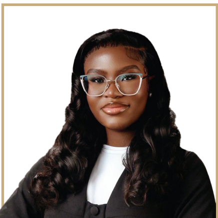
MATRIMONIAL PROPERTY AND CORPORATE ASSETS: TWO RIVERS THAT MEET BUT NEVER MIX

Jasmin Gifty Asiedu,
Senior Associate Attorney - Edfields Attorneys

Eunice Adu-Bossman,
Associate Attorney - Edfields Attorneys

Esther Aryenor,
Associate Attorney - Edfields Attorneys



Thelma Dziedzom Akator,
Pupil - Edfields Attorneys

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It would not be surprising to get the sentiment that Ghanaian matrimonial property jurisprudence is no longer a story of steady evolution. Within the span of fifteen years, the courts have moved from an expansive, equity-driven approach to a more restrained, constitutionally anchored framework that prioritizes legal title and procedural propriety. This shift is most visible where dissolution of marriage intersects with company law, particularly in disputes involving assets held through corporate structures.

At the heart of this tension lies a fundamental question: to what extent can a matrimonial court look beyond legal form to achieve substantive justice? Put differently, when, if ever, should the veil of incorporation give way to the equitable claims of a spouse who has accumulated or contributed to the accumulation of property under a corporate structure? Will the battle between formalism (sticking strictly according to what appears on the paper) and realism (putting life into the papers by considering circumstances and events leading to a situation) ever be resolved in favour of the latter?

Two decisions illustrate the emerging boundaries with unusual clarity. In **Dr. Owusu Afriyie Akoto v. Adwoa Abrefi Akoto**[1] the Supreme Court adopted a robust equitable stance, piercing corporate structures and asserting jurisdiction over foreign immovable property to prevent injustice. In contrast, the High Court's decision in **Mrs. Joana Quaye v. Richard Nii Armah Quaye**[2] reflects a more disciplined approach. One that insists on the limits of matrimonial jurisdiction, respects separate corporate personality and directs litigants toward proper commercial proceedings where necessary.

This article examines these two decisions not as contradictions, but as complementary markers of a developing legal framework. It argues that the modern position of Ghanaian law is neither purely equitable nor strictly formalistic, but conditional: expansive where fraud or inequitable conduct is established and restrained where claims fall short of that threshold.

In doing so, it explores the doctrinal limits of corporate veil piercing during divorce proceedings, the implications of the Companies Act, 2019 (Act 992), and the procedural choices that increasingly determine outcomes in matrimonial causes.

THE 2011 AKOTO CASE: EQUITY OVER FORM

In **Dr. Owusu Afriyie Akoto v. Adwoa Abrefi Akoto**, the Supreme Court upheld the sweeping property orders made by the High Court and affirmed by the Court of Appeal. For proper context, it will be useful to provide a little background to the case. The parties to the case who were husband and wife got married by custom in July 1974. The marriage was converted into a monogamous marriage under ordinance in Cambridge England on July 16, 1976. After the said marriage the couple cohabitated mainly in the United Kingdom and apparently had a blissful relationship that was blessed with three children from 1974-1997, when the wife discovered two letters that caused the otherwise blissful marriage to unravel leading to the husband filing for divorce on August 29, 1997, while the wife was still in England.

Finding out that her husband had petitioned the court for divorce, the wife filed a Cross Petition for the dissolution of the marriage and among other ancillary reliefs:

a. An order declaring her a joint beneficial owner of House No. 38/39 BLK 01/115 East Legon, Accra
b. An order declaring her a joint beneficial owner of 5 Kingsfield Road, EALING W5 ILD London, U.K.
c. An order declaring her a joint beneficial owner of 18 Chatsworth Avenue Wembley Middlesex U.K.
d. An order declaring that she is entitled to one half of the net income from the rent of 5 Kingsfiled Road EALING W5 ILD London, a property jointly owned by both parties,
e. that the Husband pays her a lump sum settlement

[1]Suit No. J4/24/201, dated 23rd February 2011.
[2]Suit No. DM/0569/2021, dated 20th January 2026.

