the Defendants to prove to the
Native Court how their ancestors managed to
acquire or found the above mentioned and
described lands as is being claimed by the
Defendants herein.

Plaintiffs present.
Defendants both present.

Motion on Notice:-

40

Motion on Notice by Vincent Kofi Ninson
for an Order under Section 39 of the Native
Courts (Colony) Ordinance 1944 of this
Native Court to join him and George Nyarku
Hayford as Co-Defendants to the above-named
suit pending in this Native Court and for
any further Order as the Court may seem fit.

Movers absent, but represented a letter

(sic) dated the 14th day of September, 1953, attached to a Medical Report or Certificate certifying that he had been ordered not to act upon any engagements until 3 weeks had elapse, with an adjournment fee of 5/-.

In the Agona "B" Court
No.1
Court Notes 15th, 22nd September and 9th, 23rd October 1953.

10 By Plaintiffs Opposers:- We shall have no objection to the application of the Movers but as the Defendants are prepared to make their defence, I pray that this honourable Court may proceed and suspend its Ruling on the Movers' application under Section 39 of the Native Courts' (Colony) Ordinance of 1944 as amended and that Movers application may be entertained at any stage of the proceedings and at any time he would recover or be released from his Medical clutches.

20 By Court:- This Native Court in considering the application of the Mover, decides that it cannot allow the whole of the time required of by the Mover.

As a result, this Motion be adjourned till Tuesday the 22nd day of September, 1953, likewise of the original case.

Mover to pay the adjournment fee of 5/-.

(Mkd). Kofi Amponsah II
President
Gyasehene
15. 9. 53

30 W/mark & Recorder:-
(Sgd). N.A.Nkrumah
Ag.Registrar.

Present: (As on the 15th)

22nd September
1953

Plaintiffs present.
Defendants absent.

40 By Court:- Upon a telegram dated and received on the 18th of September, 1953, suspending the hearing of this and other cases involving the same Plaintiffs and Defendants in view of a Motion filed in His Court this case is adjourn- (sic)
ed Sine Die.

(Mkd) Kofi Amponsah II
President
Gyasehene
22.9.53.
W/mark & Recorder
(Sgd) K.A.Nkrumah
Ag. Registrar.

In the Agona "B"
Court
No.1
Court Notes 15th,
22nd September and
9th, 23rd October
1953.
9th October 1953.

Present:

- 1. Nana Kobina Botchey, Adontenhene - President
- 2. Nana Kwesi Krampah, Banmuhene, - Member
- 3. Opanyin Kojo Essuman - -do-

In Attendance:- Kwami Akyer Mkrumah - Ag.Registrar

Plaintiffs present.
Defendants present.

Movers:- Both V.K.Ninson and G.N.Hayford present.

Motion - filed on the 9/9/53 and duly read to the Respondents.

10

(sic) By Movers:- Movers moved in terms of their affidavit sworn to an applying to be joinders as Co-defendants in the above-named suit.

By Plaintiffs-Respondents:- I have no objection against the application of the Mover for their joindership. As a result this Honourable Court may grant them as Co-Defendants. I produce a letter praying for an adjournment as my witness is off or away to Northern Territories.

By Court: At this stage, this Native Court rules that the Movers V.K.Ninson and G.N.Hayford be joined as Co-Defendants in the above-named case, and as a result the Title of this case is hereby ordered to read as follows :-

20

"Amba Amoabimaa Queen Mother of the Ampiakoko Section of the Yego Family and 2. Kofi Boye the Family linguist of the said Family on behalf of themselves and as representing the other members of the said Family of Apaa Quarters Nyakrom

30

-versus-

- 1. Kwami Badu, 2. Kwesi Ayiah, 3. Kwesi Takyi, 4. Kwesi Eduamuah 5. Kwami Otsinkorang 6. Kweku Essel ... Defendants

Vincent Kofi Ninson and G.N.Hayford
... .. Co-Defendants

By Defendants: V.K.Ninson for and on behalf of the other Defendants states:-

We object to the application of the Plaintiffs on the grounds that Plaintiffs are the aggrieved and should have prepared to meet the hearing and not allow the said witness to take any privilege whilst this case is pending.

40

2. That Plaintiffs should have at the instance of such action subpoenaed the said party before hand. As a result we feel that Plaintiffs may withdraw their action and that our costs be awarded as we find plaintiffs are invalid to proceed.

In the Agona "B"
Court No.1
Court Notes 15th,
22nd September and
9th, 23rd October
1953.

10 By Court:- The request of the Plaintiffs is granted to them and that to do justice amongst the parties this case be adjourned till Friday the 23rd day of October, 1953.

It is further ordered that in case Plaintiffs fail to produce their said witness or witnesses this Native Court will proceed to hear this case on the date specified herein.

Plaintiffs to pay the usual adjournment fee of 5/-. Owing to the circumstances laid by the Plaintiffs no costs for today is allowed for Defendants till final disposal thereof.

20 (Mkd.) Kobina Botchey
President
9/10/53.

W/Mk. & Recorder
(Sgd) K.A. Nkrumah
Ag. Registrar.

Present:- (Same Members as 9th October) 23rd October 1953

Plaintiffs absent.
Defendants absent.

30 Order from Magistrate's Court:- A telegram of 21/10/53 from the Magistrate's Court stopping hearing of the above case as Motion been filed therein. (sic)

By Court:- This case is adjourned sine die in view of the Order of the Magistrate's Court.

(Mkd.) Kobina Botchey
President
23/10/53.

W/Mk. & Recorder.
(Sgd) K.A. Nkrumah
Ag. Registrar.

In the Agona "B"
Court

No.2

No.2
Pleas of Defendants
and Co-Defendants
and findings on
plea of Res Judicata
2nd February 1954.

Pleas of Defendants and Co-Defendants and find-
ings on plea of Res Judicata

IN THE AGONA NATIVE COURT "B" of SWEDRU held on
Tuesday the 2nd day of February, 1954.

Coram:-

Gyasehene Kofi Amponsah	...	President
Yesufu Wangara, Swedru	...	Member
Okyeame Bediako, Swedru	...	Member

Suit No.383/54

Amba Amoabimaa & 1 or.etc. Plaintiffs 10

-versus-

1. Kwame Badu, 2. Kwesi Ayiah	
3. Kwesi Takyi, 4. Kwesi Eduamoah,	
5. Kwami Otsikorang, 6. Kwesi Essel	
...	... Defendants

-and-

1. V.K.Ninson, 2. G.N.Hayford Co-Defendants

Both parties in Court.

Claim read and explained in Twi language.

Plea - 1st Defendant)	Defendants plea -	20
2nd ")	Under Section 17 of	
3rd ")	Native Courts (Colony)	
4th ")	Procedure Regulation	
5th ")	1945 that the case had	
6th ")	been adjudicated upon	
1st Co-Defendant)	and therefore is res-	
2nd " ")	judicata.	

2nd Plaintiff to speak for and on behalf of 1st
Plaintiff.

Mr.V.K.Ninson - Co-Defendant herein to speak 30
for himself and on behalf of the 7 Defendants.

The expression was made by the 2nd Defendant.

Plaintiffs:- I appoint one John Kobina Ghansa
a member of my family to refer to documents
which will be tendered in evidence.

Defendants:- No objection.

Plaintiffs estimate land to worth £5,000.
Defendants estimate same to worth £35,000.

Defendants:- This very Plaintiffs have taken action against us. We object to the case being heard for they are claiming for Buafi land, Basumpa land and Otsinkoran lands as the property of their ancestor Ampiakoko. This case was heard on the 5/7/52 and judgment given in our favour. The action was taken by us against Kofi Donkor the ex-Abusuapenin and the lands were declared the Family property of Yego Family. To prove my case I want to tender a copy of the claim in evidence.

In the Agona "B"
Court No.2
Pleas of Defendants and Co-Defendants and findings on plea of Res Judicata 2nd February 1954.

Claim read and explained.

Plaintiffs:- The action was taken against Kofi Donkor alone. We the members of the Family applied to be made parties to the suit but the Court refused. The summons has no bearings in this case.

Native Court:- Certified true copy of claim dated 11/6/52 was accepted in evidence and marked Exhibit "A" in case Kwamin Badu etc.versus Kofi Donkor (ex-head of Yego Family).

Ex. "A"

Defendants:- To corroborate what I have said, I want to tender the judgment of the case in evidence.

Judgment dated 5/7/52 was read and explained.

Plaintiffs:- When the action was taken, we did not take part wherein judgment could be delivered in our favour. We are not concerned with the judgment.

Native Court:- Judgment dated 5/7/52 in case Kwami Badu and or. versus Kofi Donkor was accepted in evidence and marked Exhibit "B".

Ex. "B"

Findings:- We have listened to the plea of the Defendants under Section 17 of the Native Courts (Colony) Procedure Regulations of 1945, Res judicata does not apply since the first action was taken against Kofi Donkor ex-occupant of the Family Stool for the surrender of Family properties which came into his possession by right of his Office. Under Regulation 18 of Native Courts (Colony) Procedure Regulations 1945, we ask the Defendants to plea in the ordinary way. Hearing (sic) to proceed.

Plea:- Co-Defendant for and on behalf of the Defendants plea - Not Liable.

In the Agona "B"
Court
Plaintiffs' Evidence
No.3
Kofi Boye 2nd
February 1954
Examination

No.3

Plaintiffs' Evidence
Kofi Boye

Plaintiffs Case:- Kofi Boye, 2nd Plaintiff herein for and on behalf of 1st Plaintiff sworn on Bible states, I live at Nyakrom. I am a farmer. I am one of the descendants of the late Ampiakoko. I am the Linguist to the whole Ampiakoko Descendants. About some years past, our ancestor named Ampiakoko and his family migrated from Ashanti and settled in Nyakrom. Through hunting, Ampiakoko acquired a land known as Obuafi, Ampiakoko left Nyakrom for Nkum to trade. He befriended the Ohene of Nkum named Nana Nyarko Atua (deceased). Late Nana Nyarko Atua gave a land known as Otsinkorang and Bosompa to Ampiakoko. Ampiakoko made huts in them. These three lands mentioned above are all in line. After a length of time Ampiakoko returned to Nyakrom.

10

Native Court:- Further hearing adjourned to 2 p.m. today.

20

(Mkd.) Kofi Amponsah
President
Gyasehene

Recorded by:-
(Sgd) Y.A. Asare,
Registrar.

Court resumed at 2.p.m.

Parties in Court.

Plaintiffs still on oath:- After some years past, Ampiakoko died. Adobaw succeeded him. He also died. Essiafo also succeeded to the properties. He also died. Eduaniam succeeded to the properties. He also died. 4th Defendants ancestor also migrated from Akim Oda and settled in Nyakrom. 1st Defendant's ancestor migrated from Adjumako Dawuramong and settled in Nyakrom. 5th Defendant's ancestor also migrated from Adjumako Bekoase and settled in Nyakrom. Through conversation, the ancestors of 3 immigrants found that they were all of the same Yego Clan and therefore made one and did everything in common. Through this unity 1st Defendant's ancestor allowed Ampiakoko's descendant to live on their land known as "KYEKYEGBA". Through that unity 4th Defendants ancestors allowed the descendants

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of Ampiakoko to live with them on their land known as "EBUENI MAASE". Through this very unity the descendants of Ampiakoko (Plaintiffs) allowed the members of the 3 groups to live on our land known as OBUAFI, OTSINKORANG and BUSUMPA.

In the Agona "B"
Court

Plaintiffs' Evidence

No.3
Kofi Boye 2nd
February 1954

Examination
(Continued)

10 About 5 years ago, trouble brewed between the other Section of the Family and us (Ampiakoko) descendants and we took action against 4th Defendant before the Native Court of Swedru. During the trial, we deputed Kofi Donkor to speak on our behalf. It was disclosed that the 4th Defendant and us are not one. They hail from Akim Oda.

Our witness the Ohene of Akim Oda through his linguist testified on oath that 4th Defendant hailed from Akim Oda and he was his Royal.

20 Notes:- At this juncture Telegram from District Winneba orders the stoppage of hearing as interlocutory appeal has been filed.

Native Court: Case adjourned sine die pending the result of the motion.

(Mkd.)Kofi Amponsah II
President of Native Court
Gyasehene

30 Recorded by:
(Sgd) Y.A.Asare
Registrar & Mk.

No.4

No.4

Amendment of Claim 12th April 1954

Amendment of Claim
12th April 1954

IN THE AGONA NATIVE COURT "B" of SWEDRU held on Monday the 12/4/54.

(Same Mombors present)

The Plaintiffs claim is hereby amended to read as follows:-

40 "Please take Notice that at the hearing of the above case in the Writ of Summons adding the following after claim "B" "Recovery of Possession" and notice of "amendment is hereby given you".

In the Agona "B"
Court

No.4

Amendment of Claim
12th April 1954
(Continued)

Parties in Court.
Defendants still not liable.
Amendment of Claim read.

Defendants:- Mr.Ninson speaks for all Defend-
ants. I object to the amendment in that the
case had not been won wherein one could claim
for possession. The land is not his.

Native Court: Objection overruled. Plaintiff
has right under Section 16 of the Native Court 10
Colony Ordinance 1944 to amend claim at any
time before judgment is given. Second Sched-
ule of the Native Court Colony Ordinance 1944
allows it.

Hearing to proceed.

Plaintiffs' Evidence
(Continued)

No.5

PLAINTIFFS' EVIDENCE (CONTINUED)

No.5

Kofi Boye (Continued)
12th,13th,14th,15th
April 1954
Examination
(continued)

Kofi Boye (Continued) 12th,13th,14th,15th
April 1954.

Plaintiffs' Case:- Plaintiffs still on oath.
Akim Oda Chief's Linguist gave evidence. 4th 20
Defendant cross-examined him. 4th Defend-
ant offered to retire into consultation with
his people. He went with all the Defendants.
When they retired from the consultation, 4th
Defendant told the Court that they were break-
ing family tie with us. The Court asked
whether we agreed and we said Yes. The Adon-
tenheno who was the then President asked that
each SIDE MIGHT PROVIDE 1 life sheep plus a 30
bottle rum for cutting the tie ceremony. Both
sides provided the sheep and the rum. The
sheep was slaughtered and the cutting of the
tie ceremony was accomplished. I want to
tender the order of the Court into evidence.

Registrar:- Certified true copy of the order
of the Native Court "B", Swedru, dated 13/5/49
was read and interpreted.

Defendants:- I object to the order being ten-
dered into evidence in that the title is not 40
complete. Secondly it has no reference to me
in particular and the other 5 Defendants.

Native Court: Order accepted in evidence and
marked Exhibit "A" - objection overruled.

Plaintiffs:- Since the breaking of the Family tie, we ceased to have any dealing with them in respect of death and all. After the 4th Defendant had caused the Family tie to be cut, and finding that the result would affect him in future, appealed against the order of the Magistrate's Court at Winneba but lost the Appeal. I want to tender the Order of the Court into evidence.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th, 13th, 14th, 15th
April 1954
Examination
(Continued)

10 Registrar:- Judgment of the Magistrate's Court dated 19/8/49 read and interpreted.

Defendants:- I object to the document being tendered in evidence because all the Defendants were not parties to the suit. On the part of the 4th Defendant, the Magistrate has ruled that the order need not be complied with.

Native Court:- Objection overruled. Note accepted in evidence and marked Exhibit "B".

Ex. "B"

20 Plaintiffs' Case:- Prior to the breaking of the tie, all the Defendants owe allegiance to our family stool. When we returned from Winneba, the Defendants took action against us Ampiakoko Section of Nyakrom. I want to tender the claim into evidence.

Registrar:- Certified true copy of claim dated 18/7/50 read and interpreted.

30 Defendants:- I object to the claim being tendered into evidence in that the case went on appeal and it was ruled that the State Council got no jurisdiction in trying the case.

Native Court:- Writ accepted in evidence and marked Exhibit "C".

Ex. "C"

40 Plaintiffs:- The Defendants then Plaintiffs were found guilty. After the case 1st Defendant and 1st Co-Defendant came to our house and told us that we happened to live on their land known as "KYEKYEGBYA" through Unity. Once we had separated ourselves, we got no right to step on their land of KYEKYEGBYA. All the 4 Descendants of Ampiakoko have since been ejected from the land. The Ampiakoko members who own farms on the land are (1) Akua Ketse, 2. Yaa Nkoma, Amba Amoabimaa 1st Plaintiff herein (4) Saarabi (5) Essiedu. On Essiedu's part he pays amount rent of £25 to the Defendants. (6) Kweku Atta. All these own cocoa farm on the land. 4th Defendant and one Okoto came to us
50 at Kofi Donkor's house that it was through the

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th, 13th, 14th, 15th
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Examination
(Continued)

Unity that they allowed us to work on "Abuoni Maase" lands. Once the family tie was broken, none of the descendants of Amplakoko should step on the land. Kofi Donkor the ex-head of our Family did not agree but went to work on "Abuoni Maasi" land and the 4th Defendant took action against him before the Swedru Court claiming declaration of title to the land and £50 damages. I want to tender the claim into evidence.

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Registrar:- Certified true copy of claim dated 6/2/50 was read and interpreted.

Defendant:- I object to the claim being tendered into evidence in that the case was between 4th Defendant and Kofi Donkor.

Ex."D"

Native Court: Writ accepted in evidence and marked Exhibit "D".

Plaintiffs:- One of my elders Kobina Abaka own cocoa farm on the land but 4th Defendant has taken it and is using the proceeds. 4th Defendant obtained judgment in the suit. I want to tender the copy of judgment into evidence.

20

Defendant:- No objection.

Ex."E"

Native Court: Certified true copy of judgment accepted in evidence and marked Exhibit "E".

Plaintiffs:- During the hearing of the case, Mr. Ninsin 1st Co-Defendant herein and the speaker for the Defendants gave evidence to the effect that he had ejected the Amplakoko descendants from his land at KYEKYEGYA and that 4th Defendant was the owner of that land. Upon his evidence, judgment was given in favour of 4th Defendant then Plaintiff. I want to tender the statement into evidence.

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(sic) Registrar:- State dated 17/2/52 read and interpreted.

Defendants:- No objection

Ex."F"

Native Court:- Statement accepted in evidence and marked Exhibit "F".

(sic) Plaintiffs:- The Defendant's knowing that they have broken the family tie took action against Kofi Donkor claiming the family stool and its paraphernalia and lands of Buafi, Otsinlorang

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(sic) and Bosompa which lands are the property of my

ancestors. I want to tender the claim into evidence.

Registrar:- Claim dated 11/6/51 was read and interpreted.

Defendants:- We tendored this paper and raised preliminary objection, at the onset of this suit but the Court overruled. I see no reason why it should be accepted in evidence.

10 Native Court: Note refused in evidence in that the Plaintiff said at the first hearing that it has no bearings on this case. Plaintiffs call for note.

20 Plaintiffs' Case:- While the case was being heard, we applied to be made a party but the Court refused our application. Mr. Ninson in giving out his statement told the Court that we were not one for they hailed from North Africa but they found our ancestor Ampiakoko in a dense forest. While the case was being heard, Mr. Quartey a witness to Mr. Ninson gave evidence. I want to tender his statement into evidence.

30 Plaintiff withdraws the paper. As a result of the ejection by the Defendant on us from their ancestral land which we happened to be on by virtue of the Union 1st Plaintiff deputed one Kwame Halam and myself to the Defendants to tell them not to step on the lands in dispute as their occupation was based on the Union and now that there was a break, we saw no reason why they should stay on a land founded by our ancestor Ampiakoko. We met all the Defendants at Kwame Badu 1st Defendant's house. I put the purpose of my visit through their linguist Mr. Ninson, Mr. Ninson told me that the land was founded by Nana Apaa and that it did not belong to us.

40 He said they had even thought to come to tell us something. 1st Plaintiff said as we got no Abusuapanyin, she would take measures earlier if not the Defendants would devise means to eject us from our own land founded by our ancestor. We have ancient document to tender in evidence to prove that the land was found and acquired by our ancestor Ampiakoko. About 39 years ago one Kofi Sam lived at Nyakrom. He took action against Kofi Nkroma, a descendant of Ampiakoko at Agona Nsaba claiming the lands of Bosompa. 5th Defendant's uncle, Okyire Kwesi

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No. 5
Kofi Boye (Continued)
12th, 13th, 14th, 15th
April 1954
Examination
(Continued)

In the Agona "B"
Court

Mensah was deputed to represent in the case. I want to tender his statement into evidence.

Plaintiffs' Evidence
(Continued)

Registrar:- Statement dated 6th day of October, 1915 was read and interpreted.

No.5

Defendants:- No objection.

Kofi Boye (Continued)
12th, 13th, 14th, 15th
April 1954
Examination
(Continued)

Native Court:- Statement accepted in evidence and marked Exhibit "G"

Ex. "G"

Plaintiffs:- In that case the Ohene of Nkum gave evidence through his Ebusuapanyin Kobina Taike. I want to tender that also in evidence 10

Registrar:- Statement dated 6th October, 1915 read and interpreted.

Defendant:- No objection.

Ex. "H"

Native Court: Statement accepted in evidence and marked Exhibit "H"

Plaintiff:- I want to tender the judgment of the case into evidence. It states that the land was acquired by Ampiakoko my ancestor.

Registrar: Judgment dated 19/10/15 was read and interpreted. 20

Defendants:- No objection.

Ex. "I"

Native Court:- Judgment accepted in evidence and marked Exhibit "I".

Plaintiffs' Case:- About 18 years ago a certain woman lived at Nkum, by name Ama Asaawa. She took action against my uncle Yaw Nkum a descendant of Ampiakoko on Bosumpa and Otsinkorang lands for trespass at Nyakrom Tribunal. Ama Saawa deputed S.B. Quartey to represent her. Mr. Quartey gave evidence to the effect that the land was given by his ancestor to Ampiakoko alone. I want to tender the Statement of Mr. Quartey into evidence. 30

Registrar: Statement dated 15/10/35 was read and interpreted.

In the Agona "B"
Court

Defendant:- I object to the statement being read to the Court as Quartey is no party to the suit and at the same time is coming to give evidence in this case.

Plaintiffs' Evidence
(Continued)

No.5

Plaintiff:- I insist upon the document being accepted in evidence and I have my reasons of doing that

Kofi Boye (Continued)
12th, 13th, 14th, 15th
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Examination
(Continued)

10 Defendant:- I don't want this portion of statement to appear in the records so long as Quartey is alive. If the Plaintiffs require his statement, he can do so by subpoenaing him.

Native Court:- Note accepted in evidence and marked Exhibit "J".

Ex. "J"

Plaintiffs' Case:- 2nd Defendant herein represented my uncle in the case. I want to tender his statement into evidence.

20 Registrar:- Statement dated 20th October, 1935, before the Nyakrom Tribunal was read and interpreted.

Defendants:- I object to the Proceedings on grounds that there are some alterations which have not the signature of the Registrar.

Native Court:- Note accepted in evidence and marked Exhibit "K"

Ex. "K"

30 Plaintiffs:- In that very case, my uncle Yaw Nkum, a descendant of Ampiakoko deputed his Linguist by name Kwadjo Kyir, 1st Defendant's real elder brother, 3rd Defendant's junior brother gave evidence in the case. I want to tender the Statement into evidence. Notes read and interpreted.

Defendants:- No objection.

Native Court:- Certified true copy of Statement dated 18/6/36 was accepted in evidence and marked Exhibit "L".

Ex. "L"

40 Plaintiffs:- About 12 years ago, 1st Defendant took action against my older Kobina Bu, a descendant of Ampiakoko on "Goat Head". The case went as far as Sekondi. We became indebted and so pledged our land of OTSINKORANG to 4th Defendant for £700. The Plan on the land was

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th, 13th, 14th, 15th
April 1954
Examination
(Continued)

given to the 4th Defendant. We redeemed the debt and got the Plan from the 4th Defendant. The Rent of £300 was paid to 4th Defendant for 5 years. Since we redeemed the land, we have been collecting rents up till now. "If the 4th Defendant is the owner he would not see that we pledged his own property to him". If 1st Defendant has a share in the land he would not sit tight so that we might pledge his own land to get money to litigate with him. I saw in truth that the lands described in the claim belong to the Ampiakoko Section of which we are the descendants.

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Cross-examination

Xcd by Defendants:- My ancestors migrated from Agona Ashanti to Nyakrom. It was because of wars that brought himself and sisters to Nyakrom. I was not told of the name of the then Ohene of Agona in Ashanti. I do not know in which street my ancestors stayed in Agona Ashanti. I do not know Ashanti Agona. My great grand uncle hailed from Yego clan. Yes, I know Kofi Donkor, he is my uncle. Yes I know that 1st Defendant had once taken action against Kofi Donkor in this Court. Yes Omanhene of Agona Ashanti gave evidence in the case. Yes I know the late Kofi Nkansah, he was descendant of the late Ampiakoko. Yes I know Yaw Nkum and Kobina Bu, Apaa Yego Family consists of 4 houses. The above mentioned people hail from Ampiakoko Section. The three Sections of the houses made Kofi Donkor the Ebusuapanyin. Your house was not included. Yes it is right that Kofi Donkor said that 4 houses made him head of the Family.

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Native Court:- Further hearing adjourned till Tuesday 13/4/54 at 8.30 a.m.

(Mkd.) Kofi Amponsah II
President

Recorded by
(Sgd) Y.A.Asare
Registrar.

40

13th April 1954

13.4.54

Parties in Court.
Plaintiff still on oath.

Xcd. by Defendants continued:- I do not remember that the 4 houses of Yego Family have destooled Kofi Donkor. We the Ampiakoko Section have disposed Kofi Donkor and so he is not our head. The other four houses have no

dealings with us in as much as the Family tie is cut.

Q. If Kofi Donkor is still regarded as the Head of the 4 houses can Obaahe-maa take action in this suit without him?

A. I have already replied to it.

(sic) 10 When the 4 houses were one, all of us made her the Obaahe-maa in the Family but since the break off, she is now our Obaahe-maa. I do not remember that 1st Plaintiff has given you a statement to the effect that she is not the Obaahe-maa for the 4 houses of Yego Family of Nyakrom. Paragraph 2 of Ama Amoabimaa's affidavit which read inter alia:-

20 "2. That in paragraph 3 of his Affidavit "Vincent Kofi Ninson stated that there has "over been in existence in the capacity as "Queen Mother in the Yego Family of Apaa "Quarters, Nyakrom and therefore is foreign "to same".

30 Xrd.Continued:- Yes, when we were one, we elected a candidate known as Kweku Atta but you opposed to his candidature. I do not agree with the State Council to the effect that the Stool belongs to us all. I did not appeal against the decision. 1st Defendant has never been the Abusuapanyin of Appa Quarters. Kofi Donkor never said 1st Defendant was an Abusuapanyin. I challenge the extract as being false. 1st Plaintiff is now in charge of the Family. Yes. I know linguist Kwesi Mensah, Kwadjo Kwesi Ayiah 2nd Defendant and Kofi Nkansah. Yes, they are members of the Yego Family Apaa Section. Yes, these people represented the family of Yego in their law suits. Yes, I remember that Kwesi Ayiah 2nd Defendant herein stood in a representative capacity in a suit in connection with Obuafi land. Yes, I accept his evidence as correct. Yes. I know all the statement that Kwesi Ayiah gave. Yes I admit that Kwesi Ayiah said that Yaw Nkum the sub-chief was his nephew. He gave evidence for the owner of the land. He gave evidence on behalf of Ampiakoko descendants. I tendered Exhibit "K" in evidence. The title of the case is Anna Essarwa as the owner of Nsuansa land per J.B.Quartey versus Sub-Chief Yaw Nkum as the occupant of Yego Stool of Nyakrom. My elder told Okyere to say that 50 Ampiakoko was his grand uncle. Yes, Kwesi Ayiah said that Adobaw was his grand uncle,

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th,13th,14th,15th
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Cross-examination
(Continued)

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Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th, 13th, 14th, 15th
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Cross-examination
(Continued)

he named Ampilaw and others. I will not accept any name that would be mentioned to me today as some of his grand uncles. At present I have not sent him to act on my behalf and so I don't regard any names from him. Yes, I know Nana Abuanyi. I do not know Otobo and Kwakum. I have heard of their names. I have heard that they are the elders of the 4th Defendant. I have not been told that Kwakum had ever been an Abusuapanyin of Apaa Yego Section. Yes, 1st Defendant took action against my elder Kobina Obu on a "Sheep's Head". He never took action against the whole of Yego Family. Yes I know of a case entitled Kwamin Badu per V.K.Ninson vs. Chief Yaw Nkum (Abdicated) stool of Yego Family per Kobina Bu (Caretaker) substituted - Defendants. Yes, I know that 4th Defendant is in place of the late Nana Ebuanyi, Kwakum and Okoto. Yes, when 1st Defendant took action as stated above Kofi Nkansa, my uncle, a descendant of Ampiakoko stood and gave evidence in the case. The late Kwakum was never made Abusuapanyin in Yego Family. Kwakum and Abuanyi were only caretakers in the Family. My statement is correct. Yes, I remember that 4th Defendant took action against one Kofi Donkor. Yes, Kobina Bu gave evidence on behalf of 4th Defendant then Plaintiff. I do not know that the late Apaa founded Apaa town in Nyakrom. Yes Kobina Obu is one of the descendants of Ampiakoko. He is my grand uncle. Yes he has once been an Abusuapanyin. When Kofi Donkor took action against 4th Defendant you were not a party to the suit. The action was against 4th Defendant and his people. No we did not take action against you personally but Aduamoah 4th Defendant and his people. The action was on behalf of Kofi Donkor and his people and 4th and his people.

(sic)

Title of case referred:-

"Kofi Donkor of Nyakrom for himself and
 "members of Ampiakoko Section of Yego
 "Family of Apaa Quarters the owners of the
 "Yego Stool of Nyakrom ... Plaintiffs

vs.

"Kwesi Eduamoah ... Defendant

It was Eduamoah 4th Defendant himself who named you all as partners upon which the family tie was cut.

Native Court:- Further hearing adjourned to
2 p.m.

In the Agona "B"
Court

(Mkd).Kofi Amponsah II
President
Gyasehene

Plaintiffs' Evidence
(Continued)

No.5

Recorded by:-
(Sgd). Y.A.Asare,
Registrar.

Kofi Boye (Continued)
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Parties in Court.

Cross-examination
(continued)

10 None of you applied to be made parties to
that suit. It was Eduamoah 4th Defendant here-
in who mentioned your names. In my opinion the
Order of the Court Exhibit "A" is genuine. It
was the 4th Defendant who mentioned your names.
So long as it has appeared on the record, then
it is binding or lawful. When the order was
made, you did not protest against that by appeal
and so it is valid. I do not know you were
served with a copy of the order Exhibit "A". I
do not know the law and so I cannot tell you of
the Courts procedure. I say that the order is
binding because after the order 4th Defendant
sent the case as far as Winneba, Counsel argued
on it and we obtained judgment that is your appeal
failed. At the appeal the Magistrate confirm-
ed Exhibit "A" as genuine order vide Exhibit "B".
The clause which states inter alia: "There is
therefore nothing to appeal against" has bear-
ing on 4th Defendant's appeal it means his appeal
is lost. I did not hear that the Magistrate
ruled that the order of the Court was invalid.
I know that the land of Gyekyegya belongs to your
ancestor Nana Apaa, and not the whole members
of Yego Family. In Exhibit "F", I quoted an
extract of your statement to support my case.
Yes it is a certified true copy. It is because
of certain allegations made in the record of
appeal Exhibit "F", that caused me to take this
action. All the statements were made by you.

30 It is true that you stated that there are ten-
ants on the land. Yes, I have said here that
Yorke Family per Kofi Sam took action against
Yego Family per Kofi Nkrumah vide Exhibit "G".
The action was against my elder Kofi Nkromah and
he deputed his linguist Kwesi Mensah to stand
for the case on his behalf. Yes, Kwesi Mensah
is a member of the Yego Family but was a stran-
ger that was why he was made a linguist. The
litigation was conducted by Kofi Nkrcma alone,
my ancestor and nobody else. All the names men-
tioned in Exhibit "G" are my ancestors with the

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In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
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Cross-examination
(continued)

exception of Abuonyi who is 4th Defendant's ancestor. If Kwesi Mensah said all the ancestors were from Apaa Quarters of Nyakrom it is true. Kwesi Mensah's statement is true. Abuonyi was a stranger who stayed with our ancestors and therefore his name is connected with our history. It is because of the breaking of the Family tie which took place that has brought disintegration between us. It is because of the breaking of the Family tie, you have driven us from your family land and so we took this action also to drive you from our ancestor's land which is ours by right. If there had been no separation, and the 1st Defendant had ejected us from his ancestor's land, we would automatically eject him from our land as well. The land in dispute was first founded by my ancestor Ampiakoko before all the other Ampiah, Adobaw and Abuonyi and others. I admit Exhibit "I" as most genuine. I challenge any evidence to the effect that the land was founded by somebody else and not Ampiakoko alone.

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Native Court:- Further hearing adjourned till tomorrow Wednesday 14/4/54, at 8.30 a.m.

(Mkd.) Kofi Amponsah II
President
Gyasehene

Recorded by:-
(Sgd) Y.A.Asare
Registrar

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14th April 1954

14.4.54

Parties in Court.

Cross-examination continued:

Aboenyin only went on the land to work on our behalf that was why Ankrosahene gave evidence to the effect that he got boundary with Ebuonyi but he was not the founder. Yes the statement of Akrosahene was read to me; he stated that he got boundary with him but he never stated that he founded the land. The judgment states that the Defendants who are descendants of Ampiakoko are the owners of the land. The evidence of the Akrosahene and Anamasehene are good for me. The land is not for all of us, and so the tenants pay rent to us the descendants of Ampiakoko. Yes I know that there is a plan

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between the descendants of Ampiakoko and the
(sic) Gomoa tennants and not you. The plan is with
Kofi Donkor one of the descendants of Ampia-
koko. On the plan it is stated, "Yego Family".
Yes I know one I.B. Morson, Land Registrar, I
know that he is the leader of the Gomoa Farm
(sic) tennants of Asona. Yes, I know Ama Asarewa
who took action against Chief Yaw Nkum of Yego
Family. Yes the action is in respect of one
10 of the lands in dispute. No all the members
of the Family did not unite to litigate with
Ama Asarewa by Chief Yaw Nkum. I have said
here that my elder deputed his linguist 2nd
Defendant to represent him in the case. I
have said here that my elder Yaw Nkum deputed
his linguist Kwadjo Okyir of Yego Family to
represent him. My elder Yaw Nkum, Ampiakoko
descendants made 2nd Defendant his linguist.
We authorised him to give evidence in the name
20 of Yego Family. I will not challenge any
evidence to the effect that 2nd Defendant was
not a linguist to Ohene of Homoah. One man can
be made a linguist to two chiefs. The bound-
aries of the land in dispute is, on one side
with Ohene of Anamase, on one side by the
Asona Clan of Nyakrom, the Head is Akuma, on
one side with the Ohene of Nkum and on one
side by the Ohene of Akroso and Odoben Man-
krado Kwame Sarmang and his people. I know
30 that the personnel mentioned while I gave out
the boundaries have their boundaries with
Ampiakoko Section of the Yego Family and not
all the Yego Families. When there was peace
between us, all actions are not defined but
generally "Yego Family" but now that we have
separated ourselves, we attach Ampiakoko to
the name to distinguish between your section
and our section. When there was no division,
all actions are taken against the occupant of
40 the Yego Stool for Yego Family and not "4
Sections of Yego Family". No action has ever
been taken against Ampiakoko Section of the
Yego Family. Amba Amoabimaa 1st Plaintiff
herein gave evidence in case Kwami Badu ver-
sus Kofi Donkor as the Obaahema of Yego Family
when there was no split between us. When the
split came, she added Ampiakoko to her name
to distinguish you from us. The split came
before Kwame Badu's action. 1st Plaintiff
50 did not state categorically that she was the
Queen Mother, of all the Yego Family of
Nyakrom. Yes, I know that all of us are from
Akaa Quarters of Nyakrom Yego Family but there
are division among us.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
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Cross-examination
(continued)

(sic)

In the Agona "B"
Court

Affidavit of Ama Amoabimaa shown to Court dated 6/6/51 paragraph 1 states:-

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th, 13th, 14th, 15th
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Cross-examination
(Continued)

"That I am the Queen Mother of the Yego Stool of Apaa Quarters, Nyakrom and writ of Summons, in this matter had been shown to me by the Defendant herein and the same had been read and interpreted to me".

The title of the case is: Kwame Badu & 11
ors. of Nyakrom
versus
Kofi Donkor of Nyakrom.

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Exd:- Contd: When 1st Plaintiff sworn to the Affidavit she knew that she was and is still the Obahemaa of the Ampia Koko Section. 1st Plaintiff did not commit perjury when she stated in her affidavit that she was the Obahemaa to the Stool of Yego Section of Apaa Quarters. Yes I know Kofi Okai, Yes, I know of a case entitled Kofi Okai, successor to late Kojo Okrani and Ajao Okranin of Nyakrom

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versus
Yego Family per Kofi Donkor (head of Family)
Apaa Section of Nyakrom held on the 29/3/49.

Yes, when the case was being heard, the Apaa people gave 4th Defendant an authority to face the case. By that time the Ampiakoko section was alive. If an action is taken and 4th Defendant represents it does not follow that the land does not belong to Ampiakoko Section.

30

Question:- Why did you not join in the case as Co-Defendant once you claim to be the owners of the land.

Answer:- We found that the Plaintiff was the owner of farms and we are the owners of the land and so we refrained from pursuing a fruitless litigation. I cannot tell that as a result of the action the Plaintiff is at present on the land. We asked Kofi Donkor to allow him to be on the land. The Ohene of Anamase mentioned the names of Abuonyi and Okoko as the people he found on the land but did not state definitely that they were the founder of the land.

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Q. With reference to Exhibit "I", judgment was based upon the evidence of Anamase-hene and Akroschene that they got boundary with the following people: Ampiakoko,

Abuonyi and Ototo. Was it not upon this that the judgment was delivered?

A. I have not tendered the evidence of Anamasehene into evidence. I therefore ask that same be read to me before I answer to the question.

Native Court: Statement to be produced by Defendant.

Registrar:- Statement read.

In the Agona "B" Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
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10 Exd.continued:- From that statement it was stated that Ampiakoko first sent the people there and so he founded the land. In Ama Asarowa per J.B.Quartey vs. Yego Family per Yaw Nkum, we were given costs at Cape Coast but not amicable settlement at home. The judgment was given in favour of Yego Family of Ampiakoko Section and not all of your Yego Family Strangers. Yes, I remember that

20 the members of the Family have taken action against 1st Defendant in respect of a burial place. My uncle Kofi Nkansa stood on behalf of the Family. Yes, I admit that G.N.Hayford stood for us. Yes Hayford stood in his capacity as nephew. Yes 4th Defendant, 5th Defendant, 2nd Co-Defendant were angry at us when we took action against 1st Defendant. By that time Ampiakoko section was in existence. By that time there was no split between us hence we did not sue on behalf of

30 Ampiakoko Section. By that time the property belonged to Ampiakoko but Yego was the general name for the Family. Kwabena Abaka paid for all the costs and not you. Kwabena Abaka was asked to pay for the cost of the litigation as the property is his. No it is never true that you taxed Kofi Donkor in Ama Asarwa's case which he could not pay and so you arrested and imprisoned him. We the Ampiakoko Section destooled Abaka when he

40 offended us. By that time you were one with us. It is not on account of Yego Family lands that Abaka was destooled. He was destooled on account of a certain woman which he took to wife which we objected to. If the Akroshene and Anamasehene come to give evidence in this case, they will confirm that the land belongs to Yego then it belongs to us Ampiakoko Section. In this case any reference to Yego Family means the descendants of Ampiakoko and not you. I know

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Cross-examination
(Continued)

In the Agona "B"
Court

that we get an ancient boundary with Ama Asarwa of Nkum.

Plaintiffs' Evidence
(Continued)

Native Court:- Further examination adjourned to 2 p.m. today.

No.5

(Mkd) Kofi Amponsah II
President

Kofi Boye (Continued)
12th, 13th, 14th, 15th
April 1954

Recorded by:-
(Sgd) Y.A. Asare
Registrar

Cross-examination
(continued)

Parties in Court.

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Cross-examination continued:- When the land was founded we got boundary with the Ohene of Nkum. On the ancient boundary Ama Asarwa told my ancestors that that portion on the land had been given to her and that we had trespassed on it and so he took action against us for trespass. There is no modern boundary between us and Ama Asarwa. The ancient boundary with the Ohene of Nkum is still regarded as the boundary with Ama Asarwa. I was not present when the Ohene of Nkum gave the land to Ama Asarwa. I stand here for and on behalf of Ama Amoabimaa representing the Ampiakoko Section of the Yego Family of Apaa Quarters. Since I was not at Nkum, I cannot tell what actually happened there. The Nkumhene said that he got boundary with Yego Family of Ampiakoko Section and not you. I was pleased with what Ama Asarwa did because we are of Yego Family. Yes, I know Chief Arful, a member of Nana Yego Family. I do not remember that 1st Defendant had ever taken action against Kofi Donkor in respect of the lands in dispute and a stool in which Chief Arful gave evidence. It is because 1st Defendant took action against Kofi Donkor claiming ownership of the lands, in dispute, that made us the real owners to resort to this suit. I challenge any evidence to the effect that Arful gave evidence in that case. In Kofi Donkor's case Arful gave evidence in it. Yes, Kofi Donkor is a member of the Ampiakoko Section. I was not present when Arful gave evidence and so I cannot tell what he said at Court. When you produce any evidence of Arful as certified true copy I will have nothing to say. I do not know anything in Arful's case and cannot say that Arful of Yego Family of Nana joins you only in funeral rites.

