

Kofi Numah substituted for Chief Kweku Mensah - - - *Appellant*

v.

Kojo Pamping - - - - - *Respondent*

FROM

THE SUPREME COURT OF THE GOLD COAST COLONY.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 15TH JULY, 1926.

Present at the Hearing :

THE LORD CHANCELLOR.

LORD DARLING.

LORD JUSTICE WARRINGTON.

[*Delivered by the LORD CHANCELLOR.*]

Everything possible has been said in this case by Counsel for the appellant, but their Lordships feel no doubt as to what should be the result of the appeal.

The suit was brought by Chief Kweku Mensah against Kojo Pamping, claiming the ownership of some land near Nsaba, in the Gold Coast Colony, and known as part of the Duaboni land. The suit was heard by a Native Tribunal, which, after hearing a great deal of evidence, made an order, which was agreed to by both parties, that the evidence of a certain Chief, named Kweku Amoah, was necessary before giving judgment in the case. The order was to the effect that, if Kweku Amoah came and stated that he had a boundary only with the plaintiff, judgment should be given in the action for the plaintiff; but that, if he stated that he had a boundary partly with the defendant and partly with the plaintiff, judgment should be given for the defendant. The Chief did not come himself, but he sent his linguist or spokesman to give evidence; and the linguist (whose evidence has been accepted by all parties as equivalent to evidence by the Chief himself) gave a history of the land and said that "after Pamping (the

defendant) had taken his part, leaving that of Kweku Mensah (the plaintiff), Kweku Mensah formed boundary with Pamping on the Nsaba side," that is, on the side farthest away from the land of the Chief. The Native Tribunal took that to be evidence that the land of Kweku Amoah ran with that of the defendant and gave judgment for the defendant.

On appeal to the Provincial Commissioner, the learned Commissioner, giving apparently no weight to the evidence of the linguist, reversed the decision of the Native Tribunal and gave judgment for the plaintiff; but on appeal to the Supreme Court of the Colony the Court, giving great weight to the evidence of the linguist and understanding that evidence in the same way as the Native Tribunal had understood it, restored the judgment of the Native Tribunal. It is only necessary to read one passage from the judgment of one of the learned Judges who formed the Court, Mr. Justice Hall. He said: "The learned Commissioner in his judgment stated that he was not satisfied with the evidence of Akesseh (the linguist). I quite agree that his evidence might have been more clearly given, but it is all we have to go upon as regards the agreed point"—that means the point which it was agreed to refer to the Chief—"and I am satisfied that the judgment of the Tribunal was a correct deduction from the evidence of Akesseh, and I have no doubt that the Tribunal were far better able to understand Akesseh's meaning than either the learned Commissioner or the Members of this Court." It seems, then, that the learned Judge, who was, no doubt, very familiar with the position himself, understood the evidence of Akesseh in the same manner as the Native Tribunal had understood it; and it appears to their Lordships that it is quite capable of being understood in that sense. In these circumstances their Lordships see no reason for disturbing the result at which the Supreme Court has arrived.

It is only necessary to add that a suggestion of bias on the part of the person presiding at the Native Tribunal was negatived by the Courts in the Colony, and their Lordships see no ground for questioning their decision, especially as the result of the case depended not on the view of the individuals composing the Native Tribunal so much as on the nature and effect of the evidence given by Akesseh.

For these reasons their Lordships are of opinion that the appeal fails, and they will humbly advise His Majesty that it should be dismissed with costs.



In the Privy Council.

KOFI NUMAH SUBSTITUTED FOR CHIEF
KWEKU MENSAH

?,

KOJO PAMPING

DELIVERED BY THE LORD CHANCELLOR.

Printed by
Harrison & Sons, Ltd., St Martin's Lane, W.C.2.

1926