

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
LAND DIVISION 8
ACCRA – A.D. 2024

Filed on 3/5/2024
at 3:00 am/pm
Registrar
HIGH COURT
LAND COURT, LCC - ACCRA

SUIT NO.: LD/0346/2020

1. SOLACE DOE)
2. CLARIET BAIDEN)
ALL OF H/No. 18H STREET COMMUNITY 15 SAKUMONO, ACCRA (ACTING BY THEIR
LAWFUL ATTORNEY MR. HARRY HUSMAI BAIDEN)
: : : PLAINTIFFS/APPLICANTS

VRS

1. GODSON YEVUYIBOR)
2. RICHARD HAGAN)
3. HUANG RUEI GHEN(DECED) [SUBT. BY ANGELA HUANG])
4. SINIC ENTERPRISE)
5. SETH LARYEA)
ALL OF TSE ADDO, TRADE FAIR, LA, ACCRA)
PLAINTIFF SHALL DIRECT SERVICE)
: : : DEFENDANTS/RESPONDENTS

MOTION ON NOTICE FOR INTERLOCUTORY INJUNCTION

PLEASE TAKE NOTICE that this Honourable Court shall be moved by Counsel for Plaintiffs herein for an order of interlocutory injunction restraining **3rd and 4th Defendants, their agents, assigns, workmen including policemen deployed to guard the unlawful construction work on the land, privies including MRS. WILHEMINA ASIAMAH (WIFE OF THE MINISTER OF TRANSPORT) as well as JOSEPH KWAKU OFORI ASIAMAH THE MINISTER OF TRANSPORT** howsoever called from entering, developing or having any dealings with Plaintiffs' respective parcels of land pending the final determination of the instant suit upon the grounds as set out in the accompanying Affidavit.

AND for such further orders as to this Honourable Court may seem fit.

COURT TO BE MOVED ON THURS the 05th day of May, 2024 at 9 0' Clock forenoon or so soon thereafter as Counsel for the Applicants may be heard.

DATED AT THE ROCK CHAMBERS, NO. 12, F 278/5, DADE LINK, NEAR HONEYSUCKLE, LABONE, ACCRA THIS 3RD DAY OF MAY, 2024.

EMMANUEL BRIGHT ATOKOH, ESQ.
LAWYER FOR THE APPLICANTS
GAR NO. 1487/24

EMMANUEL BRIGHT ATOKOH, Esq.
(THE ROCK CHAMBERS)
H/No. 12, F278/5 Dade Link
Kwaku Baako Junc. Near Kuwait Embassy
Labone - Accra
TEL: 0244987423 / 026 4987422

THE REGISTRAR
HIGH COURT
LAND DIVISION
ACCRA

AND FOR SERVICE ON THE ABOVE-NAMED:

1. 3RD & 4TH DEFENDANTS OR THEIR LAWYER ANDREWS TETTEH, ESQ., ANDREWS TETTEH LAW CONSULT, ATLC, KOKOMLEMLE, ACCRA (0244645781).
2. **MRS. WILHEMINA ASIAMAH (WIFE OF THE MINISTER OF TRANSPORT)** as well as **JOSEPH KWAKU OFORI ASIAMAH, THE MINISTER OF TRANSPORT, ACCRA** upon whom Plaintiffs shall direct service.
3. 1ST DEFENDANT OR HIS LAWYER, EDWARD J. METTLE-NUNOO ESQ., NOON ASSOCIATES, EVERGREEN HOUSE, 2ND FLOOR, ROOM 7, NEAR NARH BITA NURSING SCHOOL, COMMUNITY 4, TEMA.

IN THE SUPERIOR COURT OF JUDICATURE
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ALL OF H/No. 18H STREET COMMUNITY 15 SAKUMONO, ACCRA (ACTING BY THEIR
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1. GODSON YEVUYIBOR)
2. RICHARD HAGAN) :::: DEFENDANTS/RESPONDENTS
3. **HUANG RUEI GHEN(DECED) [SUBT. BY ANGELA HUANG])**
4. **SINIC ENTERPRISE**)
5. SETH LARYEA)
ALL OF TSE ADDO, TRADE FAIR, LA, ACCRA)
PLAINTIFF SHALL DIRECT SERVICE)

AFFIDAVIT IN SUPPORT

I, Kwesi Wonder Siaw of No. 12, F278/5, Dade Link, Labone, Accra hereby make oath and say as follows:

1. That I am a Clerk in the firm of lawyers for the Plaintiffs/Applicants.
2. That I have the authority of the Applicants and their lawful attorney to depose to the facts contained herein which facts unless otherwise stated have come to my knowledge, belief and possession in the course of my work.
3. That Applicants are Ghanaians and adjoining land neighbors, and which parcels of land are situate at Tse Addo, La, Accra.
4. That I am informed by the Applicants that Respondents are trespassers on Applicants' land and have as part of their acts of trespass entered portions of Applicants land and developing same.
5. That 1st Applicant sometime in or about 1st June, 2007 purchased some parcels of land from the East Dadekotopon Development Trust.
6. That the parcel of land demised to her is described in an indenture dated as stated above and described as: ALL that piece of land situate lying and being at La, Accra behind the Ghana International Trade Fair and covering an approximate area of 0.922 Acres (0.373 Hectare) more or less and bounded on the North by a proposed road measuring 118.50 feet or less on the East by Lessor's land measuring 290.60 feet more or less on the South by Lessor's land measuring 139.90 feet more or less on the West by a proposed road measuring 139.90 feet more or less on the West by a proposed road

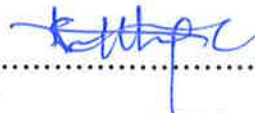
(Royal Palm street) measuring 260 feet more or less on the North East by a proposed road measuring 36.10 feet more or less which piece or parcel of land is more particularly delineated on the plan attached hereto and thereon shewn edged Pink."

7. That she has been in effective occupation and possession of the vacant land from the date herein before stated till date and has never abandoned same or let same out to any person.
8. That she subsequently registered title to the parcel of land demised to her and was issued with Land Title Certificate No. GA. 25028 Vol. 02 Folio 630. Dated the 16th day of November, 2007. Attached herewith and marked as **Exhibit A** is a photocopy of the Indenture and the Title Certificate for Solace Doe.
9. That 2nd Applicant acquired the disputed land at the same time as the 1st Applicant on the 1st day of June, 2007 and which parcel of land is situate at Tse Addo, La behind the Trade Fair Centre, Accra.
10. That she immediately entered into vacant possession of the demised parcel of land and has been in effect occupation and possession of same without let.
11. That the parcel of land demised to her by the East Dadekotopon Development Trust is in the indenture executed to her name as: "ALL that piece or parcel of land situate lying and being at La Accra behind the Ghana International Trade Fair and covering an approximate area of 0.684 Acre (0.277 Hectare) more or less and bounded on the North by the Lessor's land measuring 139.90 feet more or less on the East by the Lessees (sic) Land measuring 212.80 feet more or less on the South by the Lessee's Land (sic) measuring 140.30 feet more or less on the West by Royal Palm Street measuring 212.30 feet more or less which piece or parcel of land is more particularly delineated on the plan attached hereto and shewn EDGED PINK"
12. That she subsequently registered title to the said land and was issued with Land Title Certificate No. GA. 25027 Vol. 02 Folio 629 dated the 16th day of November, 2007. Attached herewith and marked as **Exhibit A1** is a photocopy of the Indenture and the Title Certificate for Clariet Baiden.
13. That Applicants have at all times material been in effective occupation and possession of their respective parcels of land and their title certificates have never been cancelled and or annulled by any court.
14. That following the commencement of the instant suit Applicants secured interim injunction against Respondents who claimed to have variously acquired Plaintiffs' land from the Ataa Tawiah Tsinaiatse and Numo Ofoli Kwashie families and which families are not the owners of Plaintiffs' land.

