

IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA – AD. 2025

CORAM: LOVELACE – JOHNSON (MS.) JSC (PRESIDING)

PROF. MENSA – BONSU (MRS.) JSC

KULENDI JSC

DARKO ASARE JSC

ADJEI-FRIMPONG JSC

19TH MARCH, 2025

CIVIL APPEAL

J4/55/2020

ADDO ATUAH & CO.

..... PLAINTIFF/RESPONDENT/
APPELLANT

VRS

AFRICAN AUTOMOBILE LTD.
DEFENDANT/APPELLANT/

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RESPONDENT

JUDGMENT

LOVELACE-JOHNSON JSC:

The designation of the parties at the High Court will be maintained in this appeal.

The gist of plaintiffs amended writ and statement of claim at the High Court was for the recovery of GH¢36,029,835.99 and US\$14,536 being the balance due and owing on account of professional legal services provided, interest on these sums and costs.

The defendants denied these claims and counterclaimed for certain reliefs including a refund of certain amounts of money erroneously paid to the plaintiff, interest on these sums, general and punitive damages and costs.

At the end of the trial, the trial High Court gave judgment for the plaintiffs. The defendants appealed against the judgment to the Court of Appeal which upheld the appeal, set aside the High Court's judgment and ordered that the case be heard de novo. Being dissatisfied with this judgment the plaintiffs launched the present appeal before this Court.

The findings of the Court of Appeal in sum were as follows:

1. In the circumstances of this case, the trial court exercised its discretion wrongly on 9th July 2015 when it deprived the defendants the right to cross examine the plaintiff's representative by refusing an adjournment sought by the former to engage new counsel and by not giving the defendant's representative, the opportunity to further cross examine the plaintiff's representative.
2. The trial court deprived the defendants the opportunity to open their defence by closing their case for them, after discharging the plaintiff's representative without recording whether the plaintiffs themselves had closed their case to warrant the calling of the defendants to open their defence that day. This is because the discharge of the plaintiff's representative was in no way an indication that the plaintiffs had closed their case.

3. Further, there was nothing on record showing the defendants were called upon to open their defence by the court, so closing their case for them amounted to breaching the audi alteram partem principle and that this “not only occasioned a miscarriage of justice but also resulted in a nullity as the defendant was driven away from the judgment seat by the learned trial judge”

We have gone through the record of proceedings and are satisfied that these findings are borne out by the record and accordingly find that the grounds of appeal against the judgment of the Court of Appeal are without merit. The appeal is accordingly dismissed. The order of the Court of Appeal setting aside the judgment of the High Court including all consequential orders etc. and remitting the matter to the High Court differently constituted for hearing de novo is hereby affirmed.

**(SGD.) A. LOVELACE – JOHNSON (MS.)
(JUSTICE OF THE SUPREME COURT)**

**(SGD.) PROF. H. J. A. N. MENSA – BONSU (MRS.)
(JUSTICE OF THE SUPREME COURT)**

**(SGD.) E. YONNY KULENDI
(JUSTICE OF THE SUPREME COURT)**

**(SGD.) Y. DARKO ASARE
(JUSTICE OF THE SUPREME COURT)**

(SGD.)

R. ADJEI-FRIMPONG
(JUSTICE OF THE SUPREME COURT)

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