

Appeals by Non-Parties in Ghana: Reconciling Procedural Orthodoxy with Substantive Justice.

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Abstract

*This article examines the emerging jurisprudence on appeals by non-parties within Ghanaian appellate procedure and the evolving tension between procedural orthodoxy and substantive justice. Traditionally, Ghanaian appellate law has been governed by the doctrine that appeals are creatures of statute, thereby restricting appellate right primarily to parties formally joined in proceedings. However, recent judicial developments reveal an increasing willingness by the courts to extend appellate remedies to non-parties whose legal rights or substantial interests are prejudicially affected by judicial decisions. Using a doctrinal and comparative legal methodology, the article analyses the constitutional and statutory framework governing appellate jurisdiction in Ghana, with particular emphasis on the Supreme Court's landmark decision in *Stanley Kotei Hammond v G K Agleze & Others*. The article further evaluates the influence of English common law authorities, including *In re Securities Insurance Company*, on Ghanaian jurisprudence. It argues that while procedural certainty and finality of litigation remain important objectives, rigid procedural formalism should not defeat constitutional values of fairness, access to justice, and effective judicial protection of rights. The study concludes that Ghanaian appellate jurisprudence is progressively constitutionalising substantive justice by recognising limited appellate standing for non-parties adversely affected by judicial decisions.*

Keywords: Non-party appeals; Appellate jurisdiction; Substantive justice; Procedural orthodoxy; Appellate standing; Constitutional justice; Ghanaian appellate law; Access to justice

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1.0 Introduction

The right of appeal occupies a central place in the administration of justice and the preservation of the rule of law within constitutional democracies. In Ghana, the appellate process serves not merely as a procedural mechanism for correcting errors of law and fact, but also as a constitutional safeguard against arbitrariness and judicial injustice. Yet, notwithstanding the constitutional and statutory importance of appeals, one persistent and relatively underexplored question in Ghanaian jurisprudence concerns the right of non-parties, or strangers to proceedings, to invoke the appellate jurisdiction of the courts where their legal, proprietary, or possessory interests are adversely affected by judicial decisions.

Traditionally, appellate procedure in Ghana has been anchored upon the orthodox principle that appeals are creatures of statute and may only be exercised by persons expressly authorised by constitutional or statutory provisions. Ghanaian courts have consistently affirmed this position. In *Bosompem v Tetteh*, the Court emphatically held that 'no right of appeal exists save as conferred by statute'¹. Similarly, in *re Amponsah*, the Court maintained that appellate courts possess no inherent jurisdiction to entertain appeals except where such jurisdiction has been conferred by law.² Likewise, in *Frimpong v Poku*, the court reiterated that where statutory conditions precedent regulate the exercise of appellate rights, strict compliance with those conditions is indispensable to the vesting of the right of appeal.³ This procedural orthodoxy reflects broader judicial concerns for certainty, procedural discipline, and the finality of litigation.

Closely related to this doctrine is the distinction between appeals brought 'as of right' and those requiring leave or special leave of the court. While appeals as of right are constitutionally or statutorily guaranteed, special leave constitutes a discretionary judicial privilege granted in exceptional circumstances to prevent injustice. In

¹ *Bosompem v Tetteh* [2011] 1 SCGLR 397, 146.

² *Re Amponsah and Another* [1960] GLR 140.

³ *Frimpong v Poku* [1963] 2 GLR 1.

Joseph Kotey v Peter Kofi Koteley, Bamford-Addo JSC explained that special leave is ‘very special indeed’ and exists to prevent failures of justice where litigants possess meritorious appeals.¹ The Supreme Court reaffirmed this position in *Francis Xavier Sosu v General Legal Council*, holding that the principal considerations in granting special leave are whether refusal would occasion injustice and whether the proposed grounds of appeal disclose a potential failure of justice.² Thus, although appellate jurisdiction is statutorily and procedurally regulated, Ghanaian appellate jurisprudence increasingly recognises substantive justice as its underlying objective.

The rigidity of the traditional statutory approach, however, has increasingly encountered challenges where judicial decisions substantially affect persons who were not formally joined as parties to proceedings. Such situations frequently arise in land disputes, representative actions, probate matters, execution proceedings, and corporate litigation. In many instances, non-parties may find themselves directly bound by judgments or prejudicially and injuriously affected by orders issued without their participation in the proceedings. The critical question therefore arises whether procedural orthodoxy should prevail over substantive justice where the rights and interests of non-parties are materially prejudiced by judicial determinations.

Recent decisions of the Supreme Court of Ghana suggest an emerging judicial willingness to reconcile procedural rules governing appeals with broader constitutional notions of fairness and access to justice. In *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, the Supreme Court adopted an expansive interpretation of the concept of a ‘person aggrieved’, holding that it includes not only parties to proceedings but also persons whose legal rights or substantial interests are adversely affected by an impugned order.³ Similarly, in *John Kwadwo Bobie v 21st Century Construction Co Ltd*, the Supreme Court affirmed that a non-party adversely affected by a judgment may seek leave of the appellate court to appeal against that decision.⁴ In a recent unanimous decision of the Court of Appeal, Kumasi, in the case of *Ghana Traditional Caterers Association & Kumasi Metropolitan Assembly (KMA) v Interested Parties in Actual Possession Applicants*⁵, the Court granted leave to applicants, who were not parties to the original proceedings, to appeal against the ruling of the trial High Court. The appellate court intervened after the trial High Court judge repeatedly failed, over an extended period, to determine the applicants’ pending application for leave to appeal against the impugned ruling, notwithstanding the applicants’ direct and substantial interest in the subject matter of the dispute. These decisions reflect a gradual shift from rigid procedural formalism toward a more substantive conception of appellate justice.