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Native Court:- Further hearing adjourned to tomorrow Thursday 15/4/54 at 8.30 a.m.

Recorded by:-
(Sgd) Y.A.Asaro
Registrar

(Mkd) Kofi Amponsah II
President
Gyasehene

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th,13th,14th,15th
April 1954

Cross-examination
(continued)

15th April 1954

15.4.54

Parties in Court.

10 Cross-examination continued:- Yes, Kofi Donkor is among this suit. When you took action against Kofi Donkor, we applied to be made parties to the suit but you objected to it and so I am not prepared to answer any question having reference to Kofi Donkor's witness Arful who it is alleged to have said "Amaa Yego Family is composed of 5 houses and that they are all in doing anything." Kofi Donkor is among this suit as he being a member of the Amplakoko Section. The action was against

20 Kofi Donkor personally and so I cannot answer to any questions arising out of Kofi Donkor's case. The present location of the Girls' School of Nyakrom is not the spot where Kofi Donkor felled palm trees which Adumoah 4th Defendant got from him. Yes, I remember Fiawo was a witness for you in that case. Yes, I remember that Mr. Armah was a witness in the case. It is a land in a town which extends into the bush. The land was a farmstead which

30 Kofi Donkor cultivated. Yes I remember my elder by name Nkansa made a cassava farm at Gyekyoga land and 3rd Defendant got the farm from him. The spot was Nkansa's farmstead. No our cemetery is not on this land in question wherein a litigation arose. All these are part and parcel of Apaa lands but there are owners. I know that Gyekyogya land belonged to our ancestor named Edwin. Yes, I know a land called Ayitey Maaso. Yes, I remember that 3rd Defendant

40 went and felled Mango trees and apple and Nkama lodged a complaint against him. It is not because of Ayitey Maase that Nkansa made the complaint but on the destruction of his cultivated plants. Abuoni Maase is one of Apaa lands. Ayitey Maase is also one of Apaa lands. When Yego Family is mentioned, you are not among. When Abounin was the head of the Family, you were away as Yego Family. Ampiakoko ruled for a very long time before he died.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5

Kofi Boye (Continued)
12th, 13th, 14th, 15th
April 1954

Cross-examination
(continued)

I cannot tell how long. Abuonyi only looked after the stool but he was near an occupant.

Q. In the case Kwame Badu vs. Chief Yaw Nkum, Nkansah stated that Abuonyi succeeded to Nana Ampia. What do you say about it?

A. I say that Abuonyi was only a regent or a caretaker and not an occupant, at any rate when stool occupants are being named, he should be named as well. Abuonyi never lived for a year when he acted as caretaker of our Stool. Yes, Kofi Nkansa ruled for a very long time. Opanyin Abaka ruled for many years before he was destooled. 10

This history is more than years ago and so I cannot tell how long. Yes, I remember 4th Defendant gave a portion of Otsinkorang land to a certain Fanti man and we got it from him and shared with the Fantiman.

By Court

Examination by Court:- When Ampiakoko was alive, the Defendants have not come to Nyakrom and so they don't know him. It was after the 4th successor that they made one with us. When we separated ourselves, the Defendants were known as Yegos and we were also known as Yegos - Ampiakoko Section. The cutting of the Family tie was brought about by 4th Defendant and his followers - When Kofi Donkor was made the head of the Family all the Defendants were among with the exception of 1st Defendant and 1st Co-Defendant and their followers:- 20 30

(sic) When Kwabona Obu was made the Abusuapnayin, we Ampiakoko members presented him to all the Sections of the Family. When Kwabona Obu was the Abusuapanyin all the lands of Yego Family Gyekyegya, Abuonyin, Maase, Mansaade, Otsinkorang, Bosumpa and Obuafi. These lands have owners but we made one and asked our head to

(sic) surpervise them all. All of us own immovable properties on all the lands. They own properties on our lands. When there was a litigation on the land all the expenses were given to the head a member of our Section to pay because we are the owners of the land. We agreed and paid all the expenses. After we had paid all the expenses they still enjoyed the harvest on their farms on our land. There has been no litigation on the lands owned by the Defendants' ancestors. With the exception of Abuonyi none of the Defendants' ancestors has ever occupied our Family Stool until now. When 40 50

Abuonyi was acting as regent on the Stool, he had no Abusuapanyin. It is not the whole Family who made Abuonyi the regent but my elder named Kobina Agye. A Chief is a person elected and installed in accordance with Native Custom but a Regent is only appointed to act in place of a Chief. A regent is never known to a Chief and he cannot travel with a Chief of a town.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.5
Kofi Boye (Continued)
12th,13th,14th,15th
April 1954
Cross-examination
continued

10 Obaatan Apu - 15th, No.6
26th April, 1954

No.6
Obaatan Apu
15th,26th April 1954
Examination

1st Witness for Plaintiffs - Obaatan Apu - Sworn
on Bible states:-

I live at Nkum Agona. I am Abusua Bataan of Abradze stool of Nkum. My great grand uncle Nyarko Attua founded Nkum town. During his time the Ashantis came to Nkum to trade. He therefore built a market. By that time a man named Ampiakoko of Nyakrom came there to trade.
20 When the market became defunct, Ampiakoko went to Nyarko Attua for a hunting ground. As they were intimate friends, he went with him into the bush and showed him forest land. He asked Ampiakoko to take the right side of the forest land. He gave it to him for good. Nana Ampiakoko built 2 cottages one known as Busumpa and the other Otsinkorang. The land is still there for his descendants.

Exd.by Plaintiffs - No questions.

30 Xxd by Defendants:- Yes, I know some of the history of Nkum Markot. I have said here that the market was built by Nana Nyarko Attua. I have not been told that when the market was being installed a person was kill as sacrifice. I challenge any evidence to the effect that the Market at Nkum was built by Ashantihene Karikari. I challenge you that the market was not opened by General Amakwatia of Ashanti. I cannot tell what
40 caused the markot to be defunct. When the land had not been given to Ampiakoko, we got boundaries with Akroso, Anamase, Odoben and Nyakrom. My great grand uncle gave only his land to Ampiakoko. He never gave somebody's land to him wherein he could inform those with

Cross-examination

(sic)

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.6

Obaatan Apu (continued)
15th, 26th April 1954
Cross-examination
(continued)

whom he got boundaries. When he had not given the land to Ampiakoko, he had boundary with the Ohene of Akroso as well as Ohene of Anamase. In the ancient time bush tracks were recognised as boundaries. These tracks were demarcated by both parties. When the land was given to Ampiakoko, Ampiakoko limited himself to the portion my ancestor gave to him. When Ampiakoko came to the forest he came with his elders. I do not remember that Baasi came with him, and even I have not been told of that. I did not hear that Abuonyi came with him. I was told that he came with his brothers but their names were not mentioned to me. I do not know that the three persons named were the people who came with Ampiakoko to Nkum. I say the gift was made to Ampiakoko, he was a Chief and so he came with followers:- I do not know that you are all of Yego Family because I do not stay with you in one town. Yes, I know the late Ama Asarewa, Quartey's mother, I remember that she litigated with the Yego Family on land boundary, the land given to Ampiakoko. I remember that Quartey stood and represented him mother in the case. I was not told of the person who represented Yego people in the case. I am giving evidence on what actually happened at Nkum during the time of my grand uncle Nyarku Attua. Yes, some of my brothers and sisters are in Bobikuma. I do not hail from Bobikuma and so I do not know the town history. I do not remember that when Tekyi of Bobikuma came to Nkum you had got these lands in dispute. I have never been on the Stool of Nkum. When Ama Asarewa took action against Yego Family the Abradze Family of Nkum was in existence. The Family did not join the suit. Yes, I know that Ama Asarewa got boundary with the Yego Family.

(sic)

Native Court:- Further examination adjourned till Monday 26/4/54 at 8.30 a.m.

(Mkd.) Kofi Amponsah II
President
Gyasehone

Recorded by:-
(Sgd) Y.A.Asare,
Registrar.

26th April 1954

26.4.54.

Parties in Court.

Witness still on oath.

10 Cross-examination continued:- I do not know that you have made a new boundary with Ama Asarwah on this land in dispute. I have not heard that you have had a case with Ama Asarwa and that a modern boundary has been made by both of you. Nkum Abradze Family consists of 5 houses. I do not know Yaa Badwua of Nkum. Yes, I know Ama Okraa of Nkum. She is one of the Abaatan of Nkum. Yes, I know Kwesi Donkor of Nkum. He is one of the Abaatan of Nkum. Kobina Tekyi is one of the Abaatan of Nkum, as well as Kobina Agyir. All the five Abaatan are one, and not three only. Ama Asarwaa of Nkum is in Ama Okraa's Section of the Nkum Abradze Family. Kobina Agyiri is in his own section of the Family. Yes, I know the Ex-Chief of Nkum by name Kojo Nkum, he is of the Abradze Family. He is in Abeka's Section. I am in Tekyi's Section of the Abradze Family of Nkum. There is no difference among the whole 20 5 Sections of the Family. All matters dealing with the stool is dealt with by all the 5 Sections but regarding individual section matters are dealt with by the Section concerned. When the name of Abradze Family is mentioned then it means the 5 Sections of Abradzi Nkum. I have been an Abusuabaatan for almost 3 years ago. It is never true that my grand uncle Takyi was made Obaatan after the Yaa Asantewa war. 30

Re-examination by Plaintiffs:- The Abradze Abusua of Nkum are one. We never came from different town before we made one.

40 Exd. By Court:- The subpoena was first served on the Ohono of Nkum. He gave me a note to represent him but when he abdicated, I was served with a fresh subpoena personally. When there was no litigation between the two parties, I did not know how they call them because I do not stay in Nyakrom. At present I know that both parties are from Yego Family of Nyakrom. What I know of this land is that it belonged to Ampiakoko and his descendants. When Ampiakoko came to Nkum, he came with his attendants who were Nhenkwafo. When the Yego Family litigated with Ama Asarowa, I was not the Obaatan of Nkum.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.6

Obaatan Apu (continued)
15th, 26th April 1954
Cross-examination
(continued)

Re-examination

By Court

In the Agona "B"
Court

No.7

Kweku Atta - 26th, 27th April 1954

Plaintiffs' Evidence
(Continued)

Statement of Plaintiffs' 2nd Witness - Kweku
Atta - s.a.r.b. states:-

No.7

Kweku Atta
26th, 27th April 1954
Examination

I live at Nyakrom. I am a farmer. I am a descendant of Ampiakoko of the Yego Family. I know that the Yego Family of Apaa Quarters consists of 4 houses. We are not members of one descendant. We came from different places. In the olden days our ancestors united and did everything in common. Because of the unity, we Ampiakoko Section gave over land to the other Sections to live on. The other Sections also gave their lands and all of us live on. About 5 years ago, a dispute occurred between the Ampiakoko Section and the other sections of the Yego Family. We took action against Kwesi Adumuah one of the heads of the other 3 Sections before this Court during which the family tie was cut. All customs in connection therewith was observed. Kwame Badu and his people ejected us from their family land at Gyekyegya as a result of the break. My late grand mother Akua Ketse's cocoa was taken from her. Yaw Nkromah's cocoa was also taken. My mother Sarah's cocoa was also taken. Plaintiffs cocoa farm was also taken. My cocoa farm cultivated by me was taken from me. 4th Defendant also told us that we should not stay on his ancestral land known and called Ebuonyi. When our Elder Kofi Donkor went and felled Oil Palm trees, 4th Defendant took action against him claiming damages for trespass. Kofi Donkor was found guilty. After that the Ampiakoko Section met and arrived at a decision to the effect that, through the Union we allowed the other Section to live on our land but once we had been driven away, we too would drive them from ours. We deputed our Linguist Yego and Kwame Halam asking them not to step on our lands in dispute. 1st Co-Defendant sent to tell us that the lands belong to their ancestor and that they would not get out of them. We decided upon taking this action. That's all I know.

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Exd. by Plaintiff:- No question

Cross-examination

Xxd, by Defendants:- Formerly when there was a dispute or debt on the land all of us pay for

the cost. Yes, I know Kofi Nkansa Yaw Nkum and Kobina Obu. They are elders and I am young. "Gyegyegya and Abuonyi Maasa" are your ancestral lands we are included. I have heard of Agya Ayitey but I don't know him. He is my grand uncle. I do not know that Agya Ayitey got a land known as Ayitey Maase which is adjacent to Abuonyi Maase. I do not know that Takyi cultivated Ayitey Maase and Ayitey got it from him. I travelled and so I do not know. Yes, I know Opanin Nkroma. He owned a land known as Mansaade. I have not been told that Abuonyi and Gyegyegya are Yego Family lands, Kofi Donkor is my uncle. Yes, I know that Kobina Obu had once been an Abusuapanyin. Yes, I remember that Kofi Donkor had once been an Abusuapanyin. Kobina Obu is not among us who took the action. Yes I am among the Ampiakoko Section who took action against you. Yes, I have right to bear evidence in this case. Yes, this action was taken by the whole members of the Ampiakoko Section. Yes, Kobina Obu is amongst us.

Question: Do not you remember that Kobina Obu had said here that Abuonyi Maase is the ancestral land of Apaa Yego Family and that Adumoah took action to claim the portion where he had personally cultivated.

Answer:- I have not said anything to that effect and so wait until Kobina Obu comes when you will be at liberty to put that question to him.

Question: Once you have said here that Kobina Obu is one of the Plaintiffs, how can he come here so that I cross-examine him.

Answer: I am not representing Kobina Obu and so examine me on what I have said.

Exd.continued:- No I do not remember that Obuafi and Otsinkorang lands belong to the whole members of the Apaa Yego Family, but Ampiakoko's descendants. Ampiakoko's descendants are known as "Yegofo". You are known as "Yegofo". When all of us unite we call ourselves "Yegofo". Yes, I have heard that Yeko people have once taken action against "Yego Family". Yes, we Yego Family obtained judgment. Yes, I know 5th Defendant's older known as Okyame Kwesi Mensah. I remember that he represented Yego Family. I have heard of Ama

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.7

Kweku Atta
26th, 27th April 1954
Cross-examination
continued

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.7

Kweku Atta
26th, 27th April 1954
Cross-examination
continued

Asarewa of Nkum but I do not know her personally. Yes I remember she took action against my elder Yaw Nkum of Yego Family. Yes I know the 2nd Defendant. He was a Linguist and so he spoke for and on behalf of the Yego Family. I remember that the late Kodjo Kyir, your brother, represented in the case. I do not remember that Apaa Yego Family had taken action against 1st Defendant on burial grove. Yes I remember of a case entitled "Kobina Obu 10 as Head for Himself and on behalf of Yego Family versus Kwamin Badu". I remember that G.N. Hayford, 2nd Co-Defendant herein represented in the case. Yes I remember he said Hayford was his nephew. By that time, Ampiakoko Yego Family was in existence. By that time we were one, we had not broken the Family tie hence we did not take the action in the name of Ampiakoko Section of the Yego Family. By that time we could have taken action in Ampiakoko's name. 20 That action was in respect of a burial grove. Burial grove is a landed property. When we were one, we the Ampiakoko Section elected Kweku Attah as head of the Family but you objected to it. The case went as far as State Council and our election was not approved. It is not because the property belongs to us all that caused the State Council to intercede in the case and oppose to Kweku Attah's candidature. 30

Order of State Council dated 22/2/49 read in Court.

Exd. continued:- It is because we were one, the Stool belonged to us in general.

Question:- If some one tells the Court that all expenses in connection with the lands in dispute is borne by you, is he telling lies or truth?

Answer:- I cannot answer this question.

Yes, I have heard of Nana Abuonyi 4th Defendant's ancestor. I remember he was made a caretaker of our family Stool. 40

Extracts in a case heard on 4th September, 1943 and 12th September, 1943 were respectively read.

Witness:- I have heard all those but I have not said so in my evidence. Yes, I heard of

the case that was hearsay in Nsaba long ago. I was told Kwesi Mensah represented in the case. As I was not present, I cannot challenge any evidence in the case.

Native Court:- Further hearing adjourned till 2 p.m. today.

(Sgd) Gyasehene Kofi
Amponsah II
President

Recorded by:-
10 (Sgd) Y.A.Asare,
Registrar.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.7

Kweku Atta
26th, 27th April 1954
Cross-examination
continued

Parties in Court.

Witness still on oath:- Yes, I know Kofi Okai. I heard that he took action against Kofi Donkor for having taken out his cocoa farm but I do not know the cause. I never heard that he took action against Yego Family. I heard that he took action against Kofi Donkor for Yego Family. I was not present and so I do not know on which land the action was taken. I heard that it was being said in town. I know that Kofi Donkor has been our Abusuapanin but I do not know anything in connection with that cocoa case. No I do not know Yaw Ananse. No I was not present when the case was being heard. I do not remember that I went with 2nd Plaintiff and 1 other to assault 5th Defendant when the case was heard at Accra. I don't remember that when Kofi
20 Donkor was the Abusuapanyin he got some
30 people's cocoa from them. I do not know that the Ampiakoko Section have asked Kofi Donkor to return Kofi Kai's cocoa to him. If the Ampiakoko Section have told Kofi Donkor to return Kofi Kai's cocoa farm to him, I cannot challenge that.

Claim in case Kofi Okai and Adjoa Okunani etc. vs. Yego Family per Kofi Donkor (head of Family Apaa Section Nyakrom dated 29/3/49) was
40 read and interpreted.

Witness:- I do not know anything about what has been read. Yes, I say in truth that we have cut the Family tie. Your personal name V.K. Ninson was not on the writ when the family tie was cut. 3rd Defendant's name was not in. 2nd Defendant is away. 6th Defendant is among.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.7

Kweku Atta
26th, 27th April 1954
Cross-examination
(continued)

1st Defendant is among. 2nd Co-Defendant too was among those summoned. I will challenge any evidence to the effect that you were not among those who cut family tie with us. I now admit that the action was against Adumoah. Yes, I know that you and 1st Defendant are from one section of Apaa Quarters. Yes, I know Kofi Agyei of Apaa. He is one with 5th Defendant from one section of Apaa Quarters. Yes, I know that 4th Defendant represents one house of Apaa Quarters. When 4th Defendant got a case, it affected all of you because you are his followers. Yes, I was in Court when the Family tie was cut and I heard the order. You were not served with writ of summons but you were included in the order, Exhibit "A". I do not know whether you were served with the order of the Native Court respecting Exhibit "A". I do not know whether a Court order is to be served on any person who is not present when the order was given. Yes, I know that the case went on appeal, Exhibit "B". I did hear that the Magistrate said that the Appellant had appealed against nothing. I admit the clause in Exhibit "B" which states inter alia "There is therefore nothing to appeal against". I admit Exhibit "B" to be correct. We took action to claim 3 lands Obuafi, Otsinkorang and Busumpa. Yes, there are boundaries in the case. The Yeko Family took action against Busumpa and Otsinkorang lands. I cannot know the cause which led to the action. I do not know whether it was the slaughtering of a sheep on the land at Busumpa that brought the action. No it is not on account of the slaughtering of sheep by the Yego Family that brought the action. I do not know that where one member of the 4 houses of Apaa Quarters of Nyakrom has cultivated by his own cutlass belongs to him. I retract from what I have said. I say again that where one has cultivated belongs to him. If someone goes to cultivate on that same portion then he has committed trespass. All these are the custom relating to farming. It is not our custom to take action against a person who has cultivated a land with his own cutlass. No it is not true that myself, Kofi Boye, Mr. Manso Okyeame Kofi Nyarku and Mr. Quartey conspired to give Quartey £45 to assist me to be Chief and when I succeeded I would sue you in the

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name of Ampiakoko and take all properties from you.

Plaintiffs' Evidence
(Continued)

Native Court:- Further hearing adjourned till tomorrow at 8.30 a.m.

No.7

(Mkd). Kofi Amponsah II,
President
Gyasehene.

Kweku Atta
26th, 27th April 1954
Cross-examination
(Continued)

Recorded by:-
(Sgd) Y.A. Asare,
Registrar.

10 27.4.54.

27th April 1954.

Parties in Court.

Witness still on oath:- I do not know Dr. Okuta Danquah. I know Mr. Titus Nkum of Nyakrom. I do not know his brother the Doctor. I do not know that Titus Nkum bought a Morris Van Car. I don't know anything about the £45 bribe alleged to have been given to Quartey. I do not know a driver in Nyakrom known and called Kwateh. I do not know Agya Kweku Akyer of Nyakrom. I do not remember that I have ever been to Asafo where you came to catch me. I and my followers escaped into a house. Yes, I remember the Kyekyegya land was pledged to my elder for £14. Yes, you have redeemed the land. When the land was pledged to my elder, he worked in it. When the land was redeemed the property on it does not belong to the owner. I cannot ensure whether when a land is pledged and a farm is done on it, the owner has right to redeem the property and take possession of some. A.F. Ambah is still working on Kyekyegya land. Sarah is working on the pledged land of Kyekyegya. 1st Plaintiff works on the very land. Yes, Akua Kete works on this very land. Yes Yaw Nkromah works on this very land. When a property is pledged and is redeemed it is not for the pledgee. No only 3 houses of Yego Family made Kofi Donkor the head of the Yego Family viz:- Aduamoah, Otsinkorang and Abeka's houses. Kofi Donkor has been destooled by Ampiakoko Section that is Abaka's house. If the Plaintiffs say that 4 houses elected Kofi Donkor as Chief, then it is Henry Saa and his people who joined us to make four. Yes, I have said here that Yego Family of Apaa Quarters is composed of 5 houses. Yes, I know that the lands in dispute got boundary with Anamase people.

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In the Agona "B"
Court

Re-examination by Plaintiff:- The burial grove is not part and parcel of the land in dispute.

Plaintiffs' Evidence
(Continued)

Defendants:- I object to the question being asked.

No.7
Kweku Atta
26th, 27th April 1954
Re-examination
Objection
Ruling
By Court

Native Court: Objection overruled.

Exd. by Court My elder worked on Kyekyegya land before it was pledged to him for £14. The land was only pledged to my elder and not the work on it. All our properties were on the land and they were all included in the pledge. 10
There was no time limit, in the pledge. All the proceeds were realised to the Pledgor as interest. When there was no split, in the Family Busumpa Obuafi and Otsinkorang lands belong to the Yego Family.

No.8
Bonam Okwan 27th
April 1954
Examination

No.8

Bonam Okwan - 27th April 1954

3rd Witness for Plaintiff - Bonam Okwan -
Sworn on Korai states:-

I live at Gomoa Chini. I am an Ohene. I 20
went to Nyakrom about 30 years ago. I lodged one Kofi Omane, a brother to 6th Defendant and a nephew to 1st Co-Defendant. I told Omane that I wanted a land to farm. He told me that Abaka got some and that he would go with me to him. When we went to Abaka, Abaka told me that his grand uncle Ampiakoko got a land known as Otsinkorang and Busumpa but they were far away and if I wished he would depute a bearer to go to show me. He deputed 30
Owuba and Kwesi Donkor and they went and showed me Otsinkorang land. When we returned, he demanded rum from me. I provided the rum and he poured libation to Ampiakoko and gave the land to me to work on. He asked me to find other people to carry on the work. I fetched many people and stayed at the village. While we were working on the land, Opanin Abaka was destooled and Opanin Kwa Nkum was ousted. When Yaw Nkum was the Chief the 40
whole land was surveyed on acreage system and it was resolved that all the tenants should pay £300 annually to Chief Yaw Nkum. Kwabena Obu told us that the land had been pledged to 4th Defendant for £700 and so we should pay the annual rental to 4th Defendant. At the end of every year 4th Defendant came with

Kofi Nkansa and Teacher Ampia and I collected the rents to them. I collected the rents for 5 years with a total sum of £1,500 to the 4th Defendant, Kobina Obu was destooled and Kofi Donkor was enstooled. Kofi Donkor made us to understand that he had redeemed the land from plodge and that the annual rent should not be given to 4th Defendant any longer. I pay the yearly rent to him up till now.

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.8
Bonam Okwan 27th
April 1954

Examination (Contd)

10 Exd. by Plaintiffs: No question.

Cross-examination

Xxd. by Defendants:- I have heard of Apaa Yego Family of Nyakrom but I have not met them to discuss any matter with them. Yes, I stayed with Amano for about 6-7 years before I went to Otsinkorang lands. Yes, I know Amane stayed in Apaa Quarters of Nyakrom. Yes, I know that Opanin Abaka stayed in Apaa Quarters. Yes, 4th Defendant; also stays in Appa Quarters. Yes, Opanin Kwame Badu stays in Apaa Quarters.
20 Yes, Sub-Chief Yaw Nkum stays in Apaa Quarters. I do not and cannot tell whether they are all members of the Yego Family. Yes, I know the late Abrowa Okowah. I was among those who performed the funeral obsequies. Yes, I know the late Nkroma, Kuma. I am a stranger, when my landlord's mother died, I attended the funeral but I cannot tell whether all the people who attended were members of one Family. Yes,
30 I know Okyeamo Kwesi Mensah. He was a linguist to Opanin Abeka. I cannot tell whether he was of Yego Family. I challenge any evidence to the effect that I have said here that Okyeamo Kwesi Mensah is of Yego Family, Yes, I know Kwame Otsinkorang. I cannot tell whether he is of Yego Family. Yes, I remember having giving evidence in case Abusuapanyin Kwame Badu and ors. versus Kofi Donkor. I have not said that Otsinkorang was of Yego Family. Yes, I know that Aduamoah 4th Defendant herein is of Yego Family of Nyakrom. I know that where I stayed in Nyakrom is known as Apaa Quarters and not Apaa Yego Family Quarters. I heard that one Quartey had taken action against Yaw Nkum and not against Yego Family. When I went to Nyakrom, I found Opanin Abeka on Yego Family Stool. I have never said here that Quartey took action against Apaa Yego Family. I did not say here that Apaa Yego Family litigated with Quartey.
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50 Extracts of cross-examination in case Kwame Badu & ors. versus Kofi Donkor dated 1/7/54 read and interpreted.

(sic)

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No.8
Bonam Okwan 27th
April 1954
Examination
(Continued)

Examination continued:- I do not know that Otsinkorang land belongs to Apaa Yego Family. Yes, there is a plan between us on the tenancy. It is between Yego Family and the tenants of which I am the head. It is not stated on the plan that "APAA YEGO FAMILY". No, I have not said here that the plan is between Apaa Yego Family and Gomoa tenants.

Native Court:- Further hearing adjourned till 2 p.m. today.

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Recorded by:-
(Sgd) Y.A.Asare.
Registrar

(Mkd) Kofi Amponsah II,
President,
Gyashene.

Parties in Court.

Witness still on oath states:- Record of 1/7/52 was shown to witness in which he is alleged to have said "There was a plan made on this Otsinkorang land by the Apaa Yego Family and the tenants on this Otsinkorang land".

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Witness continued:- I still maintain that I came to stay in Apaa and Opanin Abeka gave the land to me. I remember I have said here at the last hearing that there was a litigation between Kwame Badu and Kwabena Obu and not Apaa Yego. (Reference was made on an extract of statement given by the witness "It states during the sheep head case between the Apaa Yego Family"). Yes, I remember that the Court asked me of Opanin Abeka and how he gave me the land, I said he gave me the land while he was on Apaa Yego Family but he told me that the land was acquired by Ampiakoko. Yes, I have said here in the last case that Owuba and Appiah went and showed me the land. On the first instance, I went with Owuba and Kwesi Donkor to inspect the land. On the 2nd occasion when I went to work on the land I went with Owuba and Appiah. During the examination by Court in that case, I mentioned the name of Appiah and Owuba because they went and cut the land to me after I had paid the Aside, or after I had gone to inspect same. On the first occasion Owuba and Kwesi Donkor showed me the land but when I agreed to work on it, Owuba and Appiah took me again and showed me all the forest land. Owuba and Appiah put me on the spot where to work. The receipt was

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given me in the name of Yego Family. Extract shown to witness and he admitted it. Yes, I remember when Otsinkorang land was being surveyed. Opanin Yaw Nkum and many people came. Yes, 4th Defendant was present when the land was surveyed. Kofi Amane was present. I did not see 5th Defendant that day. Kofi Nkansa was present. He is nephew to Opanin Abeka. Opanin Kyer was also present. All those who came were brothers. Yes, Opanin Abeka wanted to sell the portion which I have cultivated to me. I do not remember that 4th Defendant late Kofi Amane and late Kojo Okyir protested against the sale. The vendor told me that he had got the money he needed and so he had abandoned the sale. Yes, I remember that when the land was surveyed we were asked to pay the expenses of which we the tenants paid. Yes the Surveyor was Mr. I. B. Forson, we paid £200. No I do not remember that we refused to pay the amount. The whole amount was £250 but we begged to come to £200 of which we paid. I do not know Apaa land history.

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In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No. 8
Bonam Okwan 27th
April 1954
Examination
(Continued)

Exd. by Court: When I went to Nyakrom, I met Abeka on the Stool. I stayed on the land for about 7 years before he was destooled. Yes, he told me the name of his family. I was at village and when I came home I met Opanin Abeka's brother Kofi Arhin. Yes, 3rd Defendant owns a property on Otsinkorang land. I pay the yearly rental to Kofi Donkor a descendant of Opanin Abeka. At present I pay the rent to Opanin Abeka's descendants - (Ampiakoko descendants). None of the Defendants are to collect land rent from the tenants. 3rd Defendant told me that he was of Yego Family. I am speaking of Otsinkorang land. Kwoku Agyiri also own farm on the land. All other people on the land are tenants. When I go to pay the annual rent, I don't see 4th Defendant there. When the land was given to me none of the Defendants were present. Okyeame Mensah, Kofi Arhin and Opanin Amane were the only witnesses on the part of Opanin Abeka when the land was given to me. Opanin Abeka got no farm of his own on Otsinkorang land. All the workers are his tenants. I have never paid any rent to Opanin Abeka where- in any of the Defendants have raised objection. Yes, I remember having given evidence in a case before this Court on my tenancy when the land was given to me those present were only witnesses.

By Court

In the Agona "B"
Court

No.9

Kwame Samang - 27th April 1954

Plaintiffs' Evidence
(Continued)

4th Witness for Plaintiff: Kwame Samang -
sworn on Bible states:-

No.9

Kwame Samang
27th April 1954
Examination

I live at Odoben. I am the Krontihene of Odoben. My grand uncle the late Nuako Atware own a land known as Nkwanta. The land formed boundary with Nana Ampiakoko of Nyakrom Apaa, whenever we litigate on the land, we litigate on our ancestor who founded the land. I litigate in the name of Nyako Atwere. Apaa Yaw Nkum with Ampiakoko. Quartey for Nyarko Atua. Anamase for Ayim Busam. We have all litigated on our land for our right in the name of our ancestors.

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Exd. by Plaintiff:- No question

Native Court:- Further hearing adjourned till tomorrow at 8.30 a.m. 28/4/54.

(Mkd). Kofi Amponsah II
President

Recorded by:-
(Sgd) Y.A.Asare,
Registrar

Gyasehene

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28th April 1954

28.4.54

Parties in Court.

Witness still on oath:-

Cross-examination

(sic)

Xxd. by Defendants:- I am not given evidence (sic) on Apaa Yego Family land but Ampiakoko's land which farms boundaries with my ancestor. Yes, I am the Mankrado of Odoben. Yes, I am of Yeko Family of Odoben. Yes, I know Opanin Aduamoah of Nyakrom 4th Defendant herein. I cannot tell whether 4th Defendant is of Apaa Yego Family. Yes, I know Apaa Quarters of Nyakrom. Yes, I know the late Okyiamo Kojo Kyir. I cannot know his family. Yes, I know the late Kofi Amane partially. Yes, he stayed in Apaa Quarters of Nyakrom. Yes, I know the late Okyiami Kwesi Mensah of Yego Family of Apaa Quarters. Yes, I know 1st Defendant Kwame Badu who resides in Apaa Quarters of Nyakrom. Yes, I remember that Ama Asarewa per J.B.Quartoy took action

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10 against Yaw Nkum in which I gave evidence. I know that Yaw Nkum was a Chief of Apaa but I cannot tell whether he was the Chief of any prescribed family. I know of Chief Yaw Nkum's Family or clan. I know that the late Yaw Nkum is of Yego Family. He stayed in Apaa Quarters. I know that Ama Asarwa took action against Yaw Nkum but I don't know that she took action against Yaw Nkum as Yego Family Chief. Yes, I remember that Okyeame Kwadjo Kyir gave evidence on my behalf in my Nkanta land case. The case was between Anamase Chief and me. I have three Aboaton (Section) under me at Odoben. No, I do not know Kwoku Antwi the Asafohene. I remember one of my deceased brothers was Kweku Antwi. Yes, I know the late Yaa Poma, she was my sister. Yes, I know Abokyi. My elders made Abokyi their Osafohene. Abokyi is my nophow. I have made him Chief of Asantoam. I remember I travelled but returned home in the Kaiser's War (1914). I cannot tell whether I returned from my journey 2 years before the arrival of Prince of Wales to the Colony (1924). Yes, I heard that the Prince of Wales visited Accra but I did not go there myself. I cannot tell the length of time (years) after my return from my travels and the arrival of the Prince of Wales. Yes, I remember I have once had a case with Madam Yaa Kesewah of Nkum. (She took the action against me). My older told me that the land of Nkwanta belonged to him but I cannot tell how he acquired it whether he stole it or not, it is for him. When the case between Kesewah and me, I never said that Odobenhene gave the land of Nkwanta to me. Yes, I know that Opanin Yaw Nkum and Aboka sold a land in which mine was involved but I went and took mine from it. We went into the bush before my portion was given to me. It is almost 18 years since their incident happened. Yes, I saw 4th Defendant, he went with the people and I came with mine. Yes, Okyiame Okyir was among. Yes, Apaa Nkansa was also among. I did not see 3rd Defendant because the people were many. No it is never true that when late Kojo Akyine was given evidence in my case, he demanded for rum but 4th Defendant told him that you Yego people never did that. There is some of the Abatan whose consent is not necessary when I intent doing a thing. In my opinion if I do not consult any of them, then I am justified. I do not know the history of Apaa Yego Family. I do not know the history

In the Agona "B"
Court

Plaintiffs' Evidence
(Continued)

No. 9
Kwame Samang
27th April 1954
Cross-examination
(Continued)

(sic)

(sic)

No.10

Defendants' Evidence

Vincent Kofi Ninson - 3rd May, 14th, 16th, June
1954

Parties in Court.

Case for the Defendants - Vincent Kofi Ninson
sworn on Bible states:-

10 I live at Apaa Quarters of Nyakrom. I am a
Produce Buyer. I stand for myself and on be-
half of the other Defendants as I did. About
years ago, when Bobor Fanti migrated into this
land from the North, my great grand uncles, the
head of whom was Nana Apaa and his brother,
Apaa Aku, Nana Sah, Nana Peprah and others came
and settled at a place in Agona and named the
place as "Siw-Mpaom". When they were in Siw-
paemu, after some time past, Nana Kofi Nkum
and members of his family male and female mi-
grated from Denkyira and stayed with them at
Siw Mpaemu. When my ancestors migrated from
20 the North, they brought their female members,
the prominent among them was Ama Obuamaa, Akua
Osaka, Afunwaa, Apaawa, Essi, Agyiriwa, Afua
Okyirwa and Obempomaa. When these people
settled at Siwmpaemu, they multiplied. They
decided among themselves to find a ruler to
look over them. They decided to create a
stool. They created a stool and named it
"COLONY STOOL". "Mpoamo Gua". The first rul-
er or occupant of the Stool was Nana Ampiaw.
30 During the reign of Nana Ampiaw, his brother
Afum and some members of the Family travelled
to Saltpond to trade in Salt. When they were
going they arrived at a dense forest known
as "KWAE TUMTUM". That place is at present
known as "AFUMTUMMIRI". My grand uncle saw a
certain man. When that man saw my grand
uncle, he said "here is a man". My grand
uncle also said "I am the man who is spoken
of". That man asked my grand uncle and his
40 people to wait on him. The man went into the
bush and returned with flasks of Palmwine and
presented it to my grand uncle. The man first
drank the wine in accordance with custom and
my grand uncle, also drank the rest. While my
grand uncle was about to drink, he poured
libation and said "Yee Ghosts of Yego and
Fetish, get this drink and follows me in my
journed as highway men are on the road and if

In the Agona "B"
Court

Defendants' Evidence

No.10

Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954.

Examination

3rd May 1954.

(sic)

(sic)
(sic)

In the Agona "B"
Court

Defendants' Evidence
(continued)

No.10

Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

Examination
(continued)

you drink and follow me, I will be able to annihilate any thief". That man said "Ah you have prayed to wake me in spirit' shake hands with me, I am also of the Yego Family". They shook themselves. My grand uncle demanded for the name of that man and the man said "I am Ampiakoko". My grand uncle asked him "Where do you come from;" he replied, "I am from Anyinase near Bontori". Ampiakoko also asked my grand uncle, "what is your name and where do you come from to meet me in this dense forest"? My grand uncle replied, "I am from Siwnpaemu and I am called Kwamina Afum". Ampiakoko told him that he was going but would write him at Siwnpaemu not long afterwards. Not long after Ampiakoko came to Siw Mpaemu. I want to tender a document into evidence to prove that Ampiakoko does not come from Ashanti as said by the Plaintiffs. 10

Registrar:- Certified true copy of a case do-20
cided on 25/7/50 in case Kwami Badu & ors.vs.
Kofi Donkor read and interpreted.

Plaintiffs:- No objection.

Ex. "M"

Native Court:- Accepted in evidence and marked Exhibit "M".

(sic)

Defendants:- When Ampiakoko came to Siwn-
peamu, he met Nana Fum and his family and all
members of the Yego Family. According to
custom Ampiakoko was shown round all the mem- 30
bers of Yego Family of Siw Mpeamu. Ampiakoko
also told my ancestor that he too was of Yego
Family and that he had come to visit them as
brothers. Ampiakoko ordered leave of Nana
Afum as he had left his sister Mansah at
Kwatuntum and that he wanted to go to see
her. They granted him leave to go. He went
and returned with his sister Mansah to Siw-
Mpaemu which is now known as Apaa Quarters of
Nyakrom. When Ampiakoko and his sister Man-
sah had not come to Siwpeamu, Nana Afum and 40
his people had created their Stool. When the
Stool was created, the first occupant was
Nana Ampilaw. He was a strong man. When Nana
Ampilaw died, Nana Fum who first saw Ampiakoko
at Kwaetuntum was the successor. When Nana
Afum died, the next successor was Nana Foh.
After Nana Foh was Nana Yaw Amoah. After
Nana Yaw Amoah was Nana Adobaw, next was
Hama, Tetteh, Nana Kwao Ater. It was during
the reign of Nana Kwao Ater that the people 50

knew that Ampiakoko was a dutiful and loyal member of the Yego Family. I want to tender into evidence an extract of evidence heard on 6/10/15 in which Kwame Otsinkorang 5th Defendant's uncle gave evidence into evidence.

In the Agona "B"
Court

Defendants' Evidence
(Continued)

Registrar:- Extract read and interpreted.

Plaintiff:- No objection.

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

Examination
(continued)

Native Court: Accepted in evidence and Ex."N" marked Exhibit "N".

- 10 Defendants: My grand uncle gave Ampiakoko's sister Mansah in marriage to one Adjiri, as stranger living in Siw Mpaemu. Adjiri had 3 issues with Mansah. He named the first Amoaboamimaa, the second Kwamfir, and the third, Apiaw. The third was named after the founder of the Stool Nana Ampiaw. When Nana Kwata died, the members of the Family then young elected Ampiakoko as Chief. Ampiakoko reigned for some time. His elders were Basi,
- 20 Otsinkorang and Abuonyi. The elders asked Ampiakoko to go with them to Nkum to find a land for the generation to live on. Then they got to Nkum they founded the lands of Obuafi, Busumpa and Otsinkorang. Those three lands belong to Apaa Yego Family. After they had got the land, Ampiakoko died. After his death, Nana Abuonyi was made his successor. He occupied the Stool and ruled over the whole of Yego Family. As the Family is one,
- 30 Kwame Badu took action against the whole members of the family and Kofi Nkansa stool for us. I want to tender extract of evidence dated 4/9/50 into evidence. I tender again another extract of a case entitled Kwami Badu per V.K.Ninson vs. Chief Yaw Nkum (abdicated) Stool of Yego Family substituted. Another extract in the same case is also tendered in evidence. It was dated 12/11/43. (sic)

Plaintiff:- No objection on the 3 Exhibits

- 40 Native Court:- The 3 Exhibits are accepted in evidence and marked Exhibits "O", "P" and "Q".

Exs."O", "P", "Q".

Defendants:- My grand uncle Abuonyi occupied the Family Stool for a very long time. He grew very old on the family Stool before he died. After Abuonyi Plaintiff's uncle named Nkruma occupied the Stool. After Nkruma was

In the 'Agona "B"
Court

Defendants' Evidence
(Continued)

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

Examination
(Continued)

Kobina Abeka. Abeka was destooled on account of the land in dispute. Yaw Nkum was enstooled. Yaw Nkum reigned for some time and afterwards abdicated. When Abeka was on the Stool, Kwame Badu 1st Defendant was and is still the Abusuapanyin. Abeka was placed on the thighs of 1st Defendant. I want to tender into evidence Exhibit of evidence given by Kofi Donkor in case G.N. Hayford versus Kofi Donkor dated 22/2/49.

Registrar:- Extracts read and interpreted in Twi.

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Plaintiffs: No objection.

Native Court:- Extract dated 22/2/49 is accepted in evidence and marked Exhibit "R".

Ex."R"

Defendants:- When Yaw Nkum was on the Stool, 1st Defendant was the Abusuapanyin. 1st Defendant offended the whole family and so he was deposed by all Sections of the Family. Kobina Obu was then made the Abusuapanyin. Kobina Obu also offended the members of the Family and so he was deposed. Kofi Donkor was made the Abusuapanyin, by all members of the Family. I want to tender the Statement (Extract) of Kofi Donkor given on 22/2/50 in case Kofi Donkor etc. versus Kwesi Aduamoah into evidence.