15. That the courts have in various decisions confirmed and affirmed Applicants' grantors as the owners of the disputed land with the requisite capacity to grant the disputed parcels of land to Applicants respectively.
16. That among the decisions of the Courts in that regard include the Court of Appeal decision in the suit titled: ADOLPH TETTEH ADJEI V. ANAS AREMEYAW ANAS & ANOR [CIVIL APPEAL No. H1/107/2018] dated the 29th of November, 2018 and the Supreme Court decisions in respect of the said suit as well as the suit titled THE REPUBLIC VRS REGISTRAR, HIGH COURT (PROBATE DIVISION) ACCRA; EX PARTE THE REGISTERED TRUSTEES OF EAST DADEKOTOPON DEVELOPMENT TRUST [CIVIL MOTION No. J5/67/2019] dated the 19th day of November, 2019.
17. That aside Respondents' grantors having no interest in Applicants' land to grant to Respondents, the latter was by law enjoined to thoroughly investigate their alleged grantor's title before having any transactions in respect of same.
18. That Applicants through the attorney herein lodged complaint before the Ghana Police service of Respondents acts of trespass on Applicants' land respectively.
19. That I am informed by Counsel and verily believe the same to be true that the 2nd and 5th Defendants subsequently amicably settled the matter with Applicants and paid for their portion of the land.
20. That 3rd and 4th Respondents have also approached Applicants to settle the amicably settle the matter with them.
21. That quite strangely while the matter is yet to be amicably resolved with the 3rd and 4th Respondents some MRS. WILHEMINA ASIAMAH (WIFE OF THE MINISTER OF TRANSPORT) as well as JOSEPH KWAKU OFORI ASIAMAH have entered the disputed land with armed policemen and developing same on the pretext that they have acquired the disputed land from the 3rd and 4th Respondents. Attached and marked as **Exhibit B series** are photographs of the developments on the land.
22. That I am informed by Counsel and verily believe the same to be true that the conduct of Respondents constitutes trespass and an act of illegality on Applicants' respective land.
23. That Respondents will not stop their acts of trespass on Applicants' respective parcels of land unless compelled and or restrained by an order of this Honourable Court.

WHEREFORE Applicants pray that this Honourable Court grants the instant application restraining Respondents, their agents assigns, workmen, privies including MRS. WILHEMINA ASIAMAH (WIFE OF THE MINISTER OF TRANSPORT) as well as JOSEPH KWAKU OFORI ASIAMAH, Minister of Transport, howsoever described from entering, developing and or having any dealings with Applicants' land pending the determination of this suit.

Sworn in Accra this 3rd day of May, 2024).....



DEPONENT

BEFORE ME



JUSTINA CLOTTEY
COMMISSIONER FOR OATHS

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
LAND DIVISION 8
ACCRA – A.D. 2024

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VRS

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2. RICHARD HAGAN) :::: DEFENDANTS/RESPONDENTS
3. HUANG RUEI GHEN(DECED) [SUBT. BY ANGELA HUANG])
4. SINIC ENTERPRISE)
5. SETH LARYEA)
ALL OF TSE ADDO, TRADE FAIR, LA, ACCRA)
PLAINTIFF SHALL DIRECT SERVICE)

CERTIFICATE OF EXHIBITS

JUSTINA CLOTTEY

I,Registrar / Commissioner for Oaths
make oath a say that the Exhibits listed herein have been verified by me to have
been attached to the affidavit in support of the motion for interlocutory
injunction.

Exhibit A is a photocopy of the Indenture and the Title Certificate for Solace
Doe.

Exhibit A1 is a photocopy of the Indenture and the Title Certificate for Clariet
Baiden.

Exhibit B series are photographs of the developments on the land.

DATED THIS 3rdDAY OF MAY, 2024.

.....
REGISTRAR/COMMISSIONER FOR OATHS



EXHIBIT A

LAND CERTIFICATE



REPUBLIC OF GHANA

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...COMMISSIONER FOR O...

L.S.

ISSUED UNDER THE AUTHORITY OF THE LAND TITLE REGISTRY, ACCRA.

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WARNING

1. No endorsement note, notice or entry made on the Certificate other than those officially made by the Land Registrar shall have any operation.
 2. All persons are cautioned against altering, adding to or otherwise tampering with this Certificate or any document annexed thereto.
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Cert. No. **GA.25028**
Volume **02**
Folio **630**

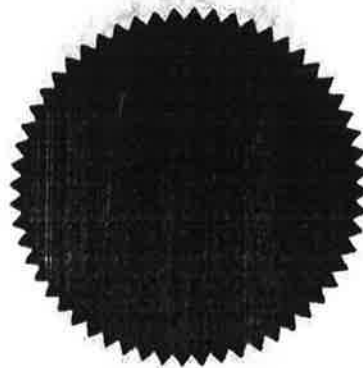


**LAND TITLE
REGISTRY**


REPUBLIC OF GHANA

LAND CERTIFICATE

THIS IS TO CERTIFY THAT **SOLACE DOE** of Accra in the Greater Accra Region of the Republic of Ghana is registered as tenant or lessee for a term of 50 years from the First day of June, 2007 (with an option to renew for a further term of 40 years) subject to the reservations, restrictions, encumbrances, liens and interests as are notified by memorial underwritten or endorsed hereon, of and in ALL THAT piece or parcel of land in extent 0.373 hectare (0.922 of an acre) more or less situate at East La in the Greater Accra Region of the Republic of Ghana aforesaid which said piece or parcel of land is more particularly delineated and edged with pink colour on Survey Plan No.Z15064 annexed to this Certificate except and reserved all minerals, oils, precious stones and timber whatsoever upon or under the said piece or parcel of land. _____



IN WITNESS WHEREOF I have hereunto signed my name and affixed the seal of the Land Title Registry this 16th day of November 2007


.....
CHIEF REGISTRAR OF LANDS

MEMORIALS

Cancellation

Date of Instrument	Date of Registration	Registered No		Cancellation
16.2007	22.6.2007	02/Z.15064/1	Subject to the reservations, exceptions, restrictions, restrictive covenants and conditions contained or referred to in a lease (a true copy of which is annexed hereto) made between East Dadekotopon Development Trust of the one part and Solace Doe of the other part.	

14

Dated this 1ST day of June, 2007

LEASE AGREEMENT

BETWEEN

EAST DADEKOTOPON DEVELOPMENT TRUST

AND

LAND TITLE REGISTRY
VICTORIABORG
RECEIVED BY.....
DATE..... TIME.....

SOLACE DOE

LEASE

LAW GROUP & CO.
BARRISTERS & SOLICITORS
TUDU-ACCRA

LEASE

LAND TITLE REGISTRY
VICTORIA/BORG

RECEIVED BY
DATE TIME

THIS INDENTURE is made this 1ST day of June in the year Two Thousand and Seven (2007) BETWEEN **EAST DADEKOTOPON DEVELOPMENT TRUST**, a corporate body registered under the Trustees (Incorporation) Act of 1962 (Act 106) with registered offices at No. 7 Otswe Street, Ako Adjei Park, La-Accra acting per its Chairman **SETH M. ODOI** (hereinafter called "the Lessors") which expression shall where the context so requires or admits include its successors assigns and agents) of the one part and **SOLACE DOE** of P. O. Box CT1454 Cantonments, Accra (hereinafter called "the Lessee" which expression shall where the context so requires or permits include its successors, assigns and agents) of the other part.

WHEREAS

1. By a Consent judgment of an Accra High Court dated 12th July 2001 in Suit No. L.353/97, the La Stool, the Leshie Quarter and the Nmati Abonase Quarter all of La agreed to create a trust to take over and manage the land in dispute for the benefit of the citizens of La.
2. By a Trust Deed dated 10th April 2002 and registered under the Trustees (Incorporation) Act 1962 (Act 106) the Settlers created the trust and transferred the ownership and management of the said lands to the Trustees.
3. The Lessor holds Land Title Certificate No. GA 19310 from the Land Title Registry.

NOW THEREFORE THIS DEED WITNESSES AS FOLLOWS:

1. IN CONSIDERATION of the rent hereby reserved and of the covenants conditions and stipulations on the part of the Lessee to be paid performed and observed the Lessor hereby demises unto the Lessee ALL THAT piece or parcel of land situate at La, and containing an approximate area of 0.922 Acre (0.373 Hectare) the boundaries of which are provided in the Schedule "A" attached hereto as same is more particularly delineated on the plan attached hereto and thereon shewn edged PINK TO HAVE AND TO HOLD the same unto and to the use of the Lessee for a term of fifty years certain from the day of the year Two Thousand and Seven (2007) YIELDING AND PAYING thereof during

the said term, a yearly ground rent of five hundred thousand thousand cedis (₦500,000.00) payable yearly in advance the first year's rent having been paid on or before the execution hereof (receipt of which the Lessor hereby acknowledges) provided that the rent hereby reserved shall be subject to revision after every 10th year of the term.

2. THE LESSEE HEREBY COVENANTS WITH THE LESSOR AS FOLLOWS:-

- (a) To pay the rent hereby reserved at the times and in the manner aforesaid without any deduction whatsoever
- (b) Not to use the demised land otherwise than for residential purposes only.
- (c) Not to allow in or about the demised land or any part thereof anything which may be or become nuisance damage or annoyance to the Lessor or any owner or occupier of adjacent property.
- (d) To permit the Lessor his agents and servants at reasonable times to enter upon the demised land and view the condition thereof.
- (e) To bear pay and discharge all existing and future rates charges assessments impositions and outgoings whatsoever imposed upon the demised premises during the term hereby created and in the event the Lessor shall become liable or responsible for the payment of all or any part of such rates charges taxes etc. the Lessee shall pay to the Lessor on demand all moneys so paid by the Lessor for that purpose and such moneys shall be recoverable by the Lessor as rent arrears.
- (f) Not to assign sublet or part with possession of the demised land or any part thereof without prior notice in writing to the Lessor and such notice shall include a copy of the proposed Deed of Assignment.
- (g) At the expiration or sooner determination of the term hereby created to yield up to the Lessor the demised land together with all buildings hereon in such state of repair and conditions as shall be in accordance with the covenants herein contained.