The wife was successful both in the High Court and the Court of Appeal. Being aggrieved by the decision of the Court of Appeal, the husband appealed to the Supreme Court.

It must be emphasized that Properties were held in both countries, with some registered in the names of limited liability companies in which the wife was neither a shareholder nor a director.

The husband raised two main objections. First, he argued that Ghanaian courts had no jurisdiction over immovable properties situated in England. He relied on the lex situs rule, which holds that the law of the country where the land is situated governs that land. Second, he argued that corporate personality shielded company-held assets from distribution to a non-shareholder wife. The Supreme Court rejected both arguments.

On the issue of Jurisdiction

The court confirmed that while lex situs governs as a general principle under sections 33 and 35 of the Matrimonial Causes Act, 1971 (Act 367), equity provides an exception. Where a Defendant is personally before the court, and the claim arises in equity, the court can assume jurisdiction even over foreign immovable property.

The husband had used jointly acquired properties as security for loans he deliberately defaulted on, causing those properties to be repossessed by the lending companies. This decision was taken without the knowledge or consent of the wife. The courts found that secret dealing as fraudulent. The Latin maxim that "equity will not suffer a wrong without a remedy" had some influence in this regard. This maxim is to the effect that every right will be enforced and wrong redressed by the court of equity if not by the formal laid down laws for the sake of justice.

The idea underlying this maxim is that no wrong should be allowed to remain unredressed if it is capable of being redressed by the court[3]. In this regard the Supreme Court held that the husband displayed an inequitable conduct which was sufficient to trigger equitable jurisdiction.

On the issue of the Corporate Veil

The Court of Appeal found that the husband had converted jointly owned matrimonial assets into company funds for his exclusive benefit. The Supreme Court confirmed that in such circumstances the veil of incorporation could be lifted.

The court was of the opinion that once it is proved that the properties are owned jointly by the parties, the husband stood in a fiduciary relationship with the wife. In that regard, the position of the law is clear that once a fiducial relationship is acknowledged, imputed or established, the fiduciary is obliged to act in the interest of the person with whom he stands in a fiducial relationship.[4]

[3]Re Cummins (Decd.); Cummins v. Thompson [1971] 3 All E.R. 782, C.A.
[4]Abotsi (an Infant), In Re; Kwao v Nortey and Others [1984-86] GLR 144.

Using a company to defeat a spouse's equitable interest was inimical to the interest of the wife and that qualified as using corporate personality to perpetuate fraud. The Apex court of Ghana has been clear in the case of **Worldwide Shipping and Agencies (GH) Ltd v. Darko**[5], thus

"… A corporation will be looked upon as a legal entity as a general rule … but when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law will regard the corporation as an association of persons.",

This is a well-established principle in both Ghanaian and English case law, including the Supreme Court's endorsement of the principle in Morkor v. Kuma[6].

The Supreme Court therefore held that the wife must receive a share of English properties and assets held by companies with which she had no formal legal connection.

THE 2026 QUAYE CASE: CONSTITUTIONAL PROPERTY RIGHTS FIRST

The case of **Mrs. Joana Quaye v. Richard Nii Armah Quaye**[7], was decided by the High Court, Family Division, in January 2026.

The court applied a noticeably narrower framework. The presiding judge, Justice Dorgu, opened the property analysis with a clear statement of principle: only matrimonial property, meaning property acquired during the marriage with a joint character, is subject to distribution. The court grounded this in the constitutional right of individuals to own property independently[8], even within marriage.

The matrimonial home at Dansoman, House No. 8 Jaffa Lane, was confirmed as marital property. Both parties had acquired and lived there during the marriage. The court awarded the wife one-third of the property, allocating three bedrooms to her with access to common facilities. The remaining two-thirds were settled on the husband, partly on the basis that he had no alternative accommodation.

The East Legon property was confirmed as the husband's and not a matrimonial property. The court found clear evidence that he never intended it to be joint property, a conclusion supported by the wife's limited knowledge of the asset.