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Registrar:- Extract read and interpreted.

Plaintiff:- No objection. I have said here that Henry Sah & Co. joined us. 1st Defendant. 1st Defendant was not among.

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Native Court:- Accepted in evidence and marked Exhibit "S".

Ex."S"

Defendants:- From the time Yaw Nkum abdicated, we have not enstooled a Chief in our Family. The Abusuapanyin always rule over us. As the Yego Family is one, 4 of their ancestors have sat on our Family Stool. The origin of Apaa got its name from our ancestor who stayed in Siwmpoemu. He was known as Nana Apaa. Anybody who went there said "I am going to Nana Apaa's Quarters, hence the name "Apaa Apaa". I was to prove this that our ancestor Apaa Quarters, also the custom pertaining in our Family.

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Registrar:- Extract of evidence in case Kwesi Aduanoah versus Kofi Donkor dated 16/2/50 read and interpreted.

In the Agona "B" Court

Plaintiffs:- No objection.

Defendants' Evidence (Continued)

Native Court: Note accepted in evidence and marked Exhibit "T".

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954
(Examination)
(Continued)

Defendants:- Some of Nana Apaa descendants are at Okyiso by now. His ancestor Agyaa Apaa through hunting had founded lands at Ochiso. 10 Where they stay is known as Apa Street. The sub-stool of Okyeso is under our Family Stool of Nyakrom. At festivals they come to pay homage to the Stool Yego Family Stool of Nyakrom. At anytime we intend to enstool a Chief we have to invite them. We do everything in common. The members of Okyeso were present when we made Kofi Donkor the head of the Family. When we destooled him they were among. 20 Some of our relatives, through marriage are at Gomoa Dahum and Agona Abodom. The lands in dispute are the lands acquired by our ancestors and have since become our heritage. Men, women and children of our Family have right to cultivate, sell or use any portion of the land freely without questions. It was never founded by Ampiakoko alone but by our ancestors. Where one cultivates with his cutlass is considered his bona fide property. Kofi Donkor cultivated a portion but has sold it. Nobody 30 protested against that. He has Abusafo to work for him. We too got Abusafo who work for us. From Exhibit "T", we find that the land belong to us all. Kweku Atta 2nd witness has also said that where any member of the Family has cultivated, that portion belong to him. When there is a litigation on this land, all the 4 houses unite and embark upon it. Plaintiffs' witness Bonsam Okwan has testified on 1/7/52 that we are all known as Apaa Yego Family and 40 that we unite and embark upon the litigation. I want to tender into evidence the Statement given by him in case Kwame Badu versus Kofi Donkor on 1/7/52.

Registrar: Extract read and interpreted.

Plaintiffs:- No objection.

Native Court:- Accepted in evidence and marked Exhibit "U".

Ex. "U"

In the Agona "B"
Court

Defendants' Evidence
(Continued)

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954
Examination
(continued)

Defendants:- When you refer to Exhibit "N", you will find that Okyeame K. Mensah mentioned some of the ancestors of the Yego Family who founded the land in dispute.

Native Court:- Further hearing adjourned 2 p.m. today.

(Mkd) Kofi Amponsah II,
President.
Gyasehene.

Recorded by:-
(Sgd) Y.A. Asare,
Registrar.

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3.5.54

Parties in Court.

Defendants still on Oath:- These lands in dispute which were founded by the ancestors of Yego Family, when Kwami Badu and 11 others took action against Kofi Donkor, Kofi Donkor's witness Kobina Arful, a Sub-Chief of Nana Yego Family of Nyakrom, testified that Nyakrom Yego Family consists of 5 houses and that the lands of Busumpa, Obuafi and Otsinkorang are the properties of the 5 houses of Yego Family of Nyakrom. He added that Henry Saa is from his house in Nana. I want to tender his statement into evidence to the effect that the land in dispute is the family property.

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Registrar:- Extracts of Statement delivered on 21/6/54 read and interpreted.

Objection

Plaintiff:- No objection. I now change my word for when Kwame Badu and 10 others took action against Kofi Donkor, we applied to be made a party to the suit but the Court refused. When I tendered the paper in evidence, the defendants refused and I was asked to withdraw same.

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I therefore object to its being tendered into evidence.

Ruling

Native Court:- Objection overruled. Note accepted in evidence and marked Exhibit "V".

Ex. "V"

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Evidence in Chief
(continued)

Defendant: Kofi Donkor who is a member of the Yego Family of Ampiakoko Section said in case Kwami Badu and 11 ors. versus Kofi Donkor

that the lands in dispute is Apaa Yego Family property. I want to tender his statement into evidence.

In the Agona "B"
Court

Registrar:- Extracts of examination by Court to Kofi Donkor dated 18/6/52 read and interpreted.

Defendants' Evidence
(Continued)

Plaintiff:- No objection.

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

Ex. "W"

Native Court:- Extract accepted in evidence and marked Exhibit "W".

Examination
(Continued)

10 Defendants:- I say in truth that the land in dispute belong to us all. Our ancestors un-
ited and founded them. When the Yerkos took
action almost 39 years ago against Yego Fam-
ily, when the case was being heard at Nsaba,
Okyeame Kwesi Mensah, 5th Defendant's uncle,
subpoenaed the Ohene of Akroso Nana Yaw Darkwa
to give evidence on our behalf. Because of
his evidence we obtained judgment. He stated
definitely that the lands with whom he got
20 boundary belong to Apaa Yego Family and not
Amplakoko Section of the Yego Family. He
stated positively that the land belong to
Nana Abuonyi of Nyakrom Apaa. It is this
very person whom the Plaintiffs have named in
their claims that they got boundary with on
the East. During cross-examination by Court
in 1915, he stated that he got boundary with
Nana Abuonyi. Nana Abuonyi is an uncle to
30 now. I want to tender that statement into
evidence.

Registrar:- Statement dated 12/10/15 was read and interpreted.

Plaintiffs:- No objection.

Native Court:- Accepted in evidence and marked Exhibit "X".

Ex. "X"

40 Defendants:- The Ohene of Anamase Yaw Donkor gave evidence when the case was being heard at Nsaba. He stated in his evidence that the lands in dispute do not belong to one man. He stated that he got boundary with us at Obuho. He named Otorbo, Obonyi and Amplakoko as the Owners. He said during festivals Otorbo sent to the lands in dispute for meat. I want to tender his statement into evidence. It was because of these two statements that we obtained judgment. Exhibit "I" to be referred.

In the Agona "B"
Court

Registrar:- Statement dated 19/10/15 was read and interpreted.

Defendants' Evidence
(Continued)

Plaintiff:- No objection.

Native Court:- Statement accepted in evidence and marked Exhibit "Y".

Ex. "Y"

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954
Examination
(Continued)

Defendants:- As these lands belong to Yego Family, Apaa Section, one Ama Asarwa per J.B. Quartey took action against Yego Family in 1935 and not against Ampiakoko Section. The whole members of Yego Family of Apaa Quarters made one and faced the litigation. We borne the expenses collectively. Kofi Donkor failed to pay his tax and we caused his arrest and imprisoned him. All the Defendants were children and so they did not join us in the litigation. Ama Aboamimaa was not known in the Family as Obaahemaa. It is not our custom to get Obaahemaa in our Family. Ama Asarwa's case was heard in Nyakrom and ended in Cape Coast. At Cape Coast, we went into terms, before we went into terms, the Judge ordered that the land be surveyed and a plan made. Modern boundary was effected. I want to tender into evidence the Order of the Divisional Court, Cape Coast.

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(sic)

Registrar:- Order dated 17/9/41, read and interpreted.

Plaintiffs: No objection.

Native Court:- Accepted in evidence and marked Exhibit "Z".

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Ex. "Z"

Defendants:- At present Nkum stool has nothing to do with the lands in dispute. Ama Asarwa is the only person who has boundary with the lands in dispute. In the Ama Asarwa's case, 2nd Defendant stood on our behalf in the litigation. During his statement he named in Exhibit "K", that his ancestors were Ampiaaw Adobaw and many others. He said "Defendant Yaw Nkum is my own nephew". Yaw Nkum is one of the Ampiakoko Sections. "Because of that I have come to try the case as it affects the Yego Family". He said "Ampiakoko is my grand uncle, Essiaful, Adobaw, Ampiaaw and many others are all my grand uncles". I want to tender Kwesi Ayiah's evidence into evidence.

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Registrar:- Extracts of statement read and interpreted.

In the Agona "B" Court

Ex. "A1" Native Court:- Extract of statement dated 24/11/35 accepted in evidence and marked "A1".

Defendants' Evidence (Continued)

Defendants:- If Kwesi Ayiah said this then he knew the history that Ampiakoko and his sister Mansa joined us.

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

10 Native Court:- Further hearing adjourned till Monday the 10/5/54, at 8.30 a.m

Examination (Continued)

(Mkd) Kofi Amponsah II
President
Recorded by:-
(Sgd) Y.A.Asare,
Registrar.
Gyasehene.

20 Defendants still on Oath:- In this very case, Kwadjo Okyir, Linguist of the Yego Family of Apaa Quarters represented the Family when Kwesi Ahyine was away. Kwadjo Kyir is a member of the Family. He is a brother to 1st, 2nd, 3rd, 6th and 2nd Co-Defendants in this case. These people made one with Ama Asarewa and agreed by consent judgment in case Ama Asarewah per J.B. Quartey vs. Yego Family. Reference can be made from Exhibit "Z". This Apaa Yego Family of Nyakrom, have a tenancy agreement with Gomoa Farmers in respect of the land in dispute about acreage. This agreement was made in 1931, by the whole members of the Family. The elders of the Family were Kwamin
30 Otsinkorang 5th Defendant, late Kofi Amani, 4th Defendant, late Okyeame Kwadjo Okyir, late Opanin Badu, Yaw Nkum, the then occupant of Apaa Yego Family Stool in one part and Gomoa Farmers whose head was Mr. I.B.Forson on the other part as had been confirmed by Plaintiff's 3rd witness Okwan and Kweku Atta (2nd witness). About 5 years ago (1949) one Kofi Okai took action against Yego Family of Apaa Quarters Nyakrom on Obuafi lands. Obuafi land
40 is one of the lands in dispute. His claim was in respect of unlawful ejection from a farm cultivated by himself for a period of 3 years. As the land belongs to the whole family, we defendants faced the case without the Plaintiffs. If the land belongs to them according to their claim, they would rather have faced the case and not us. I want to tender the statement in respect of the case in evidence.

14th June 1954

In the Agona "B"
Court

Registrar:- Full proceedings dated 29/3/49
was read and interpreted.

Defendants' Evidence
(Continued)

Plaintiffs:- No objection.

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954
Examination
(continued)

Native Court:- Proceedings accepted in evidence
and marked Exhibit "A2".

Ex.
"A2"

Defendants:- The Plaintiffs never set in as
co-defendants. "This shows that the land does
not belong to them alone but to all of us".
The facts can be found in all the Exhibits
which I have tendered into evidence. It is
clear that the lands belong to the Yego Family
of Apaa Section, and not for one Section of
the Family. I want to refer to Exhibit "Q".
The name "Ampiakoko Section" is a new creature.
It was not known and has not been used during
all our litigations. This was made when the
Plaintiffs intended to enstool Kweku Atta as
the Stool Occupant of Yego Family, Apaa Quar-
ters vide Exhibit "R". Sometime ago, all the
members of the Yego Family took action against
Kwami Badu, 1st defendant herein. The action
was in the name of Yego Family and not Ampia-
koko Section. If there was something like
Ampiakoko Section, why did they not take the
action in the name. I want to tender a
summons dated 6th March into evidence which
proves that all actions were taken in the name
of Yego Family and not Ampiakoko Section.

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Registrar:- Read and interpreted.

Plaintiffs:- No objection.

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Ex. "A3".

Native Court: Accepted in evidence and marked
Exhibit "A3".

Defendants:- My witness the Ex-Chief of Nkum
Nana Asane will testify as to how this Ampia-
koko was founded. The Yego Family of Apaa
Quarters of Nyakrom are one, they do everything
in common in respect of their lands and stool.
Their Abusuapanyin is one, no distinction
whatsoever. In Exhibit "W" Kofi Donkor has
corroborated what I have said. Nana Adonten-
hene had also said before the Court that the
Yego Family of Nyakrom are one, I want to
tender his Statement into evidence.

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Registrar:- Statement dated 18th June, 1952
was read and interpreted.

Plaintiffs: I have no objection.

In the Agona "B"
Court

Ex. "A4"
Native Court:- Statement accepted in evidence and marked Exhibit "A4".

Defendants' Evidence
(Continued)

10 Defendants:- The Plaintiffs claim does not disclose that he had cut family tie with me and that he is claiming my lands. Eduamoah, the 4th Defendant, whom the Plaintiffs claim to have cut family tie with is on a land founded by his ancestor Abuonyi. There is no clause in the claim which states that they have broken family tie with him. The order of cutting the family tie which was made by the Adontenhene, is ineffective. If it is real, it does not extend to the followers of Eduamoah. The order is not valid. I want to tender into evidence an extract of an appeal judgment delivered by Mr. J. Wallis, Magistrate, Winneba dated 13/8/49.

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954
Examination
(Continued)

Registrar:- Order read and interpreted.

20 Plaintiffs: No objection

Native Court:- Extract of order accepted in evidence and marked Exhibit "A5".

Ex. "A5"

Defendants:- I want to tender into evidence the judgment dated 7/2/50 by C.G. Ferguson, Magistrate, Winneba.

Registrar:- Read and interpreted.

Plaintiffs:- No objection

30 Native Court:- Order accepted in evidence and marked Exhibit "A6"

Ex. "A6"

Defendants:- In Exhibit "A4", Adontenhene stated inter alia, "The Ohene of Nyakrom is the Mankrado of Nyakrom". When we destooled Kofi Donkor we kept him informed. He has testified before this Court that the Yego Family of Apaa Quarters are one. I want to tender his statement into evidence.

Registrar:- Read and interpreted.

40 Plaintiffs: No objection.

Native Court:- Statement accepted in evidence and marked Exhibit "A7"

Ex. "A7"

In the Agona "B"
Court

Defendants:- I want to tender extract of evidence to support Exhibit "R".

Defendants' Evidence
(Continued)

Registrar:- Read and interpreted.

Plaintiffs:- No objection

No.10
Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

Native Court: Accepted in evidence and marked Exhibit "A8".

Ex."A8"

Examination
(Continued)

Defendants:- When the whole members of the Yego Family destooled Kofi Donkor we passed through the right channel and enstooled Kwami Badu. We notified the authorities. I want to tender the relevant papers in evidence. The first General Meeting of Nyakrom on 22/11/52. Second removal of Kofi Donkor from position dated 22nd November, 1950. The third is Nana Adontenhene's letter to District Commissioner re Kofi Donkor's removal dated 9/12/50, and fourthly District Commissioner's letter to Adontenhene re Kofi Donkor's removal.

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Registrar:- All letters read and interpreted 20

Plaintiffs:- Owing to the separation of the Family tie, we got no dealing with the Defendants hence Kofi Donkor refused to attend to their call. By that time, we have fought with the Defendants and were under bond hence we did not go with them. They can tender into evidence.

Exs. "A.9" "A.10"
"B.1" "B.2".

Native Court:- All papers accepted in evidence and marked Exhibits "A9", "A10", "B1" and "B2" respectively.

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Defendants:- There is no Obaahemaa in the Family. In the Plaintiffs case, they stated that Kofi Donkor has not been destooled, why then should he sit aloof to allow 1st Plaintiff to bring up this action. I say that the Plaintiffs' claim is not for them alone but for the whole members of the Yego Family. The portion which they claimed to be boundary with Man-krado of Odoben is for the Ohene of Odoben. In conclusion, the land is for us all and not the Plaintiffs alone.

40

Native Court:- Cross-examination to start on Wednesday the 17/6/54 at 8.30 a.m.

Recorded by:-
(Sgd) Y.A.Asare
Registrar.

(Mkd) Kofi Amponsah II
President
Gyasehene.

16.6.54

Parties in Court.
Witness still on Oath.

In the Agona "B"
Court

Defendants' Evidence
(Continued)

Cross-examination by Plaintiffs to Defendants:

No.10

Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

Cross-examination
16th June 1954

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Yes, I know the late Okyeame Kwesi Mensah of Apaa Quarters, Nyakrom. He is 5th Defendant's grand uncle. I remember Yorko Family took action against Yego Family of Apaa almost 39 years ago at Nsaba. By that time Kofi Nkroma was the Chief of Yego Family and so the action was per Kofi Nkroma. Exhibit "Q" referred. I do not remember that Okyeame Kwesi Mensah said in his evidence that the lands of Busumpa, Buafi and Otsinkorang were founded by Ampiakoko alone. I do not remember that in 1935, Ama Asarwa took action against Yaw Nkum your elder. I remember she took action against Yego Family. As the Summons (Exhibit "R") refers to the whole family, the family deputed Kwesi Ayiah, 2nd Defendant herein to represent the family. All the statements he gave referred to the family. Exhibit "K" re-read. When the lands in dispute were founded, Ampiakoko was the Chief hence his name is always connected with the lands. I have said here that 3rd Defendant is a brother to the late Kwadjo Okyir. No I do not remember that Okyir gave evidence in Ama Asarwa vs. Yego Family. I admit that Okyir gave statement on behalf of the Yego Family vide Exhibit "L".

Yes, I know that Quartey represented Ama Asarwa in case Ama Asarwa versus Yego Family. No it is never correct that the lands in dispute were founded by Ampiakoko alone vide my Exhibits "M-B2". Yes, when you enstooled Kweku Atta as the occupant of Yego Stool, we sent a protest to the State Council at Swedru against his candidature. I have never heard that 2nd Co-Defendant had said before the State Council that your ancestors Amoabimaa brought forth the ancestors of the 5 houses of Yego Family Apaa Quarters. I challenge any evidence to the effect that your ancestor Ampiakoko first settled in Apaa before our ancestors. Exhibit "M" make it plain. Yes, Kwame Badu 1st Defendant, Kwesi Eduamoah, 4th Defendant and Kwame Otsinkorang, 5th Defendant are the heads representing individual houses of the 4 houses in which you are one. I do not know that you have broken family ties, with

(sic)

In the Agona "B"
Court

Defendants' Evidence
(Continued)

No. 10

Vincent Kofi Ninson
3rd May, 14th, 16th
June 1954

Cross-examination
(Continued)

By Court

us. Exhibit "A" referred. All of us own one Family Stool. No you have not broken family tie with us. Yes, I have said here that when there was no one to occupy our family stool we asked Ampiakoko your ancestor to occupy same. When Ampiakoko was made the Chief Abonyi and others were there but the selection fell on Ampiakoko.

Exd. by Court:- The first occupant of Yego Family Stool was Nana Ampiaaw. All of us own properties on the land in dispute. Formerly all 10 the monies accrued from the land were shared among the members of the Family. When we embarked upon litigation with Ama Asarewa, we used the proceeds in the litigation. Yes, we have finished with Ama Asarwa's litigation. Since we destooled Kofi Donkor from our family Stool we do everything in common with the Plaintiffs. Yego Family consists of 4 houses. No the 4 houses are not from one common ancestor. We are from various places and our ancestors united when they met at Nyakrom. All the 4 houses own one bulk of land known as Apaa Yego lands. Yes, Abuonyi Maase forms part of the Yego Family lands. Opanin Kwesi Badu's land "Kyekyegya", is also one of the Yego Family lands. Otsinkorang, Buafi and Busumpa are also some of the Family lands. I have never admitted that we have broken family ties with the Plaintiffs. I do not know that Kofi Donkor and his descendants and 4th Defendant's and his 30 ancestors have broken family ties. I am not a party to the suit entitled Kofi Donkor etc. versus Kwesi Eduamoah, and so I cannot answer any question arising out of that. No we have not taken the lands of Abuonyi Maase and Kye-kyegya from the Plaintiffs. Every member of the 4 houses is entitled to where he or she has cultivated with his or her cutlass. When Kofi Donkor was destooled, he formed one with his 40 people and founded Ampiakoko section.

No.11

Kweku Buah - 16th June 1954

In the Agona "B"
Court

Defendants' Evidence
(Continued)

1st Witness for Defendants:- Kweku Buah, Gyasehene of Akroso, sworn on oath states :-

No.11
Kweku Buah
16th June 1954
Examination

10 I live at Akroso. My ancestor the Ohene of Akroso by name Kweku Wasu (deceased) told me that the Akroso Stool land forms boundary with Nyakrom Apaa Yego Family in a "Krokro" stream. He said if ever one met any person in the bush and he says he came from Apaa Yego Family, Nyakrom, we must not dispute anything with him. He named the following persons as those with whom he got boundary, Abuonyi, Otubor, Boafi, Ampiakoko and others.

20 Exd. by Defendants:- I did not stay in Nyakrom and so I cannot state that both of you (parties) are of Yego Family. I know that you are of Yego Family. I know 4th Defendant as a member of the Yego Family of Nyakrom. I have once gone to Cape Coast with him to testify in a case. Yes, I know Kwami Badu and Otsinkorang. Yes I know all the Defendants. I have heard of the late Opanin Abeka of Nyakrom Apaa but I do not know him personally. I do not know of the late Chief Yaw Nkum. I have heard of Kofi Donkor but I do not know him personally. I have heard of the name Kwabena Obu but I do not know him personally. My elder told me that the lands in dispute belong to the Yego Family and not a private individual and so I will challenge any person who could step forward to lay claim to. I have heard of Ama Amoabimaa but I do not know her. When I was subpoenaed a witness, I was told by 4th Defendant that all the above-named persons were of Yego Family.

40 Cross-examination by Plaintiff:- I do not know the person who first founded the lands in dispute. I do not know the number of houses which form the Yego Family of Apaa Quarters. My elder told me that the lands were for a family and not a particular individual.

Cross-examination

Examined by Court:- When my elder told me of the people with whom he got boundary he mentioned 4 principal persons and anybody coming from their house was considered an owner. Yes, I remember I have given evidence in connection

By Court

In the Agona "B"
Court

Defendants' Evidence
(Continued)

with the lands in dispute before this Court. My ancestor told me that Abuonyi was the stool occupant. Yes, I know the land in dispute. I have given my portion on Abusa and so I don't go to the land nowadays.

No.11
Kweku Buah
16th June 1954
Cross-examination
(continued)

No.12
John Benjamin Quartey
16th June 1954
Examination

No.12

John Benjamin Quartey - 16th June 1954

2nd Witness for the Defendants:- John Benjamin Quartey, witness herein, sworn on Bible states:

I live at Nkum. I am a Poultry Keeper. A market was founded at Nkum known and called Amankwatia market. Many people from various places came to Nkum to trade. Plaintiffs and Defendants ancestors came there to trade on many occasions. When the market became defunct, my grand uncle Nyarko Attua deceased gave them forest land to farm. The land is known and called Busumpa and Otsinkorang. The lands form boundary with Okumani Bopong. On one side with Anamasi, on one side with Akroso and on one side with my grand uncle Nyarko Attua. The Apaa people and my ancestors became friends. I remember on the death of Mansowah, the Apaa people came to bury her with silk cover cloth. I say in truth that the lands of Busumpa and Otsingkorang are the properties of the whole Yego Family of Apaa Nyakrom and not the self acquired property of an individual. 10 20

Exd. by Defendants: Yes, I am a royal to the stool of Nkum. I have occupied the stool twice. Ama Asarewa is my real mother. I remember there was an action between my mother and the Apaa Yego Family in respect of Busumpa and Otsingkorang lands. The case was decided by the Nyakrom Tribunal and then went on appeal to the Commissioner of Central Province Court, Cape Coast. From Cape Coast, the case was transferred to the Divisional Court. At the Divisional Court, both parties agreed on amicable settlement. A Plan was made on the land boundary. Witness admits Exhibit "Z" is correct. Yes, I have a copy of the plan made 30 40

when the case went to the Divisional Court, the Plan was made according to the terms of Exhibit "Z". Yes, I know Kwesi Ayiah, 2nd Defendant herein. He is a member of the Yego Family of Apaa Nyakrom. He is one of the owners of the land in dispute. When my mother took action against Yego Family, he stood for the Yego Family. Yes, I know Kwesi Takyi, 3rd Defendant herein. I know he had an elder brother known and called Kojo Okyir (deceased). Yes, he is a member of the Yego Family. Yes, he contested with me in a case. Yes, he is one of the owners of the land in dispute. When my mother litigated with the Yegos on Busumpa lands Abrade Family of Nkum was there. They heard of the litigation. None of the members of the Abradze family joined in the action. Nyarko Attua is my ancestor and so the land is mine. The lands at Nkum had been divided among the heads of the family. That was why the members of the Abradzi Family did not set in. At present there is a modern boundary between us. When I was a Chief, a dispute arose between the members of the Yego Family Apaa Quarters, Nyakrom. The case was in respect of Kwaku Atta a newly installed Chief of which some of the members protested against his candidature and election. I remember Kweku Attah, Kofi Boye and Kofi Donkor came to see me one night to go with them to some place. They gave me £45 to give to the Ohene of Asafo and Kwanyaku. When we were going Mr. Ninson crossed us on our way and I refunded their money to them. The Plaintiff told me that they wanted to separate themselves and invented the name Ampiakoko Section. Prior to this meeting, the Yego Family of Nyakrom Apaa was one.

Cross-examined by Plaintiffs:- Yes, in 1935, I stood for my mother in her action against Chief Yaw Nkum of Yego Apaa Family. No I did not state that the lands of Obusumpa and Otsinkorang were founded by your ancestor Ampiakoko. Exhibit "J" read out to witness.

Defendants:- I object to the question being put to the witness in that he was not present when the paper was tendered in evidence. It was not tendered in evidence to bind any of the defendants. When it was tendered in evidence, J.B. Quartey was not present.

In the Agona "B"
Court

Defendants' Evidence
(Continued)

No.12

John Benjamin Quartey
16th June 1954
Examination
(Continued)

Cross-examination

Objection

In the Agona "B"
Court

Native Court: Objection overruled. Cross-examination to continue.

Ruling

Defendants' Evidence
(Continued)

Plaintiffs:-

No.12
John Benjamin Quartey
16th June 1954
Cross-examination
(Continued)

Question:- Don't you remember that you have given evidence before the Tribunal of Nyakrom that the lands of Busumpa and Otsingkorang were founded by Ampiakoko alone vide Exhibit "J" page 2.

Answer:- I was not present when the certified true copy was tendered in evidence and so I am not prepared to answer that question.

10

Native Court:- Mr. Quartey, answer to the question. It is a certified true copy of proceedings before the Native Court.

Witness:- When the land was given to the Yego Family Ampiakoko was the Stool occupant hence I mentioned his name in Exhibit "J" page 2. I did not state specifically that Ampiakoko founded the lands alone.

20

By Court

Exd. by Court:- Yes, I know most of the members of the Yego Family, Apaa Quarters, Nyakrom. By modern boundary I meant a boundary line demarcated quite recently. When my mother took action against the Yegos, Yaw Nkum was the Stool occupant and so the litigation was in his name. All the lands at Nkum in the olden days belonged to my ancestor Nyarku Atua.

Native Court:-

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Further hearing adjourned till Friday
18/6/54 at 8.30 a.m.

(Mkd) Kofi Amponsah II
President
Gyasehene.

Recorded by
(Sgd) Y.A.Asare,
Registrar, Native Court.

Barima Kwasi Amua Ababio - 18th June 1954

Defendants' Evidence
(Continued)

3rd Witness for Defendant:- Barima Kwasi
Amua Ababio sworn on oath states:-

No.13

Barima Kwasi Amua
Ababio - 18th June
1954

Examination

I live at Anamase. I am the Ohene of Anamase. My grand uncle Konadu deceased owned a land and village known and called Muoho. He got land boundary with the Yego Family of Apaa Quarters, Nyakrom whose head was Abuenyi.

10 At any time he visited the land he met them there. When Konadu died, Nana Kwesi Amuah succeeded to his properties. During his time, one Kwesi Wusa embarked upon litigation with the Yego Family whose members were Baasi, Otobor, Kwesi Wusa, a member of Yerko Family approached Nana Kwesi Amua to give evidence on his behalf. He told him that he got no boundary with him but the Yego Family of Apaa Quarters of Nyakrom. Otobor deputed

20 Okyeame Mensah to see him (Ohene of Anamasi to give evidence on their behalf) Nana Kwesi Amua sent one Yaw Donkor to testify that the land belonged to Abonyi, Baasi, Otobor and Ampiakoko. Upon his evidence the Yego Family obtained judgment at Nsaba Tribunal. When we wanted to make a plan on our land, we asked the Yegos to come to stand on their boundary line so as to enable us to make the line with

30 Akrosos. Opanin Aduamoah 4th Defendant and Kwesi Tekyi 3rd Defendant came with us to mark the boundary line. The Yego's village is known as "Busumpa" and ours "Muoho". I say in truth that the lands in dispute belong to both parties.

Exd. by Defendants:- No question.

Xxd. by Plaintiffs:- Yes, I know the late Ohene of Anamase by name Yaw Donkor. Yes, Yaw Donkor gave evidence at Nsaba about 39 years ago. None of my elders have told me

40 that Anin Bensun and Ampiakoko first founded their respective lands. My elder told me that the lands belong to Ampiakoko and Abuonyi's descendants. Yes, I know Aboagye of Anamase. If Aboagye had said in the Native Court of Swedru in 1942 that the lands belong to Ampiakoko alone then it is false.

Cross-examination

Defendants:- I object to questions being

Objection

In the Agona "B"
Court

put to my witness from a paper that was not put in evidence.

Defendants' Evidence
(Continued)

Native Court: Objection overruled. Cross-examination to continue.

Ruling

No.13
Barima Kwasi Amua
Ababio - 18th June
1954
Cross-examination
(Continued)

Witness:- Once I am an occupant of a stool my name is connected with the land so is Ampiakoko

Extracts of cross-examination by Aboagye in 1942 was read. It reads inter alia - "Yes, in the Tribunal of Nsaba late Yaw Donkor said in his evidence that Busumpa lands were for only Ampiakoko's descendants".

10

Witness continued:- Yes, I know all the history in my family.

Question:- Which of your ancestors first founded Anamase land.

Answer:- My grand uncle Penin Amponsah first founded the Anamase land.

Witness:- Yaw Donkor cannot say that the Anamase land was founded by Ayim Bensam. I cannot tell the actual person who first founded the lands in dispute. What my grand uncle told me is what I have said here. I challenge any evidence to the effect that the lands were first founded by Ampiakoko. Ampiakoko occupied the stool of Yego and Nana Ayim Bensam on Anamase stool. When Ampiakoko died, Abuonyi succeeded him. After Ayim Bensam, Konada also succeeded him. No Ampiakoko never founded the land alone. It is for him and Abuonyi. I know that all of you are of the same family, because when Ampiakoko died Abuonyi succeeded to his properties. I do not know that Abuonyi hails from Oda, and Ampiakoko - Ashanti. I am testifying on what my ancestors told me.

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30

Re-examination

Re-examination by Defendants:- I was not present at Nsaba Tribunal in 1915. I do not know what actually transpired. I am testifying on the Apaa Yego Family lands alone.

By Court

Exd.by Court:- Kwesi Amua reigned before Yaw Donkor. Gyasehene Dwemena of Anamasi told me the history of the land. Yaw Donkor knew the history of Anamase Stool. I was not at the Nsaba Court and so I cannot say whether Yaw Donkor's evidence was admissible or not. Yes, Yaw Donkor's evidence to the effect that Ayim Bunsam and Ampiakoko got land boundary is correct because Ampiakoko is the occupant of the Stool.

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No.14

Isaac Benjamin Forson - 18th June 1954

4th Witness for Defendants:- Isaac Benjamin Forson sworn on Bible states:-

I live at Low Town, Saltpond. I am a Man-krado. About 21 years ago, I was at Ekwamkrom as Surveyor for Gomoa Farmers and Agona Land Owners. The land rent was £2 per acre. The people who engaged me gave me their land plans. One day Kweku Okwan came to engage me on the
10 tenants of Yego Family lands. I went with them to Nyakrom, Apaa Quarters. They introduced the land owner to me. He was Nana Yaw Nkum. Yaw Nkum summoned his relatives together. I begged them to reduce the acreage and it was agreed at 7/- an acre owing to the low price of farm produce. We proposed to prepare an agreement in the name of Otsingkorang, Amani, Aduamoah, 4th Defendant herein, Okyir and Badu. As the tenants were not financial,
20 the agreement was not prepared.

Exd. by Defendants:- Yes, I have brought the plan on the land.

Registrar:- Plan produced and read.

Plaintiffs: No objection.

Native Court:- Plan dated 2/6/31 was accepted in evidence and marked Exhibit "B3"

Ex. "B3"

Exd. continued: I was told the land belong to the Yego Family vide Exhibit "B3". I did
30 not ask to know all the members of the Yego Family. The names were given to me, but they were not introduced to me as the elders in the family, but I was told that these people were to execute the agreement.

Xxd. by Plaintiffs:- I never made the Plan. I only went to ask for reduction on the acreage. I went to Nana Yaw Nkum to ask for reduction on the acreage. The agreement was not prepared.

Cross-examination

40 Re-examination:- Nana Yaw Nkum summoned his elders and we begged them for reduction on the acreage. I am 74 years old.

Exd. by Court:- No question.

In the Agona "B"
Court

Defendants' Evidence
(Continued)

No.14

Isaac Benjamin Forson
18th June 1954
Examination

In the Agona "B"
Court

No.15

Kofi Asua - 18th June 1954

Defendants' Evidence
(Continued)

5th Witness for Defendants:- Kofi Asua sworn on Bible states:-

No.15

Kofi Asua
18th June 1954
Examination

I live in Nyakrom. I am an Abusuapanyin to Asona Family Nyakrom. My great grand uncle was Okumaning Bopong. My uncle whom I met alive was Kweku Akema. He told me that he owned villages known and called "Nsonan" and "Somobenosu" The Nsonan land forms boundary with Apaa Yego Family land known as Otsinkorang. 10
Sonobenomsu also with Obuafi lands, belonging to Apaa Yego Family. I am a son to the Yego Family. I hail from Otsinkorang 5th Defendant and so I know the history of Apaa that all members of the family are one. They do everything together in common. My uncle Kweku Akeman had a case with the Yegos. All the 4 houses of Apaa Yego united and fought their case. Some of the 4 houses of Apaa Quarters are (1) Otsinkorang, 5th Defendant, Kwame Badu, 20 1st Defendant, Aduamoah, 4th Defendant and Amoabimaa the 1st Plaintiff herein.

Examination by Defendants:- I am about 70 years old. I will challenge any evidence to the effect that the lands in dispute belong to only one section of Apaa Yego Family.

Cross-examination

Cross-examination by Plaintiffs:- Yes, when Kwame Badu and ors. took action against Kofi Donkor before this Court, I gave evidence in the case. It is in respect of this very lands 30 in dispute, Yes, I remember I said that Obuafi and Otsinkorang lands form boundaries with Ampiakoko and his descendants Yego Family.

Objection

At this stage the Defendants interrupted by objecting to questions being put to the witness from a document that was not tendered in evidence.

Ruling

Native Court:- Objection overruled, Plaintiff to examine witness from any document. 40

Witness:- I do not know Ampiakoko personally. I know Abonyi personally. My elder told me that he got boundary with Ampiakoko. I tell you that the land does not belong to Ampiakoko alone.

In the Agona "B"
Court

Defendants' Evidence
(Continued)

No.15
Kofi Asua - 18th
June 1954

Re-examination

Re-examination by Defendant:- If I say the land is for Ampiakoko, I do not mean that it is for himself alone but for the 4 houses of Yego Family Apaa Quarters. In my statement, I named Affum as one of the occupants of Yego Family Stool. Affum is an ancestor to Kwame Badu, 1st Defendant herein. Yes, Ampiakoko has been on the Apaa Yego Family Stool for (sic) some time past. If a Chief finds a property 10 it belongs to the whole members of the family. Yes, Affum is one of the owners of the lands in dispute. I did not see Affum but my elder Akuma told me of all these.

Examination by Court:- Yes, I know the history of Apaa Yego Family. I am a son to them. I cannot tell whether any member of the 4 houses came from some other places. I cannot tell whether Abuonyi came from some place and settled in Nyakrom as well as Ampiakoko. My 20 elder never told me that 4th Defendant hails from Akim Oda. My elder never told me that Ampiakoko came from some place to meet an occupant of the Yego Family Stool. I am giving evidence on behalf of the defendants. The Yego Family owns the following lands. Busumpa, Obuafi and Otsinkorang. Kyekyegya and Abuonyi Masse lands and part of Yego Stool lands. Each of the 4 houses has a land on which to work. 30 All the Defendants live on the lands in dispute.

By Court

Question closed.

Native Court:- Defendants to address the Court.

Defendants:- The time limit is too short. I want time to prepare my address.

Native Court:- Defendant to address Court forthwith, failure judgment will be delivered. Exhibits should not be delivered to the Defendants.

In the Agona "B"
Court

No.16

Defendants' address - 18th June 1954

No.16

Defendants' address
18th June 1954

Defendants:-

Plaintiffs took action against us as the descendants of Ampiakoko Section for themselves and on behalf of the members of Apaa Yego Family in respect of 3 lands, Busumpa, Otsinkorang and Obuafi lands. The boundaries of which are as follows:- On the North by Ananasi Stool land, on the South by Nkum Stool land and Nteduase Nsona Stool lands, on the East by Akroso Stool land and on the West by Odoben Mankrado's land. The particulars of claim is that the lands were founded by their ancestor and therefore one could not lay claim to these lands. They demanded from us to show how our ancestors founded these lands. Kofi Boye represented the Plaintiffs. He stated that Kofi Donkor and others have broken family tie with Aduamoah 4th Defendant herein. He stated that during the judgment Kwame Badu, Henry Saah and Otsinkorang's name appeared. Because of that he is claiming the family lands from us. This breaking of Family ties is not included in the summons. In perusing Exhibit "A", all the 7 Defendants are not connected with the case. We were not severally served with Summonses. If the Plaintiffs base their claim on this Summons then the case is bad. The order in Exhibit "A" was reversed on Appeal vide Exhibits "A5" and "A6". The Judgment of the Appeal Court quashes the Judgment of the Native Court, Exhibit "A".

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(sic)

Plaintiffs said in his statement that the lands in dispute belongs to us all when we were one we owned 1 stool and lands jointly. Plaintiffs stated that some members of their household had worked on Kyekyegya lands and we have got it from them, whereas they got no proof to the effect that the lands in dispute belong to them alone. Kofi Donkor a member of the Ampiakoko Section had once said before the Native Court Swedru that the lands in dispute belong to the Apaa Yego Family which is composed of 5 houses, with the only stool and lands attached to it vide Exhibit "W". All of us own the spot where he or she has cultivated. 4th Defendant sold a portion of a land where he has cultivated to Pianoo and nobody disputed with him as to the ownership. The land is part and parcel of Apaa Yego Stool lands. Kobina Obu gave evidence to corroborate this vide Exhibit "G".

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10 Kwaku Atta, 2nd witness for plaintiff, said that Kyekyegya lands are part and parcel of Apaa Yego Stool land. He admitted that one of our elders cultivated that portion and according to our custom, it is for him. He admitted that it was pledged to his elder for £14 but it has been redeemed. If this is the custom prevailing their summons is vague. In referring to Exhibit "F", Mr. Ninson defined the custom prevailing in the Apaa Yego Family. Because of that Eduamoah obtained Judgment.

20 Plaintiffs tendered into evidence Exhibit "G". He is basing his claim on this Exhibit, because of Ampiakoko's name. In 1915, Yorke Family took action against Yego Family and not Yorkor Family versus Ampiakoko Section. The Plaintiffs are aware of the fact that Yego Family is composed of 4 houses in which we are one. Their claim in this respect is bad. The Judgment in the case is Exhibit "I". In the Judgment of 1915, it was specifically stated that the Judgment was delivered upon the evidence of Akroso and Anamase Chiefs, Exhibit "I" refers. Anamasihene stated that the lands in dispute belong to Abuonyi, Otobo and Ampiakoko. We are all descendants of the above-named ancestors. The statements do not refer solely to Ampiakoko Section as said by Kwesi Mensah. The Plaintiffs summons is bad and must be struck out. Kwesi Mensah named so many people who have occupied the Apaa Yego Family Stool. He named Nana Ampaw, Adobaw, Abuonyi, Ampiakoko and many others as the joint owners of the land, vide Exhibit "N". All the 4 houses shared the litigation expenses. Kwaku Atta contradicted the Plaintiffs' evidence to the effect that all expenses on the Family litigation are borne by all members of the Family.

40 In Exhibit "K", Kwesi Ayiah, 2nd Defendant stood for the members of the Family as the land belongs to the whole members of the Family. He stated that Yaw Nkum was his nephew. He named all the occupants of the Stool. Plaintiffs' failed to prove the membership of the lands in dispute and so their summons was bad.

50 Late Kwadjo Okyir, the family linguist's evidence was accepted in evidence vide Exhibit "L". He is a member of the Yego

In the Agona "B"
Court

No.16
Defendants' address
18th June 1954
(Continued)

Family, that was why he represented the family in the case. From 1915, all the persons who stood for our cases are members of Yego Family and spoke for us all. The Plaintiffs claim is therefore bad in law.