3. **THE LESSOR HEREBY COVENANTS WITH THE LESSEE AS FOLLOWS:**

- (a) That the Lessee upon paying the rent hereby reserved and observing and performing the several covenants conditions and stipulations herein on his part contained shall peaceably enjoy the demised land during the said term and any renewed term without any interruption by the Lessors their heirs successors and assigns or any person or persons rightfully claiming by under, or in trust for them.

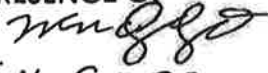
4. **PROVIDED ALWAYS AND IT IS HEREBY AGREED THAT:**

- (a) If the rent hereby reserved or any part thereof shall be unpaid for three (3) months after becoming payable or if any of the Lessee's covenants herein contained shall not be duly performed or observed it shall be lawful for the Lessor at any time thereafter (but only after a demand is made and due notice given to the Lessee) to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this lease shall absolutely determine but without prejudice to any claim which the Lessor may have against the Lessee hereunder.
- (b) At the expiration of the term hereby granted and upon application in writing by the Lessee for renewal and if there shall not be at the time of such application any existing breach of any of the covenants on the part of the Lessee the Lessors shall renew the LEASE for a further term of 40 years from the expiration of the term hereby granted.
- (c) Any notice required to be served hereunder shall be sufficiently served on the Parties if delivered personally or sent by registered mail or facsimile to the usual or last known address of the party.

A notice sent by post shall be deemed to be given at the time when in the due course of post it would be delivered at the address to which it is sent.

IN WITNESS WHEREOF the parties have hereunto set their respective hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED
BY THE SAID SETH M. ODOI
IN THE PRESENCE OF


J.N. GOGO

P.O. Box LA525
LA-ACCRA

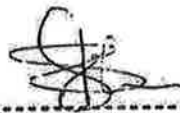
SIGNED SEALED AND DELIVERED
BY THE SAID LESSEE
IN THE PRESENCE OF

H.H. BAIDEN

P.O. Box CI.1454,
ACCRA.







SOLACE DUG

SCHEDULE "A"

ALL that piece or parcel of land situate lying and being at La, Accra behind the Ghana International Trade Fair and covering an approximate area of 0.922 Acres (0.373 Hectare) more or less and bounded on the North by proposed road measuring 118.50 feet more or less on the East by Lessee's land measuring 290.60 feet more or less on the South by Lessee's land measuring 139.90 feet more or less on the West by proposed road measuring 139.90 feet more or less on the West by proposed road (Royal Palm Street) measuring 260.80 feet more or less on the North East by proposed road measuring 36.10 feet more or less which piece or parcel of land is more particularly delineated on the plan attached hereto and thereon shown EDGED PINK.

OATH OF EXECUTION

I, *JOSEPH NAI GOGO* of Accra make oath and say that on the _____ day of _____ 2007 I was present and saw SETH M. ODOI duly execute the instrument now produced to me and marked "A" and that the said SETH M. ODOI can read and write.

SWORN AT ACCRA THIS
DAY OF _____ 2007

}

Mr. ODOI
.....

BEFORE ME

[Signature]
REGISTRAR OF LANDS

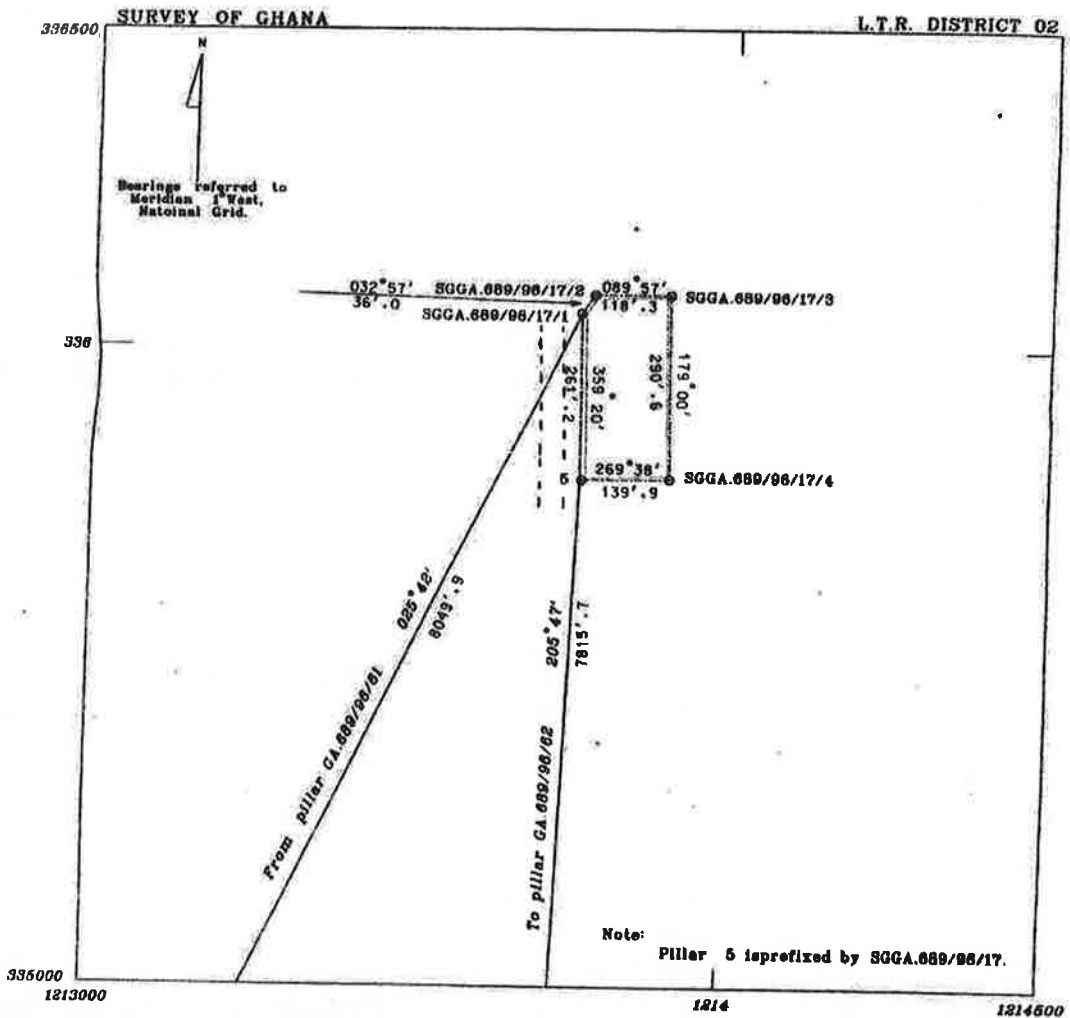
OATH OF PROOF

On _____ the _____ day of _____ 2007 at _____ O'clock in the noon this instrument was proved before me by the Oath of the within named _____ to have been duly executed by the within-named SETH. M. ODOI.