Two additional properties at Mamprobi and Trasacco Estates were excluded from distribution entirely. The wife had testified about them, but never amended her reliefs to formally claim them. The court treated that omission as a concession that she did not regard them as matrimonial property at the time of filing.

On financial settlement, the wife had claimed GH₵50 million. The court

[5] [2001-2002] 2 GLR 488.
[6] [1998-99] SCGLR 620.
[7] Joana (n2).
[8] Constitution of Ghana, 1992, art 18; Fynn v Fynn & Osei [2013-2014] 1 SCGLR 727.

rejected the claim without hesitation, awarding GH₵300,000 instead. The court noted that the wife was employed, capable of independent income, and had already received property settlement and child support provisions. The court was direct: marriage is not an investment, and lump sum claims without an evidentiary foundation will not be entertained.

The most consequential aspect of the Quaye judgment is the court's refusal to pierce the corporate veil within the divorce proceedings. As a justification for her claim for GH₵50 million, the wife testified in court that she is a co-founder, shareholder and director of the Quick Credit Microfinance Company Limited (now Bills Microcredit Ltd) which to her formed the basis of her husband's public financial image. The court in rejecting the invitation to assume jurisdiction to determine the ownership and respective stakes of the parties, held that:

"If this were so then I advise that she takes out an action against the Company and the Respondent for a determination of her due. This is so because in such an action. the corporate veil could be pierced and the assets traced if need be. But surely, such orders cannot be made in a divorce suit."

The import of this decision is that once the wife had testified that she is a shareholder and a director of a company in which she claims shares or stakes, the principles of fair hearing require the presence of the company, a legal entity, to mount a defence in the court. The divorce proceedings being exclusive to the relationship between the spouses (private) could not be confused with the relationship between the spouses of one part and the company of the other part.

THE CORPORATE VEIL IN DIVORCE PROCEEDINGS: DOCTRINE, LIMITS, AND THE COMPANIES ACT, 2019

The Principle of Separate Legal Personality

The starting point is foundational. A company incorporated under Ghanaian law is a legal person entirely distinct from its members, shareholders, beneficial owners and directors. This principle derives from **Salomon v. Salomon and Co. Ltd**[9], where the House of Lords held that a company, once validly incorporated, has a figurative veil that separates and distinguishes the corporation from the persons who may be behind it or who may control it. Its assets are not the assets of its shareholders. Its liabilities are likewise not theirs.

The **Companies Act, 2019 (Act 992)** entrenches this principle in Ghanaian law. Upon incorporation, a company becomes a body corporate with perpetual succession, capable of suing and being sued, holding property in its own name, and entering into contracts independently of its members.[10]

The law reinforces this by stating that the liability of a member of a company limited by shares is limited to the amount, if any, unpaid on the shares held by that member[11]. A shareholder's exposure ends at the share price.

[9] [1897] AC 22.
[10] Companies Act, 2019 (Act 992), s 18.
[11] Ibid, s 7(2).

The company's debts and assets remain that of the company. The imaginary veil that separates the company's identity and the identities of the members and directors is what is referred to as the corporate veil.

The practical consequence in matrimonial proceedings is direct. A spouse who holds shares in a company is only entitled to the rights, interests, and liabilities attached to those shares. A spouse who holds shares has title only to those shares, not to the underlying assets the company owns. The shares themselves are personal property[12] and, if acquired during the marriage with a joint character, are potentially distributable. The assets underneath are a separate matter entirely.

When the Corporate Veil May Be Lifted: The Fraud and Facade Ground

Ghanaian courts have consistently recognized that the Salomon principle is not absolute. Courts will pierce the corporate veil where the corporate form is used as a device to achieve fraud, evade legal obligations, or defeat the legitimate interests of another party.[13]

The Supreme Court confirmed this in the **Morkor v. Kuma case**, where the court held that where a party interposes a company as a front to frustrate a claim, the court can look through the corporate structure to the underlying reality. The company ceases to be a genuine independent entity and becomes an instrument of fraud.