Yego Family of Apaa Quarters is composed of 4 houses. Nobody has ever taken action in the name of Ampiakoko Section. We the members of the Yego Family have not taken action against anybody in the name of Ampiakoko. Ampiakoko Section was only created about 5 years ago. This evidence was proved by the evidence of J.B.Quartey, 2nd witness for Defendants. Their claim therefore is bad and must be struck out. 10

We want to implore into the minds of the Native Court of long occupation if what they say is correct we have done everything in common with them for a very long time and they also have stayed with us for number of years. The Plaintiffs are entirely strangers and have stayed with us for a very long time. According to our custom, every member of the family is entitled to where his cutlass has ploughed. We own a communal land and no one has right to eject his neighbour, from the land. The Plaintiff stated that his ancestor Ampiakoko immigrated from Ashanti and settled in Nyakrom. Exhibit "M" proves that Ampiakoko does not hail from Ashanti-Agona and so his statement to that effect is false and that I should be given judgment. 1st Defendant took action against the whole members of the Yego Family. Kofi Nkansa deceased, one of the Plaintiffs spoke for and on behalf of the Family and not Ampiakoko Section. From this I see that there is no Ampiakoko in our Family. Nkansah stated that Abuonyi one of the Stool occupants was his grand uncle. Is it not strange that Nkansah should say that Abuonyi was an occupant of the Yego Family Stool vide Exhibits "O", "P", "Q". 30 40

When Kofi Donkor one of the Plaintiffs enstooled Kweku Atta without our knowledge, we appealed to the State Council and Kofi Donkor was found guilty. This proves that we are all one.

In Exhibit "S", Kofi Donkor, one of Plaintiffs stated that he was made the head 50

by the 4 houses. This shows that the Apaa Yogo Family is one in everything. I direct the Court's attention to Exhibit "T", Kobina Obu one of the Plaintiffs descendants stated that Apaa Quarters was founded by Nana Apaa. Kobina Obu stated in Exhibit "T" that where each member has cultivated belonged to him. This means that the lands in dispute are for us all.

In the Agona "B"
Court

No.16

Defendants' address
18th June 1954
(Continued)

10 In Exhibit "V", Kobina Arful stated that Nyakrom Yogo Family of Apaa is composed of 5 houses. The 5th house is Henry Saah. The definition is given on that exhibit. From that Exhibit "V", the Plaintiffs claim is false and judgment should be granted in our favour.

20 In Exhibit "U" Buram Okwam stated that he knew Kwesi Aduamoah, Kofi Ananin, Kwadjo Okyir, Kwesi Takyi, Kofi Ninsin and Opanin Abaka as members of the Yego Family and Opanin Abaka as an occupant of the Stool. He admitted that Ama Asarewa took action against the Yego Family and that all of us fought the case together. In his evidence before the Court, he denied having known any of the above mentioned people as members of Apaa Yogo Family. His evidence is entirely false and must not be accepted. He admitted that all of us shared Ama Asarewa's litigation expenses. Exhibit "W" proves that the land belongs to us all. This was said by Kofi Donkor, one of the Plaintiffs, I see no reason why the Court should not give us judgment. I am directing the Court's attention to Exhibit "Z", the word Yego Family and not Ampiakoko Section. I direct the Court to Exhibit "X". The words Ampiakoko Section was not mentioned. The present Chief of Akroso has stated that the land belongs to Yogo Family in general and not Ampiakoko Section. Particulars of claim referred especially on the East.

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50 In Exhibit "Y" dated 19/10/15 Anamase Chief named the founders of the lands in dispute. This corroborates my case to the effect that the lands in dispute belong to us all the members of Apaa Yogo Family. The Ohene of Anamase has corroborated same in his evidence (3rd witness). In the Plaintiffs claim, the boundary on the Eastern side according to them is with the Ohene of

In the Agona "B"
Court

No.16
Defendants' address the Plaintiffs case.
18th June 1954
(Continued)

Anamasi. He stated that he got boundary with Baasi, Abuonyi, Otorbor and Ampiakoko. These people are the ancestors of us all, and not Ampiakoko alone. That piece of evidence spoils the Plaintiffs case.

In Exhibit "A2", the claim was Kofi Okai etc. versus Yego Family per Kofi Donkor (head of Family) Apaa Section, Nyakrom. If the Plaintiffs know that the land belongs to them (Ampiakoko Section) they could have set in as parties. Their failure disqualify them from laying any claim whatsoever to it. I say in truth that there is nothing like Ampiakoko Section in our family. Exhibit "A3" defines everything. See how the title was worded. One of the Co-Defendants stood for the Family as a member. If it had been in existence, they should have used that name. About 2 years ago, one of the Ampiakoko Section Kofi Donkor was sued by 1st Defendant in respect of the lands in dispute. In Exhibit "A4", the Adontenhene Kobina Botchey gave evidence in the case. He said he never authorised Kofi Donkor to take the whole properties but for the whole 3 houses.

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(sic) The Apaa Yego Family made Kofi Donkor their head, as confirmed by Nana Adontenhene. Kofi Donkor too has corroborated some vide Exhibit "S". The Plaintiffs do not dispute over that. Once you are a head all Summons are issued in your name. In my cross-examination, Plaintiffs said that Kofi Donkor has not been destooled by us. If he is still the head how can Amba Amoabimaa a woman to take action against us and leave him as Abusuapanyin.

30

Their case is therefore bad in law and custom.

On the other hand, we claim to have destooled him (Kofi Donkor) and this destoolment has been sanctioned by the Mankrado of Nyakrom vide Exhibit "A7". Kwame Badu has been made the head of Family. Exhibits "B1" and "2" confirm the destoolment and enstoolment. Exhibits "A9" and "A10" support our claim to the effect that Kofi Donkor has been removed.

40

If Kwami Badu is now the recognised head of the Family, Amba Amoabimaa has no right to take this action. She is no Obaahenmaa.

In Exhibit "V" Afful stated that the Yego Family is one with one Stool and lands. How can Ama Amoabimaa claim to be Obaahemaa without our knowledge. Her claim is therefore vague.

In the Agona "B"
Court

No.16
Defendants' address
18th June 1954
(Continued)

10 Plaintiffs witness Apo stated that Ampiakoko went into the forest with certain people but he would not name them. I am saying that he went with Buasi, Otsinkorang and Abuonyi. This support my case to the effect that the land was not founded by one man alone. It supports the evidence of the Ohene of Anamasi and that of the Ohene of Akroso. It contradicts the evidence of the Plaintiffs who stated that Ampiakoko alone went to the field. His case is therefore bad.

20 In cross-examination to Apu, 1st witness for Plaintiffs, he stated that the lands in dispute forms boundary with Ama Asarewah on the South. He said he was aware when Ama Asarewa embarked litigation upon the Yego Family but they as members of Abradzei Family of Nkum did not set in. If the spot belong to Ama Asarewah, then he Apu does not know anything concerning the land. Exhibit "Z" refers. The Yego Family got modern boundary with Ama Asarewa. This corroborates the evidence of my 2nd witness, 30 J.B. Quartey. The Plaintiffs case is therefore lack of evidence. The only evidence is that of Kwame Samang. Mr. I.B. Forson aged 74 has tendered a Plan Exhibit "B3". It roads Yego Family lands and Gomoah Farmers and not Ampiakoko's Section Family Land. Opanin Kofi Asua of Nteduase Nsona Stool Family aged 70 stated on oaths that he got family with Yego Family of Apaa Quarters which is composed of 4 houses headed by 40 Opanin Kwame Badu 1st Defendant being Kwesi Aduamoah, Kwame Otsinkorang and Kofi Donkor or Amoabimaa.

(sic)

(sic)

He challenged any evidence to the effect that the lands in dispute belong to Ampiakoko Section.

The Plaintiffs were unable to subpoena any of the persons with whom they got boundary to support their case.

In the Agona "B"
Court

No. 17

J U D G M E N T - 18th JUNE 1954

No.17
JUDGMENT - 18th
June 1954

In this case the Plaintiffs who claim to be the descendants of one Ampiakoko sued the Defendants herein and their claim is as follows:-

"The Plaintiffs claim on behalf of themselves and as representing the other members of the Ampiakoko Section of the Yego Family of Apaa Quarters, Nyakrom, is against the Defendants herein for a declaration that all that piece of land comprising three parcels of land generally known as and called Buafi Land (Obuafi), Busumpa land and Otsinkorang land which entire piece of land is bounded on the North by Anamasi Stool land, on the South by Nkum Stool land, and Nterduase Nsona Family Stool land, on the East by Akroso Stool land, and on the West by Odoben Mankrado Stool land were acquired founded by Ampiakoko, the ancestors of the Plaintiffs' herein, and that the above-mentioned and described lands were not founded by the ancestors of the Defendants herein as is being claimed by the Defendants herein. (b) For the Defendants to prove to the Native Court how their ancestors managed to acquire or found the above mentioned and described lands as is being claimed by the Defendants herein". The claim was later amended by adding clause "C" to it which read. "(c) Recovery of Possession".

The Plaintiffs case is summed up as follows:-
 The members of both parties were the former joint members of Apaa Yego Family of Nyakrom. They were composed of 4 houses or Sections each of which owns a landed property. These four Sections having migrated from various places and settled in Apaa Quarters, Nyakrom, made one (Union) and allowed each section to live on another's land. Through the Unity, Defendants allowed the Plaintiffs to farm on their ancestral lands known and called Kyekyegya and Abuaeni Maase, and the Plaintiffs too allowed the Defendants to live on their ancestral lands of Buafi, Bosompa and Otsinkorang. Kyekyegya and Abuoni Maase lands according to the Plaintiffs are the ancestral lands of the 1st and four Defendants as heads of the other Defendants and Co-Defendants respectively.

This continued for a long time until quite

recently, trouble brewed between the members of the Plaintiffs Section and the Defendants Section of the Apaa Yogo Family. This resulted in a Law Suit before the Native Court "B", Swedru, during which at the request of both parties, the said joint family tie was cut in accordance with Native Court, vide Exhibit "A".

In the Agona "B"
Court

No.17
JUDGMENT - 18th
June 1954
(Continued)

10 Consequent upon the breaking of the "Family Tie" the heads of the Defendants Section ceased the Plaintiffs from having anything to do with their family lands of Kyekyegya and Abueni Maaso and even confiscated their farms for good.

In support of their case, the Plaintiffs tendered into evidence a certified true copy of Writ of Summons instituted by the 4th Defendant herein against one Kofi Donkor, a member of the Plaintiffs Section of the said Family for trespass on his ancestral land vide Exhibit "D".

20 The Order of the Court is Exhibit "E". The Plaintiff tendered also in evidence the evidence of Mr. V.K. Ninson, 1st Co-Defendant herein vide Exhibit "F" and added that in as much as the Defendants had ejected them from the lands founded by their ancestor, they also sent to stop them for having anything to do with the lands in dispute as they were founded by their own great grand uncle, Ampiakoko.

(sic)

30 The Plaintiffs added that during one of their litigations they were in dare need for money and therefore pledged the lands in dispute to 4th Defendant for a loan of £700, and directed the tenants on the land to pay the annual rent to him. This piece of evidence was corroborated by Bonam Okwan, Chief Tenant of the lands in dispute and 2nd witness for the Plaintiffs.

(sic)

40 The Defendants although do not deny the confiscation of the farms made by the Plaintiffs Section of the Apaa Yogo Family vide Exhibit "F" or having sued Kofi Donkor a member of the Plaintiffs Section, but stated that the lands in dispute were acquired and founded by their joint ancestors namely, 1. Bausie, Otsinkorang, Abuenyi and Ampiakoko: Plaintiffs alleged ancestors i.e. 3:1 (three against one).

In the Agona "B"
Court

No. 17
JUDGMENT - 18th
June 1954.
(Continued)

According to the Defendants, the lands in dispute are the joint properties of the whole Yego Family of Apaa Quarters, and so when Kofi Sam of Yorke Family sued Kofi Nkroma of the Yego Family (Apaa Quarters), in 1915, it was the whole Yego Family who fought the case, vide Exhibit "N", also when one Ama Asarewah sued Yaw Nkum the then Occupant of the Apaa Yego Family Stool in 1935, Yego Family Apaa Quarters unanimously fought the case and arrived at an amicable settlement vide Exhibit "Z". 10

According to the Defendants, all their cases cited above were styled Yego Family and again all their witnesses gave evidence that their lands formed boundaries with the lands owned by Yego family. This confirms the case that the lands in dispute belong to the Yego Family.

Now the question at issue is this: Were the lands in dispute i.e. Buafi, Otsinkorang and Bosomepa founded by Ampiakoko, the Plaintiffs' ancestor or by Buasi, Otsinkorang, Abuenyi the Defendants ancestors and Ampiakoko? 20

In this respect, we have to sum up the evidence adduced by both parties. Now to deal with the Plaintiffs, we have first of all to peruse all the documentary evidence. When Kofi Sam of Yerko Family sued Yego Family per Kofi Nkruma at the Nsaba Tribunal in 1915, one Kwesi Mensah of Apaa Yego Family spoke on behalf of the Yego Family vide Exhibits "G" to "H". He stated that Ampiakoko went to the forest with one Nyarku Etua, the then Ohono of Nkum and founded the lands in dispute. Again when Ama Asarewaa per J.B.Quartey sued Yaw Nkum of the Yego Family in 1935 Kwesi Ahia, 2nd Defendant herein, represented the Family and gave evidence to the effect that Ampiakoko went to Nkum to trade and it was by that time that he founded the lands in dispute vide Exhibit "K". Late Kwodjo Okyir, a member of the Yego Family Apaa Quarters also corroborated same vide Exhibit "L". 30 40

In the case Amaa Asarewaa per J.B.Quartey versus Sub-Chief Yaw Nkum as the occupant of Yego Stool of Nyakrom, Exhibit "J", which the Defendants objected to its being tendered in evidence and which objection was overruled by the Court, J.B.Quartey, a descendant of Nyarko Attua stated that his late uncle gave the lands in dispute to Ampiakoko then hunting in Nkum Forest.

Now coming to the oral evidence of Appu, 1st witness to the Plaintiffs, he stated that he is the Obaatan attached to the Stool of Nkum and that Nyarku Attua the founder of Nkum town is his great grand uncle who gave the lands in dispute to Ampiakoko.

In the Agona "D"
Court

No.17
JUDGMENT - 18th
June 1954.
(Continued)

10 Kwami Saman the Mankrado of Odoben and other witnesses also stated that his land formed boundary with Bosumpa lands, and that according to what he had been told by his ancestors, were founded by Ampiakoko. The Defendants too stated that the name Ampiakoko as referred to in all the proceedings referred to the Yego Family as a whole for he was their Chief and anything acquired by him in his name belonged to Yego Family Apaa Quarters. Their evidence to the effect that the lands in dispute were acquired by Baasi, Abuenyi, Otsinkorang and Ampiakoko was supported by J.E. Quartey their 2nd witness for the Defendants. Exhibit "J" proves the contrary.

The 74 years old I.B.Forson, 4th witness for the Defendants tendered a Plan on behalf of the Defendants into evidence. The plan read "NYEGO FAMILY LANDS AND GOMOA FARMS". Defendants gave address to conclude their case.

30 We have heard the case for both parties and their witnesses and have also perused all exhibits, we find inspection of land not necessary since the parties are not disputing over land boundary.

We accept the evidence to the effect that Yego Family though consisting of 4 houses, were one sometime ago and that by Exhibit "A" they have now separated themselves by observing the Native Custom of cutting the family tie. We disbelieve the Defendants as far as the ownership of the lands in dispute are concerned.

40 Defendants according to them appealed against the order vide Exhibit "A5". If they knew the order was reversed according to them they should have slaughtered a sheep in accordance with Native Custom to effect a reconciliation. This they never did. Secondly Ampiakoko's name is mentioned in all the statements as the founder of the lands in dispute. We hold that views that he founded the lands for his descendants.

Thirdly, Asua, 5th witness for the

In the Agona "B"
Court

No.17

JUDGMENT - 18th

June 1954.

(Continued)

Defendants stated that he is a son to the Yego Family of Apaa Quarters and that he knows all the history connected with their lands. He said all the 4 houses have their individual ancestral lands. We agree with him in that respect.

Whatever a person says in an evidence will be a basic term of reference in future in as much as documentary evidence is concerned.

From all these points, we see clearly that the lands in dispute belongs to the Plaintiffs in as much as Ampiakoko is concerned. 10

We therefore give judgment in favour of the Plaintiff as Ampiakoko's descendants.

Order:- The Plaintiff to recover possession of the lands of Otsinkorang, Busumpa and Obuafi.

Costs in this case to be taxed.

Defendants:- We will appeal against the Judgment.

(Mkd) Kofi Amponsah II
President of Native Court,
Gyashene. 20

Recorded by:-
(Sgd) Y.A.Asare.
Registrar.

No.18

In the Land Court

GROUND OF APPEAL - 26th JUNE 1954

No.18
Grounds of Appeal
26th June 1954

In the Supreme Court of the Gold Coast,
Central Judicial Division,
Land Court - Cape Coast

In the Matter of :-

Amba Amoabimaa, Queen Mother etc.
and Kofi Boye etc. .. Plaintiffs-Respondents
versus

10 Kwami Badu & others . Defendants-Appellants
V.K.Ninson & G.N.Hayford Co-Defendants-
Appellants

GROUND OF APPEAL

1. That the Judgment is inconsistent with the claim before the Native Court.
2. That Judgment was against weight of evidence.
3. That Judgment was based on extraneous issues.
4. That Judgment was contrary to principles of Native Customary Law.
- 20 5. That Judgment was otherwise erroneous and bad in law.

Dated at Nyakrom the 26th day of June, 1954.

(Sgd) G.N.Hayford

For Himself and on behalf of
Defendants-Appellants and the
Co-Defendants-Appellants.

To the Registrar,
Land Court,
Cape Coast.

-and-

30 To The Plaintiffs-Respondents Amba Amoabimaa
and Kofi Boye all of Nyakrom.

In the Land Court

No.19

No.19
ADDITIONAL GROUNDS
OF APPEAL
30th August 1954

ADDITIONAL GROUNDS OF APPEAL - 30th AUGUST 1954

(TITLE AS LAST)

ADDITIONAL GROUNDS OF APPEAL

- 6. Because the proceedings are irregular and consequently a nullity, because the provisions of Section 39 of the Native Courts (Colony) Ordinance were not complied with (b) for non-compliance with section 41 of the Native Court (Colony) Procedure Regulations of 1945.
- 7. Because on the showing of the Plaintiffs-Respondents the action for recovery of possession of the lands in dispute was misconceived. 10
- 8. Because the separation of the family ties between the Plaintiffs-Respondents and the Defendants and Co-Defendants-Appellants is contrary to Native Law and Custom.
- 9. Because on the showing of the Plaintiffs-Respondents herein the Defendants and Co-Defendants-Appellants herein having been merged into a single family unit and having been in long undisturbed possession and occupation of the lands subject matter of dispute herein, the claim before the Native Court should have been dismissed. 20
- 10. Because there was wrongful admission of inadmissible evidence; Exhibits "B", "C", "D", "E", "F" and "G" Res Inter Alios Acta and Exhibits "H", "I", "J", "K" and "L" are clearly inadmissible.
- 11. Because the proceedings should have been stayed there being a suit between the same parties concerning the same lands in dispute sub judice before the West African Court of Appeal and/or the Magistrate's Court, Winneba. 30

Dated at Cape Coast this 30th day of August, 1954

(Sgd) C.F.H. Benjamin
Solicitor for Defendant and Co-Defendants-Appellants.

To The Registrar, Land Court,
Cape Coast And To the Above-named
Plaintiffs-Respondents (Amba Amoabimaa
and Kofi Boye) Both of Nyakrom, their
Agents or Solicitor.

No.20

In the Land Court

Arguments of Counsel - 15th, 18th, 25th and 30th
September 1954.

No.20
Arguments of
Counsel - 15th,
18th, 25th and
30th September
1954.
Counsel for
Appellants.

15.9.54.

Amba Amoabima & anor. .. Plaintiffs-Respondents
versus
1. Kwami Badu & ors. ... Defendants-Appellants
V.K.Ninson & anor. Co-Defendants-Appellants

Ollenu for Defendants and Co-Defendants-Appellants
Akuffo Addo for Plaintiffs-Respondents.

10 Ollenu: Ground 6 of Additional Grounds of Appeal
at page 4 of Record therea is an Order of
Joinder of Co-Defendants as parties in the suit
under Section 39 of Ordinance No.22 of 1944 but
read out in open Court under Regulations 40 and
41 of the Native Courts (Colony) Procedure
1945.

(sic)

Ordinance No.22 of 1944 not complied with in
that the Ordinance provides Notification of such
joinder shall be served on the said person.

20 It is not enough for the order to be read out.
The party joined must and shall be served of the
Notification.

I refer Court to "Service of Process" under
the Native Courts (Colony) Procedure Regulations
1945. Regulations 44-49 provide means of service.

Native Court could not have jurisdiction under
Regulation 49 to take any action in the case un-
less "service is admitted by the person concerned
or service of the Notification has been proved".
30 Mere appearance in the course of the hearing is
not a waiver of service of the Notification of
Joinder. 1. "Kwamo Fosu versus Kweku Asuman and
Yaw Amuah" Coram Quist, A.J.Land Court, Cape Coast,
1.10.1948.

2. "ba Tai versus Kojo Kwesi Enu", 1.4.54;
Nana Kojo Ampiah and 11 ors. versus Gyesehene Kwamo
Badu - 30.9.53. on appeal to West African Court of
Appeal on the point at issue.

Ground 10: -Wrongful admission of Inadmissible evi-
dence viz. :- Exhibits "B", "C", "D", "E", "F" and

In the Land Court "G" and Exhibits "H", "I", "J", "K" and "L".

No.20
Arguments of
Counsel - 15th,
18th, 25th and
30th September
1954
(continued)
Counsel for
Appellants

Ollenu:- I wish to argue Ground 11 at this stage before Ground 10.

Ground 11:- A case involving the same lands and family in dispute is sub judice before West African Court of Appeal and or the Magistrate's Court, Winneba. I refer to Exhibits "1" and "2" as the case between the Yego Family determined by the Native Court in respect of the lands now claimed in this particular suit. The case came on appeal before this Court and the Ruling of this Court is under appeal before West African Court of Appeal. The present action in this appeal should have been stayed. "Kwamin Badu &c. and ors. versus Kofi Donkoh; etc." Suit No. 115/51 (1/53). 10

I submit the claim in this action includes the land in the present case on appeal before the Court.

The parties in effect are the same. The judgment affected the whole Yego Family including the Plaintiffs. 20

The Defendant in Exhibits "1" and "2" was the Head of the whole Yego Family including the Ampiakoko Family as now represented by the 1st Plaintiff-Respondent as Queen Mother in this Appeal. He was deposed by the family and after his deposition the claim in Exhibit "1" was brought against him for the delivery and surrender of all stool properties including lands now claimed by Plaintiffs-Respondents in this appeal. 30

The issues involved in Exhibits "1" and "2" are the same as in this case and they were whether the properties claimed in Exhibit "1" were the exclusive properties of the Ampiakoko Section of the Yego Family or the whole Yego Family. The Judgment of the Native Court in Exhibit "2" decided the issues. That judgment has not been set aside as yet and is still pending before the Court on question of jurisdiction. 40

Ground 9:- I refer to Exhibit "A" at page 14E of Record of the Order of the Native Court touching upon the separation of the family ties between the Ampiakoko Section and the Apaa Section of the Yego Family. So far there has been no division of the family properties between the two families.

Ground 8:- The order of Exhibit "A" cannot stand without the cutting of Ekar. F.C.L. 2nd Edition page 33-34 Welbeck versus Brown February 4, 1884 in F.C.L. Exhibit "2" gave the properties to Plaintiff in Exhibit "1" for and on behalf of the whole family of Yego. I refer to Exhibits "E" and "T" in the Appeal Record.

In the Land Court

No.20
Arguments of
Counsel - 15th,
18th, 25th and
30th September
1954 (continued)
Counsel for
Appellants

10 Ground 10:- Exhibits "H", "I", "J", "K" and "L" put in by Plaintiffs and wrongfully admitted in evidence and do not affect the parties and issues involved. Native Court relied a great deal on the judgments in the said exhibits wrongfully received.

Ground 7:- Action for Recovery of Possession of the lands in question was misconceived. Evidence of 5th witness for Defendants misconceived.

By Court:- Hearing adjourned at this stage -
18.9.54.

(Intd) C.S.A.
J.

20

18.9.54.

18th September
1954.

By Court: Same Counsel.
Part Heard.

Ollonu:-

30 Ground 8:- Separation of the Family ties is contrary to Native Law and Custom. Exhibit "A" was between Kofi Donkor, etc. versus Kwesi Eduamoah in his personal capacity. Exhibit "A" is not binding on other members of the Family. (P.33-34 of Record, 2nd witness for Plaintiffs). Consent Order could only bind those who were parties to the suit. Botchey was appointed in Exhibit "A" to see to the division of the properties between the parties. His finding is in Exhibit "A" at page 149.

40 Ground 2:- Ampiakoko the predecessor of Plaintiffs occupied the Yego Family Stool in his life time. He was the fourth Successor to the Yego Family Stool and properties. All properties acquired became properties of Yego Family Stool. Judgment against weight of evidence. (See Exhibit "H" at page 117). (Exhibit "F" at page 155). Plaintiffs' predecessor did not

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(continued)

Counsel for
Appellants
Counsel for
Respondents

create a stool for himself. (See evidence of Co-Defendant at page 43). Exhibit "E" is a personal action against Defendant in his personal capacity. Native Court misdirected itself by basing its judgment partly on Exhibit "E" at page 160. Exhibit "F" at page 155.

Akufo Addo:- Counsel for Plaintiffs must be deemed to have abandoned the second part of Ground 6. Regulation 41 of the Native Courts Procedure Regulations 1945. Section 39 of Ordinance No.22 of 1944:- The irregularity under the section was merely a breach of technicality and did not cause any miscarriage of justice. (Cites Land Appeal No.14/1954 Coram C.J., Land Division, Accra on 28.5.54 in Dagba Habbu and others versus Chief Tengey Djokotoe IV and others). Chief Justice held in this case that it was a more technicality in the absence of any miscarriage of justice, White Book - 1954 page 63 on Service. There is sufficient on record to infer from the conduct of the Co-Defendants of an admission of Service under Regulation 49 of No.10 of 1945.

(sic)

10

20

Ground 11:- Defendants-Appellants raised a plea of Res Judicata before the Native Court referring to a case in Exhibit "2" at page 184 which the Native Court refused to accept. (See Order of Native Court at page 184 of Record); . The parties in Exhibit "2" at page 184 of Record are not the same as the parties in this Appeal. The claims are different. Cites Land Appeal No. 60/1952 Coram Acolatse, J.Kwamin Badu etc. versus Kofi Donkoh, etc.

30

Grounds 2 & 3:- Judgment was based on facts. Native Court believed Plaintiffs' case. Parties are not blood relatives. Plaintiffs' case. Ampiakoko founder of Plaintiffs' land. Defendants' case at pages 73/4 of Record. Evidence of Vincent Kofi Ninson in Exhibit "F" at page 155 in contrast.

40

By Court:- At this stage adjourned by consent - 25.9.54.

(Intd) C.S.A.
J.

25.9.54.

In the Land Court

By Court: Same Counsel.
Part Heard.

No.20
Arguments of
Counsel - 15th,
18th, 25th and
30th September
1954 (continued)

Counsel for
Respondents

10 Akufo Addo:- Claim in Exhibit "D" and the judgment in Exhibit "B" show the first of the series of litigation for title to the land among the Yego Family. It was not a mere personal action. Claim in Exhibit "D" was for and on behalf of the family claiming oncestral property. See page 20 of Plaintiff's evidence of ejectment. See Exhibit "F". Exhibit "F" was tendered to support Plaintiff's claim for Recovery as Defendant did the same in Exhibit "E".

Exhibit "G" tendered at page 14 for same purpose. Evidence of Kwesi Mensah in Exhibit "G" at page 111.

Exhibit "H" tendered at page 14. See page 117 Exhibit "H" which corroborated Exhibit "G".

20 Exhibit "I" tendered at page 14. See page 123 of Record re the Judgment for Yego Family. Exhibit "J" is evidence to contradict the witness called J.B.Quartey's evidence in this case at page 58 of Record. Exhibit "K" tendered at page 15. See page 128 Same case as Exhibit "J". Evidence of Kwesi Eyiah in Exhibit "K" was tendered to contradict the witness who is 2nd Defendant in this case. Exhibit "L" shows the evidence of Kojo Okrire brother of 1st Defendant and uncle of Ninson in the case in
30 Exhibit "J". All the Exhibits were rightly admitted. See Judgment of Native Court at page 108 of Record.

Exhibit "A" must be read with Exhibit "B" the ruling of the Magistrate on appeal from Exhibit "A" (Sarbah F.C.L. 2nd Edition page 34).

By Court:- At this stage hearing adjourned -
30.9.54.

(Intd) C.S.A.
J.

40 By Court:- Parties present.
Same Counsel.
Part Heard.

Akufo Addo:- Exhibit "A.4" at page 179 in case.

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Counsel for
Respondents
Appellants' Reply

between Kwamin Badu etc. vs. Kofi Donkor etc. was tendered by the Appellants. Do not understand the purpose and object of Exhibit "A4" as Exhibits "A" and "B" are quite clear on what the Native Courts had done.

Decision of Native Court should not be disturbed.

Benjamin replies:-

The Rulings in this Court on Section 39 of No.22 of 1944 are precedents to be followed. The contrary view of the Chief Justice on same point is not binding on this Court. The non-compliance with the Ordinance is not a mere irregularity. It is an infringement against a statute. (Smurthwaite versus Hannay 1894 A.C. 501). Basic illegality that goes to the root of the whole proceedings. 10

Claim at page 9 of Record amended to include "Recovery of Possession" is misconceived. 20

Whatever is acquired when a person was on Stool became Stool property. Exhibit "B" decides the point.

Court:- Judgment reserved.

(Intd.) C.S.A.
J.

No.21

J U D G M E N T 22nd October
1954

(Title)

No.21
JUDGMENT - 22nd
October 1954

JUDGMENT:-

The Writ of Summons horein was issued against the Defendants in the Agona Native Court "B" at Swedru in the Western Province and came before that Court on the 15th day of September, 1953. The Co-Defendants subsequently had themselves joined as parties on their own application before the Court on the 9th day of October, 1953. At that stage the Native Court ruled that the movers be joined in the above-named case and as

a result the title of the case was thereby ordered to read as the heading above.

In the Land Court

No.21

JUDGMENT - 22nd
October 1954
(Continued)

10 The Plaintiffs applied for an adjournment on the day the application for the joinder was made. The 1st Co-Defendant appeared for himself and on behalf of the other defendants and objected to the application of the Plaintiffs for the adjournment and insisted that "Plaintiffs should have prepared to meet the hearing"; "and as a result Plaintiffs may withdraw their action and that our costs be awarded as we find Plaintiffs are invalid to proceed". The Court however granted the request of the Plaintiffs with costs for the usual adjournment fee of 5/-.

20 The next hearing of the case was on 2nd day of February, 1954. The parties were all present in Court. It is noted on the record "2nd Plaintiff to speak for and on behalf of 1st Plaintiff". "Mr.V.K.Ninson Co-Defendant herein to speak for himself and on behalf of the 7 Defendants". "The expression was made by the 2nd Defendant".

30 The Defendants then took objection to the hearing of the case on the ground that the Plaintiffs were claiming for Buafi land, Busumpa land and Otsinkorang land as the properties of their ancestor, Ampiakoko. The Defendants maintained in objection that the case was heard on 5th July, 1952 and judgment given in their favour when they took an action against Kofi Donkor, the ex-Abusuapanin, of Yego family and tendered in support of their plea in objection Exhibits "1" and "2".

40 The Court overruled the objection of the Defendants and held that "Res Judicata does not apply since the first action was taken against Kofi Donkor, ex-occupant of the family stool, for the surrender of family properties which came into his possession by right of his office". The Co-Defendant for and on behalf of the Defendants then pleaded "Not Liable" to the claim. The 2nd Plaintiff herein for and on behalf of 1st Plaintiff was sworn on Bible and proceeded to give the evidence for the Plaintiffs. Judgment was given in favour of the Respondents herein on 18th June, 1954.

The case came before the Land Court on

In the Land Court

No.21

JUDGMENT - 22nd
October 1954
(Continued)

appeal from the judgment of the trial Native Court "B" of Swedru. The original grounds of appeal were filed on 26th June 1954 and subsequently additional Grounds were filed on 30th August, 1954. The main arguments at the hearing of this appeal which came before this Court on 15th September, 1954 was upon Ground 6 of the Additional Grounds of Appeal, that the proceedings were irregular and consequently a nullity because the provision of Section 39 of Ordinance No.22 of 1944 was not complied with inasmuch as service of the joinder was not effected upon the Co-Defendants and that that provision was mandatory.

10

Certain decisions from this Court were directed to me holding that Section 39 of Ordinance No. 22 of 1944 is mandatory and failure to comply with that Section cannot be cured on ground of irregularity.

I have given considerable thought to the meaning and effect of the above section and have formed the opinion that though the Section is obviously an injunction for certain acts to be done yet each case must be looked at in the light of the circumstances of the conduct of the parties. In this case the Co-Defendants were joined on their own application and had resisted an application by Plaintiffs for an adjournment and insisted that the case should proceed or be struck out on the very day of the order of the joinder and the Plaintiffs were made to pay a fee for the adjournment.

20

30

The Co-Defendants appeared to be the effective parties in the prosecution of the case and the 1st Co-Defendant conducted the case for the Defendants throughout. They knew the case against them and were fully seized of the claims of the Plaintiffs. The Defendants have now come to this Court to rely on Section 39 of Ordinance No.22 of 1944 after 1st Co-Defendant had conducted the case throughout and addressed the Native Court at great length after the close of the case.

40

I can only presume from the conduct of the Co-Defendants that the Court had done what was required of its procedural duties under the Ordinance for the presumption in this case is greater in favour of an admission of service of the joinder by the Co-Defendants. It is to be observed that Regulation 49 of Regulations No.10 of 1945 laid down that :-

"The Native Court shall not take any action which is dependent upon process of service having been served unless service is admitted by the person concerned or service has been proved".

In the Land Court

No.21
JUDGMENT - 22nd
October 1954
(Continued)

10 In my opinion the conduct of the Co-Defendants is consistent with the admission of service "by the person concerned" and that the point raised appeared to me to be an after thought under the shade of Section 39 of No.22 of 1944. I hold that in this case it would be an abuse of the process of the Court to allow the Co-Defendants to take advantage of such technicality because the Record was silent as to the service of the joinder. In the absence of any miscarriage of justice, in my view, Defendants-Appellants must fail on this ground.

20 The Plaintiffs' claim are clearly stated in the summons and in effect amount for a declaration of title against the Defendants and for Recovery of Possession. The Plaintiff's evidence disclosed that this action was brought as a result of Exhibit "A" which separated the family ties of the parties herein. I am safe to say there is an admission on both sides that, before the Order of Separation in Exhibit "A" was made, all the branches or houses of the Yego Family of Nyakrom were one and owned the lands in common, owing allegiance 30 to one family stool and to one Head of the Yego Family comprising the branches or houses which constituted the family.

40 It will be observed that the order in Exhibit "A" was a subject of appeal before the Magistrate's Court at Winneba on 13th August, 1949. The Magistrate in a considered ruling in Exhibit "B" dismissed the appeal holding the view, it seems to me, that the order in Exhibit "A" was ultra vires and there was nothing to appeal from and that the parties need not obey the said order.

Again in Exhibit "A6" the same point arose on appeal before the Magistrate at Winneba on 7th February, 1950. The Appellant was Kofi Donkor, a principal member of the Plaintiffs'

In the Land Court

No.21

JUDGMENT - 22nd
October 1954
(Continued)

branch of the Yego Family, opposing an application by the Respondent, in Exhibit "A6", to the Native Court for effect to be given to the order in Exhibit "A". The Respondent in that appeal was a member of the Defendants' branch of the family. The Magistrate allowed the appeal in favour of Plaintiffs' side in Exhibit "A6" which, in effect, nullified the order made in Exhibit "A". Exhibit "A" as alleged by the Plaintiffs from their evidence, is the main ground for instituting this action since "they are no longer one family" and the Plaintiffs are therefore claiming the family stool properties as owners to the exclusion of the other branches of the family.

10

It appears to me that Exhibit "A" cannot stand as against anyone not a party to that action or to the consent order, if any. It cannot be said that the parties herein or the other branches of the Family agreed to severance of the Family ties, taking into consideration the title of the suits in Exhibits "A" and "B" and "A6" and the conduct of the parties.

20

The Defendants contended in Grounds 1 - 5 that the judgment was substantially against Native custom and that the Native Court was wrong in giving judgment for the Plaintiffs on the claims in the summons as Ampiakoko's descendants. I hold the opinion that the view of the Native Court that the direct descendants of Ampiakoko alone have the rights to the lands in dispute excluding the other members of the family is wrong. The family branches of the joint Yego family have had one common ownership of the lands in dispute for a very long time under one common stool and under each succeeding head of the family unit. It therefore appears to me that part of the extract of the judgment which declared that "we see clearly that the lands in dispute belongs to the Plaintiffs in as much as Ampiakoko is concerned" cannot stand.

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I am unable to say that the land of a family stool, undivided, under each succeeding Head of the joint family, could then revert to one branch of the joint family alleged to be the direct descendants of the alleged founder of the land and the stool, thereby losing its character of stool family, property of the whole unified sections. Whichever way one

50

looks at the issue I am constrained to hold upon the evidence that membership of the Yego Family and its stool is not confined to the direct descendants of Ampiakoko alone since all the branches of the Yego Family of Nyakrom formed one family unit and for the purpose of ownership of property. All the members would have a joint interest in the property which is indivisible. I allow the arguments on the original grounds of appeal.

In the Land Court

No. 21

JUDGMENT - 22nd
October 1954
(Continued)

10

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30

The Order of the Court for the Plaintiffs to recover possession of the lands in dispute appeared to me to be premature and misconceived. In Exhibit "I" the Defendants-Appellants herein were among others, the Plaintiffs in the action against Kofi Donkor, Ex head of the Yego Family, claiming inter alia the lands in dispute. The case came to this Court on appeal from the Native Court and it is now pending before the West African Court of Appeal for its ruling on jurisdiction when the appropriate Court would hear the appeal on the merit. The appeal from Exhibit "1" is by Kofi Donkor, the Defendant therein, who resisted the claim and claimed the properties in his possession as for and on behalf of the Ampiakoko section of the Yego Family of which the Plaintiffs are members. The issues were identically the same. The evidence led for Defendant were almost the same as in this case. The lands claimed are the subject matter in this appeal.

40

It will be seen that the Plaintiffs in Exhibit "1" and "2", by reason of the pending appeal in that case have not entered into possession of the properties and are consequently unable to proceed to execution for the Recovery of the possession of the lands in dispute between the parties in this case on appeal before me. The Defendants-Appellants are not in possession of the lands in dispute and will have nothing to give up under the judgments of the trial Native Court in this Appeal, and they could not, therefore be ordered to deliver up possession of the lands to Plaintiffs-Respondents.

50

This Court, in the circumstances, has no hesitation in holding that, having regard to the whole aspect of the case and on the assumption that the title to and the properties claimed are not in possession of the Defendants-Appellants, the relief sought, in this action on appeal before the Court by the Plaintiffs-Respondents

In the Land Court

No. 21

JUDGMENT - 22nd
October 1954
(Continued)

cannot be maintained, as it is misconceived, and the action must fail. The Plaintiffs-Respondents in their evidence on record stated that Kofi Donkor the Defendant-Appellant in Land Appeal No. 60/1952 is a member of the Ampiakoko section. He was the Head of the Yego Family. He, Kofi Donkor, has been deposed by them (the Plaintiffs) and he is no longer their Abusuapanin. The Plaintiffs, I think forget, however, that he Kofi Donkor as head and ex-head was and still is the person hold- 10
ing the title to and the possession of the family properties for the joint family or for the Ampiakoko section after the alleged "cutting of the family ties" and in my view the said title to and possession of the properties for and on behalf of the family still vest in him until he is divested of his title and possession, by a judgment of a competent Court by either party in this suit or by the constituted branches or houses of the whole Yego Family of Apaa Quarters of Nyakrom. 20

I have after full consideration of all the arguments of Counsel before me and on perusal of the Record with the Exhibits come to the conclusion that whatever other remedy might be available the Plaintiffs-Respondents in the future the Appellants must succeed on this appeal but that does not vest the title or the possession in the Appellants as against the Respondents or any one else. It only means the case for Plaintiffs-Respondents should have been dismissed. 30

Order:- Appeal allowed accordingly.
Judgment of the Native Court is hereby set aside.

Costs in this Court allowed at £75 inclusive for Defendants-Appellants.
Costs in the Native Court to be taxed in favour of the Appellants herein.

Native Court to carry out.

(Sgd) C.S.Acolatse.
Judge. 40

Counsel:-

Akuffo Addo for Plaintiffs-Respondents.
Ollenu and Benjamin for Defendants-Appellants.

No.22

Notice and Grounds of Appeal - 27th October
1954

In the West African
Court of Appeal

No.22
Notice and Grounds
of Appeal
27th October 1954

(Title)

10 TAKE NOTICE that the Plaintiffs-Respondents herein dissatisfied with the decision of the Land Court, Cape Coast, in the Judgment of Mr. C.S. Acolatso, Judge, dated the 22nd October, 1954 do hereby appeal to the West African Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

AND THE APPELLANTS further state that the names and addresses of the persons directly affected by the appeal are those set out in paragraph 5.

2. The appeal is against the whole of the decision.

3. GROUND OF APPEAL

20 The Judgment of the Land Court, Cape Coast reversing the decision of the trial Native Court was wrong because,

1. The decision of the trial Native Court was based essentially on issues of facts and Native customary Law with which they (the Native Court) were more competent to deal than the Appellate Land Court.