The jurisprudential turning point on this subject emerged in *Stanley Kotei Hammond v G K Agbleze & Others*, where the Supreme Court undertook a comprehensive examination of the right of non-parties to appeal against judgments prejudicially affecting them.⁶ Rejecting the restrictive position previously adopted by the Court of Appeal, the Supreme Court unequivocally held that a non-party who is bound by, aggrieved by, or prejudicially affected by a decision may, with leave of the appellate court, appeal against that decision. The Court grounded its reasoning not only in articles 131 and 137 of the 1992 Constitution, but also in the common law traditions incorporated into Ghanaian law under article 11(2) of the Constitution.⁷ In reaching this conclusion, the Supreme Court relied extensively on English common law authorities recognising the right of non-parties to appeal with leave of the court. In *In re Securities Insurance Company*, Lindley LJ stated that a non-party who is bound by or prejudicially affected by an order may appeal with leave of the court.⁸ Likewise, in *M A Holdings Ltd v George Wimpey UK Ltd*, the English Court of Appeal held that appellate jurisdiction extends to non-parties whose interests are directly affected by judicial decisions.⁹ These authorities, now expressly adopted within Ghanaian jurisprudence, underscore the continuing relevance of common law principles in shaping Ghana’s appellate procedure.

¹ *Joseph Kotey v Peter Kofi Koteley* [2000] SCGLR 417, 422–423.

² *Francis Xavier Sosu v General Legal Council Civil Motion No. J8/42/2018 and J8/43/2018 (SC, 14 February 2018)*.

³ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)* [2003–2004] SCGLR 864, 878.

⁴ *John Kwadwo Bobie v 21st Century Construction Co Ltd Civil Appeal No J4/5/2014 (SC, 9 March 2016)*.

⁵ *Ghana Traditional Caterers Association & Kumasi Metropolitan Assembly (KMA) v Interested Parties in Actual Possession Applicants Civil Motion No.H3/172/2026 (CA, 30 April 2026)*.

⁶ *Stanley Kotei Hammond v G K Agbleze & Others Civil Appeal No J4/13/2021 (SC, 8 December 2021)*

⁷ Constitution of the Republic of Ghana 1992, arts 11(2), 131 and 137

⁸ *In re Securities Insurance Company* [1894] 2 Ch D 410.

⁹ *M A Holdings Ltd v George Wimpey UK Ltd* [2008] EWCA Civ 12, [2008] 1 WLR 1649.

Notwithstanding these important developments, substantial uncertainty still surrounds the precise procedural framework governing non-party appeals in Ghana. Questions remain concerning the jurisdiction of the Court of Appeal and the Supreme Court to grant leave where the High Court refuses or delays determination of applications for leave to appeal. Additional uncertainties persist regarding applicable timelines, threshold requirements, and the interaction between constitutional appellate rights and procedural rules such as the Court of Appeal Rules, 1997 (CI 19). Although rule 7 of CI 19 empowers the Court of Appeal to adopt procedures required by the justice of the case where no express provision exists,¹ the absence of comprehensive procedural rules regulating non-party appeals continues to create doctrinal and practical difficulties. This article therefore examines the emerging jurisprudence on appeals by non-parties in Ghana and interrogates the tension between procedural orthodoxy and substantive justice within Ghanaian appellate law. It argues that while the doctrine that appeals are creatures of statute remains foundational, Ghanaian courts have increasingly recognised that rigid procedural formalism cannot be permitted to defeat substantive justice where judicial decisions substantially affect the rights of persons who were not parties to the proceedings. Particular attention is devoted to *Stanley Kotei Hammond v G K Agbleze & Others*² and its implications for appellate standing, procedural fairness, and access to justice within Ghana's evolving constitutional order.

In order to address these issues, this article is organised into several interrelated parts. Following the introduction and methodology, the article first examines the conceptual foundations of appeals within Ghanaian jurisprudence, including the doctrine that appeals are creatures of statute and the distinction between appeals as of right and appeals by leave. It then analyses the constitutional and statutory framework governing appellate jurisdiction in Ghana before examining the traditional rule restricting appellate standing to parties formally joined in proceedings. The article further explores the emergence of non-party appeals within Ghanaian jurisprudence, with particular emphasis on the Supreme Court's decision in *Stanley Kotei Hammond v G K Agbleze & Others*³ and its doctrinal implications. A comparative analysis of relevant English common law authorities is subsequently undertaken to situate Ghana's evolving jurisprudence within the broader common law tradition. The article concludes by evaluating the extent to which Ghanaian appellate jurisprudence has succeeded in reconciling procedural orthodoxy with substantive justice in relation to appeals by non-parties.

2.0 Research Methodology

This article adopts a doctrinal and comparative legal research methodology in examining the evolving jurisprudence on appeals by non-parties within Ghanaian appellate procedure. The doctrinal approach is employed because the subject under consideration principally concerns the interpretation, application, and development of legal principles governing appellate standing, constitutional jurisdiction, and procedural justice within Ghanaian law. Doctrinal legal research, sometimes described as "black-letter" legal research, involves the systematic exposition, analysis, and synthesis of legal rules derived from primary and secondary legal sources.⁴ The methodology is particularly appropriate for analysing the constitutional and statutory framework regulating appeals in Ghana, as well as the judicial reasoning underlying the emerging recognition of non-party appeals.

The study relies primarily on qualitative analysis of both primary and secondary legal materials. The primary sources include the 1992 Constitution of the Republic of Ghana, the Courts Act, 1993 (Act 459), the Court of Appeal Rules, 1997 (CI 19), the Supreme Court Rules, 1996 (CI 16), and the High Court (Civil Procedure) Rules, 2004 (CI 47). Judicial authorities from the Supreme Court and Court of Appeal of Ghana constitute a central component of the analysis, with particular emphasis on decisions such as *Stanley Kotei Hammond v G K Agbleze & Others*⁵, *Republic v High Court, Ho; Ex parte Awusu (No.1)*⁶, and *John Kwadwo Bobie v 21st Century Construction Co Ltd*⁷. These authorities are critically examined to ascertain the extent to which Ghanaian courts have reconciled procedural orthodoxy with substantive justice in determining appellate standing for non-parties.

