**IN THE SUPERIOR COURT OF JUDICATURE**

**IN THE HIGH COURT OF JUSTICE**

**ACCRA-AD 2020**

SUIT NO: OCC/17/12

1. MIKE KAKSON AGBEMASHIOR PLAINTIFFS/APPLICANTS
2. GEORGE TYKHONOV
3. YURY SHELKOV

VRS.

1. ECOBANK GHANA LTD 1ST/DEFENDANT/RESPONDENT
2. ALFRED KOFI ASIHENE
3. GODFRED KPLORM ATI
4. YURY-M PLASTIC PRODUCTS LTD 4TH DEFENDANT

**SUPPLEMENTARY AFFIDAVIT IN OPPOSITION TO MOTION ON NOTICE TO DISMISS APPLICATION FOR STAY OF EXECUTION**

* + - 1. I Pauline Quartey of Ridge, Accra make oath and say as follows:
      2. That I am the deponent herein.
      3. That I am a Senior Legal Officer with the 1st Defendant/Respondent (hereinafter called the Bank) and have its authority to depose to this affidavit, the facts of which have come to my knowledge in the course of performing my duties.
      4. That at the hearing of this application, Counsel shall seek leave of this Honourable Court to refer to processes so far filed in this suit.
      5. That on the 17th of August, 2020 the Bank filed an Affidavit in opposition to the Motion to Dismiss the Bank’s Motion for Stay of Execution filed on the 20th of July, 2020, which said Motion to Dismiss is being opposed on many grounds including the ground of fraud.
      6. That there is the need to depose to certain material facts including those of fraud which were inadvertently omitted from the Bank’s Affidavit in opposition, hence this Supplementary Affidavit.
      7. That I am advised and believe same to be true that the Plaintiffs’ Motion to Dismiss a pending application which is yet to be heard and determined by this Honourable Court, is not being opposed only because it is unknown to the rules of procedure, and unmeritorious but also is the product of fraud and will at the hearing of this application, set this fraud down as a preliminary legal objection.
      8. That the Motion to Dismiss the Application for Stay of Execution was filed by Tassah Tapha Tassah Esq. who purports to be belonging to the Chambers Butu Law Center, which he knows to be false; a misrepresentation that the said Tassah Tapha Tassah Esq. has perpetrated since 2019 and that a search report from the General Legal Council reveals that he does not belong to the said law firm and **a copy is hereby attached as** **Exhibit EGL 1**.
      9. That I am advised and believe same to be true that the Plaintiff’s Motion to Dismiss the Bank’s Motion for Stay of Execution is incompetent, unmeritorious and a fraudulent attempt by the Plaintiffs and their Solicitor to conceal the fraudulent and void process filed in this suit.
      10. That the fraud related to this application does not stop here, as I am informed that the Lawyer Michele Gunubu of Capital Law Partners has not been in the country since 2019 and was not the signatory of the Motion to Renew the Writ of Fifa which was filed with the BP number 2607 of Tapha Tassah Esq., a matter that would require Police investigation. (**Attached and marked Exhibit EGL 2 is a copy of the Search Result showing Tassah Tapha Tassah’s BP No**.)
      11. That I am advised and believe same to be true that by the dictates of Order 43 r 11 of the High Court (Civil Procedure) Rules, 2004, (C.I. 47) an applicant may apply for stay of execution of the judgment or order **or apply for such appropriate relief** upon the grounds of **matters which have occurred after the date of the grant of judgment** or order.
      12. That no such application for **appropriate relief** upon the grounds of **matters which have occurred after the date of the grant of judgment** or order has ever been made by the Bank until now.
      13. That I am advised and believe same to be true that new matters have arisen after the date that the judgment was given, which borders on fraud making the application for the reliefs sought by the Bank well-grounded as well as the preliminary legal objection to be raised herein.
      14. That the execution founded on a Renewed Writ of Fifa which was a nullity by reason of the fact that same had expired and the Solicitor who applied for the renewal of the Writ of Fi.fa, Michele Gunubu Esq. was not licensed to practice as a lawyer in 2020 when the Motion for Renewal was filed, as disclosed by a search report from the General Legal Council, which made the whole process a nullity. **Copies of the Writ of Fifa, Motion to renew as well as the search report are attached hereto as Exhibits EGL3, EGL4 and EGL 5 respectively.**