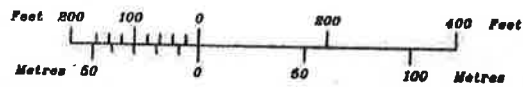
[Signature]
REGISTRAR OF LANDS
HIGH COURT
ACCRA

ACCRA — EAST LA
 SITE FOR SOLACE DOE
 —Shewn Edged Pink—

AREA - 0.922 ACRE OR 0.373 HECTARE



Scale 1:8500



J. Johnson
 DIRECTOR OF SURVEYS
 11-09-07

REGIONAL NO. GA. 689/96/17 CC 13594
 REFERENCE NO. Z 15064

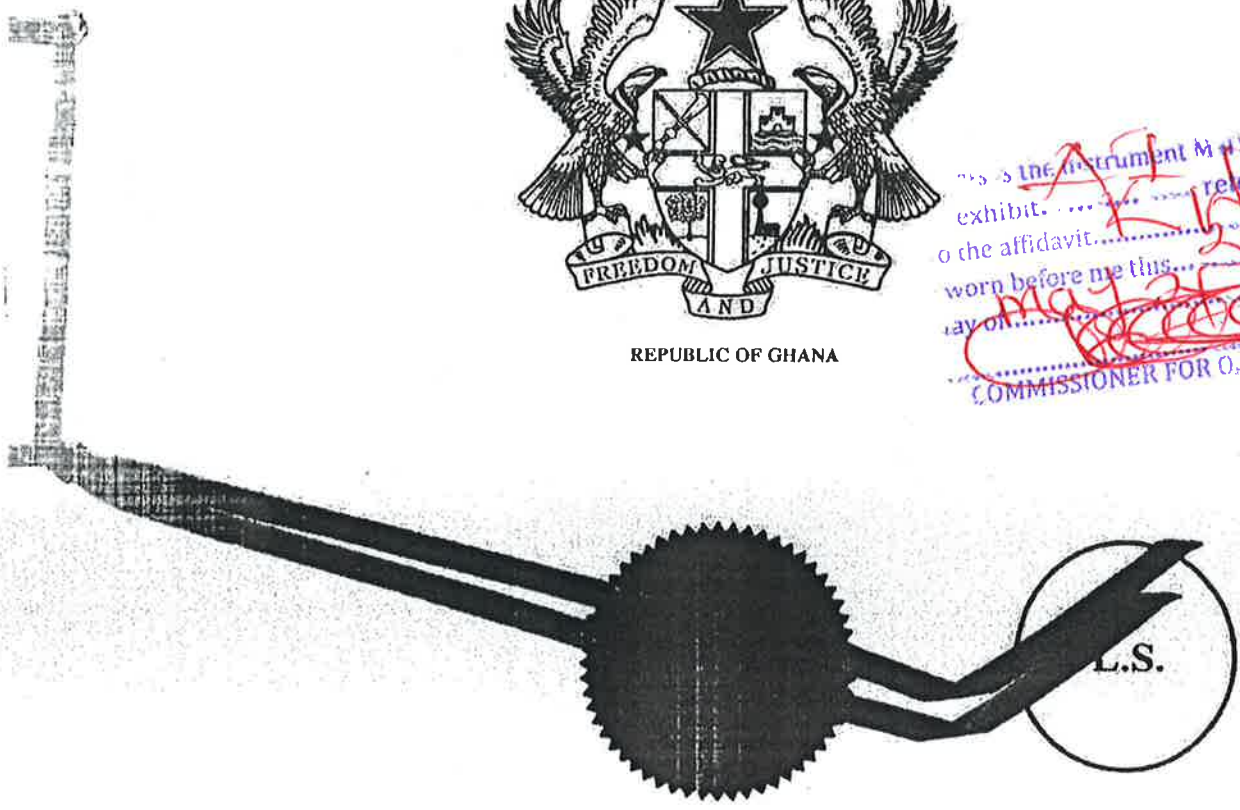
EXHIBIT A1

LAND CERTIFICATE



REPUBLIC OF GHANA

...the instrument M...
exhibit... refer...
to the affidavit...
worn before me this...
day of...
COMMISSIONER FOR O.A.M.S.



ISSUED UNDER THE AUTHORITY OF THE LAND TITLE REGISTRY, ACCRA.

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Vol.
Fol.

VIII.

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Land

1. No endorsement note, notice or entry made on the Certificate other than those officially made by the Land Registrar shall have any operation.

2. All persons are cautioned against altering, adding to or otherwise tampering with this Certificate or any document annexed thereto.

Cert. No GA.25027
Volume 02
Folio 629

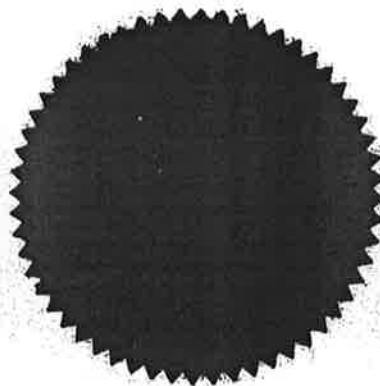


LAND TITLE
REGISTRY

REPUBLIC OF GHANA

LAND CERTIFICATE

THIS IS TO CERTIFY THAT CLARIET BADEN of Accra in the Greater Accra Region of the Republic of Ghana is registered as tenant or lessee for a term of 50 years from the First day of June, 2007 (with an option to renew for a further term of 40 years) subject to the reservations, restrictions, encumbrances, liens and interests as are notified by memorial underwritten or endorsed hereon, of and in ALL THAT piece or parcel of land in extent 0.277 hectare (0.684 of an acre) more or less situate at East La in the Greater Accra Region of the Republic of Ghana aforesaid which said piece or parcel of land is more particularly delineated and edged with pink colour on Survey Plan No.Z15063 annexed to this Certificate except and reserved all minerals, oils, precious stones and timber whatsoever upon or under the said piece or parcel of land. _____



IN WITNESS WHEREOF I have hereunto signed my name and affixed the seal of the Land Title Registry this 16th day of November 20 07.


CHIEF REGISTRAR OF LANDS

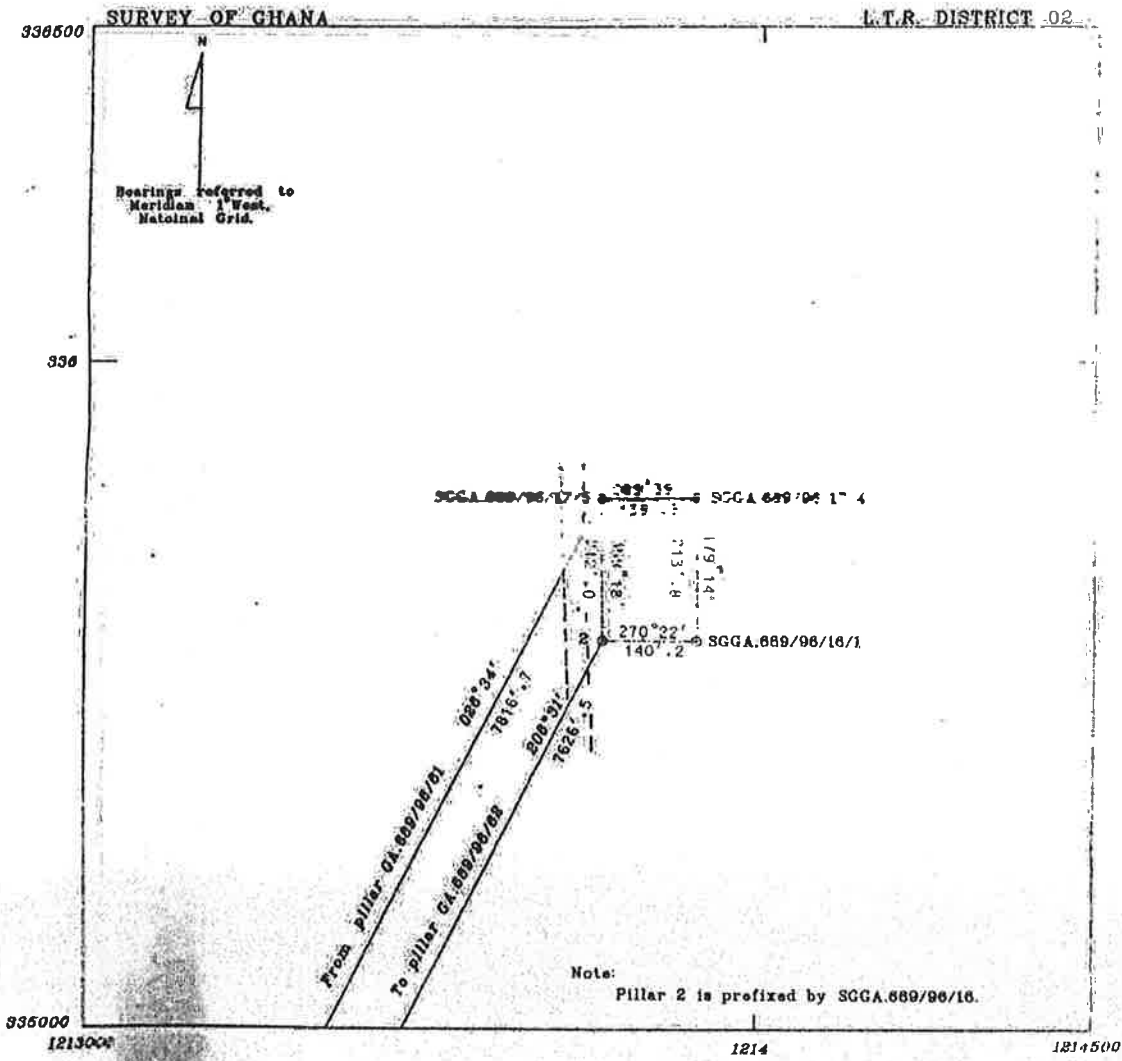
MEMORIALS

Entry No.	Date of Instrument	Date of Registration	Registered No.		Cancellation
1	1.6.2007	22.6.2007	02/Z15063/1	Subject to the reservations, exceptions, restrictions, restrictive covenants and conditions contained or referred to in a lease (a true copy of which is annexed hereto) made between East Dadekotopon Development Trust of the one part and Claret Baiden of the other part.	