30 2. The interpretation placed by the Land Court on Exhibit "B" was wrong in that the said Exhibit "B" (i.e. Judgment of the District Commissioner, Winnoba) did not nullify the order for the "Separation of the Family Tie". It is clear from the said Judgment (Exhibit "B") that the order which the District Commissioner declared inoperative was the one affecting the settlement by arbitration of matters relating to properties owned by the parties.

3. The Learned Judge of the Land Court entirely misunderstood the Plaintiffs-Respondents' case when he made the

In the West African
Court of Appeal

No.22

Notice and Grounds
of Appeal
27th October 1954
(Continued)

following statements in his judgment, namely,

(a) That the only ground for the institution of the action was Exhibit "A".

(b) That all the lands of the joint Family were held in common ownership.

4. The Learned Judge in holding that the lands in dispute were held in undivided ownership and therefore no one branch of the Joint Family could claim ownership to any of the lands overlooked the history of the Joint Family as stated before the trial Native Court and on which the Judgment of the trial Native Court was based. 10

5. The finding that the Defendants-Appellants were not in possession was unsupported by any evidence on record. The Defendants were not sued in their representative capacities; they were sued individually as persons being in possession of the lands in dispute. 20

6. The finding that the issues in Exhibits "1" and "2" and the issues in this appeal were the same was patently wrong, for the parties in the two suits were not the same, nor were the claims the same.

4. RELIEF SOUGHT: That the Judgment of the Land Court Cape Coast be set aside and the Judgment of the trial Native Court restored.

5. Persons directly affected by the Appeal. 30

1. Kwami Badu,
2. Kwesi Ayiah,
3. Kwesi Tekyi,
4. Kwesi Eduamoah,
5. Kwami Otsinkorang and
6. Kweku Essel, all of Nyakrom.

1. V.K.Ninson,
2. G.N.Hayford, all of Nyakrom.

Dated at Kwakwaduum Chambers, Accra, this 27th day of October, 1954. 40

(Sgd) E.Akufo Addo
Solicitor for the Appellants

The Registrar,
Land Court,
Cape Coast.

No.23

Arguments of Counsel-21st,22nd,23rd,24th February
1956

In the West African
Court of Appeal

No.23

21st February, 1956.

In the West African Court of Appeal,
Gold Coast Session

Arguments of Counsel
21st,22nd,23rd,24th
February 1956
Counsel for Plain-
tiffs/Appellants

Coram: Coussey, P. Korsah and Ames, JJ.A.

2/56.

Amba Amoabimaa & anor.
versus
Kwami Badu & ors.

10

Mr. Akufo Addo for appellants
Mr. Benjamin (Ollennu with him) for respondents.

Akufo Addo:-

20

Plaintiffs and Defendants are all members of the Apaa Yego families of Nyakrom. May be described as a "partnership" family as there are four distinct families who belong to same clan and who migrated as separate entities from different parts and who agreed to join together to form a family. These are four distinct families. So long as they were together, the four families had a family stool. Plaintiffs who belong to Ampiakoko section say the stool which became the family stool originally belonged to Ampiakoko, while defendants say that stool was founded by Kwami Badu's ancestor (1st defendant). In recent years dissensions in family group. Each section owned lands. They had allowed members of other sections to farm on lands of other sections. All lands generally were called Apaa Yego lands.

30

At this stage: Counsel for parties agree that Yego = Yoko, a clan name.

40

Akufo Addo: Claim now is for recovery of possession of land of plaintiffs' section which members of other sections have been farming. Owing to dissensions in family, one of the heads, Kwasi Eduamoah (4th defendant) sued Kofi Donkor, an Elder of Ampiakoko for felling palm trees on land of his section exclusively.

In the West African Court of Appeal

No. 23

Arguments of Counsel
21st, 22nd, 23rd, 24th
February 1956 (contd)

Counsel for Plaintiffs/Appellants

Abeka, an Ampiakoko Elder was also ousted by Eduamoah following the judgment in the case referred to. Then the elders of 1st defendant said as to their Kyekyegyaland that members of Ampiakoko on that land should quit. Other litigation between Eduamoah and Kofi Donkor which ended in "cutting of family tie" in Native Court. The Ampiakoko section in turn seek to quit members of other sections who farm on their lands. The lands in issue were first farmed by plaintiffs' ancestors. They permitted members of other sections to farm thereon, but as plaintiffs people have been evicted from other lands, they, plaintiffs, are entitled to exclusive possession of their own lands. Defence is that Ampiakoko alone did not found the lands in dispute. That they were acquired for all the sections of the Yego family in contrast to such land as Kyekyegya. But plaintiffs' section had farms at Kyekyegya before differences arose. The Native Court held that plaintiffs' ancestor Ampiakoko alone acquired the land now in dispute. Traditional evidence of plaintiffs. Former proceedings to show what members of family had said regarding lands. What 2nd defendant Kwasi Ayiah had said 40 years ago in earlier proceedings in conflict with what defendants now say.

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Ground 1:

Refers to p. 8 - It is true that at the severance of family tie case only Eduamoah was a party but at p. 10, the evidence is that Eduamoah went into consultation with the other defendants - This is confirmed by the order at p. 148. The conduct of the other defendants is only consistent with their having broken the family tie. They drove plaintiffs from their lands.

30

Adj. 22nd February.

(Int) J.H.C.

40

22nd February 1956

22nd February, 1956.

Akufo Addo (Contd)

The Writ taken by defendants in 1950 indicates that defendants had broken the Yego family tie. This was after the appeal in the Magistrate's Court at Winneba. Exh. "C". It

was after the severance of the family tie. Defendants disputed that they had evicted plaintiffs' family from their lands see p.56 But see contra p. 156 Evidence of Ninson in Eduamoah vs. Kofi Donkor.

Submits there was ample evidence to justify the findings of the trial Native Court and the reversal of that judgment is wrong.

In the West African
Court of Appeal

No.23

Arguments of Counsel
21st,22nd,23rd,24th
February 1956 (contd)
Counsel for Plain-
tiffs/Appellants

10 At. p. 31 Defendant suggests that Eduamoah claimed only portion of Abuanyi Maase land which he had cultivated, but see p.151 Exh. "D" where land is claimed as ancestral land. Plaintiffs gave traditional evidence: narrated events that made it necessary to evict defendants' section - to refute defendants contention that Ampiakoko alone did not find the three lands claimed, the plaintiffs tendered evidence given in former proceedings by:-

- 20 1. Kwasi Mensah - Exh."G" p.111 uncle of 5th defendant but see p.19 - Linguist for whole family.
2. Chief Kobina Agil - Exh."H" p.117 In same case that K.Mensah testified, both for joint family of plaintiffs and defendants.
3. Judgment of Nsaba Tribunal - Exh. "I"p.123
- 30 4. J.B.Quartey who also gave evidence for defendants in present case. Exh. "J" p.124 In 1935 his evidence agreed with plaintiffs' case now. But his evidence in present case, p. 58 is at variance.
5. Kwesi Ayiah's evidence. Exh. "K" p.128 At p. 55 Defendant says Ayiah, 2nd defendant, represented the family.

Submits that Ampiakoko had acquired land before he met Nkum at Atumtumiri.

40 Native Court of Agona which declared in Eduamoah versus Donkor that Abroni Maase land belonged to Eduamoah's branch was the same Native Court that adjudicated in present suit.

6. Kwadjo Okyir - Brother of 1,2,3 and 6th defendants and 2nd Co-defendants in this case (see p. 51).

In the West African Court of Appeal

No. 23

Arguments of Counsel
21st, 22nd, 23rd, 24th
February 1956 (cont)
Counsel for Plain-
tiffs/Appellants

Above are statements when no dispute existed in the family pp.15&16. Evidence of pledge to 4th defendant of Otsinkorang land. This evidence was unanswered. Refers to p. 36 Evidence of head tenant. P. 45 Bed rock of defendants case - line 16 Also p. 49 p. 68 Defendant argued that there is no Ampiakoko in defendants Yego family. But see p. 61 Evidence of defendants' witness, Ohene of Anamase. As to judgment appealed from, p. 87 Plaintiffs case was not entirely based on Exh. "A". Exh. "A" was evidence of an existing fact that plaintiffs and defendants no longer formed a unified family - Plaintiffs narrated conduct of defendants towards them which warranted claim to eject defendants' people. Exhibit "B" did not declare that Exh. "A" was ultra vires - Opinion of Land Judge not helpful. He did not take into consideration the conduct of the parties. As to view of Judge that interest of family is indivisible indefinitely, that is a startling proposition. There is nothing immutable about family property. Sarbah is full of instances. Here there was the evidence. Judgment amounts to a non-suit. Plaintiffs claim should not have been dismissed.

10

20

Submits has covered grounds of appeal: ask that judgment of Native Court be restored.

Adj. 23rd February.

(Int) J.H.C

30

23rd February, 1956.

Counsel as before.

For Defendants/
Respondents

Ollennu contra:-

Certain important matters to be kept in mind to understand suit. Parties all migrated to settle at Nyakrom. Who settled first? Test versions of two parties to consider who probably settled first. Respondents are called Apaa Yego family. Whole family is called Yego family of Apaa Quarters. After Apaa the first settlor who was Respondents' ancestor - pp.46 and 47. Next as to acquisition of land. It is admitted that when Ampiakoko went to Nkum to acquire land, he was already a Chief occupying Yego Apaa Stool - p.28 and Exh. "H" and p.117 and p.183 This is evidence of plaintiff. The Respondents (defendants) also at p.44

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- showed that the Apaa quarter was established seven generations before Ampiakoko arrived and that Ampiakoko was on Stool when lands were granted. Plaintiffs are silent as to origin of Stool: In a State Council case it had been stated that Ampiakoko came from Agona in Ashanti so Exh. "M" was tendered by Defendants - then Plaintiffs - to refute that Ampiakoko went from Agona in Ashanti with a Stool - p. 164
- 10 Kweku Atta was elected by Plaintiffs-Appellants but defendants opposed - see p. 17 and Exh. A8 p. 143. Defendants evidence of creation of Stool. pp. 43 and 44 Nana Apaa and others rather created "Npoanu Gua" a Coast Stool. Ampiakoko came after Defendants evidence more probable as to creation of Stool. The lands in dispute go with the Stool. Kofi Donkor is identified with the Plaintiffs. pp. 24, 25, 178.
His admissions p. 178
- 20 Since Ampiakoko was occupant of Stool when lands were acquired, the lands in dispute became property of Stool.

- I conceded that the other five lands may have a separate origin and history. They have a different history but all lands are hold in common and may be farmed by members of the Ampiakoko section so far as affects land un-occupied by other members of the 4 houses. It is said that defendants have ejected all plain-
- 30 tiffs' people. But see Exh. D. p. 151 where Eduamoah claims only his portion farmed by himself.

(But see Exh. E. p. 160 which indicates that lands belong to each section separately).

As to Kyokyegya land:

- P. 35 - Plaintiffs witness admits that Ampiakoko members are working on this land. This was the particular ancestral working portion of a family. Next refers to Exh. J. p. 124 Ex-head
- 40 of family Yogo and member of Plaintiffs' family as to separate occupations of lands.

As to Otsinkorang land:-

There was a family debt. At. p. 15 It was the whole Yego family who pledged this land to 4th defendant See p. 182 Quite regular for whole family to pledge its land to a single member of family. It was pledged on behalf of all sections of family. Kyokyegya land was also pledged.

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Court of Appeal

No.23

Arguments of Counsel
21st, 22nd, 23rd, 24th
February 1956 (contd)
Counsel for Defend-
ants/Respondents

As far as defendants are concerned there has been no severance of the family tie. Exh. A provided that the Adontenhene should divide the family properties - Adontenhene's division is evidenced at p.180 Lands go with the Stool. State Council decided that Stool does not belong to Ampiakoko section alone therefore Ampiakoko section cannot claim these lands.

As to the proceedings tendered in evidence by plaintiffs:- 10

1. Kwosi Mensah Exh.G.p.111
Strictly this was inadmissible. Conditions not established. Not proved that K.Mensah was dead. He did not give evidence in this case, not admissible in proof of facts.
Exh.G. is in an action against the Yogo family - no admission against interest.
2. Chief K.Agil. Exh.H. p.117 - Nothing in his evidence against defendants' case. But this evidence confirms that Ampiakoko was already a Chief before he acquired the lands. 20
3. Exh.I - Claim was by Yorkor family to Bosumpa land.

Adj.2.30 p.m.

(Int) J.H.C.

Counsel as before.

Ollennu continues:- 30

In the 1915 case Exhs.G,H and I the ancestors of the Yego family were known. The name Ampiakoko is now recent. 1st Plaintiff did not use that name in earlier cases. Lands bear Ampiakoko's name because he was on the Stool when they were acquired.

4. Exh.J. - Action was against the occupant of the Yego Stool. Evidence not admissible as Quartey is alive. He gave evidence after Exh.J. was admitted in evidence. It is not in variance with his evidence in this action. 40
5. Exh.K.p.128 - This evidence also inadmissible. But Kwasi Egyiah was giving evidence for whole Yego family. Ampiakoko

as an individual could not have occupied the large area of land in dispute. (But see foot p.129).

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6. Exh.L.p.134 Also inadmissible - but not inconsistent with defendants' story that lands were acquired for Stool.

Arguments of Counsel
21st, 22nd, 23rd, 24th
February 1956
(contd)

Counsel for Defendants/Respondents

10 In all these cases the lands have been defended by members other than the Ampiakoko section. When all sections proposed that money should be raised to defend the Stool land against the encroachment of a Ga man, the Ampiakoko section said they would not contribute, p.21

The evidence in present case makes it clear that the lands belong to the whole Yego family - explains the Exhibits G, H, I, K and L. p.55 - Ninson states "When land was founded Ampiakoko was the Chief hence his name is always connected with the lands".

20 Refer to land appeal No.60/52, Kwamina Badu & 11 others versus Kofi Donkoh - a claim similar to Exh.C. for a declaration that Stool and properties belong to the Yego family (Apsaa Quarters). As to Judgment of Native Court p.72 - At page 75 in the finding that land was given to Ampiakoko the Native Court overlooked the evidence that Ampiakoko went with his elders to acquire land - Exh.J was explained by Quartey and therefore the comment of the Native Court at p. 75 regarding him is unfair.

30 Forson's evidence p. 63 Judgment gives no reasons for disbelieving Defendants as to ownership of land - They were acquired by Ampiakoko for Stool and defendants should have been believed. Judgment of Native Court not supported by evidence.

Adj. 9.30 a.m. 24th February

(Int) J.H.C.

24th February, 1956.

24th February 1956

Counsel as before.

40 Akufo Addo in reply:-

As to the two stories of plaintiffs and defendants as to migrations of the Yego family -

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Arguments of Counsel
21st, 22nd, 23rd, 24th
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(continued)
Counsel for Defend-
ants/Respondents

Plaintiffs' story that Ampiakoko came from Ashanti went to Nyakrom - went to Nkum to trade - Later others came. Defendants' story that their ancestors came first, that Ampiakoko came later and was admitted into family and later made head. They say he was made head during time of Kwao Atta - seven generations after Afum. It is inconceivable that Ampiakoko survived so many generations unless he lived about 200 years. This story breaks down. Res- 10
pondents have extensively criticised Exhs.G-L, but in all cases referred to those who occupied stool were members of the Ampiakoko house and the linguist had therefore come from one or other of the other houses. That lends support to plaintiffs' contention that Ampiakoko was the original founder, that he came first. Further in Exh.C note the names given by the defendants-respondents as founders of the 20
Stool. Not one responsible member of the defendants' houses in the cases mentioned, at any time referred to Apan, Apa-Eku, Kwamin Affum etc. as ancestors of defendants houses except Nana Ampilaw who came from plaintiffs house. Compare names at p.111 - line 16 - Exh.G. p.128 - line 22 Exh.K. where names are given. The name Apan does not appear at all - before this litigation.

Plaintiffs list of ancestors at p.8 agrees in the main with Kwesi Mensah's at p.111 and 30
Kwesi Egyiah at p.128

The Native Court considered and accepted plaintiffs' story. Notorious fact, Ampiakoko a trader and highway man. That he went to Nkum is related by several witnesses including Quartey in earlier case at a time when there was no split. In present case Quartey has changed his version. If Ampiakoko had been put on Stool on sufferance as defendants say, could he, a stranger, take the Stool of the 40
other houses to Nkum - Akufo Addo abandons this line. Defendants' story did not impress Native Court. Exh. A8 - case took place before severance, Exh.A. Exh.A8 only evidence that 2 out of 5 houses could not create a head. Does not affect matters in issue in this case. The lands would go with a stool, but the plaintiffs case is that those lands were all

known as Yego family lands. If the Stool belongs to the Ampiakoko section, the lands would belong to that section, but they were referred to loosely as Yego family lands. Various areas had distinct names - see Minson's evidence p. 56 line 22

Why, when Donkor was sued, were Abronyi Maaso and Kyekyegya omitted from list of lands claimed - Suggested by defence that Eduamosh claimed only a farmstead on Kyekyegya. But he ejected Abaka from the whole land. A farmstead, locally is an abandoned farm, a farm that is resting. Distinguish from cocoa plantation p. 53 - "Land founded by ancestor Abronyi" referring to Abronyi Maase. If land founded by Ampiakoko it remains in his name. If founded by ancestor of another house it remains in that house. At p. 11 line 42

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- Plaintiffs gave list of those ejected from land - See Ninson's evidence at p. 156 Exh. F whilst in present case at p. 56 he denies this eviction. When defendants say plaintiffs people are still on lands, they are there as tenants not as part owners - see p. 156 line 35 and p. 157 line 21 Otsingkorang land was pledged to Eduamoah. Kyekyegya land was pledged by one elder of Kwame Badu's house - see p. 157 line 15 Pledged to a member of Ampiakoko house - p. 35 Ampiakoko as senior partner or house claimed they were entitled to the sheep's head. Incurred debt in case. Ampiakoko family, now whole family, pledged Otsinkorang land to 4th defendant Eduamoah for loan. Never suggested by defendants that all families joined in pledge of this land. Although cases have been fought in name of Yego family, costs of cases have been borne by the Ampiakoko section see p. 23 line 32 - Kwabena Abeka was head of Ampiakoko family and head of Yego family. Kwami Badu is the first outside Ampiakoko house who claims to be head of Yego family. It was for his debt that Otsinkorang land was pledged - to pay costs due to him in the litigation. Mr. Ollennu has asserted that as far as defendants are concerned there has been no severance. But as far as Eduamoah 4th defendant is concerned there is now no family tie - See Exh. A - other defendants houses names are mentioned in Exh. A - Peculiar conduct of Adontenhene who signed order and now says the separation only affected Eduamoah. Adontenhene was still alive at present hearing. Ninson does not speak of an arbitration but the Adontenhene does -

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Arguments of Counsel
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February 1956
(continued)
Counsel for Defendants/Respondents

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Arguments of Counsel
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February 1956
(continued)
Counsel for Defend-
ants/Respondents

Adontenhene, unreliable.

Defendants joined to bring action against Kofi Donkor - Exh. C. p.162 - For first time (after severance) that Apaa section is mentioned as a branch of the Yego family. Then defendants evicted persons from lands. Assuming there has been no severance there has been a practice (p.156) for one house to eject members of another house, e.g. Eduamoah's house and Kwami Badu's house. Point for decision is whether these three lands were founded by Ampiakoko. Stool was originally founded by all 4 houses jointly, what has been custom in Yego family as to holding of land. But how can Eduamoah call one land his own and Kwami Badu also one his own. (The argument is that when their ancestors acquired these lands they were not on the stool, but Ampiakoko was, so he could not acquire any land save for the Stool). As to Exhibits G - L I agree that plaintiffs tendered them in anticipation of defendants denials. Traditional history usually transmitted orally, but here Kwesi Mensah Ahia & c. were members of Yego family who knew and handed on their tradition. These portions of evidence were tendered as what was accepted in family as their traditional history. Evidence given in case in which Judgment went in favour of Yego family as a whole. Ninson has now given an entirely different version of the family tradition as representing three of the houses. Evidence of two deceased members of family was tendered not only to show the tradition and what Elders of family in past had asserted but also to contradict present version told by defendants. Only difference in this case is that it is recorded. Tradition was given for both parties, at the time impartially. As to Kwesi Ayiah, who is alive and one of defendants in this case, as Ninson stood for and spoke for him and K. Ayiah did not give evidence - his former evidence was admissible in contradiction. Same applies to J.B.Quartey's evidence - when he gave evidence, Exh.J. was put to him. Exh.I. is the Judgment in case in which K.Mensah gave evidence. Clearly relevant and admissible to show that Eduamoah had been ejecting plaintiffs from land. Clear findings by Native Court - There is evidence to support them. Plaintiffs sued only defendants 1-6 who have farms on their lands.

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C.A.V.
(Int) J.H.C.

In the West African
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JUDGMENT - 3rd
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(continued)
Coussey, P.
(continued)

united in their new surroundings to form one large composite group, which became known as the Yego family of Apaa Quarters of Nyakrom, in order to enjoy protection and privileges in common. The plaintiffs, who claim to be of the Ampiakoko house or section of that composite group, so named after Ampiakoko the founder of their family stool and family land, say that each of the four or five houses or section had acquired its own clearly defined lands. On the houses combining to form one large clan group, the lands of the individual houses were thereafter regarded as a whole and every member of the composite "coparcenary" group had the right to farm freely on the lands, provided that he or she did not trespass on the cultivation of other members of the group and provided also that no member could establish exclusive ownership of any portion of the land of his own house or of that of another house or section.

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According to the plaintiffs, sometime before the year 1949 dissensions arose between the plaintiffs' Ampiakoko house and the other members of the composite group and, in consequence, the tie that had bound them together for many years was severed. After this severance there is evidence that the defendants evicted the members of the Ampiakoko house from the lands which had been used in common but which had been acquired by the defendants' ancestors and which they regarded as their family lands. In retaliation, the plaintiffs instituted the present proceedings in the Native Court in September 1953 claiming a declaration of title to, and recovery of possession of the three parcels of land in the writ of summons mentioned on the ground that these lands were acquired by their ancestor Ampiakoko. The defendants, members of the other houses, were sued as the persons who had actually taken possession of and asserted title to the three lands as against the Ampiakoko house.

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In answer to the claim the defendants contended that the three lands in dispute were acquired and founded by their ancestors, Bausio, Otsinkorang and Abuenyi, together with the plaintiffs' ancestor Ampiakoko, who was elected to be their chief, that all the lands

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are still held jointly by the four houses or sections and that neither severance of the group-tie nor of the common ownership of the lands could arise or had taken place.

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(continued)
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(continued)

10 The Native Court in a lengthy trial considered a great deal of oral and documentary evidence much of which was conflicting. It found on the evidence "that the Yego family, though consisting of four houses were one
10 "sometime ago and that by Exhibit 'A' they "have now separated themselves by observing "the native custom of cutting the family tie". Exhibit 'A' is an order dated 13th May 1949 of the same Native Court and made in the course of the suit of Kofi Donkor, head of the Ampiakoko section of the Yego family, Nyakrom vs. Kwesi Eduamoah, the 4th defendant-respondent to the appeal. It records the severance of the family tie in these
20 terms:-

"ORDER OF THE NATIVE COURT:

"In view of the agreement arrived at by "both parties as to separation of family ties "it is needless calling upon any other witnesses in this case nor asking the defendant "to make his defence.

30 "It is hereby ordered and directed, by "consent of both parties that the family ties "hitherto existing between Kofi Donkor as "representing the members of Ampiakoko section of Yego family (Amaa section) of Nyakrom "and all his descendants of the one part and "Kwesi Eduamoah and with him Henry Saah, "Kwami Badu and Kwami Otsinkorang as representing the other four houses of Yego family "(Amaa section) at Nyakrom and all their "descendants of the other part be separated "and the same are hereby separated, each "party not having any further family dealing
40 "with the other.

"The question of the Yego family (Amaa "section) Stool of Nyakrom and all the properties attached thereto or belonging to the "said family shall be later settled amicably "between the parties by Nana Kobina Botchey, "Adontenhene of Agona State, who shall see to "the division of such properties and to the "ownership of the Stool".

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The question at issue, the Native Court observed was:-

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(continued)
Coussey, P.
(continued)

"Were the lands in dispute i.e. Buafi, Otsinkorang and Besumpa founded by Ampiakoko, the plaintiffs ancestor or by Buasi, Otsinkorang and Abuenyi the defendants ancestors and Ampiakoko"? After a review of the evidence oral and documentary the Native Court held that Ampiakoko's name is mentioned in all the statements (referring to earlier testimony of members of the Yego family) as the founder of the lands in dispute and that he founded the lands for his descendants. 10

On appeal this decision was in effect held by the learned Judge of the Land Court to be against the weight of evidence. He held that there had been no agreement by the defendants or other branches of the Yego composite family to a severance of the family tie; that the view of the Native Court was wrong that the direct descendants of Ampiakoko alone have exclusive rights in the lands in dispute and he further held that the lands of a family stool which had been held undivided under succeeding heads of the joint family could not revert to one branch of the joint family who claimed to be direct descendants of the founder of the land and the stool thereby losing its character of stool family property of the whole unified sections. 20

In my opinion the learned Judge's finding that there had been no severance of the family tie is in direct conflict with the tenor of the order made by consent Exhibit "A" and which is set out above, and with the evidence of the plaintiff which was accepted by the Native Court, that the 4th defendant, Eduamoah, after consultation with all the other defendants who were heads of the other houses of the composite group, desired to break with and did sever the family tie with the plaintiffs' house. 30 40

The conduct of the defendants in evicting members of the Ampiakoko house from lands acquired by their ancestors is consistent with severance of the family tie but would be inexplicable if the houses were still a composite group enjoying use of their lands in common as they had done in the past.

The learned Judge expressed a view as a general proposition that the lands of a family

stool cannot revert to one branch of a family. The Native Court, however, in the particular circumstances of the present case, held that on severance each house assumed title, to the exclusion of the other houses, of the lands acquired by its founder. That is a finding on the native custom applicable to the case. It is the custom of "cutting ekar" which is dealt with in Sarbah's Fanti Customary Laws (1897) at p.31.

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(continued)
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(continued)

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In my opinion the learned trial Judge could not on the material before him properly be satisfied that this finding of fact by the Native Court was wrong.

In Kweku Nsemfoo vs. Nana Gyebi Ababio II,
W.A.C.A. Cyclostyled Reps. Jany-Febry 1947
p.42 at p.44 this Court observed: "In the case of Nobina Angu vs. Cudjoe Attah (G.C. Reports P.C. 1874- 1928) Sir Arthur Channel in delivering the judgment of the Privy Council said:-

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"The land law in the Gold Coast Colony is based on native customs. As is the case with all customary law, it has to be proved in the first instance by calling witnesses acquainted with the native customs until the particular customs have, by frequent proof in the Courts, become so notorious that the Court take judicial notice of them".

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"This of course was intended to apply to what may be described as British Courts before which it is sought to prove a particular custom. There is no ground for extending its application to Native Courts of which the members are versed in their own native customary law, although there is nothing to prevent a party from calling witnesses to prove an alleged custom. If the members of a Native Court are familiar with a custom it is certainly not obligatory upon it to require the custom to be proved through witnesses. This has been recognised by this Court in cases where questions of native customary law have been referred to a Native Court for its opinion thereon".

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The learned Judge of the Land Court should not in my opinion have interfered with the finding of the Native Court.

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Court of Appeal

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JUDGMENT - 3rd
April 1956
(continued)
Coussey, P.
(continued)

Two arguments in this Court of the defendants-respondents in support of the judgment appealed from, demand notice.

It is said that Exhibits "G", "H", "I", "J", "K" and "L" which are mostly transcripts of evidence in proceedings in 1910 and 1935 when the houses were united and living in concord wherein statements affecting the land had been made by the defendants or deceased members of their houses were improperly received in evidence by the Native Court. The statements were tendered in the course of the plaintiffs' case to forestall the probable defence and to contradict in anticipation that defence. No doubt if strict rules of evidence, as they are understood in the Supreme Court, were applied some of the transcripts would not have been received in evidence at the stage they were admitted. But there are no strict rules of evidence in a Native Court. In a Native Court, what the defendants or members of their house had stated on former occasions touching the acquisition of the lands in dispute, would be regarded as most material to the issue to be decided and, indeed, so would all evidence that could fairly throw light on the disputed transactions. 10 20

In my opinion the admission of these transcripts did assist the Native Court in arriving at its judgment and I am not prepared to say that they should be disregarded. 30

The second argument is that if Ampiakoko the plaintiffs' ancestor was the occupant of a stool when he acquired the lands in dispute, since a stool holder cannot acquire property for himself while on the stool, the lands remain the property of the stool. It is a correct proposition in native custom that all property acquired by a stool holder while on the stool enures to the stool, but the finding of the Native Court on the evidence is that Ampiakoko founded the lands for his descendants. This finding rejects the defendants' contention that Ampiakoko was already occupying the stool of the composite houses when he acquired the lands in dispute and, indeed, it is probable on the evidence that he was elected to the Apaa Yego stool long after he had acquired the lands for his own family. 40

The learned Judge concluded his judgment by referring to an appeal pending in another suit.

in which it is said the same issues are raised in respect of the same lands, holding that the pendency of that suit was a further reason why the decree of the Native Court for recovery of possession should be set aside. It is sufficient to say that the pendency of that suit and appeal was irrelevant to the judgment in the suit appealed from and should not, in the circumstances, have been considered in the appeal then before the Court.

I can find no reason for disagreeing with the judgment of the Native Court which was expert in native custom and I would therefore allow this appeal and restore its judgment and set aside the judgment of the Land Court. The plaintiffs/appellants will have the costs of this appeal allowed at £90.8.6d. and also the costs in the Courts below.

KORSAH, J.A. I concur.

AMES, Ag.J.A. I concur.

Akufo Addo for the appellants.

Hayfron-Benjamin (Ollonnu with him)
for the respondents.

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Court of Appeal

No.24

JUDGMENT - 5rd
April 1956
(continued)
Coussey, P.
(continued)

Korsah, J.A.

Amos, Acting J.A.

In the West African Court of Appeal

No.25

No.25

Court Notes granting Final Leave to Appeal to Her Majesty in Council

Court Notes granting Final Leave to Appeal to Her Majesty in Council 27th July 1956.

27th July 1956.

In the West African Court of Appeal, Gold Coast Session:

Coram:- Korsah, C.J., sitting as a single Judge of Appeal

Civil Motion No.51/56

Amba Amoabimaa & anor.etc.

vs.

Kwami Badu & ors.

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Motion on notice by defendants (appellants to Privy Council) for final leave to appeal and for Stay of execution of the Judgment dated 18th June, 1954 of the Native Court, restored by this Court, pending the determination of appeal to the Privy Council.

Mr. Benjamin senior for applicants.

Mr. Nyinah (holding Mr. Akufo Addo's brief) for Respondents.

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Mr. Benjamin: Moves in terms of paper filed for final leave. As regards stay of execution, counsel does not wish to proceed with motion in view of affidavit in reply served on him this morning, but would withdraw that part of the application with liberty to bring the matter before the full board. Will file fresh papers with regard to application for stay of execution.

Mr. Nyinah: No objection but would ask for costs.

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Court:- Final leave granted as prayed. Application for stay of execution struck out. Respondent to have the costs of the day fixed at £3.10.0d.

(Sgd.) K.A. Korsah
C.J.

"G"

EXHIBITS
(PLAINTIFFS)

Evidence of Kwesi Mensah & Others in Sam v.
Nkrumah

"G"
Evidence of Kwesi
Mensah & Others
in Sam v. Nkrumah
6th October 1915

In the Supreme Native Tribunal Omanhene of
Agona State, Winneba District, Gold Coast
Colony held at Ahenfio, Nsaba, on the 6th day
of October, 1915 before Omanhene Nana Duodo III

10 Kofi Sam on behalf of Yorkor
Family . . . Plaintiff
versus
Kofi Nkrumah on behalf of Yego
Family . . . Defendants

x x x

Defence:- Kwesi Mensah on behalf of Yego
Family sworn a.r.b. in Chee states:- (sic)

20 I live at Nyakrom. Farmer. I know Wilson.
He is from Yeko family, Chief Asiaful my grand-
father one also is Adubaw, Ampiakoko Kaw Amfari,
Ampia Abonyi all these are my grand fathers.
From Abonyi came Kofi Nkrumah. We all from
Nyakrom Apaa from time immemorial. My grand
father Ampiakoko was a big trader or merchant.
He went to Inkum from Nyakrom to carry on
trade. He met Yarku Attua then Chief of
Inkum. Present Chief Agil of Nkum's ancestor
Ampiakoko met Town Nkum already built by
Yarku Attua. Yarku Attua resides on the right
of Inkum Town. Ampiakoko also resides on the
left side of the town Inkum. Many others also
came there, when Yarko Kweku was coming to
Fanti the Plaintiff's ancestrals came with (sic)
30 him from Ashanti the Plaintiff's ancestors made
cottage between Bobikuma and Kwamang to await
Yarku Kweku who was then kept back. Plain-
tiff's ancestors used to bring palm wine their
trade to Inkum market for sale. My grand
father Ampiakoko became a great man at Inkum
town. He had a lot or great money. Ampiakoko
asked the present Chief of Inkum's ancestors
that he must go with him to find hunting
40 cottage. They too went together. The present
Chief of Inkum's ancestor took left side in the
bush or forest and my grand father Ampiakoko
also took right side in the forest. Ampiakoko
made two cottages or villages on the land Tsin-
korang and Bosompah villages. Ampiakoko came

EXHIBITS
(PLAINTIFFS)
("G")

Evidence of Kwesi
Mensah & Others in
Sam v. Nkrumah

6th October 1915
(continued)

back home to Inkum. Ampiakoko has ruin building and Odum tree named after him at Inkum now. Even one messenger of Omanhene Yaw Duodu Asempah who resides at Inkum had to set fire to the Odum tree which Asempah cut sheep for that tree Odum. Ampiakoko returned back to Nyakrom yet he owns his two villages. He sends for everything from the land. Also during Kofi Nkrumah's present time Amanful went on the land with his permit and made his share of rubber tapped from the land. Many people have been on the land with our permit. I have boundaries with Chief of Inkum, Chief of Anamasi, and Sub-Chief Akuma of Nyakrom, if these people say they have no boundaries with me then my statement is not true. Asani Yaw is Plaintiff's grand father hunter Kojo Ninfaa's husband went on the land for hunting with permission from Kofi Nkrumah, I mean Bosompah land. Hunter Kojo informed Kofi Nkrumah that Asani Yaw Plaintiff's grandfather has built his house on part of Bosompah land. Kofi Nkrumah sent Nkrumah Kumah to go and ask Asani Yaw where he is from and he has built his house on part of Bosompah land. Asani Yaw replied that why Kofi Nkrumah claims ancient forest lying for long time to be his own alone. Kofi Nkrumah sent Nkrumah Komah again to tell him that the land is his own therefore he must not enter on the land again or anymore. Hunter Kojo informed Kofi Nkrumah that Asani Yaw's own son Ayifua still remains on the land. Kofi Nkrumah sent Nkrumah to clear him off from the land. This was done. Nkrumah Kumah met Ayifua had got very little rubber therefore he did not make share with him. Ayifua cleared from the land. His house ruined up to now nobody had gone into the land, one Yaw Boadi member of Plaintiff's family hide himself to tap rubber on the land was found ran away left his rubber tapped and same was brought to Kofi Nkrumah. Kofi Nkrumah complained to Yaw Boadi's brother Kwamin Atta about his been on the land. Boadi was called for: He came before Kofi Nkrumah, Kofi Nkrumah asked him who directed him to go to Bosompah land to tap rubber. Boadi said he had gone on Kofi Nkrumah's land to tap rubber, Kofi Nkrumah had discovered it taken therefore he cannot show who directed him there. Boadi went away from Kofi Nkrumah. Kofi Nkrumah sold Boadi's rubber tapped from Bosompah land. Kojo Hammah also tapped rubber there, gave share to Kofi Nkrumah. All tributes on

(sic)

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(sic)

EXHIBITS
(PLAINTIFFS)
"G"

Evidence of Kwesi
Mensah & Others
in Sam v. Nkrumah

6th October 1915
(continued)

10 Bosompah are paid to Kofi Nkromah. Now about a month and little ago Kofi Nkromah sent his nephew Nkromah Kumah a Hunter to go and live on Bosompah land to fetch him some meat and if the house there ruined he must have a new one instead. Nkromah Kumah built new house cleared woods at Bosompah village and came home. About three days after that Kofi Nkromah gave one sheep to Nkromah Kumah to cut it on Bosompah village or land to produce snails as snails have gone out long since from the land. Nkromah Kuma went the next day. Nkromah Kumah sent messenger to inform Kofi Nkromah that Plaintiff, Kofi Sam also has sent people to go and build house on Bosompah village and to live there. It was Sunday, Kofi Nkromah sent messenger with intent to tell Kofi Sam that Bosompah belong to him. Messenger did not start when Kofi Sam's bearer came to tell Kofi Nkromah that Kofi Sam says Bosompah land or village is for himself. Kofi Nkromah gave reply to the messengers that they must tell Kofi Sam that he owns Bosompah land. Kofi Sam also sent to tell Kofi Nkromah that Bosompah belonging to him. Hence Kofi Sam brought Kofi Nkromah and Yorkor Family before this Tribunal.

(sic)

Case adjourned to tomorrow 7th at 8.30 a.m.

30 At 10.15 The case was resumed before Omanhene Yaw Duodu III C.G. Wilson for Kofi Sam Yorkor Family, Plaintiffs. Kwesi Mensah for Kofi Nkromah Yego Family, Defendants.

Questions to Defendants by Plaintiffs:-

- Q. Who first built town Nyakrome as founder.
- A. I do not know the founder of Nyakrome.
- Q. From where you went to town Inkum?
- A. My ancestors went to Inkum from Apaa Street in Nyakrome not Coast Appah.
- Q. Who is the founder of Town Inkum which your ancestor Ampiakoko met at Inkum?
- 40 A. Founders are Kang and Yarku Attua.
- Q. Can you name some of the Elders Ampiakoko met at Inkum?
- A. Ampiakoko met Fortsiakor from Adjumako.
- Q. When Ampiakoko went to Inkum do you know he met one Baafu Aigin?
- A. I do not know.
- Q. Do you know the owner of Kweku Baah's Stool at Kwaman.
- A. I do not know.
- 50 Q. When Yarku Kwaku came from Ashanti where did he stay first?

EXHIBITS
(PLAINTIFFS)

"G"

Evidence of Kwesi
Mensah & Others
in Sam v Nkrumah

6th October 1915
(continued)

(sic)

(sic)

(sic)

- A. He stayed at Nyakrome nowhere else.
- Q. Who was at Nyakrome as founder before Yarku Kweku came to Nyakrome from Ashanti?
- A. Yarko Kweku met Baa Amoah at Nyakrome.
- Q. Who are Baa Amoah's present relatives at Nyakrome?
- A. Kweku Amuanin of Nana at Nyakrome is the present relatives of Baa Amoah.
- Q. Which tribe or Family Kweku Amuanin belonging? 10
- A. Kweku Amuanin belonging to Yego Tribe or Family.
- Q. Why town Nyakrome was called Nyakrome by name?
- A. Town Nyakrome derives from Anyina Krome.
- Q. Why your uncle Kweku Amuanin was not the Chief of Nyakrome then?
- A. When Yarku Kwaku came from Ashanti to Nyakrome he came with mighty men which enabled him to cover my uncle Kweku Amuanin's men. Hence he took possession of Nyakrome and he became Chief there. Though he is not the founder. 20
- Q. After Yarku Kweku's war have you ever tried to re-claim Nyakrome as founder?
- A. No. Yarku Kweku was succeeded after though Amuanin's Stool lying at Nyakrome.
- Q. Who gave Bosompah land positively to Ampiakoko?
- A. It was not given but Ampiakoko and Yarku Atua founded their separate villages. Ampiakoko had Bosompah land by himself.
- Q. Have you burial cemetery at Inkum?
- A. My family have burial cemetery with Asani's family at Inkum. 30
- Q. Can you mention the name of Chief of Akroso which Ampiakoko formed boundary with?
- A. Ampiakoko forms boundary with Yaw Darko present Chief of Akroso's ancestors.
- Q. Regarding Yaw Buadi's rubber tapped you took from him was he alone found at Bosompah land?
- A. Even Yaw Buadi ran away from Bosompah land only Yaw Buadi I know.
- Q. Was Buadi driven from Bosompah land after or before Asani Yaw's Accra land dispute? 40
- A. Buadi was driven before Accra case.
- Q. Do you remember Kojo Ninfa and Adai gone on to Bosompah land to tap rubber about four years ago?
- A. I do not know many others go unaware.
- Q. Was Bosompah or Tsinkorang given to Ninfa?
- A. Both were given to her.
- Q. You did sent to tell Yaw Ampiaaw to come to you for you have now owned the land? 50
- A. I do not know.

Questions from Tribunal to Plaintiff:-

EXHIBITS
(PLAINTIFFS)
"G"

- Q. How many villages you are claiming before this Tribunal?
A. I am claiming Bosompah village but defendants also claiming Akurafufu for Inkum through his statement.
Q. How many roads leading to Bosompah village?
A. Anamasi road, Inkum road, Akroso road, these form boundary with me also Nyakrom Akuma from (sic) boundary with me.
10 Q. Have you subpoenaed Akumah as witness?
A. Defendants have done already.

