

A-G,

Kindly refer to folio 7.

I have no objection if the Solicitor-General prefers that we pay the American third party the contract price between the third party and Delta Foods Ltd. I would have thought that we have no contract with the third party and therefore we can only deal with them through Delta Foods Ltd. I do not know how sure we can be that if we paid any money to Delta Foods Ltd it will pay all of it over to the third party.

I have quite a lot of problems with our having to take over the maize and sell same. Fraud vitiates a contract and if we indeed rely on fraud our tactics of taking over the maize and selling it may not be the best legal strategy.

I think having read the ruling of the Supreme Court and looked at the file on this subject, the handling of the Delta Food Ltd contract by the Ministry of Agriculture and the Castle leaves much to be desired. The supposed settlement is also being alleged to have been reached to the detriment of Ghana because Attorneys in this Ministry claimed they were under instructions from the Castle to settle the case in court. Because of the alleged superior orders from the Vice-President's Office, you, the Solicitor-General and myself were not even consulted before the settlement was entered in Court.

I believe that if the Attorneys who handled this matter had handled the case professionally they would be accepting personal professional responsibility for the outcome of their actions in the settlement. But they are passing the buck to the Vice-President's Office which shows that they acted more as administrators taking instructions from superiors than in the true tradition of the Bar as a lawyer advising the Government.

It is in this light that I think we should be careful of the extent to which this office takes instructions from the Vice-President or his Office in purely legal matters. It is said the Vice President directed the entry into the contract with Delta Foods Ltd. He directed the settlement in court with Delta Foods Ltd which he is now trying to have us set aside. He directed that Ministry of Agriculture should take possession of the maize and sell it. He directs that we pay the third party or agrees that we pay the third party. He reviews affidavits. I think we are either putting too much on the shoulders of the Vice-President or he is taking on himself the duties of the Attorney-General under Article 88 of the Constitution. It is not a situation which is in his own interest either legally or politically.

One of the beauties of the legal profession is the ability of the lawyer to give his professional opinion without fear or favour, and handle his client's case with the utmost legal discretion but never as a mere conduit of the client. This tradition ought to be preserved before we become legal messengers instead of advisers.

I am sorry I have had to set down my detailed opinion in this matter. It is not intended as a criticism but to ensure that in future nobody condemns our work as the principal legal adviser to the Republic of Ghana and its Government. Superior orders cannot avail us as an alibi.

Submitted for your consideration please.


MARTIN A.B.K. AMIDU
DEPUTY ATTORNEY-GENERAL &

9TH APRIL, 1999.