The *Dr. Owusu Afriyie Akoto v. Adwoa Abrefi Akoto* case extended this principle into matrimonial property law. The husband had not merely held assets through companies. He had actively converted jointly acquired matrimonial resources into company assets as if he was the same as the company, then used those companies to exclude his wife from any share of the assets. The fraud was not incidental. It was held as the purpose of the corporate structure. The Supreme Court found that this met the standard for lifting the corporate veil to ensure that the underlying personalities do not escape liability.

The English authorities also provide a useful elaboration. In **Prest v. Petrodel Resources Ltd**[14], the Court was confronted the same question. Lord Sumption drew a clear line between two different situations. The first is what he called the concealment principle - where the court looks behind the corporate structure to identify the facts, without disregarding separate legal personality. The second is the piercing principle, properly understood, where the court disregards the corporate form itself because a person under an existing legal obligation or liability uses a company specifically to evade that obligation. Lord Sumption held that true corporate veil piercing is available only in the second situation, and only where the company is a device for evading an obligation that already exists.

"...when a person is under an existing legal obligation or liability or subject to an existing legal restriction which he deliberately evades or whose enforcement he deliberately frustrates by interposing a company under his control. The court may then pierce the corporate veil for the purpose,

[12]Ibid, s 42 (1).
[13]Worldwide Shipping, (n5).
[14][2013] UKSC 34.

and only for the purpose, of depriving the company or its controller of the advantage that they would otherwise have obtained by the company's separate legal personality. The principle is properly described as a limited one, because in almost every case where the test is satisfied, the facts will in practice disclose a legal relationship between the company and its controller which will make it unnecessary to pierce the corporate veil."[15]

The **Prest v Petrodel** case, also resolved a significant subsidiary point. Lord Sumption held that many of the assets in that case were held by the husband's companies on resulting trust for him personally, because he had used his own funds to acquire them and never genuinely transferred beneficial ownership to the companies. This trust analysis allowed the court to reach the assets without technically piercing the veil at all, illustrating that in many matrimonial cases, beneficial ownership, not veil piercing, is the more appropriate analytical route. It is a route available in Ghanaian proceedings as well, and one that practitioners advising in the Quaye scenario should consider carefully.

In **Jones v. Lipman** [16], the Court confirmed that a company formed specifically to defeat a legal obligation is a sham. The court will grant specific performance or equivalent relief against the individual who controls it. These English authorities are persuasive in Ghanaian courts, which have historically drawn on English company law, given the shared origins of the corporate form in Ghana.

THE COMPANIES ACT, 2019 (ACT 992) AND SHARE DISTRIBUTION IN MATRIMONIAL CONTEXT

The Companies Act, 2019 (Act 992) does not contain an express provision for share transfer in matrimonial proceedings. Shares in a private company are, however, personal property capable of being distributed as part of a matrimonial estate if they satisfy the joint acquisition criterion. Two distinct questions arise: first, whether the shares are distributable; second, whether and how they can be transferred?

On chance of it being distributable, shares acquired with matrimonial resources during the marriage, whether registered in one spouse's name, are potentially subject to distribution where the court finds they were jointly acquired. The registration of shares in one spouse's name alone does not automatically defeat the other's claim, just as registration of land in one name does not defeat a spousal beneficial interest.

Except expressly provided in the registered constitution of a company, shares in a company are generally transferable subject to any restrictions contained in the company's constitution[17]. However, a standard constitution in Ghanaian private companies typically includes a restriction of this kind, giving the board power to decline registration of any proposed transferee based on compulsory acquisition or right of first refusal in favour of other members of the company. A matrimonial court order requiring the transfer of shares does not automatically override this discretion.

[15]Ibid, para 35
[16][1962] 1 WLR 832.
[17]Act 992, s 98(1).

This creates a practical problem. A court order directing that a wife receive a specified number of shares does not compel the company's directors to register her as a member. The directors retain their statutory discretion. The wife's remedy in the event of refusal is to apply to the court for relief, but that application would need to be made under company law, not matrimonial law. The company itself, obviously not a party to the divorce proceedings, is not bound by the divorce court's order in the same way the spouses are.