335000
1213000

ACCRA — EAST LA
 SITE FOR CLARIET BAIDEN
 —Shewn Edged Pink—

AREA = 0.684 ACRE OR 0.277 HECTARE



Scale 1:2500



Handwritten signature
 DEPT. OF SURVEYS
 31-8-07

REGIONAL NO. GA.689/96/16 CC 13585
 REFERENCE NO. Z 15063

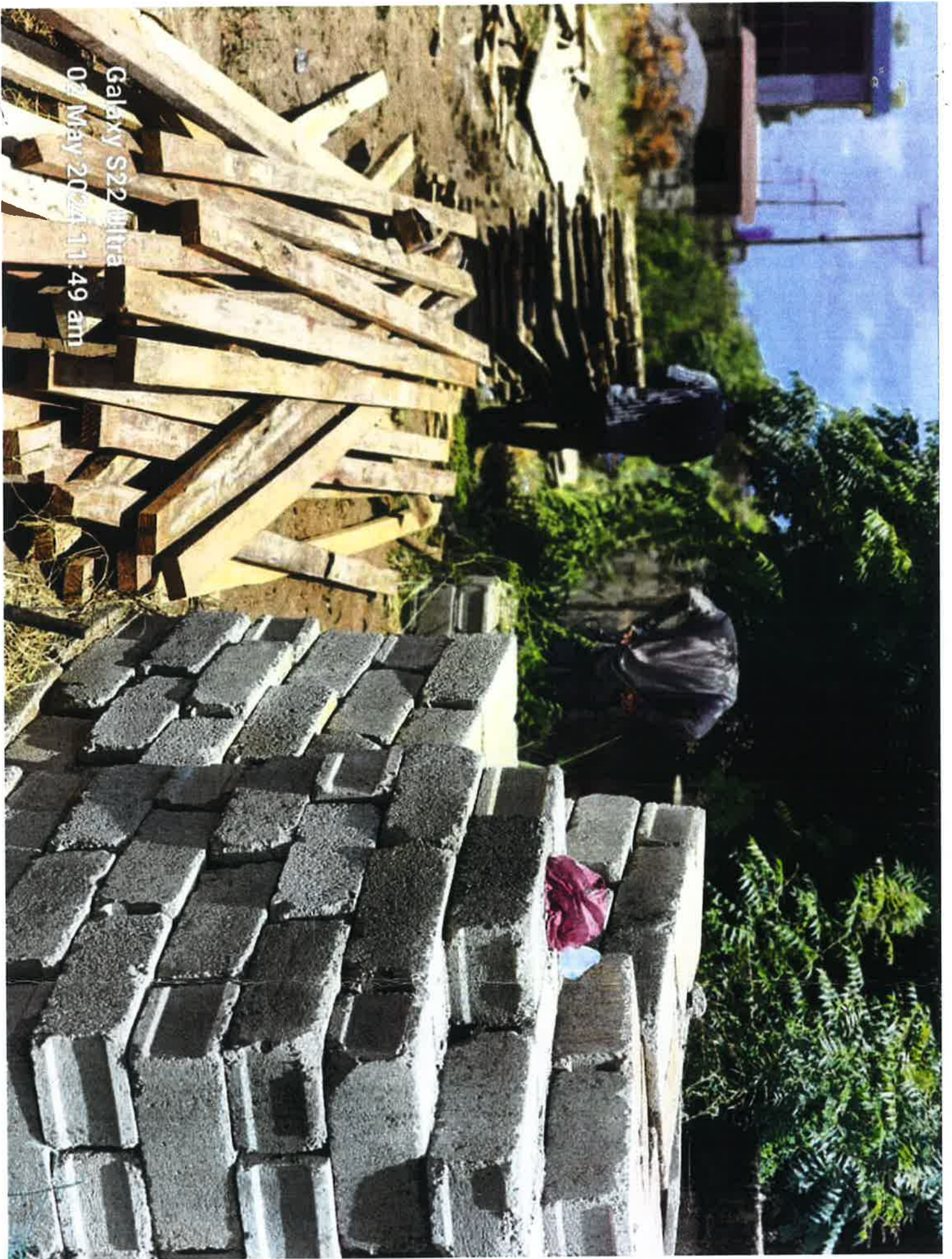
EXHIBIT B-1



From a time...
exhibits...
worn before the...
ay of...
B-1

Galaxy S22 Ultra
02 May 2024 11:49 am

B-1



Galaxy S22 Ultra
02 May 2024 11:49 am





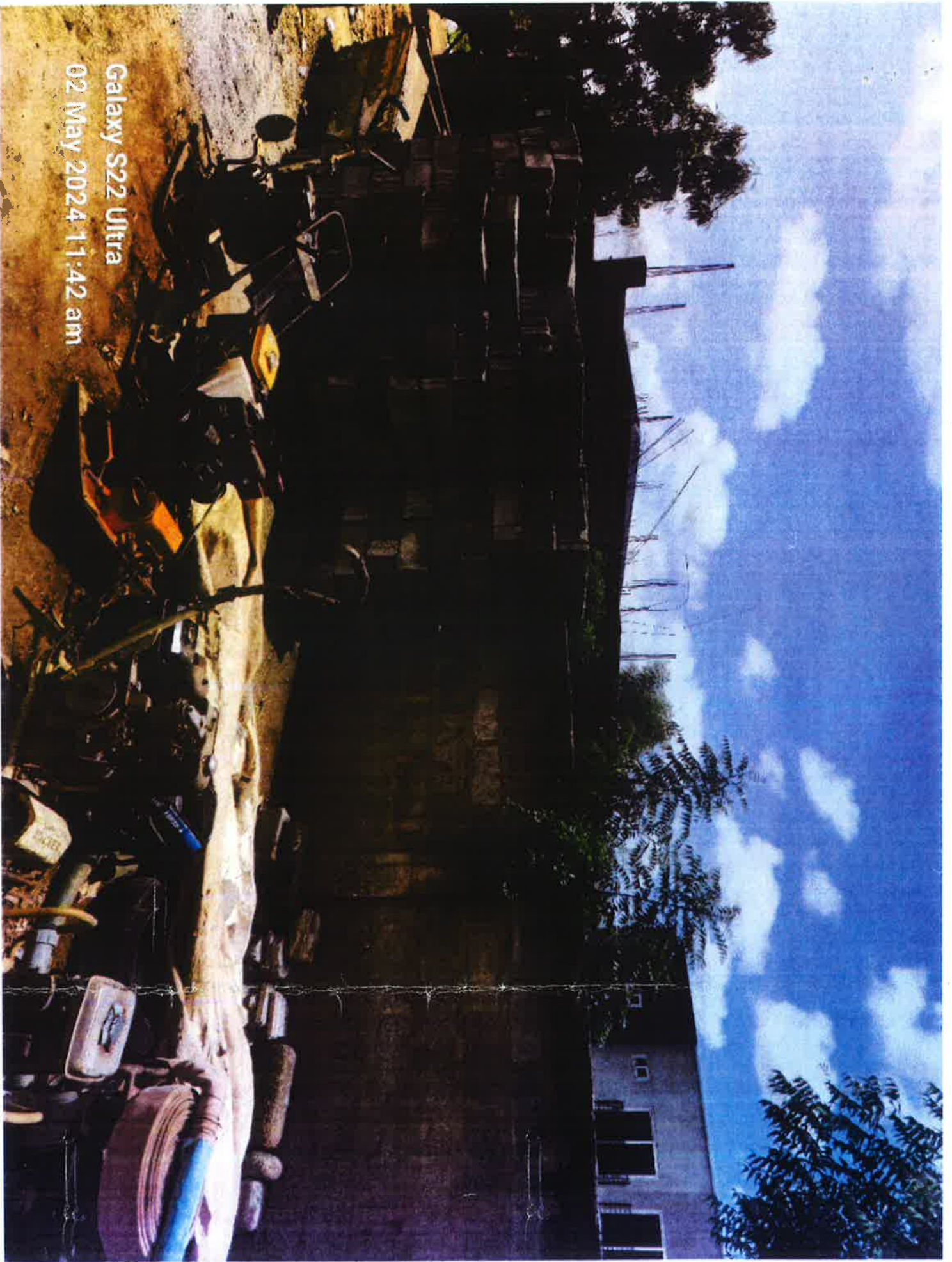
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B-4



