

## WHY I ALMOST DISCONTINUED MY ACTION FROM COURT – BY MARTIN ABK AMIDU

I have felt so low and abused on 7th March 2013 as having been treated as a surrogate of the Attorney General or the Government in suing the Attorney General; and Isofoton S. A. and Anane-Agyei Forson for their conduct in settling and paying (in the case of the Attorney General and Government of Ghana), and of making claims against the Republic of Ghana (in the case of the other two) when they each knew that the contracts upon which the claims were made had not as, international business transactions been laid before and approved by Parliament.

I felt so low and abused in respect of three separate incidents on that day which but for my fundamental and principled determination to use the opportunity offered by the Constitution to defend the public interest, I would have discontinued my action from the Court. It is important to share my perspective with the public whatever eventually the outcome of the case may be. I stopped writing or commenting on national affairs at the beginning of November 2012 because of the impending elections and the need to put Ghana First by not contributing to the already high emotional tensions of that period. The pendency of the elections petition immediately after the elections has also informed my decision to stay out of any comments that may feed the continued tensions. I write this as a matter of necessity and because of the involvement of a section of the media in unprofessional misreporting that I consider to be creating obstacles to defending the Constitution and fighting for transparency.

The Attorney General as the 1st Defendant, without entering appearance to indicate a readiness to contest my claims against the Government, purported to apply to the Supreme Court on 21st February 2013 for stay of execution of an appeal that is pending in the Court of Appeal. The Supreme Court had not heard my case let alone to make orders for the refund of anything in my action that could be stayed by an application from the Attorney General. I sued the Defendants at my personal expense and cost on behalf of the sovereign people of Ghana in the public interest. I had claimed, inter alia, the refund of the monies I alleged the Attorney General and Government paid out, and were received by Isofoton S. A. and Forson illegally and unconstitutionally. The Attorney General's application was not even for service on me as the Plaintiff but on Isofoton S. A.'s lawyer in the Court of Appeal alone who is contesting the Attorney General's appeal at the Court of Appeal.

The Court of Appeal had on 10th October 2012 dismissed the Attorney General's application for stay of execution. The rules required the Attorney General to repeat the application for stay of execution in the Supreme Court if the Government was still interested in having the case stayed while it pursued its pending appeal. The Attorney General for over five good months exhibited an intention not to oppose any payment of the judgment debt by not making any application or seeking leave from the Supreme Court to make the application out of time. Thus on 21st February 2013 when the Attorney General purported to make the application in my case it was out of time for over five months and incompetent.

I became aware for the first time through the Attorney General's incompetent application that Isofoton S. A. and Anane-Agyei Forson were still in the High Court asking for interests on their alleged claims and enforcing the judgments by a number of applications. So, seeing that the Attorney General was asking for the impossible in my case when they should have done so as part of their appeal in the Court of Appeal, I decided to preserve the status quo in my case by making an independent application to the Supreme Court. I went to material and financial expenses to make the application.

The Supreme Court decided to take my application first even though mine was filed after the Attorney General's incompetent application. The lawyers for the 2nd and 3rd Defendants (Isofoton and Forson) protested as to why my application was being called first. The Supreme Court pointed out rightly that the Court had the right to decide the order of its business, and in any case the Attorney General had the right to withdraw their application after mine. I moved my application and it was granted. When the Attorney

General's motion came to be moved the representatives, as was expected and predicted by the Court, withdrew their application, so it was not argued or commented upon by the Court. I had sworn to facts in my affidavit supporting my application in which I stated the fact that the Attorney General's application could not be made in my case in the Supreme Court. By the court room governance strategy the Supreme Court adopted, my application was used to cover the first incompetent application filed by the Attorney General without even admonishing the Attorney General for the indolence in pursuing the stay of execution from the Court of Appeal to the Supreme Court for over five months in that manner. The only chance the Supreme Court had to urge the Attorney General to do the right thing the next time was regrettably allowed to pass for strategic reasons but the tax payer, the sovereign people of Ghana, have already paid and may again pay a price for it. I attach herewith in pdf format for purposes of transparency and accountability the applications for any interested reader to make up his own mind and not depend on my narration in case I am biased.

The more indefensible, serious, and professionally fundamental abuses of the day came from a section of the fourth estate of the realm – the media. After the Court session the same day, Joyfm on myjoyfonline.com reported the Court proceedings as follows: "The Supreme Court has granted the state's request for a stay of execution in respect of judgment debt payment to Isofoton". The story was already on ghanaweb and modernghana from joyfonline. I called Joyfm and all they did was to change it on their website after the fatal harm had been done already. Then peacefm also reported in its second paragraph in a story on its website that: "The Court again granted the state a request for the stay of execution in respect of judgment debt payment to Isofoton" which looked like apparently curled from Joyfm even though part of the source was attributed to citifm. The next day, Ghanaian Times, and the Ghanaian Observer newspapers apparently carried the joyfonline story above without even acknowledging it. To the best of my knowledge none of these media houses had any reporter in the Court, so how come they could professionally manufacture such reports. Is somebody renting any media houses to misrepresent the efforts at retrieving the sovereign people of Ghana's money for them? The question I have been asking myself since then is whether the effort to fight and defend the Consolidated Fund of the sovereign people of Ghana is worth it, even when a section of the media which had been reputed for fairness is now misreporting the proceedings of GARGANTUAN unconstitutional conduct against the Republic of Ghana.

On a lighter note, those of you who do not know how to address me should just call me "Martin" or "Amidu" or yet still "Martin Amidu", I will take no offence. But it is abusive for anyone to address me as: "Honourable or Mr. or what do you call yourself now." Please do not, however high you may be, because it violates my human dignity as a citizen of Ghana which the Constitution holds inviolable.