

## THE AFRICA COURT AND WOYOME DEAL WITH A PURELY CIVIL CASE AND EXCLUDE THE BENEFICIARY PLAINTIFF: BY MARTIN A. B. K. AMIDU

I have read press reports of a case commenced by Alfred Agbesi Woyome at the Africa Court on Human and People's Rights alleging violations of his fundamental human rights in the execution of the judgment in the case of Amidu (No. 3) v Attorney-General, Waterville Holding (BVI) Ltd & Woyome (No. 2) [2013-2014] 1 SCGLR 606 and interim orders made by the Africa Court on 24<sup>th</sup> November 2017 suspending the execution of the judgment.

The problem with Woyome's case at the Africa Court is that substantially, the impression I get is that Woyome's case is in the nature of an appeal against a judgment and orders I obtained in the Supreme Court in that case, in which I was the plaintiff in my capacity as a private citizen of Ghana pursuant to Article 2 of the 1992 Constitution and Woyome was the defendant in his private capacity as a citizen of Ghana. The Government of Ghana represented by the Attorney General was also a nominal defendant in the case.

The case between me, as plaintiff, against the Attorney General and Woyome was a purely civil constitutional case and not a criminal case. The fact that the Supreme Court granted leave to the Republic of Ghana represented by the Attorney General to execute my judgment for the benefit of the public does not turn the case into a civil action between the Republic of Ghana against Woyome or a criminal case against Woyome.

Until execution is completed I am still the plaintiff and the case continues to be a civil case between two private citizens, Woyome and I, each with fundamental human rights under the 1992 Constitution and the African Charter. The Government of Ghana which was a defendant in the substantive civil case between Woyome and I cannot speak for me in any forum, including any appeal to the Africa Court on the substantive case. The Government of Ghana purporting to speak for me as a defendant at the Africa Court will be tantamount to the two defendants in the civil case in the Supreme Court using a stratagem to become opposing parties in the Africa Court to compromise the judgment legally obtained by me in the Supreme Court as a private citizen.

The Africa Court which is a court of human rights cannot uphold Woyome's human rights without hearing me because both Woyome and I had access to justice under the 1992 Constitution when we both appeared and conducted our cases before the Supreme Court of Ghana. Nothing would be a worse breach of fundamental human rights than the Africa Court substituting the Attorney General or the Republic of Ghana as the plaintiff in the case in Ghana's Supreme Court and proceeding with a determination of the case without hearing me as the substantive plaintiff in the case in Ghana's Supreme Court. It would be an even further worse breach of fundamental human rights if the substantive plaintiff whose case is allegedly on appeal to the Africa Court, is not heard.

But the catch is that the Africa Court does not have the jurisdiction to hear appeals or applications in purely civil cases between a private citizen and another private citizen in which

the Republic was also a defendant with the defending private citizen. It is to avoid such lack of jurisdiction by the Africa Court that Woyome chose to bring his application at the Africa Court against the Republic which was his co-defendant in the substantive case in the Supreme Court instead of me, in the hope that the case will not be properly argued by his former co-defendant. Ghana then loses the benefit of the judgment I obtained at the Supreme Court with the excuse that the decision was given at the Africa Court. It is nobody's fault. Blame the Africa Court.

The Africa Court has no obligation to independently find out the facts apart from those presented by Woyome and his co-defendant now turned defendant at the Africa Court. Because I am a private citizen and plaintiff in the case and therefore not directly amenable to the jurisdiction of the Africa Court, the case will be heard and completed without me having the opportunity to defend my hard won judgment before the Africa Court.

It may surprise Ghanaians that I, the substantive plaintiff in the case, have not seen or been served with any of the processes filed by Woyome at the Africa Court or any responses by the Government to date. I read about it in the media just as everybody else. But cases are won or lost based on how they are conducted to bring the salient facts and the law clearly before the justices and make one's case. This implies hard work, thoroughly understanding the case, and above all unshakable commitment to the case. Who can thoroughly understand, and be more unshakably committed to a case than the plaintiff who won the case in the Supreme Court as against lawyers who lost it in the Supreme Court and who turn around to usurp the plaintiff's place at an international tribunal as defendants even without the plaintiff's notice? This does not appear to be the first case in which such lack of transparency and accountability will happen. Of course there is a lot of money to be made in per diems and other allowances representing the Government at international fora even when one loses the case!

For me the crux of the case before the Africa Court is whether the Africa Court has jurisdiction to hear a purely civil case between a private citizen, Amidu, against the Republic as a nominal defendant and another private citizen called Woyome, by admitting Woyome as the applicant and substituting the Republic as the defendant before the Africa Court. I won a good case for Ghanaians when the then Government of the day supported Woyome and subsequently refused to execute the judgment sincerely.

The paradox will come when through Woyome's present scheme of using the side door to eliminate me from the case at the Africa Court he procures sweet victory under the regime of President Nana Akufo Addo. Woyome's mentors with whom he is waging this clever stratagem are waiting in the wings for that day to come. Let's see who bears the blame for compromising or losing the case by usurping the position of the plaintiff without even the courtesy of a notice.

Martin A. B. K. Amidu  
29<sup>th</sup> November 2017