Evidence of Kwesi Mensah & Others in Sam v. Nkrumah

6th October 1915
(continued)

Questions to both Plaintiff and Defendants:-

- Q. Do you agree witnesses Chief of Anamasi, Akroso, Inkum and Akumah to give evidence in this case as to your situation and boundaries?
A. From both Plaintiff and Defendants were are agree (sic)

Questions from Tribunal to Plaintiffs:-

- 20 Q. With what mark or sign do you form boundary with Akumah?
A. I form boundary with Akumah at Ibkuapirody land.
Q. What is your mark with Anamasi?
A. No boundary only hunters meet together. The hunter from Anamasi comes from Mbuohu.
Q. No boundary formed or cut only hunters meet with Akroso at Osini Stream?
A. No real boundary only Kwainoo road. Baah Anuah and Chichiwireh villages for Inkum Akurafufu for me also Bosompah.
30 Q. Was Kwaman, Dobeng and Bobikuma there before Inkum built or founded?
A. Kwaman was not there next Dobeng and Bobikumah in existence.

Questions from Tribunal to Defendants:-

- Q. You are only claiming Bosompah land not so?
A. Yes.
Q. How many roads leading to Bosompah land?
40 A. I meet with Akrosofo, Osini stream, Akumah, Anamasi and Inkum. From Akurafufu to Tsinkorang village we meet Akurafufu for Inkum.
Q. You are only meet with these four named people.
A. Yes, but no formed boundary cut through.
Q. Can Chiefs of Inkum, Anamasi, Akroso and Akumah identify that they meet with you only and no one else?

EXHIBITS

(PLAINTIFFS)

"G"

Evidence of Kwesi Mensah & Others in Sam v. Nkrumah

6th October 1915
(continued)

- A. Yes.
- Q. Did Ampiakoko meet Plaintiffs' ancestors at Inkum?
- A. He did not meet plaintiffs' ancestors but only present Chief of Inkum ancestors.
- Q. Was Nyakrome town in existence.
- A. Yes, also Kwaman, Dorbeng and Bobikuma.
- Q. Could Chief of Inkum say you have on cemetery with him?
- A. Yes, he could say.

(sic)
10

Question to Plaintiff:-

- Q. Was Nyakrome also then in existence?
- A. No Nyakrome was not in existence.
- Q. Have you cemetery at Inkum?
- A. Yes, I have even now.
- Q. Do you bury your family there presently?
- A. Yes, my people at Inkum are buried there now.
- Q. Do you say Inkum town was built by your ancestor Inkum?
- A. Yes, Inkum town was founded by my grand father Inkum. I could give evidence to proof. If he comes and say Inkum was not founded by my grandfather Inkum then I am guilty and my statement are incorrect. Present Chief of Inkum knows plainly that my grandfather Inkum was the founder of Inkum town. He will give evidence that Inkum town was founded by my grandfather Inkum.

(sic)

(sic)

20

30

"H"

EXHIBITS
(PLAINTIFFS)
"H"

Evidence of Kobina Agil Chief of Inkum in Sam v. Nkrumah

(Title as Exhibit "G")

x x x x x

Evidence of
Kobina Agil
Chief of Inkum
in Sam v.
Nkrumah 6th
October 1915

Witness:- Inkum Chief Kobina Agil represented by
Kobina Taiko, s.a.r.b. in Chee states:-

(sic)

Chief of Inkum sent me to say the following:- I
live at Inkum. Chief of Inkum. I know Plaintiffs
and Defendants. I am subpoenaed to give evidence
between Plaintiffs and Defendants. My grandfather
Yarko Atua founded or built Bakuwa village, now
10 ruined. He settled there. From Bakuwa village
Yarku Attua and elders founded or built town Inkum.
They had a stream called Opunoon which used to dry
in the sunny season. Owing to such scarcity of
water he sent his son Atta to fetch where they
could get water undried. Atta found Bura Atta or
stream undried which was named after him as Bura
Atta still at Nkum now to make Market there. The
market increased. All sorts of people came to mar-
ket. One Ampiakoko also came to Inkum owing to the
20 market. Ampiakoko met my grand father Yarku Attua.
When he came from Nyakrome Ampiakoko was a Chief of
Nyakrom before he came to Inkum. He brought his own
Stool. Ampiakoko still remained at Inkum up to when
the market was ruined. When the market was ruined
he told my grandfather Yarku Attua to go and show
him somewhere to build hunting village for his hun-
ters to hunt to kill there meat for him. They both
went to the forest at Inkum. They passed certain
villages and they came to Akurafufu. They first
30 passed Baa Amoah's village in Inkum. Adumassah
village in Inkum. Chichiwireh village, thence they
went to Akurafufu village then built by Yarku Atua.
From Akurafufu they took forest road. Yarku Attua
told Ampiakoko that where we have reached now you
must take right side and I take left side. Yarku
Atua told Ampiakoko to hunt the Stream Osini. He
must not cross the stream Osini for the bank of
that stream belongs to Akroso people. Ampiakoko
first built Bosompah village then second village
40 Tsinkorang. Ampiakoko owned these two villages
Tsinkorang built a Chief's house, fenced same and
planted Odum tree therein. It is in existence up
to now. One Asempah burned this Odum tree which
displeased Aseni then Chief of Inkum who sent to
report same to Nkromah at Nyakrome. Nkromah with
Chief Asani asked Asempah, to cut sheep as offering
to the Odum tree. Asempah cut the sheep accordingly.

EXHIBITS
(PLAINTIFFS)

"H"
Evidence of
Kobina Agil
Chief of Inkum
in Sam v.
Nkrumah 6th
October 1915.

Questions to witness by Plaintiff:-

- Q. Where do Ampiakoko's people buried at Inkum? (sic)
When they die when (whom) he was at Inkum?
A. Where was Inkum Chief Asani buried. By order
of Tribunal not to answer.
Q. What is the meaning of your Town Inkum or
Inkum derives from?
A. Inkum is my own town. Plaintiff has no
reason to ask me the meaning, am not liti-
gating with him on my town Inkum? Witness
forced to answer question by Tribunal. 10

Answer:- During ancient time Ashanti war my
grandfather Yarku Attua was captured by
Ashantis. He was taken to Kumasi. Then
Inkum was not founded or built, but he was at
Bakuwa village. Yarku Attua was not killed but
was put in log in a village, then the war was
going on. At Kumasi there has been a murderer
who has then ran to the bush killing people. 20
Yarku Atua saw children running to where he
was. He thought he was going to be executed.
Yarku Attua after all saw the murderer came up
to him where he has been put in log. The mur-
derer asked Yarku Attua why he is put in log.
Yarku Attua told the murderer that there has
been a war in Fanti and I am captured and
brought here. The murderer told Yarku Attua
that as Ashantis have not you now before they
will kill or execute you they will trouble you
therefore let me help you by killing you my- 30
self. Yarku Attua consented. The murderer
drew his dagger and asked Yarku Attua to put
his head on the log. He did so, when the mur-
derer was in point to execute him. Yarku Atua
held the murderer's neck with his right hand
knocked him down put the log on him and brake
his neck dead. Yarku Attua's war spies came
to spy him. They found dead body under the
log. They asked him the reason. Yarku Attua
told the spies all about the murderer. 40
The
spies were exceedingly glad and told Yarku
Attua that they were going to inform Ashanti
King about the murderer as he is seeking for
him. Ashanti King was informed accordingly.
Ashanti King sent messengers to bring Yarku
Attua to Kumasi with the dead body. Ashanti
King ordered dead body to be thrown away. He
opened his box presentod silk waist cloth,
oaring cloth, silk handkerchief, soap and other
things to be givon to Yarku Attua who was then 50
waiting at Subensu stream to wash and come
before him. He did so and was present to

(sic)

(sic)

Ashanti King. The Ashanti King saluted him and gave him to a linguist to stay with him for three days before he would answer him. The three days due Yarku Attua came to Ashanti King. The Ashanti King then said I will not kill you anymore. The Ashanti King gave men and women and made him sub-chief. Yarku Attua was made warrior he was sent to Nkroansah to fight there. He did so. Yarku had the same 'Attua' from Ashanti through much conquering. Yaw Atua then came to Bakuawa. He bought a slave and named him Inkum means (Wannkum) after his Ashanti troubles. The slave Inkum and Atta were sent to fetch water and good place, hence town Inkum came.

EXHIBITS
(PLAINTIFFS)
"H"

Evidence of
Kobina Agil
Chief of Inkum
in Sam v.
Nkrumah 6th
October 1915.

- 10 Q. Have you ever heard of the name of Inkum Kwagyaku in the market of Inkum?
- A. Yes, Kwagyaku resides on different places, his people bring in palm wine to market for sale.
- 20 Q. With which people do you form boundaries?
- A. With Akroso also Anamasi.
- Q. On Nyakrome part who do you form boundary with?
- A. I form boundary with Akuma's ancestors?
- Q. What forms boundary with Akumah's ancestors?
- A. We only meet in forest.
- Q. Have you ever hold meeting about 6 days ago at Inkum including strangers?
- 30 A. Yes, our grandfather Kwesi Asani made a Will in Chee we asked some clerks to read same to our hearing and if possible to have same translated into English.
- Q. Did you not say anything regarding this present dispute of Sam versus Nkromah?
- A. No.
- Q. Are you not residing in my uncle Asani Yaw's room at Inkum?
- A. Asani Yaw's house ruined. I have built another one myself.

(sic)

"N"

EXHIBITS
(DEFENDANTS)
"N"

Evidence of Kwesi
Mensah in Sam
v. Nkrumah
6th October 1915

Evidence of Kwesi Mensah in Sam v Nkrumah

(Title)

x x x x

Case adjourned to 2.30 p.m. today by order.

T.R. (Sgd) S.E. Duodu

x x x x

Defence:-

(sic) Kwesi Mensah on behalf of Yego Family
sworn a.r.b. in Chee states:-

I live at Nyakrome. Farmer. I know Wilson
he is from Yorkor Family. Chief Asiaful is my
grandfather one also is Adobaw Ampiakoko, Kwa
Amfari, Ampia, Abonyi, all these are my grand-
fathers. From Abonyi came Kofi Nkrumah, we
all from Nyakrome Apaa from time memorial.

10

x x x x

By order
(Sgd) S.E. Dodoo
7/10/15.

"X"

Evidence of Yaw
Darkwa in Wilson
v Mensah
12th October 1915

"X"

Evidence of Yaw Darkwa in Wilson v Mensah.

In the Supreme Native Tribunal Nsaba Gold
Coast Colony, before Omanhene Yaw Duodu III

C.G. Wilson for Yorkor Family .. Plaintiff
versus
Kwesi Mensah for Yego Family .. Defendants

20

Case resumed.

(sic) Witness:- Yaw Darkwa Chief of Akroso S.A.R.B.
in Chee states:-

I live at Akroso. I am Chief of Akroso
town. I know both Plaintiffs and Defendants.
My grandson Kweku Owusu made a village called

EXHIBITS
(DEFENDANTS)
"X"

Evidence of Yaw .
Darkwa in Wilson v.
Monsah
12th October 1915
(Continued)

Osinihu (stream) Kweku Owusu's nephew Kofi Ano is a hunter. When he goes to bush he meets (sic) people from Nyakrome Apaa Kofi Ano asked then whose family they belong. They replied Kofi (sic) Ano that they belonging to Abonyi's family. And they are at Abonyi's village called Bosompah. There they came from to meet Kofi Ano. During that time it was snails time. From or after snails rubber came. When Abonyi and 10 Kweku Owusu died, Otorbor and Kweku Awuah succeeded each other. Kwoku Awuah went to Osinihu villago to tap rubber. He cleansed two rubber trees to be tapped by his children. Bohold two young men also came and tapped the two rubber trees. The two young men said they came from Nyakrome, Appash, Kweku Awuah asked them whose family they belong? They said Otorbor's family. He Otorbor sent them to this villago Bosompah, to tap rubber for him. Kwoku Awuah asked them 20 whothor Otorboh relates Abonyi. They said yes, Kwoku Awuah said as he forms boundary with Abonyi he cannot take the tapped rubber from them. Kwoku Awuah told them that as you have my rubber from my land and owing to Abonyi I cannot take it from you. You must come back here Wednesday and Thursday to tap my rubber also for me. After Osinihu village new vill- age was founded by Bimpong, Otorboh sent bear- or to Akroso to Kwoku Awuah to inform him that 30 Bimpong has built a village on his land. Kwoku Awuah replied that where Bimpong has built his now village the land there is for him and not for Otorboh. Otorboh sent second bearer about the same village. Kweku Awuah replied the same thing and also requested Otorboh to come or go on the land to show his boundary with him if he Otorboh knows his boundary on the land. Otorboh did not come.

Witness: by Tribunal:

40 Q. Your ancestors only shown you that Otorboh they have boundary on the land?
A. Yes, only Otorboh I know.
A. To witness by Plaintiffs.
Q. From ancient time only Otorboh and Abonyi's names mentioned to you?
Ans. Yes.

(sic)

By Order:- This case adjourned further to await witness Chief of Anamasi. No substantial date fixed for this case. This Tribunal will call the case at any time witness from Anamasi will arrive.

(Sgd) S.E. Dodoo
Tribunal Registrar - 12.10.15.

EXHIBITS
(DEFENDANTS)
"Y"

"y"

Evidence of Yaw
Donkoh in Wilson
v. Mensah
19th October 1915

Evidence of Yaw Donkoh in Wilson v Mensah

(Title as Exhibit "X")

Case resumed

(sic)

Witness Yaw Donkoh Chief of Anamasi and also head linguist of Omanhene Kofi Ahiniorah of Akim s.a.r.b. in Chee states:-

(sic)

I live at Anamasi. I do not know both Plaintiff and Defendants but I have heard Sam before but I do not know his face. My uncle Awuah whom I succeeded told me that we have a village in Anamasi forest called Obuohu. Our ancestor Ayimbunsem goest to that village. He heard firing of guns. He went to see and he found a village there called Bosompah. He met some people there. He asked them who sent them there. They told him Ampiakoko sent them there. After that Ayimbusam died, Ampiakoko also died. One Kuradoo succeeded my elder. Kuradoo went to Obouhu to find meat. Kuradoo met some people at Bosompah village again. He asked them who sent them there always. They said their elder called Abonyi sent them there. Kuradoo also died. Awuah succeeded him. Awuah also went to Obouhu village. Kuradoo had made farm at Obouhu village. Awuah saw 2 men coming to cut plantain from the farm. Wuah asked them where they come from the 2 men said their elder Otoboh sent them to Bosompah village to fetch meat for him to celebrate his yearly custom. Awuah my uncle also died. After Awuah came I. When or since I succeeded my uncle Awuah, I have not gone to Obuohu village before in order to meet somebody there. Thats all I know in this matter. Witness produced a private letter from Ohin Kofi Tawiah of Nyakrome stopping him not to give evidence or from his giving any private information reference to Bosompah land. Because the land is for himself and he is fighting for same. Copy of letter attached herewith.

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20

30

x x x x

His
Yaw Duodu II x
mark
Omanhene of Agona

40

Witness to mark:-
(Sgd) S.E.Dodoo
Tribunal Registrar.

"I"

Judgment in Wilson v Mensah (Undated)

Title as Exhibit "X"

EXHIBITS
(PLAINTIFFS)

"I"
Judgment in Wilson
v. Mensah
(undated)

JUDGMENT:-

This is a truly hard land case I have ever gone into. I have gone through this case with my Councillors and have listened same with much pains to the satisfaction of both parties. I believe in summing up the evidences of both 4 Principal witnesses who have boundaries on the land I am made to understand through their statements that they the witnesses have no boundaries with the Plaintiffs at all on the land Bosompah. The evidences much agreeable that only Defendants who are Ampiakoko's descendants they have boundaries with. The Plaintiffs satisfied of the evidences given especially that of Akroso and Anamasi against them.

I see no other witness is necessary.

Therefore I give judgment in favour of Defendants with cost of £16.17/- and satisfaction of £8.

One sheep and 2 double flask rum.

His
Yaw Duodu III x
mark
Omanhene of Agona

Witness to Mark:-

(Sgd) S.E.Dodoo

Tribunal Registrar.

"J"

EXHIBITS

(PLAINTIFFS)

"J"

Claim and Evidence
of J.B. Quartey in
Essawah v. Nkum
15th October 1935

Claim and Evidence of J.B. Quartey in
Essawah v Nkum.

In the Tribunal of the Paramount Chief, Agona
State, Nyakrom, Central Province, Gold Coast.

Tuesday the 15th day of October, 1935.

Present:-

- | | | |
|--------------------|-----|------------|
| 1. Kwami Donkor | ... | Regent |
| 2. Yaw Ankumah | ... | Tufuhene |
| 3. Sub-Chief Kwesi | .. | Egyapong |
| 4. Kojo Ampiaw | ... | Councillor |
| 5. Kojo Yeboa | ... | Linguist |
| 6. Kofi Sam | ... | " |
| 7. Kwami Nyami | ... | " |

10

Amba Essawah as the Owner of Nsuasa land per
J.B. Quartey ... Plaintiff

versus

Sub-Chief Yaw Nkum as the Occupant of Yego
Stool of Nyakrom Defendant

Claim:-

The Plaintiff claims £100 Damages for tres-
pass committed by Defendant on Plaintiff's
land known as Nsuansa.

20

2. Defendant has established a new boundary in
Plaintiff's land instead of outside.

3. Defendant sold a portion of Nsuansa land to
one Akwapim man whose name is not known to
the Plaintiff.

Present - Defendant represented by Kwesi Eyiah.
The Plaintiff applies for amendment of Writ of
Summons to read "Yego Family of Nvakrom per
Sub-Chief Yaw Nkum" after the word versus. No
objection by defence.

30

By Tribunal: - Amendment granted as prayed for.

Plea: Not liable.

Plaintiff sworn on bible and stated in Fanti:

My name is John Benjamin Quartey. Plaintiff

EXHIBITS
(PLAINTIFFS)
"J"

Claim and Evidence
of J.B.Quartey in
Essawah v. Nkum
15th October 1935
(Continued)

10 Amba Essawa is my mother. I live at Nkum. I
am a Poultry Keeper and farmer. Myself and
Ohene of Nkum are cousins on my mother's side.
A certain man whose name was Ampiakoko and
whose stool the Defendant is now occupying.
This man Ampiakoko went to Nkum and
traded there. Late Nyarku Etua was then
Ohene of Nkum. Late Ampiakoko applied to
late Nyarku Etua for a land wherein he could
hunt. Late Nyarku Etua agreed and went to
his land with Ampiakoko. They reached Kyikyi-
were from there to Akurafu, Ebusuam stream
and thence to Head of Ebuana stream from thence
to Obo-Kwesi, Annabin stream and Nrokro
stream. My great grand uncle Nyaku-Etua
showed the Defendant's great grand uncle
Ampiakoko the right side of his land wherein
he could hunt, and also pointed out Osin
Stream to him to be the boundary between
20 Nyarku Etua and Akroso people. My great
grand uncle also took the left side for hunt-
ing purposes. The boundary points between
myself and the Defendant are Head of Ebuana
Stream to Obo Kwesi Ananabin stream and
Nkrokro stream. My great grand uncle Assan
(the then Ohene) of Nkum shared the Family
Land among the members of the Family accord-
ing to Sisters and nieces. Nsuansa land was
my grandmother's share which boundary are as
30 above i.e. from Head of Ebuana Stream to
Nkrokro. One Kofi Badu who is my tenant was
one day doing work on this land when the
Defendant drove him and said the land was
for him. This was the information given by
Kofi Badu upon which myself and Badu went to
the Defendant and asked him why he drove my
tenant. The Defendant said the land belongs
to him which forms boundary with Odobin
people. While returning home and on reach-
40 ing portion of my land I came across one
Akwapim man working in it and on questioning
him he replied the portion land been sold to
him and other people by Defendant. The De-
fendant admitted of selling this portion to
the Akwapim people I wrote to warn the De-
fendant of such trespass which he had comm-
itted but there was no reply to the letter.

(sic)

50 Xkd. by Defence:- Your great grand uncle
Ampiakoko made two hunters' camps on the
right side of the land namely Busumpa and
Tsinkorang. You were given with Busumpa and
Tsinkorang land for which you usually paid

EXHIBITS
(PLAINTIFFS)
"J"

Claim and Evidence
of J.B.Quartey in
Essahwah v. Nkum
15th October 1935
(Continued)

(sic)

contribution of money £30 when any dispute arose in respect of this land. You always attend yearly Festival of my Stool. Only recently about 2 years you have stopped of attending yearly Festival of my Stool. I do not remember you have ever disallowed any of my tenants on the land in dispute from farming save Kofi Badu. My great grand uncle Nyarku Etua form boundary with Akroso and Anamasi and Odobin people. Before the land was given to your predecessors you and Kwami Samah conspired and committed the trespass on different boundaries on this land. My land is between your land and Kwami Saman's land. I have no traffle boundary with you and Kwami Saman. 10

By Tribunal:- This case stands adjourned till 1 p.m. today.

(Sgd) T.A.Coleman
Registrar, 15/10/35.

Tribunal resumes from the adjournment of this morning. 20

Xxd. by Defence continues:- Plaintiff still on oath:-

Hunters Camp (Nkwanta) belongs to Odobin people. I say prior to the giving to you of this land my ancestors had boundary with Akroso Stool land. So far as I am concerned I have no boundary at present with the Stool of Akroso. Your ancestor went to Nkum from Nyakrom. The town of Nkum was founded by Nyaku Etua and Kobina Saa. Your ancestor Ampiakoko did nothing to my ancestor Etua through which the land was given to your ancestor Ampiakoko. Ampiakoko was given a land at Nkum to build thereon. Since you became the occupant of Yego Stool I have not had any discussion on this land with you. There is a boundary existing between Busumpa and Nsuansa land. I have not shown you the boundary since the land became mine. I do not remember you had ever had any litigation with Ohene of Nkum about the land in dispute. My great grand uncle had village called "Bekua" before he went to Nkum. I heard the name "Okonfu" Ekuma but I did not know him personally. You trespassed on the boundaries. I first mentioned. You trespassed on my land about 3 miles distance. 30 40

Xd by Tribunal: Defendant had always been rendering all assistance, in finance in respect

of litigation of this land to the amount of £30 and also attending funerals in my Family. His ancestors gave to my Family one silk cloth and other things which were necessary for funeral when Ohene Assan died. These were sent through Kobina Attah. After this land had been given to the Defendant my portion was allotted to me. Late Otoboh was the occupant of Defendant's stool. Otoboh was informed of the fact that that portion had been allotted to me by the then Ohene of Nkum. My ancestor Etua went with late Atta and gave this land to the Defendant's ancestor Ampiakoko, but I cannot tell who also went with them. The Defendant committed the trespass on the left side. The Defendant committed the trespass on portion of my land (Nsuansa).

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By Tribunal: This case stands adjourned until tomorrow morning at 8.30 a.m.

(Sgd) T.A.Coleman
Registrar.

"A1"

Evidence of Kwesi Eyiah in Essawah v. Quartey

In the Tribunal of the Paramount Chief
Central Province, Gold Coast Colony, Agona
State, Nyakrom
Tuesday the 24th day of October 1935

Present:-

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- | | | |
|-------------------|-----|-----------|
| 1. Kwami Donkoh | ... | Regent |
| 2. Kwesi Agyepong | ... | Sub-Chief |
| 3. Kojo Yebua | ... | Linguist |
| 4. Kwami Nyami | ... | -do- |
| 5. Yaw Ankuma | ... | Tufuhene |

Amba Essarwa as the owner of Nsuansa land
per J.B. Quartey ... Plaintiff
versus
Sub-Chief Yaw Nkum as the Occupant of Yego
Stool of Nyakrom ... Defendant

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Page 644 of the Civil Record Book Volume 3
of 25/5/34 to 16/6/36 for the Native
Tribunal.

EXHIBITS
(PLAINTIFFS)
"J"

Claim and Evidence
of J.B. Quartey in
Essawah v. Nkum
15th October 1935
(Continued)

(DEFENDANTS)
"A1"

Evidence of Kwesi
Eyiah in Essawah v.
Quartey
24th October 1935.

EXHIBITS

(DEFENDANTS)

"A1"

Evidence of Kwesi Eyiah in Essawah v. Quartóy 24th October 1935 (Continued)

Defendant sworn on Koran and states:-

My name is Kwesi Eyiah. I am representing the Defendant. Defendant Yaw Nkum is my own nephew and therefore am entitled to represent him so far as the Yego Family is concerned. Late Ampiw Koko was my Great Grand Uncle, also Esiaful, Adubaw, Kwa Anfer, Ampiw and other.

x x x

(Sgd) T.A. Coleman
Registrar

(PLAINTIFFS)

"K"

Evidence of Kwesi Egyiah in Essawah v. Nkum 29th, 30th October, 1935.

"K"

Evidence of Kwesi Egyiah in Essawah v. Nkum 10

In the Tribunal of the Paramount Chief, Central Province, Gold Coast Colony, Agona State, Nyakrom.

Tuesday the 29th day of October 1935

(Title as Ex. "A1")

Defendant sworn on Koran and states:- My name is Kwesi Egyiah. I am representing the Defendant. I am a Linguist to Omanhene Ajumako (Gomoa). The Defendant Yaw Nkum is my own nephew and therefore am entitled to represent him so far as the Yego Family is concerned. Late Ampiakoko was my great grand uncle, also Esiaful, Adubaw, Kwa Anfer, Ampiw and others. Late Ampiw Koko settled at Nyakrom. He was a Petty Trader. He travelled to Ajumako Antumbir where a man called Kwesi Nyarku met him and he Nyarko asked him where did he belong to. Ampiw Koko replied that he went there from Nyakrom Apaa Street. He asked him again whether he know a man called Okonfo Ekuma and he replied "Yes". Ampiakoko also asked Nyarku whence he came and he replied "Nkwawi" in Ashanti. Nyarku made Ampiw Koko to understand that he was related to Okonfo Ekuma of Nyakrome. They both came to Nyakrom where Okonfo Ekuma who pointed out to Nyarko by Ampiakoko. They both became friends. They started on trading by travelling to buy and sell. Before they both met at Antumir Ampiakoko had a Hunters' Camp "Obuafi" in Nyakrom vicinity. Afterwards Nyarko also had a hunters Camp called "Kwesi Nyarku Buafi". The Plaintiff is the great grand nephew of late Kwesi Nyarko. 20 30 40

EXHIBITS
(PLAINTIFFS)
"K"

Evidence of Kwesi
Egyiah in Essawah
v. Nkum 29th, 30th
October, 1935
(Continued)

Before Nyarko had the hunters' Camp at Nyarko Buafi he had then settled at a village called "Bokua" in the vicinity of Nyakrom - Late Nana Okam, Ampiakoko, Kwesi Nyako and Egyipey became Highway men at that time. It was ancient practice which existed at the time. They travelled from Nyakrom to Asantemang and continued extorting people. The travellers from Asante went to report these incidents to

10 Asantehene who detailed his people to witness the scene. Whilst on their way coming a gun was fired from the bush against them. Ampiakoko and Okam fled away. Nyarko and Egyipey were captured by the Asante people and taken away to Asante. Egyipey was beheaded but Nyarko was not because he was found to be a warrior and therefore he was made a captain of Army. He was given an army i.e. people with whom he went to war. Nyarko later on returned to his village,

20 "Bokua" Ampiakoko went to him and they conversed. Nyarko narrated what had transpired during his partial stay at Asante and how he was made a captain of army and also how he used to capture town and people in consequence of which he was given a name "Nyarko Etua" which means a warrior who always captured people early in the morning. Asantehene suggested to Nyarko Etua and Ampiakoko that a special market be made at Nkum which was made for the purpose of

30 trading. Ampiakoko went to Nkum from Nyakrom and Nyarko Etua also went to Nkum with Ampiakoko from Bojua. Nyarko Etua first settled at the town of Nkum and built on the right side and Ampiakoko also went afterwards to settle and built at Nkum on the left side of the town. Nyarko Etua had a relative called Atta who discovered a water which is now called "Bura-Atta" at Nkum. Shea-butter was the main line trade at that time. That market became ruined

40 later one.

(sic)

By Tribunal: This case stands adjourned till this afternoon at 1 p.m.

(Sgd) T.A. Coleman
Registrar.

Defendant still on Oath and continues his evidence:-

Ampiaaw Koko suggested to Nyarko Etua to go to bush for hunting purposes. Ampiaaw Koko before their friendship had another hunter's

50 camp called "Edukuram". When they unanimously agreed to go for hunting they started from

EXHIBITS
(PLAINTIFFS)
"K"

Evidence of
Kwesi Egyiah in
Essawah v. Nkum
29th, 30th,
October, 1935
(Continued)

(sic)

Nkum to go to the field. They first reached at a stream called "Awankora". This stream was a boundary between Ampiakoko and Nyarku Etua on Nyakrom and Bekua land. This stream became another boundary between Ampiaw Koko and Etua on Obuafi and Kwesi Nyarko Buafi land. They went as far as the head or source of this stream. Ampiaw Koko told Etua to take the left side and he on the right side of the land in dispute wherein they continued hunting - Ampiaw Koko made two hunter's camp namely Otsinkorang and Busumpa". Nyarko Etua also made hunters camps namely "Ekurafa Kyikyiwire and Nsuansa. Snails were gathered from the land and also they both hunted in this land. While Ampia Koko hunting he used to hear a report of a gun and subsequently met the party hunting on the land. This man was called "Kweku Owusu" (deceased) of Akroso. Owusu and Ampiaw Koko belonged to the same tribe (Yego). He also met a man called Eyim Bonsam who was also hunting from Anamasi. He met also Niako Atwir from Odoben. Therefore the boundaries of the land are as follows :- On the South bounded with late Ekuma of Nyakrom, on the North with Anamasi people on the East with Akroso people and on the West with Odoben people on Akroso boundary there is a stream called Krokro, on Anamasi side there are "Eusa Bissi and Odom trees, on Odoben side there are Odom Cidar, Tsiabutu trees, on Ekuma side from Awankora stream to Krokro stream. The boundary between myself and the Plaintiff is not yet demarcated. There is no demarcation on the land in dispute.

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30th October
1935

30.10.35

If I say there is no demarcated boundary between myself and the Plaintiff I mean to say there is no modern demarcated boundary existing between myself and the Plaintiff on this land but I can point out the ancient tripple boundary which is Triabutu tree between myself and Plaintiff also "Sronsronheno stream, Busumpa stream, thence to Ebuma stream". I still repeat that the modern boundary between myself and the Plaintiff is not as yet demarcated. The Plaintiff ignored to accede to a certain notice sent to him to come so as to demarcate that boundary by late linguist Mensah on behalf of the Dofendant. Later I discovered that the Plaintiff had given out a portion of land just near my God Busumpa for cultivation. I sent a bearer to remove him from the place but he resisted. That was the time I caused an invitation to be sent to him to come

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and he refused. The Plaintiff's ancestors had never in any way given my ancestors the land in dispute as he stated in his evidence, neither was any rum given to his ancestors by my ancestors. Siam Madress in respect of this land to the Plaintiff. I have never paid any yearly tribute or rent whatsoever.

EXHIBITS
(PLAINTIFFS)
"K"

Evidence of Kwesi Egyiah in Essawah v. Nkum 29th, 30th, October, 1935.
(Continued)

10 By Plaintiff:- I still say Busumpah land is the property belonging to my Family but it was not given to my family by way of Gift. Ampiakoko did not accompany late Nana Nyarku Eku I from Asante to Nyakrom (page 652). I have never heard a name called "KAN" prior to the settle-
ment of my ancestor Ampiakoko at Nkum there was no Chief although Ampiakoko and Nyarko Etua both cultivated the town of Nkum and Nyarko Etua was the first settler in this town. I could not tell whether Bakua land was given to Nyarku Etua by somebody before he settled there.
20 At that time Odikro of Nyakrom was "Gyina-Amuah" whose descendants are sub-Chief Kwesi Assan and family. Kwesi Assan is a Sub-Chief of Nyakrom. I cannot tell the position of Nyarku Kweku at that time, I don't know. I do not know why Kwesi Assan is holding no position as Man-krado or Omanhene of Agona but only a Sub-Chief. I have heard Nyarku Kweku was the Omanhene. Odikro means owner of a town. The Election of Ohene or Omanhene is always made according to
30 the wish of the inhabitants of a town. I will deny you if Nyarku Etua was the Odikro of Nkum before Ampiakoko also settled there. Ampiakoko held no position when he met Nyarku Etua at Nkum. Ampiakoko was not a stranger although he went to Nkum from Nyakrom to trade. Ampiakoko had a land on which he built at Nkum but no sign of any property of his own at Nkum, now. Yes, I have heard of a certain man of Nyakrom whose
40 name was Kofi Sam. I remember there was a litigation between Defendant and Yoko family per Kofi Sam. Nyarku Eku did not tell Ampiaiw Koko that there was a vacant forest in which they could make Hunters Camps. Busumpah land belongs to Nyakrom and not Nkum although both Ampiaiw Koko and Nyarku Etua went to make Hunters camps there from Nkum. Because my Hunters camps on the land were made from Nyakrom. Busumpah land belongs to me that is the reason why I say it belongs to Nyakrom because I am from Nyakrom
50 from the head of Awonkora stream there are the following boundaries between ourselves:-
"Tsiebutuw tree" crossing Srosronhone stream, crossing Busumpah stream thence to Abumba

EXHIBITS
(PLAINTIFFS)
"K"

Evidence of Kwesi
Egyiah in Essawah
v. Nkum 29th, 30th
October, 1935
(Continued)

(sic)

(sic)

stream. Boundaries of my land are five corners and not four. Your ancestor Etua made the following hunter's camps:- Ekurafu, Kyikyiwire and Nsuansa. The source of Awonkora stream does not lie between Ekurafu and Kyikyiwire. The source of Awonkora stream is muddy and a hill-ock. My land at Busumpa forms boundary with the following people:- Anamasi, Akroso, Nana Ekuma of Nyakrom, Ohene of Nkum and Odoben (Kwami Saman). I do not know if Nyarku Atwir was a Native of Adjumako Siwnkymu' and came to settle at Odoben. I do not know a woman called Saniwa of Akroso. I have heard of a man called Bimpong of Akroso. I say I form boundary on Busumpa land with Kwami Saman of Odoben. Kofi Sam instituted action against me at Nsaba Tribunal claiming the whole "Busumpa" land. In that case land Kwesi Mensah was a representative for my family. I received a letter from you in connection with the land in dispute. Inkwanta is a hunter's camp belonging to Kwami Saman of Odoben. Cider and Odoom trees are demarcated boundary between my land and that of Kwami Saman thence to Tiseabutu trippl boundary between Nkum, Kwami Saman and myself. Konfo-Ekuma's descendant is Sub-Chief Kobina Assan of Nyakrom. In ancient time my land at Busumpa had boundary of Osin stream with Akroso people but in the modern time or at present the source of Kroko stream is the boundary mark. Because Akroso people first cultivated the land between Osin and Kroko streams but they being our relatives we did not raise any objection. When Ampiaiw Koko and Nyarku Etua were going to make these Hunters' Camps from Nkum they did not meet or discover any village or hunter's camp on the way. Nyarku Etua and Ampiaiw Koko took the right side direction from Nkum when they went and made these camps. I would deny you in it was through Nyarku Etua, Ampiakoko had to form boundary on Osin stream with Akroso people. Ohene of Akroso was a witness in re Kofi Sam versus Yego Family at Nsaba Tribunal and gave evidence. Ohene of Nkum was a witness in that case because I form boundary with him on Bosompah land. Kwami Saman was not a witness in the case at Nsabah Tribunal. Not because Busumpah land was given to Ampiaiw Koko by Nyarku Etua Ohene of Nkum was subpoenaed by you at Nsaba Tribunal. I do not remember you asked us to pay a contribution of £60 out of which we paid £30 to you in connection with Busumpah land but it was a loan which your people raised from us. £60 was the loan raised by your people from my people. There was no document prepared for

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this amount. You are not my relative but only I did not care to obtain document for it. When Ampiakoko gave your ancestor Nyarku Etua this land there was no boundary shown him. Before this land was given to your ancestors none of them had gone there. I knew late John Acquah of Nyakrom Apea also late Yaw Twim as well as Linguist Kwesi Mensah, Acquah Panyin, Ghansah. These people were not sent by my people together with traditions about the case which was then pending in Native Tribunal Nsaba, but rather to have a person from your people to give evidence in the case. At the time of Oheno Yaw Darkwa our boundary of Osin stream was shifted to Krokro stream. It is about ten years since the boundary was shifted from Osin to Krokro. I would deny if anybody say the boundary existing between my land and your land was fraudulently obtained or made. Obohu land which belongs to Kwami Saman there I have boundary with him. I do not know of Obohu has another name called "Anyiasi".

5.11.35 page 664.

Xxd by Plaintiff continues:-

During the time of Ampiaw Koko and Nyarku Etua there were 3 roads namely Kwaman, Nyakrom and Odoben road. At Nkum the distance between Nkum and the disputed land is about 10 miles. There was no cottage or hunter's camp in that area. Ampiakoko and Nyarku Etua did not sleep on their way to the disputed land. It was plain forest although it was virgin forest at the time. I know I form boundary with you on the disputed land but I cannot tell if you are the owner of the land from Nkum to the disputed land. Oheno of Nkum was not the only witness of mine in re Kofi Sam versus my Family at Nsaba Tribunal. Late Kofi Nkrumah who was my uncle was elder than myself. Late Kofi Nkrumah who was the predecessor of Chief Yaw Nkum deputed late Linguist Kwesi Mensah to give evidence in re Kofi Sam versus my family in respect of Busumpa land at Nsaba. The evidence given in that case at Nsaba Tribunal by Linguist Mensah was true. I have not given evidence as to the fact that when Ampiaw Koko was going with Nyarku Etua on the disputed land they walked through Edukuram and Obuafi cottages.

Xd. by Tribunal:

I said in my evidence that before Nkum market

EXHIBITS
(PLAINTIFFS)
"K"

Evidence of Kwesi Egyiah in Essawah v. Nkum 29th, 30th October, 1935.
(Continued)

(sic)

EXHIBITS

(PLAINTIFFS)
"K"

Evidence of Kwesi Egyiah in Essawah v. Nkum 29th, 30th October, 1935.
(Continued)

was founded, my ancestor Ampiakoko had hunters camp at Obuafi and Nyarku Etua also had his own namely:- Kwei Nyarku Buafi. Awonkora stream the source of which is the main boundary between myself and the Plaintiff on the land in dispute. Source of this stream is muddy thence to small hillock, crossing of Ebuma stream. The source of Ebuma stream is within the area of my land the tail of which is within the area of the Plaintiff's crossing another stream, by name Ebusumpah "Wura" the source of which is within the area of my land and the tail leads to the Plaintiff's land thence crossing Sonsonhene stream, the source of which is in 'Kwami Saman' land. The tail leads to the Plaintiff's land. I have only small portion of land in this area on the right side i.e. Sonsonhen stream thence to Tsiabutu tree, i.e. the tripple boundary between my land Kwami Saman's land and that of the Plaintiff. My land Busumpah is on the right side of this tripple boundary. From this tripple boundary I form another boundary with Anamasi people on the left side and Akroso people on the right. There were the ancient boundaries on the land in dispute. I have no modern boundaries with the Plaintiff, because there has been no dispute with the Plaintiff on this area.

By Tribunal: This case stands adjourned till this afternoon at 2 p.m.

(Sgd) Timothy Coleman
Registrar
5/11

"L"

Evidence of Kojo Okyiro in Essawah v. Nkum 18th June 1936.

"L"

Evidence of Kojo Okyiro in Essawah v. Nkum
18.6.36.

In the Tribunal of the Paramount Chief, Aghona State, Nyakrom, Central Province Gold Coast.

Tuesday the 18th day of June, 1936.

Present:-

- 1. Nana Nyarku Eku V - President
- 2. Kwamin Arnu - Mankradu
- 3. Kojo Tawiah - Sub-Chief
- 4. Kweku Agyapon - -do-
- 5. Yaw Mensah - Tufuhene
- 6. Kofi Mensah - Head Linguist
- 7. Kojo Yebuah - Linguist
- 8. Kofi Nyarku - -do-

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In the matter of :-

Essarwa per Quartey

vs.

Yego Family per Chief

Yaw Nkum

EXHIBITS
(PLAINTIFF'S)
"L"

Evidence of Kojo
Okyire in
Essawah v. Nkum
18th June 1936.

(Continued)

From page 28.

Parties present.

x x x

Defendant s.a.r.b. and states in Fanti as follows:-

10 My name is Kojo Okyire. I am representing
the Defendant. Busumpa land was left for Yego
Family by my ancestor Ampiakoko. Ampiakoko was
a tight friend of Nyarku Etua. Nyarku Etua
first settled at Nkum before my ancestor Ampia-
koko for trade purposes. The market became
ruined. Ampiakoko asked Nyarku Etua to go to
the field and make hunter's camp for hunting
purposes. They both went and made the camps.
20 Busumpa and Otsinkorang villages were founded
by Ampiakoko Nyarku Etua founded Ekrofu and
Kyikyiwere. All these villages were founded
for their own use. Busumpa and Akroso people
has bounded on Osin stream sometime ago, there
was a litigation about Busumpa land between
one Kofi Sam and Nkrumah (my predecessor Kofi
Sam claimed as owner of Busumpah land at the
Native Tribunal, Nsaba wherein Kofi Sam was
Plaintiff and Nkrumah was Defendant. In that
30 Akroso people, Anamasi and Nkum people and
Akuma were witnesses for Nkrumah who gave evi-
dence in that case for me. Taikyi of Nkum
gave evidence in that case for me. Taikyi of
Nkum gave evidence to the effect that Busumpa
land was given to Nkrumah by him for hunter's
camp. The judgment of the Nsaba Tribunal was
based on the evidence of Akroso and Anamasi
people but that of Nkum was ignored and I got
judgment. Busumpa land became by bone fide
40 property. Later on, Krokro stream became the
boundary between my land and that of Akroso
people. Ekuma has modern demarcated boundary
I have sold the position of land between my-
self, Anamasi and Odoben people to certain
people. Owing to the dispute between Kwami
Saman and myself and demarcated new boundary
of Odoom tree, Mbesun, Cedar tree, Sonsonhon
stream and thence to Tseabutu. The boundary
between my land and that of Eyipey was also
demarcated, but the boundary between Nsuansa
50 and Busumpa lands has not yet been demarcated.