In addition, the article adopts a limited comparative methodology through an examination of relevant

¹ Court of Appeal Rules (Ghana), 1997 (CI 19), r 7.

² *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

³ *ibid.*

⁴ Terry Hutchinson, *Researching and Writing in Law* (4th edn, Lawbook Co 2018) 9–11.

⁵ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9

⁶ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

⁷ *John Kwadwo Bobie v 21st Century Construction Co Ltd*, *supra* note 7.

English common law authorities, particularly *In re Securities Insurance Company*¹ and *M A Holdings Ltd v George Wimpey UK Ltd*², which significantly influenced the reasoning of the Ghanaian Supreme Court in Stanley Kotei Hammond. Comparative analysis is justified because article 11(2) of the 1992 Constitution incorporates the common law into the laws of Ghana, thereby rendering English common law authorities jurisprudentially persuasive within Ghanaian appellate adjudication.³ The comparative approach further enables an evaluation of whether Ghanaian appellate jurisprudence aligns with broader common law developments concerning procedural fairness and access to justice.

Secondary materials consulted include scholarly books, peer-reviewed journal articles, academic commentaries, and writings on appellate procedure, constitutional adjudication, and procedural justice. Works by scholars such as Lon Fuller, Mauro Cappelletti, Bryant Garth, and Sir Jack Jacob are utilised to provide theoretical perspectives on the relationship between procedural rules and substantive justice.^{4,5,6} The methodology therefore combines doctrinal exposition with critical analytical evaluation in order to assess whether the emerging jurisprudence on non-party appeals sufficiently protects constitutional values of fairness, access to justice, and effective judicial protection of rights within Ghana's evolving constitutional order.

Notwithstanding its suitability, the methodology is subject to certain limitations. First, the research is primarily doctrinal and therefore depends heavily on judicial decisions, statutes, and academic literature rather than empirical data derived from interviews, surveys, or field observations involving judges, litigants, or practitioners. Consequently, the study does not empirically evaluate the practical operation or socio-legal impact of non-party appeals within Ghana's judicial system. Secondly, because the jurisprudence on non-party appeals in Ghana remains relatively recent and underdeveloped, there exists a limited body of Ghanaian academic literature directly addressing the subject. The study therefore necessarily relies, in part, on comparative common law authorities and broader theoretical writings on appellate justice and procedural fairness. Nonetheless, these limitations do not undermine the analytical value of the study, as the doctrinal methodology remains appropriate for examining the constitutional and jurisprudential foundations of appellate standing within Ghanaian law.

3.0 Conceptual Foundations of Appeals in Ghana

The law of appeals constitutes one of the most significant pillars of modern judicial administration. Appellate systems exist primarily to ensure the correction of judicial error, promote consistency in legal interpretation, strengthen public confidence in the administration of justice, and safeguard litigants against miscarriages of justice. In constitutional democracies governed by the rule of law, the right of appeal performs an indispensable role in maintaining the legitimacy and integrity of the judicial process. In Ghana, the appellate jurisdiction of the superior courts forms part of the broader constitutional framework intended to secure fairness, accountability, and judicial oversight within the administration of justice. Notwithstanding its importance, the right of appeal has never been regarded at common law as an inherent or natural right. Rather, appellate jurisdiction has historically been viewed as a statutory or constitutional creation exercisable only within the limits prescribed by law. This traditional orthodoxy has significantly influenced Ghanaian appellate jurisprudence, particularly in relation to questions concerning standing to appeal, procedural competence, timelines, leave requirements, and the jurisdictional authority of appellate courts. Yet, recent developments within Ghanaian jurisprudence especially concerning appeals by non-parties have demonstrated an increasing judicial willingness to balance procedural orthodoxy against the demands of substantive justice.

This chapter examines the conceptual and jurisprudential foundations of appeals in Ghana. It analyses the nature and purpose of appellate jurisdiction, the doctrinal principle that appeals are creatures of statute, the distinction between appeals as of right and appeals by leave, and the underlying constitutional values informing modern appellate adjudication. The chapter further explores how these foundational principles shape the evolving jurisprudence on appeals by non-parties.

3.1 The Concept and Nature of Appeals

An appeal may broadly be defined as a legal process through which a party dissatisfied with a decision of a

¹ *In re Securities Insurance Company*, *supra* note 11.

² *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

³ Constitution of the Republic of Ghana 1992, art 11(2).

⁴ Lon L Fuller, *The Morality of Law* (Yale University Press 1969) 81.

⁵ Mauro Cappelletti and Bryant Garth, *Access to Justice* (Sijthoff and Noordhoff 1978) 8-10;

⁶ Sir Jack Jacob, 'The Inherent Jurisdiction of the Court' (1970) 23 *Current Legal Problems* 23, 40.

lower court or tribunal invokes the jurisdiction of a higher court to review, vary, reverse, re-hear or affirm the impugned decision. The process ordinarily involves the examination of alleged errors of law, fact, procedure, or judicial discretion committed by the court below. In Ghana, the concept of appeal has been judicially and academically understood as a continuation of the adjudicatory process rather than the commencement of entirely new proceedings. An appeal in this study is conceptualised as a judicial process filed by an aggrieved or dissatisfied person in an appellate court inviting the court to set aside or vary a decision of a lower court on the grounds that the decision was given in error of law or fact.

The Supreme Court of Ghana has reaffirmed in plethora of cases like *Tuakwa v Bosom*¹ and *Oppong v Anarfi*² that an appeal is by way of rehearing, especially where the ground of appeal alleges that the judgment is against the weight of evidence. In such circumstances, the appellate court is obliged to review and analyse the entire record of appeal to satisfy itself that the trial court's conclusions are supported by the evidence. The appellate process therefore serves corrective, supervisory, and institutional legitimacy or law-development functions within the judicial system.