      15. That I am advised and believe same to be true that the Bank is not indebted to the Plaintiffs whose lawyer is Tassah Tapha Tassah Esq. as the amount of GHC130,000.00 awarded in favour of the Plaintiffs on the 17th of June 2019 was paid into his personal Account at First Atlantic Bank, nor indebted to the 4th Defendant at all, since the award of GHC 4million granted to it was stated in the said judgment that it be used to pay off the indebtedness of the 4th Defendant owed, which as at December 2015 when the said award was given to it owed GHC8.2million as judgment debt.
      16. That by a Judgment dated 15th December, 2015, delivered by Torkonoo J.A, (as she then was), the Bank was ordered to pay an amount of GHC 130,000.00 in total to the Plaintiffs herein and gave the award of GHC4 million to the 4th Defendant, which said award was stated to be used to pay off its debt with the Bank. **Attached and marked Exhibit EGL 6 is a copy of the Judgment with the highlighted portion at page 42, relating to the GHC4 million award.**
      17. That on the 30th of January, 2019, the Plaintiffs, through their Solicitor Tassah Tapha Tassah Esq. filed an Entry of Judgment against the Applicant for the payment of the sum of GHC 130,000.00 in accordance with the terms of the judgment. **Attached and marked Exhibit EGL 7 is a copy of the Entry of Judgment dated 30th January, 2019**.
      18. That the Bank settled the amount of GHC 130,000.00 to the Plaintiffs through their Solicitor herein, Tassah Tapha Tassah Esq., who received same in his personal account. **Attached is evidence of transfer of the amount of GHC 130,000.00 to the Plaintiffs, as received into the account of their Solicitor marked as Exhibit EGL8.**
      19. That by the payment of the amount of GHC 130,000.00 in accordance with Exhibit EGL3, the judgment debt payable to the Plaintiffs had been satisfied as far back as June, 2019 and there was no longer any outstanding debt over which the Plaintiffs should purport to enforce or execute.
      20. That this notwithstanding, Tassah Tapha Tassah Esq. on the 11th of March, 2020 filed a Motion for Renewal of Writ of Fifa purporting to renew a writ of fifa, dated the 4th day of January, 2020, in the name of Butu Law Centre, when at the said time, he was not a member of that law Firm, nor had he filed any Writ of Fi.fa that had expired. **Attached and marked Exhibit EGL 9 is the motion to renew the Writ of Fi.Fa.**
      21. That I am advised and believe same to be true that the conduct of Tassah Tapha Tassah Esq. to attempt to execute a non-existent judgment debt, coupled with the renewal of a purported Writ of Fi. Fa which did not exist, and in the name of a law firm of which he was not a member, smacks of fraud and professional misconduct.
      22. That on the bases of the depositions above, the Reliefs sought by the Bank are cognizable under Order 43 r 11 as well as the preliminary objection to the MOTION TO DISMISS STAY OF EXECUTION.
      23. That not only had the criminal conduct of deceiving a judicial officer been committed with the Motions to Renew the Writ of Fi.fa for non-existent debts, but the Entry of Judgment filed on behalf of the 4th Defendant in 2018 by the said Michele Gunubu adding the award of interest to the sum awarded the 4th Defendant when no such interest was awarded in the Judgment marked herein as Exhibit EGL 6, a defect which could not found execution until it is amended.
      24. That I am advised by counsel and verily believe same to be true that the act of applicants’ lawyer filing a process on behalf of another lawyer who is not licensed and at the same time both lawyers who happen to be in the same law firm representing both Plaintiffs and 4th Defendant in the same case as per Exhibit EGL 2 is deeply frowned upon by the legal profession as a misconduct.
      25. That I am advised and believe same to be true that the Plaintiffs’ claim that the Application for Stay of Execution by the Bank is an abuse of Court process is wholly without merit.
      26. That in the circumstance, the Bank prays for this Honourable Court to dismiss the Plaintiffs’ “MOTION TO DISMISS” the Bank’s Motion for Stay of Execution and the other reliefs sought as permitted by Order 43 r 11.

Wherefore I swear to this Affidavit in opposition to the motion.

SWORN AT ACCRA THIS DAY OF 2020

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DEPONENT

BEFORE ME

COMMISSIONER FOR OATHS

AND COPY FOR SERVICE ON:

1. THE PLAINTIFFS/APPLICANTS OR THEIR SOLICITOR TASSAH TAPHA TASSAH,
2. 4TH DEFENDANT/ RESPONDENT OR ITS SOLICITOR, MICHELE A. GUNUBU, CAPITAL LAW & PARTNERS, NO.1 MARADONA JUNCTION, 1ST FLOOR, CBG (FORMER BEIGE CAPITAL BUILDING), ASHALE BOTWE, ACCRA