(sic)

(sic)

EXHIBITS
(PLAINTIFFS)

"L"
Evidence of Kojo
Okyire in
Essawah v. Nkum
18th June 1936
(continued)

A year ago at the request of Anamasi Chief I went to witness the surveying of his land which I did. There is no boundary demarcated between my land and that of the Plaintiff. I asked Kofi Badu (the last witness for the Plaintiff) to vacate a certain place where he was cultivating on my land but he did not do it. Copy of judgment only in re Kofi Sam versus Kofi Nkrumah dated 19/10/15 and signed by Yaw Duodu III, the then Omanhene of Agona State was tendered in evidence by the Defendant. No objection by the Plaintiff, accepted and marked "A". 10

(sic)

Xcd by the Plaintiff:- I say Ampiakoko asked Etua to go and find hunter's camps but that did not mean that the land was given him by Nyarku Etua. Ampiakoko and Nyarku Etua consented to share the land at a hill on Awonkora stream. Nyarku Etua took the left side and Ampiakoko took the right side of the land in dispute. That hill is the boundary between my land and that of Eyipoy and Nyarku. That boundary is modern one. That hill was the ancient boundary but it was demarcated whereby I lost a position of my land I would proceed again at the other side, because it was the ancient boundary. The modern boundary is always demarcated between 2 villages. My evidence is correct. Modern boundary is demarcated to avoid unnecessary controversy. 20

By Tribunal: This case stands adjourned till Monday the 22nd instant at 9 a.m. 30

(Sgd) T.A. Coleman
Registrar.

Certified True Copy
(Sgd) K.A. Nkrumah
Ag. Registrar, N.C. Swedru
18/8/53.

"0"

EXHIBITS
(DEFENDANTS)

Evidence of Kofi Nkansah in Badu v. Nkum.

In the Paramount Chief's Tribunal Agona State
Nyakrom, Central Province, Gold Coast.

Evidence of Kofi
Nkansah in Badu
v. Nkum
4th September 1940

Wednesday, the 4th day of September, 1940.

Present:-

- 1. Kwamin Donkor, Gyasehene, Agona State,
Acting President.
- 2. Kojo Tewish, Sub-Chief
- 3. Kobina Edeful - Sub-Chief
- 10 4. Kwesi Edjepong Sub-Chief
- 5. Kwa Assin (Obaatan) Councillor
- 6. J.A.C. Mansu do.
- 7. Kwa Anyanful do.
- 8. J.E. Etsison do.
- 9. Kwesi Egyir do.
- 10. A.K. Anderson do.
- 11. Kojo Addu - Linguist
- 12. Kwesi Annan do.

20 Kwami Badu per V.K. Ninson ... Plaintiff
 vs.
 Chief Yaw Nkum ... Defendant

From page 279/285 under date 3/9/40.

V.K.Ninson for Plaintiff.
Kofi Nkansah for Defendant.

x x x

Defendant's representative Kofi Nkansah,
s.a.r.b. states:-

30 My name is Kofi Nkansah. I am a farmer.
 I live at Nyakrom. I am here representing Chief
 Yaw Nkum of Nyakrom Yergo Family who is my elder
 brother. I am speaking for Chief Yaw Nkum.
 I have ancestor named Ampiakokor. When Ampiah
 Kokor died he was succeeded by Essi Afful. After
 the death of Essi Afful, Nana Adubaw succeeded.
 After the death of Adubaw Nana Eduewiam succoed-
 ed. After the death of Nana Eduewiam Opanyin
 Nyarku succeeded. After the death of Nyarku
 Nana Nkum Panyin succeeded. After the death
 of Nkum Panyin Nana Kwa Anfori succeeded.

EXHIBITS

(DEFENDANTS)

"O"

Evidence of Kofi
Nkansah in Badu
v. Nkum
4th September
1940
(continued)

After Anfari, Nana Ampaih succeeded. After Abuenyi
Nana Kofi Nkrumah I succeeded. After Nkrumah, I,
Kobina Abeka who is my uncle succeeded. Kobina
Abeka was deposed from his office and Yaw Nkum was
placed in his stead on our Family Stool. All these
persons names are my ancestors who have before sat
on our Family Stool and during their time they
were enjoying or using for themselves the head of
the sheep when slaughtered on any occasion: never
was the head of sheep when slaughtered given to
anybody else in the family.

10.

x x x

Case adjourned to Thursday the 5th day of Septem-
ber, 1940 at 8.30 a.m.

(Sgd) R.Effina Williams
Registrar.

"Z"

Consent order in
Essawah v. Nkum
17th September
1941

"Z"

Consent Order in Essawah v. Nkum.

In the Supreme Court of the Gold Coast,
Central Judicial Division,
Divisional Court, Cape Coast,
Wednesday the 17th day of September, 1941.

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Coram: Fuad J.

Suit transferred from Native
Tribunal of Nyakrome

Amba Essarwah per J.B.
Quartey ... Plaintiff
versus
Yego Family per Sub-Chief
Yaw Nkum ... Defendant

By consent of parties, the case is settled on the
following terms:-

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The Plaintiff shall have possession of the
land on which the farms or plantations numbered
1-10 inclusive on the South-Western corner of
the area in dispute as shewn on the Plan Exhibit
"I" are situated. The Defendant shall have poss-
ession of the land on which the farms or plan-
tations marked "A" to "L" inclusive on the said
South-Western corner of the said Plan Exhibit "I"
are situated.

As regards the portion of the land on the Eastern side of the footpath across the area in dispute leading from the village of Otsinkorang to the village of Odoben, which said footpath more or less divides the area on the South Western corner on which the Plantations numbered "I" to "LO" inclusive and "A" to "L" inclusive aforesaid are situated from the area which the Defendants sold and which was the immediate cause of the action, the plaintiff shall be non-suited with liberty to bring fresh action if she so desires for that area.

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The Plaintiff shall pay costs of the Defendants assessed at £31.10/-

(Sgd) K.A.Korsah
Counsel for Plaintiff

(Sgd) D.Myles Abadoo
Counsel for Defendants

Exhibit "2"

20 Put in evidence by consent in re Amba Essarwa per J.B.Quartey vs. Yego Family per Yaw Nkum.

(Int) J.H.
For Regr.
Divisional Court, Cape Coast.
17/9/41.

"A3"

Proceedings in Obu v Badu. 6th March 1942

6.3.1942.

In the Paramount Chief's Tribunal, Nyakrom Agona State, Central Province, Gold Coast

30 Friday the 6th day of March, 1942.

Before:-

- | | | |
|----|--------------------------|---------------------|
| 1. | Nana Nyarku Eku VII, | Omanhene, President |
| 2. | " Kwamin Arnu, | Mankrado |
| 3. | " Yaw Ankuma | Tufuhene |
| 4. | " Kofi Asua | Sub-Chief |
| 5. | " Opanyin C.M.
Kwakyi | Councillor |
| 6. | " Kwamin Anta | do. |
| 7. | " Kofi Kweasin | Abura Obaataan |
| 8. | " Kodwo Yebuah | Linguist |
| 9. | " Kofi Nyarku | do. |

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EXHIBITS
(DEFENDANT'S)
"Z"

Consent Order in
Essawah v. Nkum
17th September
1941.

(Continued)

EXHIBITS

(DEFENDANTS)

"A3"

Proceedings in
Obu v Badu
6th March 1942
(Continued)

In attendance K. Ewur Ghartey - Registrar

Suit No.47/42

Kobina Obu, as Head for himself and
on behalf of Yergo Family .. Plaintiff
versus
Kwami Badu ... Defendant

The Plaintiff claims from the Defendant £50 damages for trespass committed by the Defendant on the Plaintiff's land, that is Plaintiff's burial ground situate, lying and being at Nyakrom, which 10 is bounded by the Plaintiff's land around by burying the remains of late Kwesi Edwin, the Defendant's relative on the 17th day of February, 1942, in which burial ground the Plaintiff has ceased the Defendant from burying his deceased relatives.

The Plaintiff is represented by G.N.Hayford his nephew.

The Defendant is represented by V.K.Ninson his nephew.

Note:- At this stage, the Defendant draws attention to the Hearing Notice served on him in this case which shows that the case had been set down for hearing on the February, 1942. 20

This Notice was issued on the 28th February, 1942.

Tribunal:- This apparently is a clerical error. It is clear that the 6th March, was contemplated. In the circumstances, case is adjourned to Tuesday 10th March 1942. Let hearing Notice issue 30 to that effect.

(Sgd) K.Eur Ghartey

Registrar

"p"

EXHIBITS
(DEFENDANTS)
"p"

Extracts in Badu v. Nkum

In the Paramount Chief's Tribunal, Nyakrom,
Agona State, Central Province,
Gold Coast.

Extracts in Badu
v. Nkum
12th November 1943.

Friday the 12th day of November, 1943.
at 2 p.m.

Before:-

- 1. Nana Nyarku Eku VIII, Omanhene Agona State
- 2. " Kwa Assin - Obaatan
- 10 3. " Kwamin Essell - Sub-Chief
- 4. " Kwarkyi Dupoah - -do-
- 5. " Kwesi Edjepong - -do-
- 6. " Kobina Nkum - -do-
- 7. Kwesi Egyir - -do-
- 8. Kofi Nyarku - Linguist
- 9. E.O. Baning - Registrar & Recorder

Kwami Badu per V.K.Ninson ... Plaintiff
 vs.
 20 Chief Yaw Nkum (Abdicated))
 Stool of Yego Family per) Defendant
 Kobina Obu .. Caretaker (substd))

Parties present

In the evidence of Defendant :-

Xxd by Plaintiff per V.K.Ninson

x x x

Kwakum as Head of the Family elected Abuonin
as Chief to the Stool and Abounyi was placed
on his own thighs.

(Mkd) Nyarku Eku VIII
Omanhene, Agona State.

30 Witness to mark:

(Sgd) E.O.Baning

Tribunal Registrar.

"R"

EXHIBITS
(DEFENDANTS)

"R"

Extracts in Matter
of the Election
of Kweku Atta
22nd February 1949

Extracts in Matter of the Election of Kweku Atta

In the Agona State Council held at Swedru on
Tuesday the 22nd day of February, 1949.

Present:-

1. Nana Kobina Botchey, Adontenhene of Agona State, President (Regent)
2. Nana Yamfo Asuako VII, Nifahene of Agona State, Member
3. Nana Osam Dadzi VII, Benkumhene of Agona State, Member
4. Nana Entwi Buabin VII, Twafohene of Agona State, Member
5. Nana Kwankum III, Kyidomhene of Agona State, Member
6. Nana Assan Ababio VI, Ohene of Nkum - Member
7. T.R. Eshun Esq. representing Regent of Nsaba, Member.
8. Opanyin Yaw Amoah, representing Ohene of Kwaman, Member.
9. Opanyin Kweku Kyirem, representing Regent of Duakwa, Member.
10. Okyiami Kojo Panyin of Abodom representing Omankyiami, Member.

10

20

In the Matter of the Election of Kweku Atta as
a Sub-Chief etc.etc.

George Nyarko Hayford for Plaintiffs.
1st Kofi Donkor for Defendants.

x

x

x

(sic)

When Opanyin Abeka was elected a Sub-Chief for
the Yego Family (Apa Section) of Nyakrom be
set on the thighs of Kwamin Baidu who was then
Head of the Family.

30

x

x

x

(Mkd) Kobina Botchey
President & Regent of Agona State
Witness to mark:-
(Sgd) R.Effina Williams
State Secretary

"A8"

EXHIBITS
(DEFENDANTS)
"A8"

Extracts in Matter of Election of Kweku
Atta

Extracts in Matter
of Election of
Kweku Atta 22nd
February 1949

Enquiry resumed at 2.30 o'clock p.m.
with same members.

22.2.49.

In the Matter of the Election of Kwaku Atta as
a Sub-Chief etc.etc.

George Nyarku Hayford for Plaintiffs
1st Kofi Donkoh for Defendants

x x x

10 When Opanyin Abeka was elected a Sub-Chief for
the Yego Family (Amaa Section) of Nyakrom he
sat on the thighs of Kwamin Baidu who was then
the Head of the Family.

x x x

20 The State Council finds that the election of
a Sub-Chief by two only out of five houses is
irregular and unconstitutional. Kweku Atta
who was elected by Kofi Donkor with the support
of Henry Saah (Two out of Five houses of which
the Yego Family of Nyakrom is composed) cannot
and should be recognised as a Sub-Chief for
the said Yego Family (Amaa Section) of Nyak-
rom. It is therefore hereby ordered and
directed that Kweku Atta should be removed
from confinement forthwith.

x x x

Kofi Donkoh who made the irregular and uncon-
stitutional election of Kweku Atta as a Sub-
Chief for the Yego Family (Amaa Section) of
Nyakrom, shall pay the costs of this enquiry
assessed at £37.3/-.

30 His
Kobina Botchey x
mark
President & Rent of Agona State (sic)

Witness to mark:-

(Sgd) R. Effina Williams
State Secretary.

EXHIBITS
(DEFENDANTS)

"A2"

Proceedings in Okai v Yego Family

Proceedings in
Okai v. Yego
Family
29th March, 7th
April 1949.

29.3.49.

In the Agona Native Court "B", held at Swedru on
Tuesday the 29th day of March, 1949.

Present:-

1. Nana Yamfo Asuako VII, Nifahene of Agona
State, President
2. Nana Kwesi Krampah, Banmuhene of Agona State
Member
3. R.O. Saah, Esqr. Swedru do. 10

Suit No. 83/49.

Kofi Okai successor to late Kojo
Okrani and Adjoa Okrani of Nyakrom .. Plaintiff
versus
Yego Family per Kofi Donkor (Head
of Family) Apsa Section of Nyakrom

Claim:- The Plaintiff's claim is for the sum of
£50 damages for unlawful seizure and deprivation
of Plaintiff of a cocoa bearing farm at "Obuafi"
land in Nyakrome vicinity 3 years ago to which
said cocoa farm Plaintiff succeeded as property
of above-named demised persons namely Kojo Okrani
and Adjoa Okrani. Plaintiff further claims from
Defendant full account of all cocoa beans pro-
ceeds from said farm during the period aforesaid
which during possession of same by Plaintiff
yields yearly between 50 and 60 loads. 20

Plaintiff in person.

Defendants represented by Kofi Donkoh, head of
family:- 30

And Kwesi Aduamua, Senior member of the Family.

Kofi Donkoh Head of Yego Family (Apsa Section)
of Nyakrom informs the Native Court that since
he received the Writ of Summons he had a meeting
with the Senior members of the family but they
did not come into any agreement with him that he
as Head of the Family should represent the Fam-
ily. All the senior members were of the opinion
that they were not prepared to have any litigation 40

with the Plaintiff and that they were prepared to restore the cocoa farm the subject matter of the dispute to the Plaintiff. But as Head of the Family, he alone is prepared to defend the action.

EXHIBITS
(DEFENDANTS)
"A2"

Proceedings in
Okai v. Yego
Family
29th March, 7th
April 1949.
(Continued)

10 Kwesi Eduamoah one of the four or five senior members of Yego (Amaa Section) of Nyakrom informs the Court that he has been deputed by all the four Senior Members of the Family representing the four out of the five houses of which the said Yego Family of Nyakrom is composed, to represent the Defendants in this case, as they have no desire to have any litigation with the Plaintiff. The senior members are all prepared to restore the cocoa farm the subject matter of this dispute to the Plaintiff. They do not wish Kofi Donkor as Head of Yego Family (Amaa Section) of Nyakrom to represent the Defendants in this case.

20 By Native Court:- The question of representation of the Defendants in this case not having been properly settled between the senior members and the Head of Yego Family (Amaa Section) of Nyakrom, this case is adjourned to Thursday 7/4/49 at 8.30 a.m. to afford them the opportunity of coming to some settlement in that matter.

(Sgd) Yamfo Asuako VII
President, Agona Native Court "B"

30 Recorded by:-
(Sgd) R. Effina Williams
Registrar, Native Court, Swedru.

In the Agona Native Court "B" held at Swedru on Thursday the 7th day of April, 1949.

Present:

1. Nana Kobina Botchey, Adontenhene of Agona State, President
2. Nana Osam Dadzi VII, Benkumhene of Agona State, Member.
- 40 3. Opanyin Kweku Kyirem, Duakwa, Member.

7th April 1949

Suit No. 83/49.

Kofi Okai successor etc.	...	Plaintiff
versus		
Yego Family per Kofi Donkoh Head of Family etc.	...	Defendant

EXHIBITS
(DEFENDANTS)

"A2"

Proceedings in
Okai v. Yego
Family
29th March, 7th
April 1949
(Continued)

Plaintiff in person.

Kofi Donkor, Head of Yego Family of Nyakrom present as also Kwesi Eduamoah one of the Senior Members of the said Family for Defendants.

Letter dated 6th April, 1949 from Opanin Henry Saah, Opanin Kwamin Baidu, Opanin Kwesi Eduamoah and Opanin Kwami Otsinkorang as Principal Members of Yego Family Apaa Section, Nyakrom appoint Opanin Kwesi Eduamoah to represent the said Family and be their spokesman during the hearing of this suit in view of the fact that the course and general conduct of the present Head of the Family (Kofi Donkor) are far from satisfactory in the interests of the family and if unchecked and he is allowed to represent the said family in any matter whatsoever he may in the end ruin the family as he persistently does things in disregard of the instructions of the family and these are contrary to the wishes and interests of the said family.

10

Kofi Donkor as Head of Yego Family, states he is opposed to the letter from the four principal members of the family as he was not consulted and had no knowledge of it.

20

Plaintiff Kofi Okai contrar: his action is against Yego Family of Nyakrome as a whole. If there are differences between the Senior Members and the Head of the said Yego Family those should not be made as an obstacle to the hearing of the case. The difference are not the concern of the Plaintiff who asks that the case be heard today.

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By Native Court:- If the four senior members are unanimous that Opanin Kwesi Eduamoah as one of the Senior members of Yego Family of Nyakrom should represent the said Family as their spokesman in this case, owing to the conduct of Kofi Donkor, Head of the said Family, the Court grands Opanin Kwesi Eduamoah leave to represent the said Yego Family of Nyakrom.

(sic)

Plea of Opanin Eduamuah for Yego Family of Nyakrom - Liable with explanation.

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Makes the following explanation: Plaintiff's ancestor and ancestress namely Kojo Okrani and Adjoa Okrani were occupying a portion of Yego Family of Nyakrom's land at "Obuafi" in the vicinity of Nyakrom. Other persons were also occupying portions of our said Family's lands. At

first Plaintiff's ancestors were paying land occupation rents every year but it happened that the Agona State Council made an Order that every citizen occupying another's land should not pay yearly land occupation rent but should pay the sum of only 10/- to the Landlords Stool every year on Stool Festival occasions and should also whenever any debt occurs on the land assist or contribute to such debt. In view of this Order given by the Agona State Council Plaintiff's ancestors were made to stop paying any further yearly land rents.

EXHIBITS
(DEFENDANTS)
"A2"
Proceedings in
Okai v. Yego
Family
29th March, 7th
April 1949
(Continued)

Plaintiff is a son to Adjoa Okrani and he succeeded to Kojo Okrani and Adjoa Okrani. It was only 3 years ago Plaintiff left for Accra. While he was at Nyakrom Plaintiff each and every time contributed to all expenses incurred by the Yego Family of Nyakrom as a result of some protracted litigation. The whole members of Yego Family were not consulted when Kofi Donkor was Head of the said Family seized Plaintiff's cocoa farm and deprived him of it for 3 years. Humbly begs Plaintiff to waive his claim for £50 damages and also accounts for cocoa proceeds enjoyed by the said family for years. Defendants are prepared to restore Plaintiff's cocoa farm at "Obuafi" to him. Plaintiff shall only pay the yearly contribution to Yego Family's Stool.

At this stage Plaintiff states he waives his claim of £50 damages and also accounts for proceeds of the said farm for 3 years. He is prepared to continue paying 10/- every year towards the Yego Family's Stool.

ORDER OF THE NATIVE COURT:- Plaintiff shall re-occupy and possess the cocoa farm at "Obuafi" in the vicinity of Nyakrom, which said cocoa farm his ancestor and ancestress Kojo Okrani and Adjoa Okrani were before occupying and which was unlawfully seized from him by Kofi Donkor acting in his capacity as Head of Yego Family of Nyakrom and which said cocoa farm Plaintiff was deprived of for a period of 3 years. Plaintiff on the other hand shall continue to contribute something to the Yego Family' Stool on Stool Festival occasions every year.

No damages are awarded Plaintiff and no accounts for proceeds of the cocoa farm enjoyed by the Family or their Head shall be rendered. Judgment goes for Plaintiff on the foregoing terms.

The question of the Yego Family (Apa Section) Stool of Nyakrom and all the properties attached thereto or belonging to the said Family shall be later settled amicably between the parties by Nana Kobina Botchey, Adontenhene of Agona State, who shall see to the division of such properties and to the ownership of the Stool.

EXHIBITS
(PLAINTIFFS)
"A"
Order of Native Court in Donkor v. Eduamoah
13th May 1949
(Continued)

Parties shall bear their own costs.

10 Recorded & witness o (Mkd) Kobina Botchey
mark President
(Sgd) R.Effina Williams Native Court
Registrar, Native Court, Swedru

"B"

Judgment in Donkor v Eduamoah

"B"
Judgment in Donkor v. Eduamoah
13th August 1949

In the Magistrate's Court held at Winneba, W.P. On Saturday, the 13th day of August, 1949.
Coram:- His Worship J.R.Wallis, Esqr. Asst. D.C.

Kofi Donkor etc. Plaintiff/Respondent
vs.
Kwesi Eduamoah Defendant/Appellant

20 Mr.E.C.Quist for Plaintiff-Respondent
Mr.DeGraft Johnson for Defendant-Appellant

x x x

Judgment:-

I have listened to the eloquent please of the two learned Counsel. It is necessary in a Court of Law to look beyond the actual words and to try and establish the meaning and intentions. In this way the original writ reduced to its intent mean that Plaintiff wishes to be recognised as Head of the Yego Family because
30 Defendant is not a blood relative but a stranger who has been trying to act as a blood member.

(sic)

We must also look to the order and see the intention of the Court. The words "Separation of Family Tie" in this context after the evidence led that Defendant was not a blood member

EXHIBITS
(PLAINTIFFS)

"B"

Judgment in Donkor
v. Eduamoah
13th August 1949
(Continued)

of the Yego Family and following his request that such an order as was made be made, can only mean one thing that is what was claimed in the Writ that the Defendant is a stranger. The meaning of both the claim and the order are therefore in accordance with one another. A declaration was sought and a declaration given even though in slightly different words. The intention however is clear.

In a similar way the inclusion of three other sections in the judgment is maintainable on this principle. Plaintiff in his claim mentioned "Defendant and his Section of the Yego Family". Therefore even though the Writ was addressed only to Defendant it must be presumed that it was intended to be in his representative capacity. In addition at his specific request they were included in the order. 10

Much has been made in this appeal as to whether the Court has powers to make such an order. 20

First the Court may make any order in its discretion which it considers necessary for doing Justice whether such order has been asked for or not (Section 40 of the Native Court Procedure Regulation). In this case ample evidence has been shown that the order was asked for.

Of course the Court cannot make an illegal order. In British Law such an order of Partition would be illegal because you cannot alter by Law what has been ordained by nature. 30

However it has been shown that the order made does not divide a family it merely declares what was already known to both sides and makes the way clear by referring to arbitration the settlement of a family suit.

The parties need not comply with the order. Arbitration is essentially voluntary. There is therefore nothing to appeal against.

(sic) The appeal is therefore dismissed costs assessed in favour of respondent at £12.2/- which is £2 for record and 10 guineas for Counsel. 40

(Sgd) J.R. Wallis

Magistrate.

"D"

EXHIBITS
(PLAINTIFFS)
"D"

Claim in Eduamoah vs. Donkor.

Claim in Eduamoah
vs. Donkor
6th February 1950

In the Agona Native Court "B" held at Swedru
on Monday the 6th day of February, 1950.

Present:-

1. Nana Kwankum III, Kyidomhene of Agona State,
President
2. Ebusuapanyin Kwoku Adjaye II, Swedru, Member
3. Salif Wangara, Serikin Zongo do. do.

Suit No.33/50

10	Kwesi Eduamoah	...	Plaintiff
		versus	
	Kofi Donkoh	...	Defendant

Claim:- The Plaintiff's claim against the Defendant is for a declaration of title to all that piece or parcel of land in Agona Kwaman Road situate lying and being at Agona Nyakrom which is the ancestral land of the Plaintiff herein, bounded on the North by land belonging to Nsona Family of Odumasi Quarters in Nyakrom, on the South by Chief Yankson's land, and on the East and West by land belonging to Yego Family of Apaa Quarters in Nyakrom. The Defendant without the knowledge and consent of the Plaintiff as the owner of the said piece or parcel of land having entered on the land and felled forty eight (48) palm trees.

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2. The Plaintiff also claims £50 damages.

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3. And for perpetual Injunction restraining the Defendant his agents, Servants, successor and assigns heirs workmen and privies from interfering or having anything to do on the said land.

Plaintiff in person.
Defendant in person.

Native Court:- Case adjourned to Tuesday
14/2/50 at 8.30 a.m. the time
now being 4.15 p.m.

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(Sgd) Kwankum III
President, Agona Native Court "B"
Recorded by:-
(Sgd) R. Effina Williams
Registrar, Native Court, Swedru.

"T"

Evidence of Kwesi Eduamoah v Kobina Obi in
Eduamoah v. Donkor.

EXHIBITS
(DEFENDANTS)

"T"
Evidence of Kwesi
Eduamoah and Kobina
Obi in Eduamoah v.
Donkor 16th Feb-
ruary 1950

16.2.50

In the Agona Native Court "B" held at Swedru on
Thursday, the 16th day of February, 1950.

Present:

1. Nana Kwankum II, Kyidomhene of Agona State,
President
2. Ebusuapanyin Kweku Adjaye II, Swedru, Member
3. Salifu Wangara, Sarikin Zongo -do- -do-

10	Kwesi Eduamoah	...	Plaintiff
		versus	
	Kofi Donkor	...	Defendant

From above pursuant to adjournment.
Plaintiff in person.
Defendant in person.

Plaintiff Kwesi Eduamoah still on oath:-

20 Xd. by Native Court continued: Nana Apaa who
was the first settler is deemed to be the
originator and founder of the Apaa Quarters of
Yego Family of Nyakrom for the Five Houses of
which the Yego Family of Nyakrom is composed.

Plaintiff's 1st Witness Kobina Obu: S.A.R.B.
States:-

30 My name is Kobina Obu. I am Ex-Head of the
Yego Family of Apaa Quarters in Nyakrom. I
live at Nyakrom. The Yego Family of Apaa Quar-
ters in Nyakrom is composed of five houses. Each
of the five houses occupies a portion of the
family lands. When I was the Head of the Family
I never disturbed any of the members of the five
houses occupying portions of the Family lands.
When any member of the Family wanted to do any-
thing on the Family land or any unoccupied por-
tion of the land I granted him permission if
such member approached or consulted me. This
had been the practice of our ancestors up to my
time and nobody trespassed to another's portion

EXHIBITS
(DEFENDANTS)

"T"

Evidence of Kwesi
Eduamoah and Kobina
Obi in Eduamoah v.
Donkor 16th
February 1950
(continued)

of the Family land without the knowledge and consent of the Owner or occupier of that particular portion of the Family lands. The Family land known as Kwaman Road or Zongo land belongs to the late Torbor of our Yego Family whose descendant is Kwesi Eduamoah (Plaintiff in this case). When a portion of the land at Zongo or Kwaman Road was being sold by Torbor's relative name Kojo Dadzie to one Fianu. I as the Head of the Family was invited and I confirmed that that portion of the Family land was for Torbor (Plaintiff's predecessor) and Fianu bought the land for £20. At that time Nkrumah was the occupant of our Family Stool and he raised no objection to the sale of the land to Fianu. I also as Head of the Family at the time did not raise any objection knowing that that portion of the Family Land was for Plaintiff's elder. About a month or so ago I heard that Defendant had instructed Kweku Amuah to fell palm trees on Plaintiff's Kwaman Road land. When I heard of this I told Kweku Amuah not to do so as that portion of the land was not for Defendant but for Plaintiff.

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(sic)

Xd. by Plaintiff :- Defendant Kofi Donkor is my nephew. I as Head of Yego Family of Apaa Quarters in Nyakrom abdicated my office for my nephews Kofi Donkor about 3 or 4 years ago. I remember there was once a case between myself and Kwamin Badu in respect of burial grove. In that case I described the land as "Abaka Mmose-asu". The land at Zongo or Kwaman Road in Nyakrom, which is a portion of Yego Family of Nyakrom's lands is for yourself exclusively and nobody has any right to it. A.F.Ambaah is my nephew and is from my house. Baidoo from your house sold a portion of Zongo or Kwaman Road land to A.F. Ambaa from my house when I was the Head of the Family. The Hausa Settlers at Nyakrom Zongo pay yearly tribute to you as the owner of the land on which they settle.

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Xd by Defendant:

x

x

x

There has been no dispute about the name "Nana Apaa" as the founder of Apaa Quarters of the Yego Family of Nyakrom. As regards the sale of the Zongo land to Fianu the Troma was paid to Kojo Dadzi, the Vendor. You and I, as my nephew, occupy a portion of the Family lands at "Mansa-Adzi" and "Buafi". I also own cocoa farms

EXHIBITS
(PLAINTIFFS)
"F"

Evidence of V.K.
Ninson in Eduamoah
v. Donkor
17th February
1950

(Continued)

found that other persons had taken or cultivated portions of my ancestral land at a place known as and called Kyekyejah. I started to deprive many farmers of the use of my ancestral land at Kyekyejah. This land "Kyekyejah" is a portion of Nanan Apaa of Nyakrom Yego Family's land. I am referring to Nana Apaa's Section of the Yego Family of Apaa Quarters of Nyakrom to which I belong. My ancestral land at Kyekyejah forms boundary on the right side of Abodom Road with Nana Abonyi's land up to a Cotton tree and from the Cotton tree you get to "Odum" tree. On the left side of Abodom Road the land belongs to Henry Saah thence to Opanyin Ayitey's land. Opanyin Ayitey is now succeeded by Defendant. All the members of Yego Family of Apaa Quarters in Nyakrom have one Stool and use all lands in common, that is to say every member of each house is entitled to the use of any portions of the Family lands to the extent where his cutlass has reached. Because of this practice in our family I last ejected Opanyin Kobina Obu's mother from the use of my ancestral land at Kyekyejah as that place was for myself where my ancestors' cutlass had reached; it is not for use of the members of Yego Family as a whole, I also ejected Defendant's sister named Yaa Nkrumah from my ancestral land at Kyekyejah. I also ejected Defendant's sister named Saadabi from my ancestral land at Kyekyejah. Saadabi brought one sheep and a bottle of Whisky to my elders begging us to allow her to continue the use of a portion of our Kyekyejah land and we allowed her to do so on the understanding that she was occupying the land for us as her landlords. When recently settlement was reached between Defendant and the members of my house I was requested to give portions of my Kyekyejah land back to all those whom I ejected from the land and I did so with the understanding that they were on the land for myself. The Yego Family of Apaa Quarters in Nyakrom own lands at Obuafi, Busumpa and Tsinkorang and the members of the Family are entitled to any portion or portions of the said lands which they have cultivated. No one member of the family has the right to take away any portion or portions of the said family lands from another. There are other tenants on the said Family lands who pay annual tributes or rents to the Family as a whole; and also each of the five houses of which the Yego Family of Apaa Quarters in Nyakrom is composed has every right to place

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farmers on portions of the family lands and collect annual rents from them without question. This is the practice in our family Yego Family of Apaa Quarters in Nyakrom and it has ever been so. Sometime ago my wife went and felled palm nut back from Plaintiff's land on Kwaman Road and Plaintiff got the palm-nut back from me because I had trespassed to his portion of our Family lands. Sometime ago Kobina Obu at one time Head of Yego Family of Apaa Quarters in Nyakrom ceased the members of my section of the family from burying our dead bodies in the common burial place belonging to the family and there was a case about this matter before the Courts, which has not up to the present been heard.

My ancestral land known as "Kyekyejah" was sometime ago mortgaged by my elder for a loan of £14 and it was only quite recently that we have been able to redeem it. This is the land which forms boundary on one side with Plaintiff's land and on another side with Defendant's land. A.F. Ambaah's uncle named Opanyin Essiedu from Defendant's house or Section, who owns cocoa farm on my ancestral land at Kyekyejah had _____ to me last year an annual land occupation rent of £25 because the land belongs exclusively to my house or Section of the Yego Family of Apaa Quarters in the Nyakrom.

EXHIBITS
(PLAINTIFFS)
"F"

Evidence of V.K.
Ninson in Edüamoah
v. Donkor
17th February 1950
(Continued)

(sic)

Xd by Plaintiff:- According to the practice in our Yego Family of Apaa Quarters in Nyakrom the Head of the Family alone cannot dispose of any of the Family's possessions to anybody without the knowledge consent and concurrence of the other houses. Hence Defendant sold his cocoa farms at Tsinkorang which are his personal properties to some Fanti persons without any question from the members of the Family who also have equal rights to dispose of any cocoa farm cultivated by themselves or by each Section of the Family. All the land from Zongo to Kwaman Road in Nyakrom is your ancestral land and belongs to you exclusively without any disturbance of your rights from the other houses or sections of the Family.

Xxd by Defendant:- You were appointed Head of Yego Family of Apaa Quarters in Nyakrom at a time when there had been a split in the family and so you were appointed as Head of the Family by majority of the five houses. The Yego Family of Apaa Quarters in Nyakrom is of two kinds; one from Nana Apaa's side of which you and I are members, and the other from Henry Saah's side

EXHIBITS
(PLAINTIFFS)

"F"

Evidence of V.K.
Ninson in Eduamoah
v. Donkor
17th February 1950
(Continued)

from Nana. You once gave evidence in this Court as to Henry Saah's position in our Family that he was not entitled to occupy our family Stool. I am giving this evidence as a member of Yego Family of Apaa Quarters in Nyakrom and as a historian who as a descendant of Nana Apaa knows the original of our settlement at Nyakrom.

(sic)

Exd by Native Court:- I am from Kwamin Badu's house a descendant of Nana Apaa. Plaintiff's ancestor came and met Nana Apaa Quarters in Nyakrom as well as Defendant's ancestor named Ampiakoko. Since the creation of our Family Stool the first man who was placed on it was Nana Ampiaw a brother to Nana Apaa who was the Founder of the Stool and Head of the Family. After Ampiaw Nana Effum also sat on our Family Stool. Others also sat on the Stool long before Defendant's ancestor named Ampiakoko was placed on the Stool because he also was a member of Yego Family. After Ampiakoko, Nana Abuonyi who was Plaintiff's ancestor also sat on our Family Stool. After Abuonyi Opanyin Nkrumah sat on our Family Stool. After Opanyin Nkrumah Opanyin Abaka sat on the Stool and after Opanyin Abaka, Opanyin Yaw Nkum sat on the stool. When Kwesi Nkrumah was sitting on our Family Stool the Head of the Family was Kwesi Badu. The Head of our Family is selected from any of the five houses according to ability. After the death of Kwesi Badu Kwamin Badu who is my uncle became the Head of our Family. When all these persons named were the Head of our family none of them disturbed any of the members' rights of cultivating on any portion or portions of the Family lands except only recently during the time of Defendant.

Case adjourned to Wednesday 1/3/50 at 8.30 a.m. as the President of the Court is leaving now for Dodowa to attend the Joint Session of the Provincial Council.

(Sgd) Kwankum II

40

President, Agona Native Court "B"

Recorded by:-

(Sgd) R.Effina Williams,

Registrar, Native Court, Swedru.

"S"

Evidence of Kofi Donkor in Donkor v. Eduamoah

In the Agona Native Court "B" held at Swedru on Wednesday the 22nd day of February, 1950.

1. Ebusuapanyin Kwaku Adjaye II, Swedru, President
2. Nana Assan Ababio VIII, Ohene of Nkum, Member
3. Salifu Wangara, Serikin Zongo, Swedru, Member

EXHIBITS
(DEFENDANTS)

"S"

Evidence of Kofi Donkor in Donkor v. Eduamoah
22nd February 1950

10

Suit No.49/50.

Kofi Donkor of Nyakrom head of the Amiakoko Section of the Yego Family Nyakrom on behalf of himself and as representative of the said Section of the said Family of Nyakrom ... Plaintiffs

-versus-

Kwesi Eduamoah of Nyakrom Defendant

Plaintiff in person
Defendant in person

20

x

x

x

I was appointed Head of Yego Family of Apaa Quarters in Nyakrom by all the other four houses together with my house.

(Sgd) Kwaku Adjaye II

President, Agona Native Court
"B"

Recorded by:-

(Sgd) R.Effina Williams

Registrar, Native Court, Swedru.

EXHIBITS
(PLAINTIFFS)
"E"

"E"

Order of Native
Court in Eduamoah
v. Donkor
6th March 1950

Order of Native Court in Eduamoah v. Donkor

In the Agona Native Court "B" held at Swedru on
Monday the 6th day of March, 1950.

Present:-

1. Nana Kwankum III, Kyidomhene of Agona State ... President
2. Ebusuapanyin Kweku Adjaye II, Swedru, Member
3. Salifu Wangara, Sarikin Zongo, Swedru, Member

Kwesi Aduamoah	...	Plaintiffs
	-vs.	
Kofi Donkor	...	Defendant

10

Case resumed from adjournment on page 777 under
date 2/3/50.

Plaintiff in person.
Defendant in person.

Order of the Native Court:-

In this case Plaintiff claims from the De-
fendant £50 Damages for trespass committed by
the Defendant on the Plaintiff's Ancestral land
at the Nyakrom Zongo, the boundaries of which
land are fully set out in the claim the Defend-
ant having committed the said trespass by cutt-
ing down or felling 48 palm trees on the said
land. Plaintiff also asks for declaration of
title.

20

In support of this case the Plaintiff has
called many witnesses on whose respective evi-
dences the members of the Native Court place
great credit. It is quite clear from the abun-
dant evidences adduced by the Plaintiff and his
witnesses that many acts of ownership have for
many years been exercised by the Plaintiff's
ancestors and the Plaintiff himself and there
is not the slightest doubt that the land the
subject matter of dispute is not the ancestral
property of the Plaintiff.

30

None of those members of the Yego Family of
Apsa Quarters in Nyakrom who had held the

position of Head of the said Family had ever disturbed the Plaintiff's right title and interest in the land in dispute except only the Defendant in this case. It seems that there are some pieces or parcels of land belonging to the Yego Family of Apaa Quarters in Nyakrom, which the members of the five houses of which the said Yego Family of Nyakrom is composed, cultivate in common, but there are other parcels or pieces of the Family lands which belong to each particular section or house and in which the other Sections or houses have no interest.

10

EXHIBITS
(PLAINTIFFS)
"E"
Order of Native
Court in Eduamoah
v. Donkor
6th March 1950
(continued)

The only case of the Defendant is that as Head of the Yego Family of Nyakrom he has every right to go to any land belonging to a particular section or house and fell palm trees or do anything thereon. This the members of the Native Court do not hold as such is not the practice in the Family. Defendant as Head of the Yego Family of Nyakrom may or can exercise such powers only on the Family lands which cultivated in common by the members of all five Sections or houses of which the Yego Family of Apaa Quarters in Nyakrom is composed. The land in dispute is declared to be the Ancestral Property of the Plaintiff.

20

For these reasons Judgment is entered for Plaintiff for £25, damages awarded, with costs to be taxed.

(Sgd) Kwankum III,
President, Agona Native Court "B"

30

Recorded by:-

(Sgd) J.L. Baah,

Acting Registrar, Native Court.

"C"

EXHIBITS
(PLAINTIFFS)
"C"

Claim in Badu v. Donkor

Claim in Badu v.
Donkor
18th July 1950

In the Agona State Council held at Swedru
on Tuesday the 18th day of July, 1950.

In the matter of :-

Kwami Badu, Kwesi Eduamoah, Kwami
Otsinkorang, Kweku Asare, Kwesi Tekyi,
V.K.Ninsin, G.N.Hayford, Yaw Atta alias
Grantsil, Supi Kobina Okuta, Yaw Assi
and I.K. Dampson for themselves and on
behalf of other members of their Yego
Family Quarter (Amaa Section) Nyakrom
Agona State ... Plaintiffs

10

-versus-

Kofi Donkoh of Nyakrom, Agona State for
himself and as representing the members
of his Ampia Koko Section of the Yego
Family of Nyakrom - Defendant of Nyakrom

Claim:-

The Plaintiffs as Principal ancestral
Founders and Creators of their respective
Quarters of the Yego Family (Amaa Section)
Nyakrom, claim that:-

20

1. A declaration that the family stool and
paraphernalia of the Yego Family (Amaa Sect-
ion) of Nyakrom are the common property of
their said Family which said Stool was founded
and created by the ancestors of the Plaintiffs
nemely:-

Nana Appah, Nana Apa-Eku, Nana Kwamin Effum,
Nana Ampiaaw, Nana Afrema and Nana Peprah.

30

(sic)

2. That the Defendants have been a false dec-
laration that the Stool and its paraphernalia
are the property of their ancestor by name
Amiakoko brought them with him from Agona
Ashanti to Amaa Quarters of the Yego Family
(Amaa Section Nyakrom)

(sic)

3. Plaintiffs therefore seek an Order of this
Native Authority State Council on herein men-
tioned Defendant for Production and delivery to
the Plaintiffs also herein mentioned of the
said Stool and its paraphernalia as the per-
sons entitled by custom to the custody thereof
ancestrally.