The corrective function of appeals seeks to minimise judicial error by providing dissatisfied litigants with an opportunity to challenge erroneous decisions. This function is particularly important because trial courts, notwithstanding their expertise, remain susceptible to mistakes in the evaluation of evidence, interpretation of legal principles, procedural rulings, and the exercise of judicial discretion. Secondly, appeals serve a supervisory function by ensuring consistency, coherence, and uniformity in the interpretation and application of legal rules. Appellate courts, especially supreme and constitutional courts, play a crucial role in clarifying legal doctrines and harmonising conflicting judicial authorities. In Ghana, the Supreme Court performs this role pursuant to article 129(3) of the 1992 Constitution, which renders its decisions binding on all lower courts.³ Thirdly, appeals perform an institutional legitimacy function by promoting public confidence in the administration of justice. The availability of appellate review reassures litigants and the public that judicial decisions are subject to scrutiny and correction where necessary. As observed by Sir William Blackstone, 'it is better that a cause should be heard twice than that injustice should be done once'.⁴ Although this statement reflects classical common law philosophy, it remains highly relevant within contemporary constitutional adjudication.

3.2 Appeals as Creatures of Statute

One of the most entrenched doctrines within appellate jurisprudence is the principle that an appeal is a creature of statute. This doctrine signifies that no person possesses an automatic or inherent right to appeal unless such right is expressly conferred by the Constitution or statute. Ghanaian courts have consistently affirmed this principle. In *Bosompem v Tetteh*, the Court stated emphatically that 'no right of appeal exists save as conferred by statute'.⁵ Similarly, in *In re Amponsah*, the Court held that appellate courts possess no inherent jurisdiction to entertain appeals except where such jurisdiction is expressly conferred by law.⁶ The same position was reiterated in *Frimpong v Poku*, where the court observed that where statutory conditions precedent regulate the exercise of appellate rights, strict compliance with those conditions is indispensable to the vesting of the right of appeal.⁷

The rationale underlying the doctrine that appeals are creatures of statute is grounded in considerations of procedural certainty, judicial economy, and finality of litigation. If unrestricted rights of appeal were permitted, litigation could become interminable, thereby undermining legal certainty and efficient judicial administration. The doctrine is also reflected within Ghana's constitutional and statutory framework governing appellate jurisdiction. Articles 131 and 137 of the 1992 Constitution confer appellate jurisdiction on the Supreme Court and Court of Appeal respectively.⁸ Similarly, the Courts Act, 1993 (Act 459), the Supreme Court Rules, 1996 (CI 16), the Court of Appeal Rules, 1997 (CI 19), and Order 51 of the High Court (Civil Procedure) Rules, 2004 (CI 47) regulate the exercise of appellate rights in civil proceedings.

¹ *Tuakwa v Bosom* (2001-2002) SCGLR 61@65

² *Oppong v Anarfi* [2011] 2 SCGLR 556

³ Constitution of the Republic of Ghana 1992, art 129(3).

⁴ William Blackstone, Commentaries on the Laws of England (Clarendon Press 1768) vol 3, 407.

⁵ *Bosompem v Tetteh*, supra note 1.

⁶ *In re Amponsah*, supra note 2.

⁷ *Frimpong v Poku*, supra note 3.

⁸ Constitution of the Republic of Ghana 1992, arts 131 and 137.

The practical implications of this doctrine are significant because questions relating to timelines for filing appeals, leave requirements, interlocutory appeals, notices of appeal, and procedural competence are generally treated as jurisdictional matters. Consequently, failure to comply with prescribed statutory requirements may render an appeal incompetent irrespective of its substantive merits. In *Tindana (No 2) v Chief of Defence Staff and Attorney-General*, the Supreme Court held that whether an appeal has been filed within the prescribed statutory period is a jurisdictional issue.¹ Consequently, the Court held that as the notice of appeal was lodged outside the statutory period the court had no jurisdiction to entertain the appeal and the appeal was accordingly dismissed for want of jurisdiction. Likewise, in *Doku v Presbyterian Church of Ghana*, the Supreme Court stressed that time limits governing appeals exist to secure procedural integrity and finality in litigation.² Nonetheless, while the doctrine that appeals are creatures of statute remains foundational, modern jurisprudence increasingly recognises that procedural rules governing appeals must not be applied in a manner that occasions injustice or defeats constitutional fairness.

3.3 Appeals as of Right and Appeals by Leave

An important conceptual distinction within appellate jurisprudence is the difference between appeals brought as of right and appeals requiring leave or special leave of the court. An appeal as of right is one guaranteed by constitutional or statutory provisions without the necessity for prior judicial approval. Once the case falls within the prescribed category, the litigant becomes entitled to invoke appellate jurisdiction automatically. Under article 131(1)(a) of the 1992 Constitution, appeals from judgments of the Court of Appeal in civil and criminal matters originating from the High Court generally lie to the Supreme Court as of right.

Likewise, appeals from final decisions of the High Court ordinarily lie to the Court of Appeal without leave. By contrast, appeals requiring leave are contingent upon the grant of discretionary judicial permission, which is only afforded upon the applicant satisfying prescribed legal requirements. Such appeals commonly include interlocutory appeals from the Circuit Court to the Court of Appeal, interlocutory appeals from the Court of Appeal to the Supreme Court, repeat applications, and appeals initiated by non-parties. In *Joseph Kotey v Peter Kofi Kolety*, Bamford-Addo JSC explained that special leave is ‘very special indeed’ and exists to prevent failures of justice where litigants possess meritorious appeals.³

The Court identified two principal considerations in granting special leave. These are whether refusal of leave would deny justice to the applicant and whether the proposed grounds of appeal demonstrate that a failure of justice would occur if leave is refused. These principles were reaffirmed by the Supreme Court in *Francis Xavier Sosu v General Legal Council*, where the Court again emphasised that applications for special leave are fundamentally guided by considerations of justice and the prevention of miscarriage of justice.⁴ The distinction between appeals as of right and appeals by leave is particularly significant in the context of non-party appeals. Since non-parties are not ordinarily recognised as litigants within the original proceedings, courts require leave applications to function as procedural safeguards against frivolous, vexatious, or meddlesome appeals.

