

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

CASE SUMMARY

APPLICATION NO 059/2016

TWIFO HEMANG COMMUNITY V. REPUBLIC OF GHANA

A. THE PARTIES

1. The Applicants are the Twifo Hemang Community who claim to be an indigenous group living in the Central Region of Ghana. They filed their application on 28 November 2016.
2. Their Application is against the Republic of Ghana.

B. COMPLAINTS

3. The Applicants allege that the Respondent State has conspired to deprive them of their community land in contravention of their rights under the Charter, specifically:
 - a) The right to property under Article 14 of the Charter; and
 - b) The right to economic, social and cultural development under Article 22 of the Charter.

I. JURISDICTION

4. The Applicants argue that, by compulsorily confiscating their ancestral land without consultation and compensation, the Respondent State violated their rights to property and to development, guaranteed under Articles 14 and 22 of the Charter, respectively.

II. ADMISSIBILITY

5. The Applicants allege that they faced economic and intellectual disadvantages and that they sought redress from the Respondent State since 1964, but their efforts were frustrated, by the land policies and laws enacted by the Respondent State which consequently, resulted in denying them access to justice at all levels of the court systems in Ghana, unduly prolonging their suffering.
6. Furthermore, that the laws enacted by the Respondent State denied them the opportunity to exhaust the local remedies through filing an application or motion for commencement of a human rights action at the High Court. They argue that this position was affirmed by the Supreme Court of Ghana on 22 July 1998 in the case of *Ellis and Wood v Attorney General* which it dismissed for lack of jurisdiction to hear the matter.

C. APPLICANTS PRAYERS

7. The Applicants pray the Court to:
 - i. Find that the Court has jurisdiction by virtue of ratification of its Protocol by the Ghana Government (Article 56 of the African Charter) and by virtue of Articles 6, 34(6) and 5(3) of the Protocol;

- ii. Find that the Application is admissible and must be upheld by the African Court due to the human rights violations alleged on the poor indigenous community of Twifo Hemang;
- iii. Order the Respondent to produce their documents in connection with the Twifo Hemang Stool lands for study by the Court;
- iv. Order the Respondents to release the Twifo Hemang community land to the legally rightful ancestral owners;
- v. Order the abrogation of all instruments including the PNDC Law 294, that vests the Twifo Hemang community land on the Respondent;
- vi. Order that all royalties accrued from the time of the Respondent's compulsory acquisition of the Twifo Hemang Community land be paid/returned to the poor community dwellers to enable them develop the community and live a decent life; and
- vii. Ban the 2nd and 3rd Respondents from contesting the community land.

D. RESPONDENT'S PLEADINGS

8. The Respondent State raises two (2) objections regarding the admissibility of the Application. The first relating to the Applicants' failure to exhaust local remedies before filing the Application as required by Article 56(5) of the Charter and Rule 40(5) of the Rules and the second being that the Application was not filed within a reasonable time as required by Article 56(6) of the Charter and Rule 40(6).
9. The Respondent State argues that the Court should dismiss the Application for lack of jurisdiction as the alleged violation predates the ratification of the Protocol in 2004. Furthermore, that the Applicants have failed to inform the Court of a specific right that has been infringed, and that the Court cannot proceed with the hearing of the Application since it cannot invent or conjure one for them.

E. RESPONDENT'S PRAYERS

10. The Respondent State makes the following prayers:

- i. That the Court dismiss the Application for lack of jurisdiction as the alleged violation predates the ratification of the Protocol in 2004.
- ii. That the Court declare the Application inadmissible as it does not meet the admissibility requirements of Articles 56 (5) and (6) of the Charter on the exhaustion of local remedies and filing the Application within a reasonable time after exhausting local remedies.
- iii. That the Court dismiss this Application as the Applicants have failed to inform the Court of a specific right that has been infringed, and that the Court cannot proceed with the hearing of the Application since it cannot invent or conjure one for them.