40

"M"

Evidence of Akwasi Amoatsen in Badu v Donkor

25.7.50

In the Agona State Council held at Swedru on Tuesday the 25th day of July, 1950.

Present:-

1. Nana Kwamin Donkor, Gyasehene, Agona State, President.
2. Kobina Botchey, Adontenhene, Agona State, Member
- 10 3. Nana Yemfo Asuako VII, Nifahene, Agona State, Member
4. Nana Osam Dadzie VII, Benkumhene, Agona State, Member
5. Nana Entwi Buabin VII, Twafohene, Agona State, Member
6. Nana Kankum III, Kyidomhene, Agona State, Member
7. Nana Opaaku Yeboah III, Twafohenekuma, Agona State, Member
- 20 8. Opanyin Kweku Kyirem representing Duakwahene Agona State, Member
9. Ebusuapanyin Kweku Adjaye II, Swedru, Agona State, Member
10. Odikro Kobina Mensah, Mankrong, Agona State, Member
11. Kwesi Nyami representing Regent Kum, Agona State, Member
12. Kyiami Kweku Nyami representing Omankyame Swedru, Agona State, Member
- 30 13. Kyiami Kweku Dei representing Asafo, Agona State, Member

Kwami Badu & 10 others	...	Plaintiffs
	-versus-	
Kofi Donkor	...	Defendant

Case resumed from adjournment on page 462 under date 22/7/50.

Plaintiffs present.
Defendant absent.

V.K.Ninson for Plaintiffs in person.

EXHIBITS
(DEFENDANTS)

"M"

Evidence of Akwasi
Amoatsen in Badu
v. Donkor
25th July 1950.

EXHIBITS
(DEFENDANTS)

"M"

Evidence of Akwasi
Amoatsen in Badu
v. Donkor
25th July 1950...
(Continued)

Evidence of Plaintiffs' 1st Witnegs:- Akwasi Amoat-
sen s.a.r.b. and states as follows :-

I am a Linguist for the Omanhene of Agona (Ash-
anti). I live at Ashanti Agona. I am representing
the Omanhene of Ashanti-Agona.

Xd. by V.K.Ninson for Plaintiffs:- I am represent-
ing Nana Akyeamong Akwasi II, Omanhene of Ashanti
Agona. I was deputed by the Omanhene of Ashanti
Agona to represent him and to give evidence of all
that I know in this case. I know all the Divisional
Chiefs and Odikro of Ashanti (Agona) State. I know
all the names of the families in the Agona (Ashanti)
State. There is no Yego Family in the Ashanti Agona
State. I have never heard in the Agona (Ashanti)
State of a man called Ampiakoko who was having a
Stool in the Agona (Ashanti) State and who had left
the State with his Stool and settled some place. If
any subordinate Chief under the Paramount Stool of
Agona State had ever left the State with the one's
Stool I would know it, and so I have not heard such
a thing before. If anyone comes forth here in this
State Council and says that he is from Ashanti Agona
State and that he is of a Yego Family of Ashanti
Agona State and brought his Stool from Ashanti Agona
State, I will tell the one that the one is a liar. 10
20

Xxd by Defendant:- I can tell the State Council the
names of the Families in the Ashanti Agona State.
The names of the Families of Ashanti Agona State are
as follows: 1. Asonofu, 2. Biretufo, 3. Asona,
4. Koonu, 5. Edeana, 6. Ayoko and 7. Asakyiri. I
know Juabenhene. Boateng fought with the Ashanti
Agona people during the time of Sawaning, the
successor to late Okomfo--Anochie but none of the
subjects of the Agona left the state. I cannot tell
so many years this war took place. I cannot tell if
this war took place about 600 years ago. I will tell
the party a liar who will say that owing to this
war some people with their stool left our State for
some place. If your ancestor left our State during
this war, I would know it. There is no family name
called Agona in our State. 30
40

Xd. by State Council: I am speaking particularly of
the family names in my own State (Ashanti) Agona
and not all over the Ashanti as I am well aware of
my State Affairs. The State is composing of 7 towns.
Each town in the Ashanti Agona State is consisting
of 7 Families.

Kwami Donkoh His
x
President mark
Agona State Council

Recorded by:-
(Sgd) J.A.Baah,
Registrar, Native Court.

Minutes of General Meeting of Yego Family
(Amaa Quarters)

Minutes of General
Meeting of Yego
Family (Amaa
Quarters)
22nd November 1950

THE YEGO FAMILY (AMAA QUARTERS) OF NYAKROM GENERAL
MEETING AT NYAKROM - 22nd NOVEMBER 1950

Minutes of the General Meeting of the Yego Family
(Amaa Quarters) of Nyakrom held at Nyakrom on
Wednesday the 22nd November, 1950, in the premises
of Opanyin Kwami Baidu.

10 The meeting was opened at 8.30 a.m. with the usual
Native Customary rites.

The following were present:-

1. Opanyin Kwami Baidu, Senior Elder of the Family.
2. Opanyin Kwesi Eduamoah, Elder of the Family.
3. Opanyin Kwami Tsinkorang, Elder of the Family
4. Nana Apaah, II, Ohene of Ochiso (lower)
Occupant of the Family Stool, Ochiso.
5. Opanyin Kofi Fuah, Head of Family of Ochiso
Branch of the Family.
- 20 6. Opanyin Kwesi Eyoh, Head of Family of Gomoah
Dahum Branch of the Family.
7. Opanyin David Nketsia, Head of Family of
Abodom Branch of the Family.
8. Kodwo Okyir ... Member
9. Yaw Essiedu ... "
10. Yaw Essi ... "
11. Yaw Atta ... "
12. Kobina Andorh ... "
13. Supi Kobina Kutta ... "
- 30 14. N.C. Sey ... "
15. V.K. Ninson ... "
16. Kweku Essell ... "
17. Kwesi Tekyi ... "
18. Edward K.A. Nyarku ... "
19. Kyiami Kodwo Wu ... "
20. Kweku Entsie ... "
21. Yaw Dadu ... "
22. Kweku Anansi ... "
23. Kodwo Tsibu ... "
- 40 24. Yaw Essi ... "
25. Kwesi Takyi II ... "
26. Kweku Akanu ... "
27. Opanin Yaw Nyarku Senior Mbaabanyin of the
Family
28. Opanyin Kofi Nsuro-Baabanyin of the Family
29. Opanyin Yaw Donkor " " " "
30. Kofi Nyarku " " " "

EXHIBITS
(DEFENDANTS)
"A9"
Minutes of General
Meeting of Yego
Family (Amaa
Quarters)
22nd November 1950
(continued)

- 31. Akobina Frimpon - Baabanyin of the Family
- 32. Yaw Attah " " " "
- 33. Kodwo Otu " " " "
- 34. Kwami Dum " " " "
- 35. Kodwo Nyarku " " " "
- 36. Kodwo Baa " " " "
- 37. Kojo Kwadu " " " "
- 38. Fodwo Adabraka " " " "
- 39. Kodwo Adansi of Nkum attended
- 40. Kweku Donkor of Nkum attended

10

And many other persons present as witnesses.

President:- The meeting elected Nana Amaa II, Ohene of Lower Ochiso to preside over the meeting, and he accepted the honour and presided.

Business:- The President informed the meeting the subject for which they had met and said that for sometime now there had been innumerable disputes among the members of the Yego Family (Amaa Quarters) of Nyakrom which still dragged on without hope of getting to an end. He said the other members of the Yego Family (Amaa Quarters) of Nyakrom residing at other places have deplored these unfortunate situation and the waste of funds of the family which could have been put into better use to the glory and advancement of the Yego Family (Amaa Quarters) of Nyakrom. He further said they had met today to see and settle the disputes once and for all, and that he hoped every member will contribute his share of the duty in bringing about peace in the Family as had existed in days gone by. He asked whether notice had been given to the Head of Family, Kofi Donkor, for his presence at the meeting today. Opanyin Eduamoah informed the meeting that Kofi Donkoh had been given notice yesterday to attend the meeting of today and that he sent some insulting words to them. He asked that another messenger be sent by the meeting to inform or invite Kofi Donkor to the meeting. The meeting agreed to send other messengers to invite Kofi Donkor to the meeting.

20

30

40

The following were sent:-

Kyiami Kodwo Wu, Kyiami of Ochiso Branch of the Family, Kweku Anansi and Kwesi Takyi.

The above messengers went to Kofi Donkoh and delivered their message and reported as follows to the meeting :-

EXHIBITS
(DEFENDANTS)
"A9"

Minutes of General
Meeting of Yego
Family (Amaa
Quarters)
22nd November 1950
(continued)

(sic)

That Kofi Donkor after receiving the message said he would not meet with the members of the Family under my circumstances. That he had sent words to the Family since yesterday that he would not meet with the Family. He said the messengers should tell the members of the Family that he had refused to attend their call.

10

The President asked Kyiami Kodwo Wu to act as Kyiami for the meeting and the members present agreed. The present asked the members of the Family through Kyiami Kodwo Wu to consider the message sent to them by Kofi Donkoh and make a decision. The attitude of Kofi Donkoh was discussed by the members, and the Mbaabanyin were also informed and asked to bring their opinion. The Mbaabanyin through their spokesman, Kodwo Ottu, said they greatly deplored the attitude of disrespect which Kofi Donkor has shown to the members of their Fathers' Family, and that they would agree with whatever steps the Family would take against him.

(sic)

20

The President, after the members had expressed opinion on the attitude and conduct of Kofi Donkor, said that he came here purposely to see and settle the disputes amongst the Family. He was now satisfied that Kofi Donkoh is and has been the Principal cause of trouble since and disputes in the Family. He asked members to decide what should be done to him as Head of the Family.

30

The Principal members of the Family decided that Kofi Donkoh should be removed from the position of Head of the Family as from today in the usually known Native Custom. To give effect to this decision, Opanyin Kwami Tsin-korang moved that.

40

"In view of the attitude and disrespect shown to the members of the Family, it has become necessary that Kofi Donkoh be removed and he is hereby removed from the position of Head of Family of the Yego Family Amaa Quarters of Nyakrom with effect from date hereof TODAY".

Opanyin Kwesi Aduamoah in seconding the motion said Kofi Donkor had entered upon a conduct which if left unchecked would bring ruin and hardship and

EXHIBITS
(DEFENDANTS)

"A9"

Minutes of General
Meeting of Yego
Family (Amaa
Quarters)
22nd November 1950
(Continued)

disgrace to the Family, and that he seconded the motion that Kofi Donkor be removed from the position of Head of Family as from today, and the necessary instruments executed accordingly.

Opanyin Kwami Badu also in a short remarks deploring the general conduct of the Head of Family, Kofi Donkor, and supported the motion that Kofi Donkor should be removed from the position of the Head of Family.

The President in putting the motion to vote, remarked that the course now being taken by the Family has been thrust upon the family by the attitude and conduct of the Head of Family, Kofi Donkor, himself. He further said that all persons present at the meeting should realize that this procedure was being taken without prejudice whatsoever, and that he was sure the Family would have taken other course had Kofi Donkor attended the call of the Family and attended the meeting. He put the motion to vote, and the motion was carried unanimously. The following resolution was then passed unanimously. 10 20

"That the members of the Yego Family (Amaa Quarters) of Nyakrom at a general meeting held this day, Wednesday, the 22nd November, 1950, at Nyakrom in the premises of Opanyin Kwami Badu after sending messengers twice to Kofi Donkor, erstwhile Head of the Family, inviting him to attend the meeting of the Family for settling the various disputes in the Family" 30

"AND after Kofi Donkor had bluntly refused twice to attend the meeting with no sense of regard whatsoever to the members of the Family, and the members of the Family after deploring the attitude of Kofi Donkor have realised that Kofi Donkor, as Head of Family, has entered upon a course of conduct which, if unchecked, may end in the ruin of the Family, and further that he had persistently disregarded the interests of the Family as a whole". 40

"AND after taking a decision that Kofi Donkor should be removed from the position of Head of Family, and a motion having been moved and unanimously carried giving effect to the decision and that a resolution to enforce the decision having been agreed upon.

"BE IT RESOLVED AND IT IS HEREBY RESOLVED
"that Kofi Donkor removed and he is this day
"removed from the position of Head of Family
"of the Yego Family (Amaa Quarters) of Nyak-
"rom with effect from the 22nd day of Novem-
"ber, 1950".

EXHIBITS
(DEFENDANTS)
"A9"

Minutes of General
Meeting of Yego
Family (Amaa
Quarters)
22nd November 1950
(Continued)

10 It was decided that copies of this resolution
be sent to the District Commissioner, Winneba,
the President of Agona Native Authority, the
Mankrado of Nyakrom and the Press. It was also
decided that bearers be sent to inform Kofi
Donkor and that Mankrado of Nyakrom, a telegram
be sent to the President of Agona Native Author-
ity, and the various tenants on Family lands be
informed accordingly.

The following were sent to inform Kofi Donkor of
his removal from the position of Head of Family-

Kyiami Kodwo Wu, Kodwo Adansi, Yaw Dadu, Kodwo Baah.

20 These messengers returned to the meeting and re-
ported that they had delivered the message to
Kofi Donkor himself and that he said he agreed
that he had been removed from the position of
Head of Family.

APPOINTMENT OF NEW HEAD OF FAMILY:-

30 The President informed the meeting that it was
necessary to appoint a new Head of Family to
undertake and conduct the affairs of the Family
and that the members should retire and nominate
a candidate for the position. The members retired
and on return nominated OPANYIN KWAMI BAIDU to be
appointed Head of Family. The nomination of Kwami
Baidu met with the general approval of the mem-
bers, and he also after consulting his people,
agreed and accepted the position of Head of Fam-
ily of Yego Family (Amaa Quarters) of Nyakrom.
The family received the customary fee of six
pounds one shilling and sixpence (£6.1.6d) known
as Suase, one sheep and one bottle Gordon Gin.
40 Opanyin Kwame Baidu paid those customary Amandzi
and he was raised shoulder high by the Mbaabanyin
and seated in the middle of the Family. The custom
is known as HOMBO. The usual libation was poured
and the sheep slaughtered at the meeting.
Opanyin Kwami Badu became the Head of Family of
the Yego Family (Amaa Quarters) of Nyakrom as
from the 22nd day of November, 1950.

EXHIBITS

(DEFENDANTS)

"A9"

Minutes of General
Meeting of Yego
Family (Amaa
Quarters)
22nd November 1950
(Continued)

The following resolution was passed:-

"That in pursuance of the policy of filling
"the vacant post of Head of Family after a for-
"mer Head had been removed: And in view of the
"fact that Kofi Donkor has been constitutionally
"removed from the position of Head of the Yego
"Family (Amaa Quarters) of Nyakrom with effect
"from the 22nd day of November, 1950 and the
"Family having decided to appoint another Head
"to undertake the duties of the Family in the 10
"interests of the Family:

"AND the Family, after consultation, nominated
"Opanyin Kwame Baidu the Senior Elder of the
"Family for the position of Head of Family which
"nomination received the unanimous approval of
"the Family and the meeting:

"AND after the performance of the Customary
"rites the said Opanyin Kwame Baidu has become
"Head of Family:-

"BE IT RESOLVED AND IT IS HEREBY RESOLVED that 20
"Opanyin Kwame Badu be appointed and he is here-
"by appointed the Head of Family of the Yego
"Family (Amaa Quarters) of Nyakrom with effect
"from the 22nd day of November, 1950".

The following persons who were sent to inform the
Mankrado of Nyakrom with one bottle of Gordon Gin,
returned to the meeting and reported that the Man-
krado had been informed and he accepted the drink
and said he would inform the Oman of Nyakrom in
due course. 30

Mr.N.C.Sey, Kyiami Kodwo Wu, Yaw Essi.

The following telegram was sent to the President
of Agona State:-

"President Agona State Swedru

"Majority of members Yego Family Amaa Quarters
"Nyakrom meeting today at Nyakrom formally
"removed Kofi Donkor from position of Head of
"Yego Family Amaa Quarters, Nyakrom in accord-
"ance with Native Custom stop Opanyin Kwame
"Badu formally appointed and installed Head of 40
"Yego Family Amaa Quarters Nyakrom according
"to Native Custom with effect from date stop
"all custom performed Mankrado Nyakrom informed
"letter follows:-"

"Kwesi Eduamoah, Kwame Tsinkorang, Nana Amaa II,
"Ohene of Ochiso, Kwame Eyeh of Gomoa Dahum,
"David Nketsia of Abodom for members of Family".

V.K.Ninson for and on behalf of the members of the
Yego Family (Amaa Quarters) of Nyakrom resident at
Nyakrom thanked Nana Amaa III, Ohene of Ochiso and 50

EXHIBITS

(DEFENDANTS)

"A9"

Minutes of General Meeting of Yego Family (Apaa Quarters) 22nd November 1950 (continued)

the Head of Family of Abedom and the Head of Family of Gomen Dahun for coming all the way from their respective stations to attend the meeting of the Family and to perform so grand a duty in the interests of the Family. He said, their presence at the meeting had been an inspiration to the members, and their contribution to the success of the meeting has been greatly appreciated. He thanked Nana Apaa II of Ochiso and expressed the hope that he will in
10 future come to Nyakrom to assist in the adjustment of Family matters. They hoped that the Family will now embark on peaceful undertakings and end all disputes and misunderstandings in the Family.

The President, Nana Apaa II, in his closing remarks in which he said words of strong advice to the new Head of Family, thanked every one present for the comportsment and patience they exercised which had been responsible for the success of the meeting. He
20 hoped or expressed the hope that at future meetings of the Family members will contribute to the success by their behaviour. He also thanked the Mbaapanyin for their presence and support throughout the meeting.

The meeting closed at 12 noon.

(Sgd) Nana Appa II
OHENE OF OCHISO
PRESIDENT OF THE MEETING

His
x
mark

Recorded & Witness to mark
(Sgd) V.K.Ninson

30 Clerk of Stool Family.

Certified True copy of Minutes of Meeting.
(Sgd) V.Kofi Ninson Clerk of Stool Family
22nd November, 1950.

"A10"

Letter to District Commissioner

The Yego Family (Apaa Quarters), Nyakrom
Care Post Office Box 13, Nyakrom
22nd November, 1950.

The District Commissioner,
Winneba.

40 Our Good Friend,

THE REMOVAL OF KOFI DONKOH FROM POSITION OF
HEAD OF FAMILY OF YEGO FAMILY (APAA QUARTERS) NYAKROM

We respectfully inform you and through you to Government that at a meeting of the Yego Family (Apaa Quarters) of Nyakrom held at the premises of Opanyin Kwami Baidu on the 22nd day of November, 1950, with the principal aim of settling the various family disputes among members of the Family, Kofi Donkoh, the then

"A10"

Letter to District Commissioner,
Winneba
22nd November 1950

EXHIBITS
(DEFENDANTS)
"A10"
Letter to District
Commissioner,
Winneba
22nd November 1950
(continued)

Head of Family, refused to attend the meeting with no excuse then that he was pursuing litigations against the family. The meeting viewed the attitude and general conduct of Kofi Donkor and decided that he had entered upon a course of conduct, which if not checked, might result in the ruin of the Family, and further that his persistent disregard of the interests of the Family is detrimental to the welfare and well being of the Family and the Family resolved that he be removed and he was formally removed from the position of Head of Family with effect from date hereof. 10

The Mankrado of Nyakrom and the President of Agona Native Authority were informed accordingly. A copy of the Minutes of meeting is attached herewith for your information.

OPANIN KWAMI BAIDU, the senior member and Elder of the Family was appointed and formally installed Head of the Yego Family (Amaa Quarters) of Nyakrom with effect from date hereof and he paid the necessary customary fees and libation was poured and sheep slaughtered. 20

We hope the due recognition will be accorded the new Head of Family.

Your Good Friend

	Their	
Nana Amaa II	x	
Ohene of Ochiso	x	
Opanyin Kwesi Eduamoah	x	
Opanyin Kwami Tsingkorang	x	30
Opanyin Kofi Fuah Opanyin	x	
Opanyin Kwesi Eyeh	x	
Opanyin David Nketsia	x	
	marks	

For the Members of the Family

Writer and witness to marks :

(Sgd) V.K.Ninson

Clerk of Stool Family

(V.K.Ninson)

-173-

"B2"

Letter District Commissioner to President Agona
Native Authority Agona Swedru

EXHIBITS
(DEPENDANTS)
"B2"

No. 055/94
Western Province.

Letter District
Commissioner to
President Agona
Native Authority
4th December 1950

District Commissioner's Office,
P.O.Box 1 Winneba,
4th December, 1950.

My Good Friend,

10

THE REMOVAL OF KOFI DONKOH FROM POSITION
OF HEAD OF FAMILY OF YEGO FAMILY (APAA
QUARTERS) NYAKROM

I shall be grateful for your comments on a
letter forwarded to you by members of the Yego
Family of Nyakrom on the above subject.

I am,
Your Good Friend,
(Sgd) John Drysdel
Asst. District Commissioner.

20

The President,
Agona Native Authority,
Agona Swedru.

"B1"

"B1"

Letter to Assistant District Commissioner, Winneba

Letter to Assistant
District Commissioner
Winneba
9th December 1950

Swedru,
9th December, 1950.

The Assistant District Commissioner,
Winneba.

My Dear Friend,

30

REMOVAL OF KOFI DONKOH FROM POSITION OF
HEAD OF FAMILY OF YEGO FAMILY (APAA
QUARTERS) NYAKROM.

Reference your letter No. 055/94 dated 4th
December, 1950, on the above, I have to state
that the removal of Kofi Donkoh, from the

EXHIBITS
(DEFENDANTS)

"B1"

Letter to Assistant
District Commissioner
Winneba
9th December 1950
(Continued)

position of Head of Family is the internal affairs of the Yego Family (Amaa Quarters) of Nyakrom, and since the Mankrado and the Oman of Nyakrom recognize the new Head of the Yego Family (Amaa Quarters) of Nyakrom, Kwami Baidu, the Agona Native Authority cannot interfere than accept the situation.

The Head of the Yego Family (Amaa Quarters) of Nyakrom is not a member of the Agona Native Authority.

10

I am,
Your Good Friend,
His
Kobina Botchey x
mark
President Agona Native Authority.

W/W to mark:
(Sgd) T.K.Aduamoah
State Secretary.

"1"

Proceedings in
Badu v. Donkor
11th June 1951.

"1"

Proceedings in Badu v Donkor

20

11.6.51.

In the Agona Native Court "B", Western Province, Gold Coast, held at Swedru, on Monday the 11th day of June, 1951.

1. Nana Osam Dadzi VII, Benkumhene Agona State, President
2. Opanyin Kweku Kyirem, Duakwa, Member
3. Okyeame Kojo Bediako, Swedru, do.

Suit No.115/51/(153)

1. Kwamin Badu, Head of Yego Family (Amaa Quarters)
2. Kwesi Eyiah, Head of Yego Family of Gomoa Daham Branch
3. Kofi Fuah, Head of Yego Family of Ochiso Branch.
4. Kwesi Eduamoah

30

5. Kwamin Otsinkorang)
 6. Kweku Essol)
 7. Kwesi Tokyi)
 8. Yaw Essie)
 9. Supi Kobia Kuta)
 10. N.C. Soy)
 11. G.N. Hayford)
 12. V.K. Minson)

EXHIBITS
 (DEFENDANTS)
 "1"
 Proceedings in
 Badu v Donkor
 11th June 1951.
 (Continued)

versus

10 Kofi Donkor (Ex Head of Yego Family Apaa Quarters)
 of Nyakrom ... Defendant

Claim:- The Plaintiffs as the Heads and Principal members of Yego Family (Apaa Quarters) of Nyakrom claim from the Defendant herein for an order on the Defendant as an Ex-Head of Yego Family (Apaa Quarters) of Nyakrom, for the delivery and surrender of all Stool properties founded and created by the Ancestors of the members of the Yego Family viz:- Lands at Otsinkorang, Busumpa, Obuafi, Korkorbir, Obu-Abina, Mansaadzi, Owurasika, Odumbrisii all land Plans and the Family Stool and its paraphernalia belonging to the Yego Family of Apaa Quarters of Nyakrom, which said Stool properties were in the custody of the Defendant herein when he was made the Head of the said Yego Family (Apaa Quarters) of Nyakrom the Defendant since his removal from his position as Head of Yego Family (Apaa Quarters) of Nyakrom not being entitled under Native Customary Law to have possession or to be the custodian of all properties herein mentioned including the stool belonging to the said Yego Family (Apaa Quarters) of Nyakrom which said Family is composed of four houses.

2nd and 11th Plaintiffs absent for ill-health.

The remaining 10 Plaintiffs present.

Defendant present.

40 By Native Court:- Case adjourned to Monday 18/6/51 at 8.30 a.m. owing to what arises from the argument on the Motion as to the members of the Native Court as appears under this page.

(Sgd) Osam Dadzie VII,
 President, Native Court "B"
 11/6/51.
 Recorded by:-
 (Sgd) J.A. Baah,
 Registrar, Native Court.

"A7"

EXHIBITS
(DEFENDANTS)
"A7"
Evidence of
Kwesi Annam in
Badu v Donkor
7th April 1952

Evidence of Kwesi Annam in Badu v Donkor

In the Agona Native Court "B" Western Province, Gold Coast, held at Swedru, on Monday the 7th day of April, 1952.

Present:-

- 1. Nana Kwankum III, Kyidomhene, Agona State, President
 - 2. Nana Kwesi Krampah, Benmuhene, Agona State, Member
 - 3. Okyeame Kojo Bediako, Swedru, Member
- In attendance: Jnr. Afful Baah, Registrar. 10

Suit No.115/51(153)

Kwami Badu & 11 ors. Plaintiffs
 versus
 Kofi Donkoh Defendant

Case resumed from adjournment on page 789 under date 2/4/52.

All Plaintiffs present except 10th Plaintiff.
Defendant present.

x x x 20

Evidence of Plaintiff's 1st Witness:- Kwesi Annan, s.o.b. and states as follows:-

I am an Okyeame for the Mankrado of Nyakrom. I live at Nyakrom. I am representing Mankrado Kwame Arnor of Nyakrom who is very ill and cannot attend Court at all. So I am giving this evidence for Mankrado Kwame Arno. About a year ago one Yaw Asi of Nyakrom and another of Okyeso came to Mankrado Kwame Arno whom I am representing. Omankrado sent for me when I was not found at home. So he sent for Mankrado's Ebusuapanyin Kobina Debra when Debra went. Mankrado called his son, Kweku Atta. Omankrado then sat with the 2 people. There Yaw Asi and the other man reported and told Mankrado that they were sent by the Elders of Apaa Quarters, Nyakrom that Defendant who was the Head of their Family had been removed from his post as Ebusuapanyin. The bearers made this announcement with a bottle of Rum, Gin. Mankrado told the bearers that he would inform all the Sub-Chiefs. Mankrado 40

EXHIBITS
(DEFENDANT'S)
"A7"

Evidence of
Kwesi Annam in
Badu v Donkor
7th April 1952
(Continued)

accordingly summoned all the Nyakrom Sub-Chiefs and announced Defendant's removal to them with the bottle of Gin when all of them drank it. I then told the Elders of Apaa Quarters the Plaintiffs in this case that I had announced the removal of Defendant to the Elders of Nyakrom. Plaintiff then sent to tell me a second time with a bottle gin that 1st Plaintiff Kwame Badu had been appointed the Head of their Family in place
10 of Defendant. I informed Nyakrom-Man of Kwame Badu's appointment and since from that day the Oman of Nyakrom recognised 1st Plaintiff Kwame Badu the Head of Parties Family and anything the Nyakrom Man do they do it with 1st Plaintiff Kwame Badu.

Xd by Plaintiffs: Nil.

Xxd by Defendant:- Yes, I remember about 3 years ago, Adontenhene came to Nyakrom and met with you at Tufuhene's house. I do not know what
20 took place there. The matter at Tufuhene's house was not finished when Adontenhene came home with Mankrado and me when we did not return to Tufuhene's house, only Adontenhene returned. At present Kwame Badu is the Head of Apaa Yego Family, Nyakrom and he represents Apaa Quarters in anything done at Nyakrom. Kwame Badu 1st Plaintiff being the Head of Your Yego Family I collected 10/6d donation from him during the funeral of the Ex-Omanhene Ntsiful. Mankrado
30 did not collect 10/6d from you as you hold no post.

Xd by Court:- Defendant is not recognised as Ebusuapanyin of the Yego Family of Nyakrom, Apaa Quarters, at all and that the Oman of Nyakrom do not request his attendance in any Nyakrom affairs as Head of Apaa Quarters, Nyakrom. I know there is a Council at Nyakrom called Oman Council. This Council composed of Nyakrom Elders and some young men in the town; if Defendant is a member of the
40 said Council it is not because he is the Head of Apaa Yego Family. The very day Defendant's removal took place and announced to Mankrado Defendant came to ask Mankrado whether it was true that the Plaintiffs had announced to him of his removal and I replied Defendant, Yes. Defendant did not say anything and returned. Mankrado has not one day given any contribution to Defendant being debt for Nyakrom Man. It is

EXHIBITS
(DEFENDANTS)
"A7"
Evidence of
Kwesi Annam in
Badu v Donkor
7th April 1952
(Continued)

about a year or more when 1st Plaintiff made Ebusuapanyin. When any Head of a Family at Nyakrom is removed, the family properties including Stool (if any) are to be delivered by the removed one to the Family when the family also hands them over to the new appointed Head of the Family.

By Native Court:- Case adjourned to Monday 21/4/52 at 8.30 a.m. the time now being 2.50 p.m. and the Court is going to try another Criminal case.

(Sgd) Kwankum III,
President, Native Court, "B",
7/4/52

10

Recorded by:-
(Sgd) J.A.Baah
Registrar, Native Court.

"W"
Evidence of
Kofi Donkor in
Badu v Donkor
18th June 1952

"W"

Evidence of Kofi Donkor in Badu v Donkor

In the Agona Native Court "B" Western Province Gold Coast, held at Swedru, on Wednesday the 18th day of June, 1952.

Present: (As stated in Exhibit "A7")

20

(Title as in "A7")

Case resumed from adjournment on page 26 under date 4/6/52.

All Plaintiffs present except 10th Plaintiff.
Defendant present.
Defendant's case continued.

x

x

x

Xd by Court:- All the lands for Nyakrom Apaa Quarters are the properties of the Yego Family Apaa Quarters, Nyakrom and that all are attached to the Family Stool.

30

x

x

x

I cannot bring or produce any fresh evidence to

prove that this Stool was truly brought from Ashanti Agona by Ampiakoko.

EXHIBITS
(DEFENDANTS)
"W"

x x x

(Sgd) Kwankum III,
President, Native Court "B"
18/6/52.

Evidence of Kofi Donkor in Badu v. Donkor
18th June 1952
(continued)

Recorded by:-
(Sgd) J.A. Baah,
Registrar, Native Court.

"A4"

Evidence of Kobina Botchey in Badu v. Donkor

"A4"

Evidence of Kobina Botchey in Badu v. Donkor
18th June 1952

10 In the Agona Native Court "B", Western Province Gold Coast, held at Swedru on Wednesday the 18th day of June, 1952.

Present: (As stated in Exhibit "A7")

(Title as in Exhibit "A7")

Case resumed from adjournment on page 26 under date 4/6/52.

All Plaintiffs present except 10th Plaintiff
Defendant present.

x x x

20 Evidence of Defendant's 1st Witness:- Kobina Botchey, S.A.R.B. and states as follows :-

I am the Adontehene of Agona State and Ohene of Swedru. I live at Swedru. In the case Kofi Donkor versus Eduamoah when I was the Presiding Member of this Native Court (Exhibit "D") about 3 years ago, the family tie between Kofi Donkor (Defendant) and Eduamoah (4th Plaintiff) was separated by this Native Court at request of both parties when customary performance of slaughtering 1 sheep each and a bottle Gin each was made before this Native Court.

30 x x x

Xxd by Plaintiff:-

x x x

EXHIBITS
(DEFENDANTS)

"A4"

Evidence of Kobina Botchey in Badu v. Donkor
18th June 1952
(Continued)

I do not know anything about Kwami Badu and Otsenkorang in the case Kofi Donkor vs. Eduamoah. All that I know is that the separation of the Family tie between Kofi Donkor and Eduamoah was made by this Native Court when I was President. I know the Nyakrom Apaa Yego Family is composing of 5 houses i.e. Kofi Donkor's house, Kwami Badu's house, Eduamoah's house, Otsenkorang's house and one Henry Saah's house. I am the occupant of the Adonten Division Stool, Swedru, and if I acquire any property during ruling days the said property is surely the Stool Family property. The Ohene of Nyakrom is the Mankrado of Nyakrom. 10

Xd by Court:-

x

x

x

All Family Sectional members composing any Stool Family are Royals (Adehye) and can be made occupants to the said Stool. The Stool and the lands attached to the Stool of the Apaa Yego Family which I ordered Defendant Kofi Donkoh to possess as the Head of the said Family are the properties of the whole Yego Family Apaa Quarters, Nyakrom, composing the 4 houses excluding Eduamoah's house. The Stool and the lands were not given Defendant's section of the said Yego Family alone but all the other 3 houses. The said Yego Family is now composing 4 houses i.e. Defendant's house, 1st Plaintiff's house, 5th Plaintiff's house and Henry Saah's house. Eduamoah's section of the Yego Family is to own the properties of any Family land Eduamoah and his people have occupied for farming and other purposes as they had been enjoyed by his ancestors. 20 30

By Native Court:- Case adjourned to Saturday
21/6/52 at 8.30 a.m. the
time now being 5.30 p.m.

(Sgd) Kwankum III
President, Native Court "B"
18/6/52. 40

Recorded by:-

(Sgd) J.A. Baah,
Registrar, Native Court.

"v"

Evidence of Kobina Afful in Badu v. Donkor.

EXHIBITS
(DEFENDANTS)

In the Agona Native Court "B", Western Province, Gold Coast, held at Swedru, on Saturday the 21st day of June, 1952.

"v"
Evidence of Kobina Afful in Badu v. Donkor
21st June 1952.

Present:- (As stated in "A7")

(Title as in "A7")

Case resumed from adjournment on page 71 under date 18/6/52.

10 All Plaintiffs present, except 10th Plaintiff.
Defendant present.

x x x

Evidence of Defendant's 4th Witness: Kobina Afful, s.a.r.b. and states as follows :-

I am sub-chief, Nyakrom, Nana Section. I live at Nyakrom.

x x x

Xcd by Plaintiffs:-

20 The Apaa Yego Family is composed of 5 Houses and that they are all one in doing anything. The Apaa Yego Family is having one Family Stool. All the lands attached to the Apaa Yego Family Stool are for all the 5 houses.

30 Re-examined by Defendant:- I got to know that your Apaa Yego Family is composed of 5 Houses as your members of the said family used to tell me. You were made Head of the Apaa Yego Family by all the 5 Houses and for that I know that the said Family Stool is for all the 5 Houses. I was not there when you were appointed Head of the Family. Henry Saah's House is a branch of my Nana Yego Family but Henry Saah has joined the Apaa Yego Family as he and his people are staying there. When some member of my Nana Yego Family dies, I give Henry Saah and his people their share which he takes home and shares it with the Apaa Yego Family members.

x x x

(Sgd) Kwankum III
President, Native Court "B"
21/6/52.

40 Recorded by:-
(Sgd) J.A. Baah,
Registrar, Native Court.

"U"

EXHIBITS
(DEFENDANTS)

"U"

Evidence of Bondam Okwan in Badu v. Donkor

Evidence of
Bondam Okwan in
Badu v Donkor
1st July 1952

In the Agona Native Court "B", Western Province,
Gold Coast, held at Swedru, on Tuesday, the 1st
day of July, 1952.

Present: (As stated in "A7")

(Title as in "A7")

Case resumed from adjournment on page 97 under
date 25/6/52.

Plaintiff present except 10th & 11th Plaintiffs.
Defendant present.

10

Defence continued:-

x

x

x

Evidence of Defendant's 9th Witness - Bondam
Okwan, s.a.r.b. and states as follows :-

I am the Adontenhene of Opantsi-Dobon of
Gomoa Assin State, Kyinen. I live at Kyinen.
About 25 years ago, I obtained a land for cocoa
farming from late Abeka, the Stool occupant of
the Apaa Yego Family, Nyakrom. Before Opanin
Abeka granting me the land, I produced a rum to
him when he poured rum for libation and said
"Nana Ampiakoko my ancestor, receive this rum
for your land is being requested by this man (me)
and so bless him". The land was shown to me
which is called Otsinkorang in the vicinity of
Nyakrom. At this time there was nobody living on
the said land. So I had to erect cottage huts
there and lived in them with my people. After-
wards many tenants were brought there to the
total number of 34. So the cottage became little
larger and I was made the head of the cottage.
Opanin Abeka was destooled and late Yaw Nkum was
placed in his place. During Yaw Nkum's time the
yearly land occupation rent was arranged when all
the tenants on the Otsenkorang land became £300.
During the Shee-Head case between the Apaa Yego
Family, Kobina Obo, Defendant's uncle and the
Head of the said Family pledged the whole land at
Otsenkorang to 4th Plaintiff, Eduamoah, for £700,
and Kobina Obo ordered me to pay the yearly land
occupation rents to 4th Plaintiff. We paid the
rents to 4th Plaintiff for 5 years, when Defendant

20

30

40

came to tell me that the land had been rededeed and we might cease paying the rents to 4th Plaintiff again. From that time we paid the yearly occupation rents to Defendant and it is now paid to Defendant.

EXHIBITS
(DEFENDANTS)
"U"

Evidence of
Bondam Okwan in
Badu v Donkor
1st July 1952
(continued)

Xcd by Defendant:- 1st Plaintiff did not object to the said pledge of the Otsenkorang land to 4th Plaintiff.

10 Xcd by Plaintiffs:- I do not know all the Heads of the Apaa Yego Family. I know Okyeame Mensah (deceased) who was a member of this Yego Family and Okyeame to late Opanin Abeka. I know 1st Plaintiff and late Opanin Anane who are members of this Yego Family. 4th and 5th Plaintiffs are also members of this Yego Family. I know one late Okyeame Okyere of this Yego Family. Yes, late Opanin Abeka was the Apaa Yego Family Stool occupant. Yes, I know that a litigation came on the Otsenkorang land when the whole Apaa Yego
20 Family litigated it. There is a plan made on this Otsenkorang land by the Apaa Yego Family and the tenants on this Otsenkorang land. Yes, 1st Plaintiff sent to tell me that Defendant had been removed from the position of the Head of Family and that I might from that time pay the yearly land occupation rents to 1st Plaintiff. This I was told about 2 years ago, 1950. Yes, I was told that 1st Plaintiff had been made the
30 the report I did not pay the rents to 1st Plaintiff.

Xd by Court:- Late Opanin Abeka told me that the name Amiakoko he mentioned was his ancestor and it was he who acquired this Otsinkorang land when he was the family Stool Occupant of the Apaa Yego. The people directed me to the Otsenkorang land were Owuba (Yego Family Member) and Appiah, a stranger. Yes, late Opanin Abeka gave a receipt for £10 as Asedze on the land in
40 the name of this Apaa Yego Family for it was marked by late Abeka as the Head of the said Yego Family of Apaa Quarters Nyakrom.

(sic)

By Native Court:- Case adjourned to Thursday 3/7/52 at 8.30 a.m. as one of Defendant's witnesses, Government Police Sergeant has phoned the Court to adjourn the case for him to 3/7/52,

EXHIBITS
(DEFENDANTS)

"U"

Evidence of
Bondam Okwan in
Badu v Donkor
1st July 1952
(continued)

as he is very busy in the office.

(Sgd) Kwankum III
President, Native Court "B".
1/7/52.

Recorded by:-
(Sgd) J.A. Baah,
Registrar, Native Court.

"2"

Order of Native
Court, Badu v.
Donkor
5th July 1953

"2"

Order of Native Court, Badu v Donkor.

In the Agona Native Court "B", Western Province, 10
Gold Coast, held at Swedru on Saturday the 5th
day of July, 1953.

Present: (As stated in "A.7")

(Title as in "A.7")

Case resumed from adjournment on page 11 under
date 3/7/52.

Plaintiffs present except 2nd and 10th Plain-
tiffs. Defendant present.

ORDER OF NATIVE COURT:-

x

x

x

20

Owing to the foregoing circumstance, the
Plaintiffs are at right to claim the said Family
Stool and all other properties in custodian of
Defendant from Defendant for the whole Yego
Family including Defendant's Section once Defend-
ant is no more recognised the Head of the said
Yego Family.

Judgment in this case is therefore entered
for Plaintiffs for the said Stool with its para-
phernalia and all the lands, with costs to be 30
taxed.

Defendant is hereby ordered to deliver up
possession and surrender all the properties men-
tioned hereunder to Plaintiffs for the whole Apaa
Yego Family, Nyakrom including Defendant's

section on or before the 19th day of July, 1952.

Defendant is further ordered to cease from collecting any annual Land Occupation Rents from any tenant on any of the said lands.

The properties to be delivered and surrendered are as follows :-

EXHIBITS
(DEFENDANTS)
"2"

Order of Native
Court, Badu v.
Donkor
5th July 1953
(continued)

1. One Family Stool.
2. One State sword, 8 Gold Swords, 2 State Horns, 2 Linguist Sticks
- 10 3. 3 Land Plans on Otsenkorang, Bosompa and Buafi lands.
4. Otsenkorang, Bosompa, Buafi, Kokobir, Obo Abina, Mansa Ade and Odum Birisii Lands.

(Sgd) Kwankum II

President Native Court "B",
5/7/52

Recorded by:-

(Sgd) J.A.Baah,
20 Registrar, Native Court,