3.4 Appeals against Final and Interlocutory Decisions in Ghana.

Another foundational distinction within appellate jurisprudence concerns the difference between final and interlocutory decisions. A final decision is one which conclusively determines the substantive rights of the parties in the litigation. An interlocutory decision, by contrast, concerns procedural or intermediate matters that do not finally dispose of the substantive dispute. In *Pomaa & Others v Fosuhene*, the Court held that the determining factor of whether a decision is final or interlocutory is not the nature of the application itself but whether the order finally disposes of the rights of the parties.⁵ The Court held that the determination of whether a decision or order is final or interlocutory depends fundamentally on the nature and legal effect of the decision itself. In this regard, the decisive consideration is whether the order conclusively determines the rights of the parties or finally resolves the substantive matter in controversy between them.

An interlocutory decision, unlike a final decision, does not purport to definitively determine the parties’

¹ *Tindana (No 2) v Chief of Defence Staff and Attorney-General* [2011] SCGLR 73

² *Doku v Presbyterian Church of Ghana* [2005-2006]. SCGLR 700.

³ *Joseph Kotey v Peter Kofi Kolety* [2000] SCGLR 417, 422–423.

⁴ *Francis Xavier Sosu v General Legal Council Civil Motion Nos J8/42/2018 and J8/43/2018 (SC, 14 February 2018)*.

⁵ *Pomaa and Others v Fosuhene* [1987] 1. SCGLR 244-265.

rights; rather, it constitutes a procedural or provisional order intended to preserve the status quo pending the final adjudication of the substantive issues before the court. Accordingly, the proper test is not grounded in the nature of the application brought before the court, but rather in the character and effect of the order ultimately made.

This distinction is important because the procedural requirements governing appeals differ substantially depending on whether the decision is final or interlocutory with stricter timelines. Under the Court Act¹ the Court of Appeal Rules² and the High Court Rules³, interlocutory appeals often require leave and are subject to stricter timelines which are generally incapable of extension.

3.4.1 Appeals from District Court to High Court

Pursuant to section 21 of the Courts Act, 1993 (Act 459), appellate jurisdiction over both criminal and civil matters originating from the Circuit Court and District Court is vested in the High Court. In relation to civil proceedings specifically, the procedural framework governing appeals from the District Court to the High Court is regulated by Order 51 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47), which prescribes the requisite procedural steps and conditions for the institution and prosecution of such appeals.⁴ Section 21(1) of the Courts Act provides that the prosecution or any person convicted in a criminal proceeding before a Circuit Court, District Court, or Juvenile Court may appeal against the judgment to the High Court.⁵

Similarly, section 21(2) confers a right of appeal in civil proceedings by stipulating that any person aggrieved by a judgment of a District Court in a civil matter may appeal against that judgment to the High Court.⁶ These provisions collectively affirm the supervisory and appellate role of the High Court in ensuring judicial scrutiny of decisions rendered by subordinate courts.

An appeal against the final decision of the District Court lies as of right and the time limited for appeals against a final decision is three (3) months from the date the judgement was delivered. This time can be extended by the District Court or the High Court upon an application brought not more than one more after the expiration of the original time allowed for the appeal (3 months). With appeals against interlocutory decisions of the District Court, the intending appellant must first seek leave of the District Court within 14 days from the date of the decision. If the leave is refused by the District Court, it must be repeated in the High Court within 14 days from the date of the refusal and the Notice of Appeal shall be filed within 14 days after the leave either by the District Court or the High Court.

3.4.2 Appeals from Circuit Court

Appeals in civil matters from the Circuit Court lie as of right to the Court of Appeal pursuant to section 11(4) of the Courts Act, 1993 (Act 459)⁷ and are procedurally governed by rule 9 of the Court of Appeal Rules, 1997 (C.I. 19), as amended. In respect of final decisions, an appeal must ordinarily be filed within three months from the date of the judgment, although the Circuit Court or the Court of Appeal may, upon application, extend the prescribed period. However, no application for extension of time may be entertained after the expiration of three months from the expiry of the original period prescribed for appeal.

Furthermore, where an application for extension of time has been made to the lower court and the court, after a period of not less than one month, fails or refuses to determine the application, the applicant may apply to the Court of Appeal for determination of the application, subject to the applicable procedural rules. In relation to interlocutory decisions, an intending appellant is first required to obtain leave from the Circuit Court within twenty-one days from the date of the order.⁸ Where leave is refused, the applicant may renew the application before the Court of Appeal within twenty-one days from the date of the refusal. Upon the grant of leave by either the Circuit Court or the Court of Appeal, the appellant must file the notice of appeal within twenty-one days at the registry of the Circuit Court. Significantly, the rules prohibit any extension of time for the filing of

¹ Court Act (Act 459), 1993.

² Court of Appeal Rules, (CI 19), 1997.

³ High Court (Civil Procedure) Rules, 2004, CI 47.

⁴ *ibid.*, ord 51.

⁵ Courts Act, 1993 (Act 459) s 21(1).

⁶ *ibid.*, s 21(2).

⁷ Courts Act, 1993 (Act 459) s 11(4).

⁸ *ibid.*, s 11(5).

interlocutory appeals.

3.4.3 Appeals from the High Court

The Court of Appeal exercises appellate jurisdiction to hear and determine appeals arising from judgments, decrees, and orders of the High Court and Regional Tribunals, subject always to the provisions of the 1992 Constitution of Ghana. This appellate authority is conferred concurrently by article 137(1) of the 1992 Constitution and section 11(1) of the Courts Act, 1993 (Act 459). These provisions collectively establish the Court of Appeal as the principal intermediate appellate court within Ghana's judicial hierarchy, entrusted with the responsibility of reviewing decisions of courts below it to ensure consistency, legality, and the proper administration of justice.