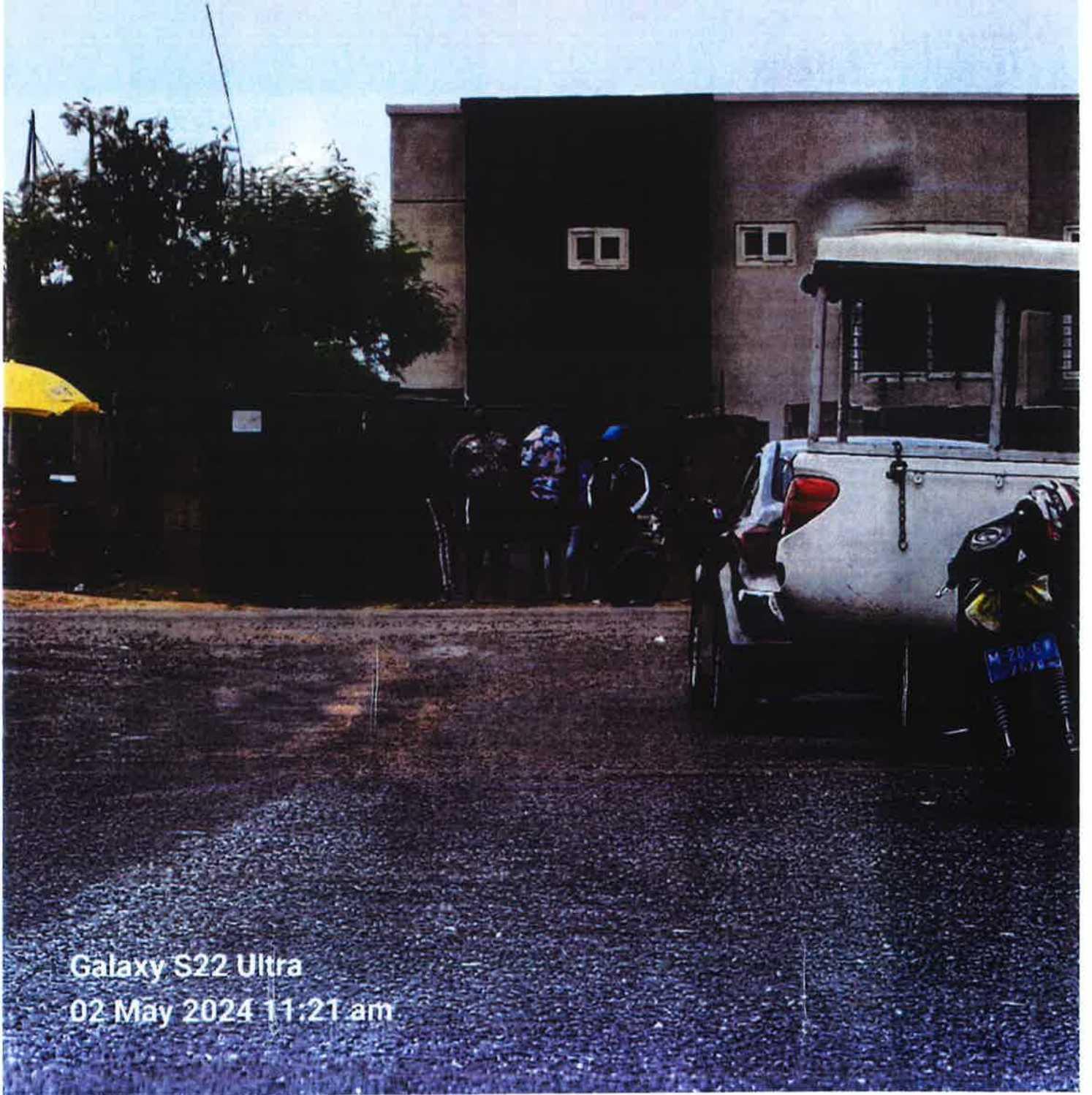
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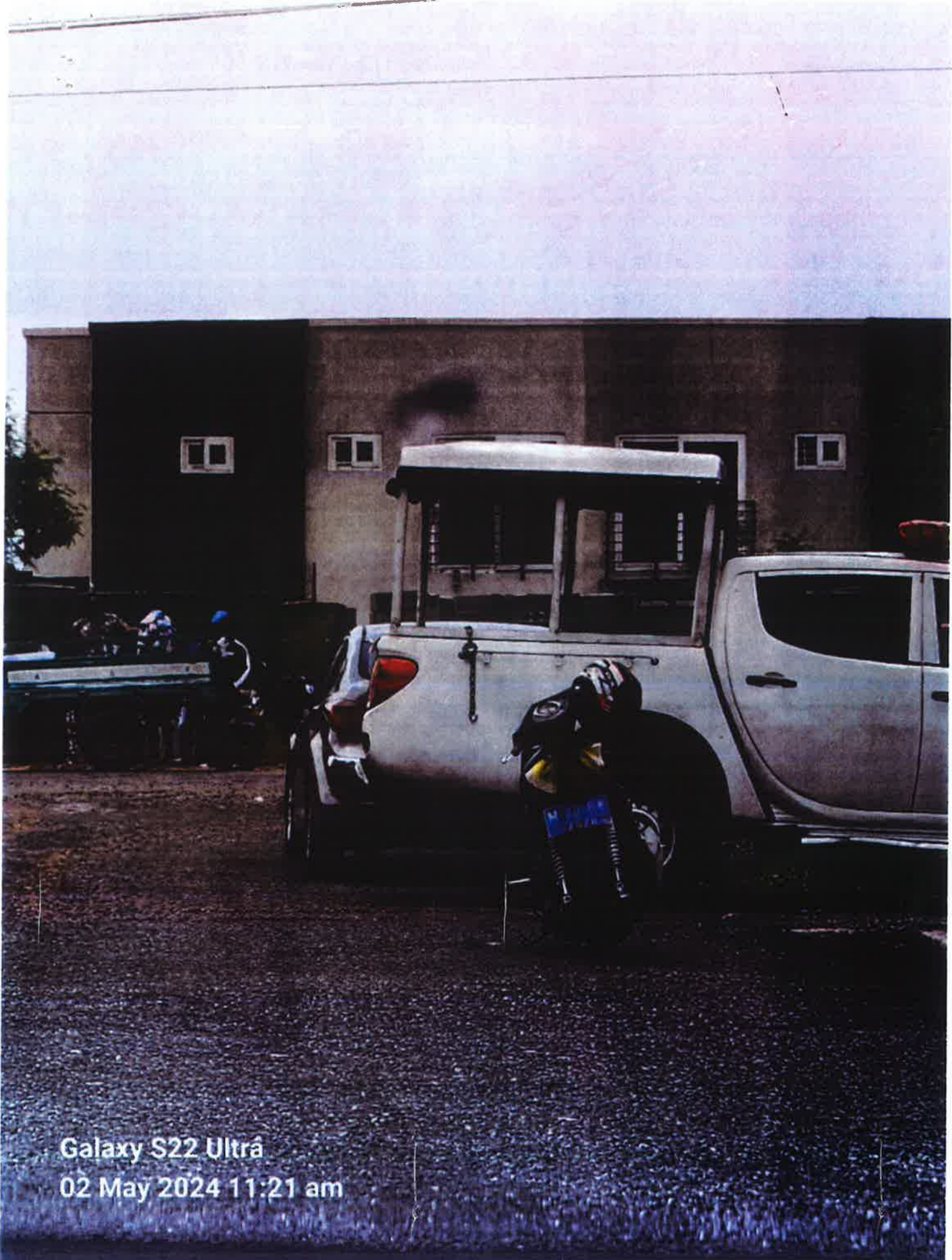


