

**CASE BY THE BEIGE BANK LIMITED (IN RECEIVERSHIP) AGAINST SHAREHOLDERS AND DIRECTORS OF THE ERSTWHILE BEIGE BANK**

**THE BEIGE BANK LIMITED (IN RECEIVERSHIP)**

**1. Nii Amanor Dodoo (suing as receiver of Beige Bank Ltd) Vs Michael Nyinaku & 12 ORS**

The Receiver commenced a civil suit on 14 June 2019 against the former Chief Executive Officer, shareholder and affiliate companies of the defunct Beige Bank for the repayment of GH¢1.42 billion due to the Bank. The suit sought an order from the court for the interim preservation of assets acquired by the defendants through the unlawful use of Beige Bank's funds, return and/or transfer of all the assets listed in the documents attached to the suit to the Receiver and the repayment of amounts owed by the defendants. The 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 11<sup>th</sup> Defendants in the matter filed an application to strike out the writ on the basis that the Receiver did not have capacity to bring the action in his own name. On 30 July 2019, the court granted the application to strike out the action, holding that the Receiver did not institute the action properly by bringing it in his name.

**2. The Beige Bank Ltd (In Receivership, under the Receivership of Nii Amanor Dodoo) Vs Michael Nyinaku & 12 ORS**

The Beige Bank (in Receivership, under the Receivership of Nii Amanor Dodoo) refiled the Writ of Summons, Statement of Claim and application for an interim preservation order on 31 July 2019. The following, who were the same as in the earlier suit, were named as Defendants in this new suit;

1. Michael Nyinaku
2. Legacy Pensions Trust Limited
3. Blue Limited
4. Pillpoint Pharmacy Limited
5. Walnut Limited
6. Beige Assur Limited
7. Access Control Security Services Limited
8. Beige Village Limited
9. The Beige Group Limited
10. BBS Logistics Limited
11. BBS Trucks Limited
12. Babel Company Limited
13. Beige Capital Asset Management Limited (BCAM)

The 1st Defendant filed an application on 29 August 2019 to dismiss the suit against him, alleging that the Plaintiff had failed to comply with a statutory pre-condition before instituting the action. On 10 February 2020, the High Court dismissed the 1st Defendant's application. The 1st Defendant filed another application, on 3 March 2020, to dismiss the Plaintiff's suit against him on the grounds that the Plaintiff failed to comply with a 'notice of inspection of documents served on the Plaintiff. On 17 September 2020, the High Court dismissed the 1st Defendant's application. The application for the interim preservation of assets filed by lawyers of Beige Bank on behalf of the Receiver was dismissed by the court on 21 April 2021. Lawyers for The Beige Bank appealed this decision on 11 May 2021. The Appeal is yet to be heard and determined.

A pretrial settlement conference commenced in February 2022. As part of settlement efforts, the

Defendants requested a reconciliation of their indebtedness to Beige Bank to resolve any differences between what the Defendants allege to be their true debt and the amounts being claimed by Plaintiff.

The judge on 4 February 2022 granted the Defendants' request for a reconciliation of their indebtedness. The court agreed for each party to appoint its own independent expert and for both experts to issue a joint report on completion of the reconciliation exercise. The terms of reference as determined by the court for the reconciliation exercise were as follows:

- Review the information provided by the Defendants for their substance and relevance in arriving at the final accounts of the bank at the time of assumption of the bank by the Receiver.
- Confirm whether the information and accounting items provided by the Defendants have been accounted for by the Receiver in ascertaining the state of affairs and accounts of the bank, which accounts, and state of affairs serve as the basis of Plaintiff's claim.
- Review bank statements and general ledger accounts to determine if the 8th Defendant was indebted to Plaintiff at the time of assumption.

The experts shared a copy of the reconciliation report with the court on 21 December 2022. The defendants' lawyers, however, disagreed with the report based on the instructions of the 1st Defendant. The parties agreed that the matter should proceed to trial. The judge directed the parties to file their proposed issues for trial by 12 January 2023 and adjourned the matter to 17 February 2023 and subsequently 19 April 2023 for any further directions that the court may deem necessary.