The position is different if the company is a single-member company or if the spouse who holds the shares is the sole or controlling director. In those circumstances, the same person controls both the share register and the board decision on registration. A court order addressed to that spouse operates indirectly to compel registration because the spouse cannot use his own directorial discretion to frustrate the court order without being in contempt, like in the Akoto Case, supra.

A further and often overlooked complexity arises where both spouses are already registered shareholders in the same company. In such cases, the analysis differs fundamentally from situations where shares are held in the name of only one spouse. Where both parties hold shares in their respective names, the starting point is that their proprietary interests are defined by the company's register of members and the rights attaching to those shares. Without proof of vitiating factors such as fraud, mistake, or the existence of a trust arrangement, each spouse is prima facie entitled only to the shares registered in their name.

This also reinforces Article 18 of the 1992 Constitution where it is emphatic that a person is entitled to ownership of property individually or in concert with others. The Supreme Court has stated that a spouse can have a separate economic life in marriage.[18] Despite being under the contract of marriage, both spouses by their deeds, or conducts may carefully design and define independent courses in the acquisition of marital properties such that, the spouses understand that they do not hold any property jointly.[19]

In this scenario, a company profile showing the clear and distinct portions and percentages of shares and control of the parties show succinctly that the parties do not want to hold their respective property in the shares together. What this means is that neither party's shares will be subject to distribution during divorce.

A claim by one spouse to a greater proportion of the company's shareholding than is reflected on the register will typically face significant difficulty. Company law treats shares as distinct items of personal property. The court is therefore slow to disturb formally recorded ownership unless there is clear evidence that the register does not reflect the parties' true beneficial interests. In the absence of such evidence, matrimonial distribution is likely to proceed on the basis of existing share allocations, with any adjustment taking the form of a compensatory award rather than a reallocation of shares.

[18] Ayishetu Abdul Kadiri v. Abdul Dwamenah (J4/36/2024) [2025] GHASC 16.
[19] Ibid.

This position must however be carefully distinguished from cases where shares are held solely in the name of one spouse. In such circumstances, the non-registering spouse may assert that the shares, though legally vested in the other, were acquired with joint resources or through joint effort and should therefore be treated as matrimonial property. This supports the decision in **Re Cummins (Decd.); Cummins v. Thompson**[20] where it was held that a wife's contribution by her labour in running a business with her husband was sufficient to impose a trust for her benefit and she was awarded a half share in the business assets.

In these cases, the court is not being asked to disturb an agreed or documented allocation between co-shareholders, but rather to determine whether legal title diverges from beneficial ownership. The inquiry is therefore evidential and equitable: whether the shares, notwithstanding their registration, are properly characterized as jointly acquired property within the meaning of the Matrimonial Causes Act, 1971 (Act 367).

The distinction is critical. In the former case, the court is confronted with defined proprietary interests between two shareholders, which it will be reluctant to reconfigure without compelling justification. In the latter, the court is engaged in the more familiar matrimonial exercise of ascertaining the true ownership of property as between spouses, a task that permits a broader inquiry into contribution, intention, and equitable entitlement.

Pre-emption rights also present an additional layer of complexity. Company law[21] preserves the right of existing shareholders to be offered shares before they can be transferred to an outside party.

If a matrimonial court orders that shares be transferred to the wife and she is not already a shareholder, the other shareholders' pre-emption rights may be triggered. Whether a court-ordered transfer takes precedence over pre-emption rights remains unsettled in Ghanaian jurisprudence and may depend on whether the order is characterized as a legal or equitable transfer. But it must be noted that created rights are always subject to law.

An additional limitation to shareholding and transfer of shares can also be found in Section 7(6) of Act 992, which limits the total number of shareholders of a private company to fifty (50). This may serve as a roadblock to the transfer of shares to a spouse if the prescribed number has been exhausted. This roadblock may be cured by a valuation of the shares for the holder to pay the judgment creditor the commensurate value of the shares.

Valuation of shares is a further concern. A matrimonial court distributing shares must confront the question of what those shares are worth. In a listed company, the market price provides a reference point. In a private company, shares have no readily ascertainable market value.

