

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

2106/2020  
9:24 am/pm  
Registrar  
COMMERCIAL DIVISION OF THE  
HIGH COURT, ACCRA  
SUIT NO: CM/BFS/0600/2020

AGRICULTURAL DEVELOPMENT BANK  
3RD AMBASSADORIAL DEVELOPMENT AREA  
ACCRA FINANCIAL CENTRE  
RIDGE, ACCRA

PLAINTIFF

AND

1. VOLTA INTEGRATED AGRIC. DEV. LTD  
2. DR. FELIX KWAME SEMAVOR  
ALL OF ADRHO HOUSE  
SAKAMAN, ACCRA

DEFENDANTS

MOTION ON NOTICE TO SET ASIDE WRIT OF SUMMONS

PLEASE TAKE NOTICE that this Honourable Court would be moved by Counsel for and on behalf of the Defendants herein praying this Honourable Court for an Order setting aside the Writ of Summons filed on the 12<sup>th</sup> March 2020 on the following grounds that:

- i. the Writ does not conform to the standard or Form as required by the Rules; and
- ii. the writ is incompetent, fundamentally defective, and incurably bad in law.

And upon further grounds as contained in the accompanying affidavit.

And for any other Order/s as this Honorable Court deems fit.

COURT TO BE MOVED ON *Wed* THE *15<sup>th</sup>* DAY OF *July* 2020  
AT 9 O'clock in the forenoon or so soon thereafter as Counsel for the Defendants may be heard.

DATED AT AKOSOMBO CHAMBERS IN ACCRA THIS 1<sup>ST</sup> DAY OF JUNE 2020

THE REGISTRAR  
HIGH COURT (COMMERCIAL DIV.)  
ACCRA

MINKAH PREMOR & CO.  
SOLICITORS FOR THE DEFENDANTS  
Licence No. 02463/20  
Tel: 233-302-781625, 781627, 767114  
Fax: 233-302-731624

AND FOR SERVICE ON THE ABOVE-NAMED PLAINTIFF

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

Filed on 21/06/2020  
9:34 am/pm  
Registrar  
COMMERCIAL DIVISION OF THE  
HIGH COURT ACCRA  
SUIT NO: CM/BFS/0600/2020

AGRICULTURAL DEVELOPMENT BANK  
3<sup>RD</sup> AMBASSADORIAL DEVELOPMENT AREA  
ACCRA FINANCIAL CENTRE  
RIDGE, ACCRA

PLAINTIFF

AND

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

DEFENDANTS

AFFIDAVIT IN SUPPORT OF MOTION TO SET ASIDE WRIT OF SUMMONS

I, **VINCENT SEMAVOR** of House No. 1 Kingdom Villa, Apraku - Weija Accra, make oath and say as follows:

1. That I am the Deponent herein.
2. That I am the Director of Finance for the 1<sup>st</sup> Defendant herein 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 the Court to refer to processes so far filed in this suit.
4. That the Plaintiff caused a Writ of Summons and Statement of Claim to be issued against the Defendants on the 12<sup>th</sup> March 2020, claiming the Reliefs endorsed of its Statement of Claim.
5. That I have attached a copy of the said Writ of Summons and Statement of Claim herein as 'Exhibit A'.
6. That pursuant to being served with the said Writ of Summons and Statement of Claim, the Defendants through their Solicitor entered Conditional Appearance to the suit on the 20<sup>th</sup> of May 2020.
7. That I am advised and believe same to be true that the said Writ of Summons is defective, as its contents does not conform to the requirements stipulated by the Rules of Court.



8. That I am again advised and believe same to be true that, aside from this procedural defect in the said Writ of Summons, again, the issuer of the said process is unknown, as same was signed by someone other than the Solicitor for the Plaintiff.
9. That I am advised by Counsel and verily believe same to be true that with a Writ of Summons being the Originating Process by which this instant suit was commence, such fundamental defects in the issuance of it, cannot be cured as same is incurably bad in Law.
10. That I am advised and believe same to be true that in the circumstances, this Honourable Court has the power to set aside the defective Writ of Summons dated 12<sup>th</sup> March 2020.

Wherefore I swear to this Affidavit in Support praying this Honourable Court for an Order Setting Aside the Writ of Summons.

SWORN AT ACCRA THIS 20 June 2020]

  
DEPONENT

BEFORE ME

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

  
COMMISSIONER FOR OATHS



EXH A

# WRIT OF SUMMONS

(Order 2 rule 3(1))

WRIT ISSUED FROM.....200..... SUIT No. 12/1875/0600/2020

## IN THE HIGH/CIRCUIT COURT OF JUSTICE

BETWEEN

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

PLAINTIFF\*

AND

1. VOLTA INTEGRATED AGRICULTURAL DEVELOPMENT LIMITED

DEFENDANTS\*

2. DR. FELIX KWAME SEMAVOR

ALL OF ADRHO HOUSE

SAKAMAN - ACCRA

(and on whom Plaintiff shall direct service)

To

AN ACTION having been commenced against you by the issue of this writ by the above-named Plaintiff.