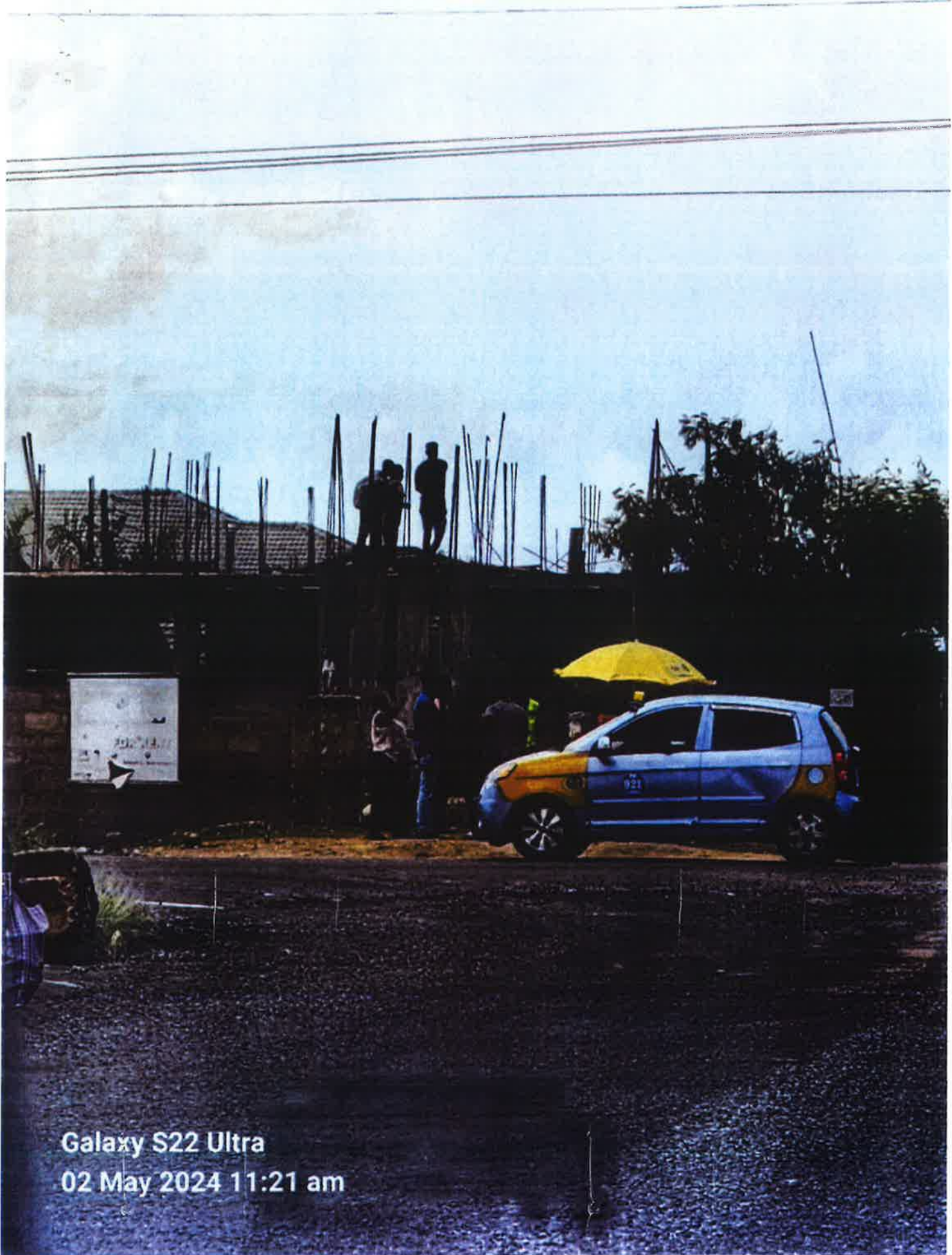
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02 May 2024 11:42 am

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IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
LAND DIVISION
ACCRA – A.D. 2024

filed on 3/15/2024
3:00
am/pm
Registra
HIGH COURT
LAND COURT, LCC - ACCRA

SUIT NO.: LD/0346/2020

1. SOLACE DOE)
2. CLARIET BAIDEN) :: PLAINTIFFS/APPLICANTS
ALL OF H/No. 18H STREET COMMUNITY 15 SAKUMONO, ACCRA [ACTING BY THEIR
LAWFUL ATTORNEY MR. HARRY HUSHAI BAIDEN]

VRS

1. GODSON YEVUYIBOR)
2. RICHARD HAGAN) :: DEFENDANTS/RESPONDENTS
3. HUANG RUEI GHEN [SUBT. BY ANGELA HUANG])
4. SINIC ENTERPRISE)
5. SETH LARYEA)
ALL OF TSE ADDO, TRADE FAIR, LA, ACCRA)
AKOTOSHIE)

STATEMENT OF CASE IN SUPPORT OF INTERLOCUTORY INJUNCTION
Order 25 R. 1 (1), (2) AND (3) of C.I. 47

May it please your Lordship, We have before you a Motion on Notice for an Order of Interlocutory Injunction under Order 25 Rule 1(1), (2), (7) and (8) of the **HIGH COURT (CIVIL PROCEDURE) RULES, 2004 (CI 47)** and under the inherent jurisdiction of this Honourable Court. An order of interlocutory injunction is at the judicious and judicial exercise of the court's discretion.

My Lord, the object of an interlocutory injunction is to maintain the status quo of events prior to the commencement of the action between the parties and to ensure the Plaintiff or Applicant is protected against irreparable injury that he might suffer but which cannot be mulcted by monetary compensation. Lord Diplock of the English House of Lords aptly stated the object of interlocutory injunction in the case of **American Cyanamid v. Ethicon Ltd (1975) 2 W.L.R 316; (1975) AC 396; (1975) 1 All ER 504**. His Lordship at page 321 of the Weekly Law Report stated:

"The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial..."

This position of the law was succinctly amplified by His Lordship Justice P.K. Gyaeayor, JA of the Ghana Court of Appeal in **BRAM-LARBI v THE REGISTRAR & 2 ORS. [2010] 28 M.L.R.G. 148**. At page 154 lines 15 – 30 His Lordship stated:

"It is clear that an injunction would be granted so as to protect the plaintiff against injury by the violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty was resolved in his favour at the trial. It is a discretionary power vested in the court to be exercised in order to maintain the scales of justice evenly balance until the final determination of the issue between the parties."

Since the object of an interlocutory injunction is to primarily maintain the *status quo ante bellum* and protect plaintiff against irreparable damage to his right, the court is precluded from going into the substance or merits of the case. That notwithstanding the court formulates its decision to either grant or refuse an application for interim injunction after having taken account of the pleadings, affidavits and other supporting documents as *Her Lordship Sophia Adinyira JSC* intimated in **OWUSU V OWUSU-ANSAH & ANOTHER [2007-2008] SCGLR 870 at 876.**

My Lord, statutory and judicial interventions have provided guideline principles by which the courts arrive at a decision to grant or refuse an application for interlocutory injunction. These are considered below.

GUIDELINE PRINCIPLES FOR THE GRANT OR REFUSAL OF INTERIM OR INTERLOCUTORY INJUNCTION

My Lord, **Order 25 r 1** of the **HIGH COURT (CIVIL PROCEDURE) RULES, 2004 (CI 47)** copiously provides the statutory framework to guide the Court in an application for interlocutory injunction. Germane to the instant application is Order 25 r 1 (1), (2), (3), (6), (7) and (8) as quoted hereunder and considered in the argument following:

Rule 1—Application for Injunction

(1) *The Court may grant an injunction by an interlocutory order in all cases in which it appears to the Court to be **just or convenient** to do so, and the order may be made either unconditionally or upon such terms and conditions as the Court considers just.*

(2) *A party to a **cause or matter** may apply for the grant of an injunction before, or after the trial of the **cause or matter**, whether or not a claim for the injunction was included in the party's writ, counterclaim or third party notice.*

(3) *The **applicant shall attach** to the Motion paper and **supporting affidavit, a Statement of Case setting out fully arguments, including all relevant legal authorities, in support of the application.***

(6) *The **application may be considered on the basis of the papers** filed and the court may direct, where necessary, the lawyer address it on specific points of law and facts. [Emphasis mine]*

My Lord, aside the statutory inroads, the courts have been of immeasurable assistance in crafting and moulding guideline principles for the grant or refusal of interim or interlocutory injunction. These judicial principles have had a chequered history in respect of the requirement a party seeking the interlocutory relief must satisfy. While it was contended by some that a plaintiff or an applicant seeking the relief of interim injunction must show 'a probability' of success others argued Plaintiff must show 'a *prima facie* case' or 'a strong *prima facie* case'. However, the erudite judgment of *Lord Diplock* in 1975 in **American Cyanamid v. Ethicon Ltd (1975)** *supra* provided bedrock from which have been distilled modern principles to guide the courts in an application for the grant of interim/interlocutory injunction. His Lordship at pages 322-323 noted:

"Your Lordships should in my view take this opportunity of declaring that there is no such rule [that the court is not entitled to take any account of the balance of convenience unless it has first been satisfied that if the case went to trial upon no other evidence than is before the court at the hearing of the application the plaintiff would be entitled to judgment for a permanent injunction in the same terms as the interlocutory injunction sought]. The use of such expressions as "a probability," "a prima facie case," or "a strong prima facie case" in the context of the exercise of a discretionary power to grant an interlocutory injunction leads to confusion as to the object sought to be achieved by this form of temporary relief. **The court no doubt must be satisfied that the claim is not frivolous or vexatious: in other words, that there is a serious question to be tried.**" [Emphasis mine]

Following the principle enunciated by Lord Diplock, His Lordship Amissah JA of the Ghana Court of Appeal in **VANDERPUYE v. NARTEY v. NARTEY [1977] 1 GLR 428-433, CA at 431** also said:

The requirement that an applicant for interlocutory relief should show a prima facie case is apparently a recent development in the English courts as a method of disposing of certain types of claim in Chancery. For the traditional view for the grant or refusal of interlocutory relief has been, for the court to abstain in the words of Kindersley V.C. in *Wakefield v. Duke of Buccleugh* (1865) 12 L.T. 628 at p. 629 from "expressing any opinion upon the merits of the case until the hearing" but to act to minimise the sum total of irreparable damage to the litigants.