A party aggrieved by a decision of the High Court may appeal to the Court of Appeal in accordance with the applicable constitutional and statutory provisions governing appellate jurisdiction.^{1 2} In interlocutory decisions of the High Court, an appeal lies as of right, and the intending appellant is required to file a notice of appeal within twenty-one days from the date of the decision.³ Unlike appeals from interlocutory decisions of the Circuit Court or District Court, no prior leave is required before appealing against an interlocutory order of the High Court. Nevertheless, the prescribed twenty-one-day period is strict and not subject to extension. This position was affirmed by the Supreme Court in *Opoku and Others v Axes Co Ltd*, where the Court held that although time for appealing against a final judgment may, upon application, be extended, no such extension is permissible in respect of interlocutory appeals.⁴

With regard to final decisions of the High Court, an intending appellant must file the appeal within three months from the date of the judgment.⁵ The High Court or the Court of Appeal may, upon application, extend the time within which to appeal. However, such an application must be made within three months after the expiration of the original period prescribed for filing the appeal.⁶ Consequently, no application for extension of time may be entertained after six months from the date of the decision appealed against.⁷ Furthermore, where an applicant has sought an extension of time before the High Court and the court, after a period of not less than one month, fails or refuses to determine the application, the applicant may apply to the Court of Appeal for the determination of the application.⁸

3.4.4 Appeals from the Court of Appeal

Appeals from the Court of Appeal to the Supreme Court are governed principally by article 131 of the 1992 Constitution of Ghana and rule 8 of the Supreme Court Rules, 1996 (C.I. 16), as amended. In relation to interlocutory decisions, an intending appellant is required to file the appeal within twenty-one days from the date of the decision.⁹ With respect to final decisions, an appeal must ordinarily be filed within three months from the date of the judgment, although the Court of Appeal or the Supreme Court may, upon application, extend the prescribed period.¹⁰ However, no application for extension of time may be entertained after the expiration of three months from the expiry of the original period prescribed for appeal.¹¹ Furthermore, where an application for extension of time has been made before the Court of Appeal and, after a period of not less than one month, the application is refused or dismissed, the applicant may apply to the Supreme Court for the determination of the application.¹²

Article 131(1)(b) of the Constitution further provides that where a matter originates from a court lower than the High Court, an appeal from the Court of Appeal to the Supreme Court does not lie as of right, and the

¹ Constitution of the Republic of Ghana 1992, art 137(1).

² Courts Act, 1993 (Act 459) s 11(1).

³ Court of Appeal Rules, 1997 (C.I. 19) r 7(1).

⁴ *Opoku and Others v Axes Co Ltd* [2011] SCGLR 50.

⁵ Court of Appeal Rules, 1997 (C.I. 19) r 9(1).

⁶ *ibid.*, r 9(2).

⁷ *ibid.*, r 9(3).

⁸ *ibid.*, r 9(5).

⁹ Supreme Court Rules, 1996 (C.I. 16) r 8(1).

¹⁰ *ibid.*, r 8(2).

¹¹ *ibid.*, r 8(3).

¹² *ibid.*, r 8(6).

intending appellant must first obtain leave of the Court of Appeal.¹ Such leave will only be granted where the proposed appeal raises a substantial question of law or where the appeal is considered to be in the public interest.² Under rule 7 of C.I. 16, an application for leave to appeal must be brought by motion on notice and filed in the Court of Appeal within fourteen days from the date of the decision against which leave is sought.³ Where the Court of Appeal refuses leave, an application for special leave may be made to the Supreme Court under article 131(2) of the Constitution within fourteen days after the refusal.⁴

The Supreme Court has consistently maintained that appeals against decisions of the Court of Appeal in repeat applications do not arise as of right but are subject to the special leave jurisdiction of the Supreme Court under article 131(2) of the 1992 Constitution. Thus, in *Kwasi Owusu and Another v Joshua Nmai Addo and Another*, the Court held that an appeal against an order of the Court of Appeal dismissing a repeat application, including a repeat application for stay of execution, may only be pursued with the special leave of the Supreme Court, since such a right of appeal is carefully circumscribed by the Constitution.⁵

Again, pursuant to article 131(4) of the 1992 Constitution of Ghana, an appeal from a decision of the Judicial Committee of the National House of Chiefs lies to the Supreme Court only with the leave of either the Judicial Committee itself or the Supreme Court.⁶ In relation to cross-appeals, rule 9 of the Supreme Court Rules, 1996 (C.I. 16) requires a respondent intending to cross-appeal to do so within fourteen days after service of the notice of appeal.⁷

Similarly, under rule 15 of the Court of Appeal Rules, 1997 (C.I. 19), a respondent who seeks a variation of the judgment appealed against must file the requisite notice within one month from the date of service of the notice of appeal.⁸ With regard to the computation of time for appeals, section 44(3) of the Interpretation Act, 2009 (Act 792) provides that where an enactment stipulates that an act is to be done from or after a specified date, the date of the judgment or event from which time begins to run is excluded from the computation.⁹ Furthermore, where a respondent intends to raise a preliminary objection to the hearing of an appeal, the applicable procedural rules require prior notice to be given to the appellant. Under rule 16 of C.I. 19, the respondent must give the appellant not less than three clear days' notice of the intended preliminary objection.¹⁰

3.5 The Emerging Jurisprudence of Non-Party Appeals

Although the traditional doctrine confines appellate rights principally to parties within litigation, contemporary jurisprudence increasingly acknowledges that judicial decisions may substantially affect persons who were not formally joined in the proceedings. This issue frequently arises in land disputes, representative actions, probate proceedings, insurance claims, corporate litigation, and execution processes where non-parties possess proprietary, possessory, or legal interests affected by judgments. The Supreme Court's decision in *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)* significantly expanded the concept of a 'person aggrieved'. Wood JSC explained that the phrase includes persons whose legal rights have been infringed or whose substantial interests are adversely affected by an impugned order even if they were not parties to the original proceedings.¹¹ Subsequently, in *John Kwadwo Bobie v 21st Century Construction Co Ltd*, the Supreme Court affirmed that a non-party adversely affected by a judgment may seek leave of the appellate court to challenge the decision.¹²

