REVIEW APPLICATIONS IN THE WOYOME, AND ISOFOTON CASES IN THE SUPREME COURT: BY MARTIN A. B. K. AMIDU

The Supreme Court on 14th June 2013 gave judgment in the public interest action commenced against the Attorney General, Waterville Holding (BVI) Ltd, and Alfred Agbesi Woyome on judgments debts alleged to have been unconstitutionally paid by the Government of Ghana. The 2nd defendant, Waterville, was ordered and directed "to refund to the Republic of Ghana all sums of money paid to it in connection with the two inoperative Agreements dated 26th April 2006 and the work done on the stadia." The Court stated further that: "Orders against the 3rd defendant, if any, were to await determinations made in the High Court. Any other reliefs endorsed on the plaintiff's writ which are not specified above as having been granted are hereby denied, on jurisdictional grounds, without prejudice to any reliefs that the High Court may grant in future."

The Supreme Court on 21st June 2013 also gave judgment in the public interest action commenced against the Attorney General, Isofoton S. A., and Anane-Agyei Forson on another judgment debt alleged to have been paid unconstitutionally by the Government of Ghana. The Court, amongst other things, declared the two Agreements null, void and without effect whatsoever, and quashed all proceedings that had taken place in the High Court in relation to them. The 2nd defendant, Isofoton S. A. was ordered "to pay or refund to the Government of Ghana the cedi equivalent of US$325,472.00 received from the Government of Ghana and any subsequent payments thereafter made so far, pursuant to the contracts declared void by this Court." In relation to the 3rd defendant, Anane-Agyei Forson, the Court concluded that: "There is no cause of action against him on the plaintiff's pleading." Nothing was said about the reliefs sought against the 1st defendant, the Attorney General.

The 1992 Constitution imposes both rights and obligations, particularly under Articles 2 and 3, on every Ghanaian citizen to ensure that the constitutional order established by the Constitution is not threatened or by an unlawful means abrogated. When incremental breaches of the 1992 Constitution are left to go unchallenged by citizens under Article 2 the constitutional order is endangered with eventual abrogation by any of the activities in Article 3 thereof. The people of Ghana had trusted me in positions throughout my public service career that made it imperative that I initiated action to defend the public's constitutional interest in the above two cases. I have no doubt whatsoever that the principles involved in these case touch every Ghanaian who wishes the constitutional and democratic order brought into being by the 1992 Constitution ever lasting life. I see the suits as a collective endaevour of We the People to preserve through the instrumentality of the Constitution a say in how the consolidated fund is disbursed by those we have all elected for fixed periods to govern us. It is for the foregoing reasons that I have held back since the judgments in the two cases from granting personal interviews or making any personal comments on the cases except to correct blatant falsehoods.

I have read the two judgments delivered by the Supreme Court very carefully, with other Ghanaians of like thinking, and come to the conclusion that some aspects of the two judgments contain exceptional circumstances that have resulted in, what we perceive may

constitute, miscarriage of justice. Accordingly, on 12th July 2013, and 19th July 2013 I filed applications for review in the Supreme Court praying for a review of those aspects of the two judgments respectively. 26th July 2013 was fixed for the hearing of the application in the 14th June 2013 judgment, and 15th October 2013 for the 21st June 2013 judgment. I am, however, informed that both applications may come for hearing on 15th October 2013 even though I am yet to receive a formal hearing notice of the change of date in respect of the 26th July 2013 date.

I do not like arguing cases that are in Court in the public domain as the Courts are the proper places to present one's case. That explains my silence on the earlier application of review which was filed on 12th July 2013. I have, however, read on Modern Ghana News of Friday, 19th July 2013 a story attributed to the Daily Graphic which states in relation to the adjournment of the Woyome case in the Commercial Division of the High Court in Accra that: "Yesterday's sitting was held in camera and both parties to the suit were tight lipped over proceedings after the sitting". In view of the fact that I filed an application for review which affects that case on 12th July 2013 in the public interest, I feel that I owe the people of Ghana a duty to make public the fact of the pendency of the two review applications.

Review applications offer a very narrow window for applicants who sincerely believe there are some exceptional circumstances resulting in miscarriage of justice to approach the Court to consider the application. It is not an opportunity for an appeal or for one to re-argue his case. In view of the fact that I was the only plaintiff in the case, I have after deep consideration and consultation decided that I put those exceptional circumstances resulting in miscarriage of justice in the two cases before the Supreme Court for consideration. The Supreme Court should be allowed to decide whether or not my perceptions of those exceptional circumstances resulting in miscarriage of justice fall within the criteria for granting such applications or not.

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