This decision was subsequently followed by the decision of Abban JA in **POUNTNEY v. DOEGAH [1987-88] 1 GLR 111-117** at page 115 as follows:

"There is no rule requiring the plaintiff to establish a prima facie case. The rule is that the court must be satisfied that the plaintiff's case is not frivolous and once that has been established then the governing consideration is the balance of convenience."

My Lord, three principles readily spring up for consideration prior to the grant or refusal of an application for interim or interlocutory injunction. These principles are considered and discussed seriatim, namely;

1. Plaintiff must have a legal or equitable right.
2. The balance of convenience upon grant or refusal of the application.
3. Whether or not at the end of the trial damages would be adequate compensation for injury caused to plaintiff.

APPLICANT MUST HAVE A LEGAL OR EQUITABLE RIGHT OR THERE MUST BE A TRIABLE ISSUE.

My Lord, Order 25 r 1 (2) of the CI 47 as stated above requires the existence of a cause or matter to enable an applicant seek the equitable relief of interlocutory injunction. A cause or matter implies the existence of a legal or equitable right the infringement of which entitles a party an action to seek remedy before the courts against another party. His Lordship Diplock LJ in **LETANG V COOPER [1964] 2 ALL ER 929 at 934; [1965] 1 QB 232; [1964] 3 WLR 573, CA** defined "cause of action" as "a factual situation the existence of which entitles one person to obtain from the court a remedy against another person." The court no doubt must be satisfied that the claim is not frivolous or vexatious. In other words, there

must be a serious question to be tried: See **American Cyanamid v. Ethicon Ltd (1975)** *supra* at 323.

This requirement in considering an application for interim / interlocutory injunction was emphasised by Her Lordship Sophia Adinyira, JSC in **OWUSU V OWUSU-ANSAH & ANOTHER [2007-2008] SCGLR 870 at 876:**

"The fundamental rule [in applications for interim injunction] is that a trial court should consider whether the applicant has a legal right at law or in equity, which the court ought to protect by granting an interim injunction. This could only be determined by considering the pleadings and affidavit evidence before the court." [Emphasis mine].

See also **Food Specialities V Multiconstruction SA [1987-88] 1 GLR 25 at 30 per Abban JA.**

My Lord, it is our submission that the Applicants herein have a legal right that this Honourable Court is invited to protect. They respectively acquired the disputed land in 2007 and have respectively secured Land Title Certificates covering same since the same year of acquiring the land. These Certificates are marked respectively as Exhibit HHBB and HHBC. They have not been cancelled and Respondents are put on notice of Applicant's interest in the disputed land.

Respectfully, my Lord, Applicants have demonstrated from the pleadings and the Affidavit attached to the motion herein as well as the exhibits, that this action is neither frivolous nor vexatious such as will deny them grant of the order prayed in this Honourable Court. Applicants have a legal right to the disputed land the protection of which must be jealously safeguarded by this Honourable Court.

THE BALANCE OF CONVENIENCE

My Lord, the second principle the Court is required to consider in an application for the grant of interim or interlocutory injunction is the balance of convenience. My Lord, this requirement imposes a duty on the Honourable Court to weigh the interest or need of each party against the needs of the other. This is to determine which party will suffer disadvantage upon the grant or refusal of the application. This requirement has firmly been crystallised under Order 25 r 1 (1) of the CI47 as quoted hereabove. The provision gives a more elaborate and effective guideline and framework to enable the courts to expeditiously determine whether to grant or refuse an application for interim or interlocutory injunction. The Court in exercise of its discretion to grant or refuse an application for interim injunction must take into account whether it is **just or convenient** so to do. Lord Diplock rightly stated this guiding principle in **American Cyanamid v. Ethicon Ltd (1975)** *supra* at 322-323 when he noted:

"The court must weigh one need against another and determine where "the balance of convenience" lies....So unless the material available to the court at the hearing of the application for an interlocutory injunction fails to disclose that the plaintiff has any real prospect of succeeding in his claim for a permanent injunction at the trial, the court should go on to consider whether the balance of convenience lies in favour of granting or refusing the interlocutory relief that is sought." [Emphasis mine]

This was considered by His Lordship Amissah JA in **VANDERPUYE v. NARTEY**, **NARTEY [1977] 1 GLR 428-433, CA at 432**. His Lordship wrote:

The governing principle should be whether on the face of the affidavits there is need to preserve the status quo in order to avoid irreparable damage to the applicant and provided his claim is not frivolous or vexatious. The question for consideration in that regard resolves itself into whether on balance greater harm would be done by the refusal to grant the application than not. It is not whether a prima facie case however qualified and with whatever epithet, has been made.

My Lord, the Respondents have unlawfully entered the Applicants' land without the consent of the Applicants. Respondents in total disregard to the interest of the Applicants have commenced developing the disputed land notwithstanding the title of Applicants to the said land.

Respondents' trespassory acts have not decreased and they continue to propagate such destruction to the disputed land which requires the coercive intervention of the court by the grant of the instant application to maintain the status quo and sustain the peace pending the final determination of the substantive suit.

Consequently my Lord, the balance of convenience in the instant application tilts favourably towards protecting Applicants' interest by the grant of this application. It is therefore Applicants' humble submission that this Honourable Court grants the Order as prayed by Applicant.

WHETHER DAMAGES WOULD BE ADEQUATE COMPENSATION FOR APPLICANT AT THE END OF THE TRIAL.

Finally my Lord, it is a requirement that the Court in considering an application for interim or interlocutory injunction takes into account whether Applicant would be adequately compensated in damages after the trial for injury to their interest occasioned by 1st Respondent. On this principle Lord Diplock at page 323 of the **American Cyanamid Case** noted:

"As to that, the governing principle is that the court should first consider whether, if the plaintiff were to succeed at the trial in establishing his right to a permanent injunction, he would be adequately compensated by an award of damages for the loss he would have sustained as a result of the defendant's continuing to do what was sought to be enjoined between the time of the application and the time of the trial. If damages in the measure recoverable at common law would be adequate remedy and the defendant would be in a financial position to pay them, no interlocutory injunction should normally be granted, however strong the plaintiff's claim appeared to be at that stage."

My Lord, the pleadings and Affidavit in Support as well as other supporting evidence disclose that the Respondents' activities on the disputed land are a calculated attempt to overreach the Applicant. This cannot be quantified in monetary terms such as would adequately compensate Applicants at the end of the trial should the case be determined in their favour.

My Lord, we humbly submit that Applicants would suffer irreparable damage which cannot be compensated in damages by way of monetary consideration when the substantive suit is determined in Applicants' favour.

CONCLUSION

Respectfully, my Lord, Applicants have in this application demonstrated from the submission as well as his pleadings, Affidavit in Support and other supporting documents the need for the grant of interlocutory injunction to protect their interest and right over the disputed land pending the final determination of the instant Suit. Applicants have satisfied the requirement that an applicant who desires the grant of interlocutory injunction in his favour must have a legal or equitable right to be protected by the courts. The trespassory activity of the Respondents invades the legal and equitable right of the Applicants in the land. Respectfully, it is submitted that the balance of convenience in the circumstances tilts favourably to the grant of the instant application as Applicants may not adequately be compensated in monetary terms upon the final determination of the suit in their favour.

Applicant humbly prays this Honourable Court to grant the instant application and in so doing be guided by the erudite decision of His Lordship P.K. Gyaesayor, JA in BRAM-LARBI v THE REGISTRAR & 2 ORS. [2010] 28 M.L.R.G. 148 at 150 that:

"The grant of an injunction shall not be refused if a party in an appropriate case has a legal right which is being invaded by another."

Respectfully submitted.

DATED AT THE ROCK CHAMBERS, NO. 12, F278/5, DADE LINK, KWAKU BAAKU (CRUSADING GUIDE) JUNCTION, NEAR KUWAIT EMBASSY, LABONE, ACCRA, THIS 3RD DAY OF MAY, 2024.

THE REGISTRAR
HIGH COURT
LAND DIVISION 8
ACCRA


EMMANUEL BRIGHT ATOKOH, ESQ.
SOLICITOR FOR PLAINTIFF
GAR 1487/24

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