The court would require expert evidence: typically, an independent valuation using one or more of the income, asset, or market comparable approaches. Disputes about valuation methods in matrimonial proceed-

[20] [1971] 3 All E.R. 782, C.A.
[21] Act 992, s 98(2).

ings involving private company shares are common and expensive. Courts in Ghana have not yet developed a settled methodology for private company share valuation in divorce contexts, leaving this to expert evidence on a case-by-case basis.

THE CORPORATE VEIL IN A DIVORCE SUIT: A JURISDICTIONAL LIMIT

In the case of **Mrs. Joana Quaye v. Richard Nii Armah Quaye**, the Petitioner asserted that she was a co-founder, shareholder, and director of Quick Credit Microfinance Company Limited, and that her contributions formed the foundation of the Respondent's financial standing. Justice Dorgu acknowledged the assertion but held that a divorce suit is not the appropriate forum for determining a party's interest in a corporate entity. The court stated directly:

"I advise that she take out an action against the Company and the Respondent for a determination of her due. This is so because in such an action, the corporate veil could be pierced, and the assets traced if need be. But surely, such orders cannot be made in a divorce suit."

This reasoning is doctrinally defensible. Quick Credit Microfinance Company Limited is a separate legal entity, distinct from the Respondent in law. The principle of separate corporate personality, affirmed since **Salomon v. Salomon and Co. Ltd** and entrenched under Act 992, means that the company's assets are not the Respondent's personal assets but rather the shares owned by the Respondent. A matrimonial court distributing personal matrimonial property cannot, without more, reach into a legally distinct corporate structure and assign its assets or shares to the other spouse, especially when both spouses hold shares in the Company.

Justice Dorgu's ruling is also consistent with the constitutional framework. The Constitution[22] guarantees every person the right to own property either alone or in association with others. A company's shareholders hold a property interest in their shares. Redistributing those shares, or reaching past them to the underlying assets, without the full procedural protections of a standalone commercial action raises serious constitutional questions.

The divorce court operates under Act 367. The court's direction to pursue separate commercial proceedings is more than a procedural pointer. It identifies the full range of remedies available to the Petitioner in the appropriate forum. Corporate veil piercing is an exceptional doctrine applied where the corporate form is used as a facade to perpetuate fraud, evade legal obligations, or conceal assets.

Ghanaian courts have recognized this doctrine in appropriate circumstances, including where a spouse deliberately structures assets through companies to defeat a matrimonial claim, as the Supreme Court confirmed in Akoto.

[22]Constitution of Ghana, 1992, art 18(1).

WHAT THE SEPARATE ACTION MUST ESTABLISH

For the corporate veil piercing to succeed in a standalone action, the Petitioner in **Quaye** would need to establish one or more of the following grounds.

First, that Quick Credit Microfinance Company Limited operates as a sham or alter ego of the Respondent, with no genuine independent corporate character. The test is whether the company has a genuine separate existence: its own management decisions, its own financial records, its own operational independence. This will be a herculean task particularly when the wife has already confirmed her involvement as a shareholder and a director.

However, if it is proved that the company run entirely as an extension of one person's personal will, with no meaningful distinction between company funds and personal funds, it will be susceptible veil piercing. The court would examine board minutes, financial records, the conduct of accounts, and whether the corporate formalities were observed.

Second, that assets were transferred into the company specifically to defeat a matrimonial or other legal claim. This is the ground the Supreme Court applied in the Akoto case. The timing and intent of the transfer are central. A transfer made before any matrimonial difficulty arose stands on a different ground from a transfer made after the relationship broke down or litigation became foreseeable. Evidence of timing, of the consideration paid, and of the Respondent's stated or inferred purpose would all be relevant.

Third, the Respondent exercises complete dominion over the company to the point where the corporate structure functions as a personal wealth instrument. This overlaps with the alter ego ground but extends to situations where technical corporate formalities may have been observed, while the practical reality is that the Respondent controls all decisions and benefits exclusively from all profits.

