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IN THE HIGH COURT OF JUSTICE
COMMERCIAL DIVISION
ACCRA-A.D. 2020

SUIT NO: CM/BFS/0600/2020

AGRICULTURAL DEVELOPMENT BANK

PLTEFF/RESPONDENT

AND

1. VOLTA INTEGRATED AGRIC. DEVT. LTD
2. DR. FELIX KWAME SEMAVOR

DEF/APPLICANTS

MOTION ON NOTICE FOR AN ORDER TO STRIKE OUT PARAGRAPH 7 OF
PLAINTIFF'S AFFIDAVIT IN OPPOSITION TO DEFENDANTS' MOTION ON
NOTICE TO SET ASIDE WRIT OF SUMMONS PURSUANT TO ORDER 20 RULE 9
OF C.I. 47

PLEASE TAKE NOTICE that this Honourable Court will be moved by Counsel for and on behalf of the Defendant/Applicants' herein praying this Honourable Court to strike out paragraph 7 of the Plaintiff/Respondents' Affidavit in Opposition to the Defendant/Applicants' Motion on Notice to Set Aside Writ of Summons upon the grounds contained in the accompanying affidavit.

AND for such further orders as this Honourable Court may deem fit.

COURT TO BE MOVED ON Tues **THE** 20th **DAY OF** Oct **2020** at 9 O' Clock in the forenoon or so soon thereafter as Counsel may be heard.

DATED IN ACCRA THIS

30th

DAY OF JUNE

2020.

MINKAH PREM & CO.
Box 4951 Accra - Akasombe House
2nd Floor
SOLICITOR FOR DEFENDANT/APPLICANT
WALLACE BRUCE CATHLINE
LICENCE NO: GAR 02463/20

THE REGISTRAR
COMMERCIAL DIVISION
ACCRA

AND FOR SERVICE ON THE PLAINTIFF/RESPONDENT OR ITS SOLICITOR, VIDA
AGYEKUM ACHEAMPONG, AGRICULTURAL DEVELOPMENT BANK LIMITED
OFFICES (LEGAL SUPPORT UNIT), 2ND FLOOR, ACCRA FINANCIAL CENTRE, 3RD
AMBASSADORIAL DEVELOPMENT AREA, RIDGE, ACCRA.

IN THE HIGH COURT OF JUSTICE

COMMERCIAL DIVISION

ACCRA-A.D. 2020

SUIT NO: CM/BFS/0600/2020

AGRICULTURAL DEVELOPMENT BANK

PLTFF/RESPONDENT

AND

1. VOLTA INTEGRATED AGRIC. DEVT. LTD

2. DR. FELIX KWAME SEMAVOR

DEF/APPLICANT

**AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE FOR AN ORDER TO STRIKE OUT
PARAGRAPH 7 OF PLAINTIFF'S AFFIDAVIT IN OPPOSITION TO DEFENDANTS'
MOTION ON NOTICE TO SET ASIDE WRIT OF SUMMONS PURSUANT TO ORDER 20
RULE 9 OF C.I. 47**

I, **DANIEL K. BIMPONG**, of House No. 6 Israel, Lomnava, Accra, make oath and say as follows:

1. That I am the deponent herein.
2. That I am a Law Clerk of the firm of Solicitors of the Defendants/Applicants (hereinafter referred to as the Defendants) and have the authority of the Defendants to depose to this Affidavit, as the facts are well within my knowledge.
3. That at the hearing of this Application, Counsel for the Defendants shall seek leave of this Honourable Court to refer to the relevant processes so far filed in this Suit.
4. That the Plaintiff/Respondent (hereinafter referred to as the Plaintiff) on the 12th of March, 2020 caused a Writ of Summons and Statement of Claim to issue against the Defendants claiming against them jointly and severally the reliefs endorsed on its Statement of Claim
5. That on the 20th of May 2020 the Defendants through their Solicitors, entered conditional appearance and thereafter filed a Motion on Notice to Set Aside the Writ of Summons as being non-compliant with the rules of court thereby rendering same defective.
6. That in response to the said Motion, the Plaintiff on the 9th June 2020, filed an Affidavit in Opposition, sworn by one Kofi Tweneboa Kodua, a Paralegal Officer of the Plaintiff. [I have attached a copy of the said Affidavit in Opposition and marked same as 'Exhibit 1']