The most authoritative pronouncement on the subject emerged in *Stanley Kotei Hammond v G K Agbleze & Others*, where the Supreme Court comprehensively examined the rights of non-parties to appeal. The Court unequivocally held that a non-party who is bound by, aggrieved by, or prejudicially affected by a decision may,

1 Constitution of the Republic of Ghana 1992, art 131(1)(b).

2 *ibid.*

3 Supreme Court Rules, 1996 (C.I. 16) r 7(1).

4 Constitution of the Republic of Ghana 1992, art 131(2); Supreme Court Rules, 1996 (C.I. 16) r 7(2).

5 *Kwasi Owusu and Another v Joshua Nmai Addo and Another Civil Appeal No. J4/50/2014* (SC 30 July 2015).

6 Constitution of the Republic of Ghana 1992, art 131(4).

7 Supreme Court Rules, 1996 (C.I. 16) r 9.

8 Court of Appeal Rules, 1997 (C.I. 19) r 15.

9 Interpretation Act, 2009 (Act 792) s 44(3).

10 Court of Appeal Rules, 1997 (C.I. 19) r 16.

11 *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

12 *John Kwadwo Bobie v 21st Century Construction Co Ltd*, *supra* note 7.

with leave of the appellate court, appeal against that decision.¹ In reaching this conclusion, the Court relied heavily on English common law authorities such as *In re Securities Insurance Company*² and *M A Holdings Ltd v George Wimpey UK Ltd*.³ In *In re Securities Insurance Company*, Lindley LJ stated that a person who, though not a party, is bound by or prejudicially affected by an order may appeal with leave of the court.⁴ Likewise, the English Court of Appeal in *M A Holdings Ltd* affirmed that appellate jurisdiction may extend to non-parties whose interests are directly affected by judicial decisions.⁵

The Supreme Court in *Stanley Kotei Hammond* further relied on article 11(2) of the 1992 Constitution, which incorporates the common law into Ghanaian law.⁶ Importantly, the Court also invoked rule 7 of the Court of Appeal Rules, 1997 (CI 19), which empowers the Court of Appeal to adopt such procedures as the justice of the case requires where no express procedural rule exists.⁷ This emerging jurisprudence reflects a broader constitutional movement away from excessive procedural formalism toward substantive justice, fairness, and effective judicial protection of rights.

In sum, the conceptual foundations of appeals in Ghana reveal an enduring tension between procedural orthodoxy and substantive justice. While appellate jurisdiction remains fundamentally statutory and constitutionally regulated, modern Ghanaian jurisprudence increasingly recognises that rigid procedural formalism cannot be permitted to defeat justice where judicial decisions substantially affect the rights and interests of persons. The doctrine that appeals are creatures of statute continues to shape Ghanaian appellate procedure, particularly regarding timelines, leave requirements, interlocutory appeals, and jurisdictional competence. Nonetheless, recent decisions of the Supreme Court demonstrate a growing judicial commitment to ensuring that procedural rules serve rather than obstruct substantive justice. This evolution is most visible in the emerging jurisprudence on appeals by non-parties. Through decisions such as *Republic v High Court, Ho; Ex parte Awusu*⁸, *John Kwadwo Bobie v 21st Century Construction Co Ltd*⁹, and *Stanley Kotei Hammond v G K Agbleze & Others*¹⁰, the Supreme Court has progressively expanded appellate standing to include non-parties whose rights or interests are directly affected by judicial decisions.

The next chapter examines the constitutional and statutory framework governing appellate jurisdiction in Ghana and analyses the extent to which existing procedural rules adequately accommodate appeals by non-parties.

4.0 Constitutional Foundations of Appellate Jurisdiction in Ghana

The appellate jurisdiction of Ghanaian courts is primarily founded upon the 1992 Constitution. The Constitution not only establishes the hierarchy of courts but also defines the scope and limits of appellate authority exercisable by superior courts. Article 11(1) of the Constitution identifies the Constitution itself as the supreme law of Ghana, while article 11(2) incorporates the common law into the laws of Ghana. This constitutional incorporation of the common law becomes particularly important in the context of appeals by non-parties because the Supreme Court in *Stanley Kotei Hammond v G K Agbleze & Others* relied extensively upon common law authorities recognising the right of non-parties to appeal with leave of the court.¹¹

4.1 The Supreme Court

Article 129(1) of the Constitution establishes the Supreme Court as the final court of appeal in Ghana. Article 129(3) further provides that the decisions of the Supreme Court are binding on all lower courts. The appellate jurisdiction of the Supreme Court is specifically regulated by article 131 of the Constitution. Under article 131(1)(a), an appeal lies to the Supreme Court as of right from any judgment of the Court of Appeal in civil and criminal matters originating from the High Court or a Regional Tribunal. Conversely, article 131(1)(b)

¹ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

² *In re Securities Insurance Company*, *supra* note 11.

³ *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

⁴ *In re Securities Insurance Company*, *supra* note 11.

⁵ *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

⁶ Constitution of the Republic of Ghana 1992, arts 11(2).

⁷ Court of Appeal Rules, 1997 (CI 19), r 7.

⁸ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

⁹ *John Kwadwo Bobie v 21st Century Construction Co Ltd*, *supra* note 7.

¹⁰ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

¹¹ *ibid.*

provides that appeals from decisions of the Court of Appeal in matters originating from courts lower than the High Court require leave of the Court of Appeal or the Supreme Court. Article 131(2) further empowers the Supreme Court to grant special leave to appeal in exceptional circumstances. This provision forms the constitutional basis for discretionary appellate intervention in situations where rigid procedural limitations may otherwise occasion injustice.