In the separate action, the Petitioner would also be entitled to discovery of the company's books and accounts under the Civil Procedure Rules[23], which allows a court to order inspection of company documents in appropriate circumstances. These are tools that simply do not exist within the divorce petition.

On the question of the Petitioner's own shareholding, if she is a registered shareholder and director as she asserts, she has direct rights under Act 992 independent of any matrimonial claim. The Companies Act[24] empower a shareholder who believes that the affairs of the company are being conducted in a manner unfairly prejudicial to the interests of members to apply to court for relief.

The court has broad powers to remedy unfair prejudice, including ordering the purchase of the Petitioner's shares at fair value, regulating the conduct

[23]High Court (Civil Procedure) Rules, 2004 (C.I. 47), Order 21.
[24]Act 992, ss 218 and 219.

of the company's affairs going forward, or ordering that certain act be done or not done. This is a powerful and underused remedy in situations where one spouse uses corporate control to exclude the other from the benefits of a jointly built business.

Where the relationship between shareholders has broken down irretrievably, particularly in a quasi-partnership company of the kind common in matrimonial disputes, the court, if satisfied, may order that the respondent buy out the petitioner's shares after due valuation[25]. Such an order may only be made at the commercial court after careful consideration. A company built by two spouses together, then used by one to exclude the other, is a strong candidate for this relief.

THE DISTRIBUTIONAL DIFFERENCE

The two cases, Dr. Owusu Afriyie Akoto v. Adwoa Abrefi Akoto and Mrs. Joana Quaye v. Richard Nii Armah Quaye turn on one question: what counts as distributable property?

In the Akoto case, the court looked at conduct, contribution, and equity. It traced assets through corporate structures and across borders. The wife received a share of properties she held no formal legal title to because the husband's fraud justified the exceptional remedy.

In the Quaye case, the court drew a hard line at matrimonial property and respected individual ownership. It declined to pierce the corporate veil within the divorce suit and rejected a financial claim unsupported by evidence.

At first glance, the decisions in Dr. Owusu Afriyie Akoto v. Adwoa Abrefi Akoto and Mrs. Joana Quaye v. Richard Nii Armah Quaye may appear to reflect an inconsistency in judicial approach, particularly as one court assumed an expansive jurisdiction while the other declined to do so. Properly understood, however, the distinction is not one of contradiction but of context and evidential foundation. In Akoto, the court was confronted with clear evidence that corporate structures had been deployed to defeat the wife's equitable interest in matrimonial assets.

The exercise of jurisdiction extending even to foreign immovable property and company-held assets was therefore grounded in the court's equitable mandate to prevent injustice.

By contrast, in Quaye, the Petitioner's reliance on her status as co-founder, shareholder, and contributor to the Respondent's financial standing was not accompanied by any allegation or proof that the corporate form had been used as a sham, facade, or instrument of evasion.

The claim, in substance, was directed at enhancing the financial settlement rather than exposing misuse of the corporate structure. In those circumstances, the court was justified in insisting that questions of corporate ownership and entitlement be pursued through a properly constitut-

[25]Billy v. Kuwor & Another [1991] 1 GLR 522-532.

ed commercial action.

The difference, therefore, is not that one court assumed jurisdiction and the other did not, but that jurisdiction in matrimonial proceedings involving corporate entities is responsive to the nature of the claim and the evidence adduced: expansive where inequitable conduct is established and restrained where it is not.

Neither outcome is inconsistent with the other. The Akoto case applied equitable jurisdiction where fraud was proven. Quaye applied constitutional property principles where the wife's claims were not sufficiently established within the divorce proceedings. Read together, the cases establish a workable framework: Ghanaian courts will distribute broadly where inequitable conduct is proven and will apply strict matrimonial property analysis where it is not.

A spouse seeking a share of assets not jointly acquired, assets held in companies, or assets situated abroad must bring more than a claim. They must bring proof. Where company assets are in issue, they must also bring the right proceedings. The divorce court has limits. The commercial court, armed with the full toolkit of Act 992 and equitable tracing, does not.

They may look like two rivers that meet but their waters never mix.

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