7. That in paragraph 7 of the said Affidavit in Opposition, the deponent in his capacity as a Paralegal Officer made certain depositions which, I am advised by Counsel and verily believe same to be true, that the said depositions are irrelevant, offensive and scandalous and are matters which could not have been in the personal knowledge of the deponent.
8. That I am advised and verily believe same to be true that the particular deposition in paragraph 7 of the Affidavit in Opposition in question does not answer to the matters and issues raised in the affidavit in support of the motion to set aside the writ of summons.
9. That I am further advised and verily believe same to be true that the language used in the said paragraph 7 of the Affidavit in Opposition is one that is likely to undermine the courtesy expected to be accorded this Honourable Court and cause unnecessary tensions between the parties; and should the court entertain same, it would result in a pursuit of a course not befitting of the ethics of the profession.
10. That I am advised and verily believe same to be true that by the rules of court, the Court has the power to order any matter which is scandalous, offensive, irrelevant or otherwise oppressive to be struck out of an affidavit.
11. That in the circumstances, I pray this Honourable court to exercise its power under the rules of court to strike out paragraph 7 of the Affidavit in Opposition filed on the 9th of June, 2020 as being offensive and scandalous.

WHEREFORE I swear to this Affidavit in Support of the Motion.

SWORN AT ACCRA THIS 30th]
DAY OF June 2020]

[Signature]
.....
DEPONENT

BEFORE ME

[Signature]
COMMISSIONER OF OATHS
JOHN AHETOH
COMMISSIONER FOR OATHS
P. O. BOX MP 1896
ACCRA

EXHIBIT "1"

IN THE SUPERIOR COURT OF JUDICATURE

IN THE HIGH COURT OF JUSTICE
COMMERCIAL COURT DIVISION

ACCRA AD. 2020

SUIT NO: CM/BES/0600/2020

THIS IS EXHIBIT / DOCUMENT

MARKED REFERRED TO
THE AFFIDAVITS SUBMITTED AT ACCRA

PLAINTIFF

THIS 20th DAY OF June 2020

BY
BEFORE ME

COMMISSIONER FOR OATHS

AGRICULTURAL DEVELOPMENT BANK
ACCRA FINANCIAL CENTRE
3RD AMBASSADORIAL DEVELOPMENT AREA
RIDGE-ACCRA.

AND

1. VOLTA INTEGRATED AGRICULTURAL DEVELOPMENT LIMITED ----- DEFENDANTS
2. DR. FELIX KWAME SEMAVOR
ALL OF ADRHO HOUSE

AFFIDAVIT IN OPPOSITION

I, KOFI TWENEBOA KODUA of 3rd, Ambassadorial Development Area, Ridge, Accra
hereby make oath and say, as follows:

1. I am the deponent hereto and a Paralegal Officer of the Plaintiff/Respondent Bank herein, and on whose authority and consent I depose to this affidavit of facts which have come to my knowledge in the course of my work, unless otherwise stated.
2. That the Plaintiff's Lawyers have been served with an application to Set Aside Plaintiff's Writ of Summons with the claim that the Writ of Summons is defective, as its contents does not conform to the requirements stipulated by the Rules of Court and same cannot be cured.
3. That the Plaintiff, upon the advice of its lawyers, is vehemently opposed to the instant application as inter alia, same is misconstrued, unmaintainable and a sheer abuse of the processes of court.
4. I am advised that the Applicants' claim that non-compliance with the rules of court is incurable is not legal.

5. Indeed and in fact, the grounds on which a court will set aside/strike out pleadings/writ of summons are laid down by law, and I am advised, that they do not include non-compliance with the rules.
6. I am further advised that the issuer of the Writ is identified by name, practicing license number and other details. The Applicants have neither exhibited any document suggesting that the plaintiff has neither instructed nor authorized the said issuer to act on its behalf nor have they exhibited any search report or other document suggesting that the issuer is not licensed to practice by nor known to the General Legal Council, by which reason she cannot issue writs or practice law. Just saying the issuer is unknown is groundless.
7. On the whole, the Application is without any merit whatsoever, as it is also without a legal basis and same ought to be shot down and buried in a shallow grave with the disdain it deserves.

WHEREFORE AND IN THE CIRCUMSTANCES, I swear to this affidavit in Opposition to the Motion to set aside the plaintiff's Writ of Summons.

SWORN AT ACCRA, THIS *9th*
DAY OF *June*..... 2020 by the said

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[Signature]

DEPONENT

BEFORE ME

[Signature]
COMMISSIONER FOR OATHS

JOHN AHETOH
COMMISSIONER FOR OATHS
P. O. BOX MP 1896
ACCRA