YOU ARE HEREBY COMMANDED that within EIGHT DAYS after service of this writ on you inclusive of the day of service you do cause an appearance to be entered for you.

AND TAKE NOTICE that in default of your so doing, judgment may be given in your absence without further notice to you.

Dated this 12 day of

20.....

Chief Justice of Ghana

ANIN YERBOAH

THIS IS EXHIBIT / DOCUMENT

MARKED ..... REFERRED TO  
THE AFFIDAVITS SWORN AT ACCRA

THIS 20 June 2020

BY .....  
BEFORE ME

NB: This writ is to be served within twelve calendar months from the date of issue unless, it is renewed within six calendar months from the date of that renewal.

The defendant may appear hereto by filing a notice of appearance either personally or by a lawyer at Form 5 at the Registry of the Court of issue of the writ at ..... A defendant appearing personally may, if he desire give notice of appearance by post.

\*State name, place of residence or business address of plaintiff if known (not P.O. Box number).

\*\*State name, place of residence or business address of defendant (not P.O. Box number).

Further proceedings would be stayed if within the time limited for appearance the defendant pays the amount claimed to the Plaintiff or its lawyer.

DATED AT THE AGRICULTURAL DEVELOPMENT BANK LIMITED OFFICES (LEGAL SUPPORT UNIT), 2<sup>ND</sup> FLOOR, ACCRA FINANCIAL CENTER, 3<sup>RD</sup> AMBASSADORIAL DEVELOPMENT AREA, RIDGE ACCRA, THIS 24<sup>TH</sup> DAY OF FEBRUARY, 2020

AGRICULTURAL DEVELOPMENT BANK LTD  
MONITORING AND RECOVERIES DIVISION

for  
.....  
HEAD, LEGAL SUPPORT UNIT

VIDA AGYEKUM ACHEAMPONG, ESQ  
SOLICITOR FOR THE PLAINTIFF  
NO. OF SOLICITOR'S LICENSE: GAR 00815/20  
TIN: P0002814935

.....  
**Indorsement to be made within 3 days after service**

This writ was served by me at  
on the defendant  
on the                      day of  
endorsed the                      day of

Signed.....

Address.....

NOTE: If the plaintiff's claim is for a liquidated demand only, further proceedings will be stayed if within the time limited for appearance the defendant pays the amount claimed to the plaintiff, his lawyer or his agent or into court as provided for in Order 2 rule 3(2).



IN THE SUPERIOR COURT OF JUDICATURE  
IN THE HIGH COURT OF JUSTICE  
COMMERCIAL DIVISION

A.D - 2020

103/2020  
at .....am/p  
.....Regist  
COMMERCIAL DIVISION OF THE  
HIGH COURT, ACCRA

SUIT NO.

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

PLAINTIFF

VRS.

1. VOLTA INTEGRATED AGRICULTURAL DEVELOPMENT LIMITED
2. DR. FELIX KWAME SEMAVOR  
ALL OF ADRHO HOUSE  
SAKAMAN ACCRA  
(and also on whom Plaintiff shall direct service)

DEFENDANTS

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STATEMENT OF CLAIM

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1. The Plaintiff is a bank incorporated under the laws of Ghana, whose authorised business, among others, is to grant loans and other related facilities to customers.
2. The 1st Defendant is a company registered under the laws of the Republic of Ghana and is into the business of fruit processing, with its office situate at ADRHO house, Sakaman, Accra and is a customer of the Plaintiff-Bank.
3. The 2<sup>nd</sup> Defendant is a shareholding director of the 1<sup>st</sup> Defendant Company, and executed a Contract of Indemnity in favour of the Plaintiff-Bank as well as used his personal property to secure and/or guarantee the repayment of the credit facility provided to the 1<sup>st</sup> Defendant.
4. By separate loan transactions, the Plaintiff advanced to the 1<sup>st</sup> Defendant several credit facilities as follows:

- a. Per loan account number, 501ADOL143030004 (Loan 1), a Term Loan of Five Hundred and Twenty Four Thousand, Six Hundred and Seventy Five Ghana Cedis (GHS 592,098.90) at an interest rate of 22.92% (Hereinafter, Facility 1)
  - b. Per loan account number 501ADLC141770002 (Loan 2), a Term Loan of Five Million, Seventy Three Thousand, Nine Hundred and Ninety Two Ghana Cedis, (5,073,992.00.00) at an interest rate of 12.5 % per annum (Hereinafter, Facility 2)
  - c. Per loan account number, 501ADLC141780001 (Loan 3), a Term Loan of Four Hundred Thousand Ghana Cedis, (GHS 400,000.00) at an interest rate of 12.5% per annum to run for 24 months. (Hereinafter, Facility 3)
  - d. Per loan account number, 5011ADOL141770001 (Loan 4), a Term Loan of Six Hundred and Eighty Seven Thousand Ghana Cedis, (GHS 687,000.00) at an interest rate of 32.21% per annum. (Hereinafter, Facility 4)
  - e. Per bank account number, 5011000072506901, an overdrawn balance of GHS 65, 854.27.
5. The securities provided for the above facilities were as follows:
- i. First ranking legal mortgage over 2<sup>nd</sup> Defendant's property situate at Aplaku, New Bortianor Accra
  - ii. First ranking legal mortgage over 1<sup>st</sup> Defendant's farmlands with mango plantation situated at Tafi Abuike, North Danyi District, Volta Region
  - iii. First ranking legal mortgage in favour of ADB over 1,013 acre farmland located at Gbefi, Volta Region
  - iv. First ranking fixed and floating charge in favour of ADB over all Borrower's assets.
  - v. Unlimited guarantee in favour of ADB by the Borrower's shareholders.
  - vi. Assignment in favour of ADB over all of borrower's export proceeds.
6. Facilities 1 - 4 above stated expired on 28<sup>th</sup> June, 2019; 26<sup>th</sup> June, 2019; 27<sup>th</sup> June, 2016; and 26<sup>th</sup> July, 2019 respectively.
7. The balances outstanding on the loan accounts as of 13<sup>th</sup> February, 2020 were as follows.

- a. Loan 1 GHS 1,945,251.15
- b. Loan 2 GHS 9,113,433.34
- c. Loan 3 – GHS 341,609.23
- d. Loan 4 – GHS 3,441,470.01; and the
- e. CASA a/c bal. – GHS 65,854.27

8. Plaintiff states that the Defendants have failed, refused and/or neglected to make due their indebtedness to the Plaintiff bank despite several entreaties on them.
9. That per a letter dated 27<sup>th</sup> May, 2019 and titled "STATUS REPORT ON THE VOLTA INTEGRATED AGRICULTURAL DEVELOPMENT LTD AND KINGDOM PREMIUM FRUITS LTD, the Finance Director of the 1<sup>st</sup> Defendant Company wrote to the Plaintiff admitting that their indebtedness to the Plaintiff stood at **GHS 14, 310,230 as at 30<sup>th</sup> April, 2019. The liability of the Defendants to the Plaintiff is therefore not in doubt.**
10. However, the Defendants would not settle their indebtedness to the plaintiff unless compelled by the honourable court to do so.
11. Wherefore and in the circumstances, the Plaintiff claims against the Defendants jointly and severally as follows:
- i. An order for the recovery of the amounts of :
    - a. GHS 1,945,251.15 being outstanding balance from Facility 1 with interest at the contractual rate of 22.92% from 14<sup>th</sup> February, 2020 till date of final payment.
    - b. GHS 9, 113,433.34 being outstanding balance from Facility 2 with interest at 12.5% per annum from 14<sup>th</sup> February, 2020 till date of final payment
    - c. GHS 341, 609.23 being outstanding balance from Facility 3 with interest at 12.5 % from 14<sup>th</sup> February, 2020 till date of final payment
    - d. GHS 65,854.27 being the CASA balance with interest at the commercial rate from 14<sup>th</sup> February, 2020 till date of final payment



Or in the alternative,

ii. An order for the judicial sale of the following securities:

- a. All of Borrower's assets over which it created fixed and floating charge in favour of the Plaintiff-Bank.
- b. 2<sup>nd</sup> Defendant's property situate at Aplaku, New Bortianor Accra
- c. 1<sup>st</sup> Defendant's farmlands with mango plantation situated at Iati Abuite, North Danyi District, Volta Region
- d. Defendant's farmlands of approximately 1,013 acres located at Gbefi, Volta Region

iii. Damages for breach of contract; and costs: being costs of and incidental to this suit.

DATED AT THE AGRICULTURAL DEVELOPMENT BANK LIMITED OFFICES (LEGAL SUPPORT UNIT), 2<sup>ND</sup> FLOOR, ACCRA FINANCIAL CENTER, 3<sup>RD</sup> AMBASSADORIAL DEVELOPMENT AREA, RIDGE ACCRA, THIS 24<sup>TH</sup> DAY OF FEBRUARY, 2020.

AGRICULTURAL DEVELOPMENT BANK LTD.  
MONITORING AND RECOVERIES DIVISION

*for*  
VIDA AGYEKUM AGHEAMPONG ESQ.  
HEAD, LEGAL SUPPORT UNIT  
SOLICITOR FOR THE PLAINTIFF  
NO. OF SOLICITOR'S LICENSE: GAR 00815/20  
TIN: P0002814935

THE REGISTRAR  
HIGH COURT (COMMERCIAL DIVISION)  
ACCRA

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AND TO THE ABOVE-NAMED DEFENDANTS