The Supreme Court has repeatedly emphasised that special leave jurisdiction exists principally to prevent miscarriages of justice. In *Joseph Kotey v Peter Kofi Koletey*, Bamford-Addo JSC explained that special leave is ‘very special indeed’ and constitutes a judicial mechanism intended to prevent failures of justice where litigants possess good and valid appeals.¹ The Court identified two principal considerations governing the exercise of this jurisdiction: whether refusal of leave would deny justice to the applicant and whether the proposed grounds of appeal disclose a potential miscarriage of justice. These principles were reaffirmed in *Francis Xavier Sosu v General Legal Council*, where the Supreme Court reiterated that applications for special leave are fundamentally governed by considerations of justice and fairness.² The constitutional significance of these decisions lies in the recognition that appellate procedure, although statutorily regulated, ultimately serves substantive constitutional values of fairness and justice.

4.2 The Court of Appeal

Article 137 of the Constitution establishes the appellate jurisdiction of the Court of Appeal. Article 137(1) provides that the Court of Appeal shall have jurisdiction throughout Ghana to hear and determine appeals from judgments, decrees, and orders of the High Court and Regional Tribunals. Most importantly, article 137(2) states that except as otherwise provided by the Constitution, appeals from decisions of the High Court lie to the Court of Appeal as of right. The constitutional language employed in article 137 is broad and does not expressly limit appellate rights solely to parties formally joined within proceedings before the lower court. This constitutional silence became highly significant in *Stanley Kotei Hammond v G K Agbleze & Others*, where the Supreme Court rejected the restrictive view that only formal parties to proceedings may invoke appellate jurisdiction.³ The Supreme Court observed that neither article 137 of the Constitution nor the Court of Appeal Rules⁴ expressly excludes non-parties from appealing where they are substantially affected by judicial decisions. Consequently, the Court held that the constitutional framework governing appeals must be interpreted purposively and consistently with the broader constitutional commitment to fairness and access to justice.

4.4 The High Court

The High Court occupies an important position within Ghana’s appellate structure by exercising appellate and supervisory jurisdiction over subordinate courts. Its appellate jurisdiction is constitutionally and statutorily recognised under article 140 of the 1992 Constitution and section 21 of the Courts Act, 1993 (Act 459).⁵⁶ Pursuant to these provisions, the High Court hears and determines both civil and criminal appeals arising from the District Courts, as well as criminal appeals from the Circuit Courts. In civil matters, appeals from the District Court to the High Court are governed principally by the Courts Act⁷ and Order 51 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47).⁸

Under these provisions, appeals against final judgments of the District Court lie as of right and must ordinarily be filed within three months from the date of the decision.⁹ The District Court or the High Court may extend the time for appeal upon application made within the additional statutory period permitted by the rules.¹⁰ Conversely, appeals against interlocutory decisions require prior leave of the District Court, and where such leave is refused, the application may be repeated before the High Court within the prescribed time.¹¹¹² The

¹ *Joseph Kotey v Peter Kofi Koletey*, *supra* note 4.

² *Francis Xavier Sosu v General Legal Council*, *supra* note 5.

³ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

⁴ Court of Appeal Rules, 1997 (CI 19)

⁵ Constitution of the Republic of Ghana 1992, art 140.

⁶ Courts Act, 1993 (Act 459) s 21.

⁷ Courts Act, 1993 (Act 459) s 21(2).

⁸ High Court (Civil Procedure) Rules, 2004 (C.I. 47) ord 51.

⁹ High Court (Civil Procedure) Rules, 2004 (C.I. 47) ord 51 r 3(1).

¹⁰ High Court (Civil Procedure) Rules, 2004 (C.I. 47) ord 51 r 4(1).

¹¹ Courts Act, 1993 (Act 459) s 21(1).

¹² High Court (Civil Procedure) Rules, 2004 (C.I. 47) ord 51 r 3(2).

procedural framework under C.I. 47 therefore reflects the broader doctrinal distinction in Ghanaian appellate jurisprudence between appeals as of right and appeals requiring leave.

With respect to criminal jurisdiction, section 21(1) of the Courts Act confers on the High Court jurisdiction to hear appeals brought by either the prosecution or convicted persons from the decisions of the Circuit Court, District Court, and Juvenile Court.¹ This appellate function reinforces the High Court's constitutional role in ensuring judicial accountability, correcting errors of law and fact, and safeguarding procedural fairness within the administration of justice. The High Court therefore serves as a critical intermediate appellate court within Ghana's judicial hierarchy, bridging the subordinate courts and the superior appellate courts while promoting access to justice and the effective supervision of lower courts.

4.5 Appeals from the National House of Chiefs

Article 131(4) of the Constitution further provides that appeals from the Judicial Committee of the National House of Chiefs lie to the Supreme Court with the leave of the Judicial Committee or the Supreme Court.² This provision reflects the constitutional recognition that leave requirements constitute important procedural safeguards against frivolous or unmeritorious appeals while simultaneously preserving judicial flexibility to prevent injustice.

4.6 Statutory Regulation of Appeals in Ghana

Although appellate jurisdiction in Ghana is constitutionally founded under the 1992 Constitution of Ghana, its practical exercise is extensively regulated by statutory enactments and procedural rules governing appellate practice before the superior courts. The Courts Act, 1993 (Act 459) establishes the jurisdictional structure of the courts and delineates the appellate competence of the various superior courts. In particular, section 11(1) confers appellate jurisdiction upon the Court of Appeal in respect of decisions originating from the High Court and other subordinate courts, while section 11(5) requires leave for appeals against interlocutory decisions of the Circuit Court, thereby demonstrating that appellate rights are not invariably automatic but may be conditioned upon judicial permission aimed at preventing unnecessary fragmentation of proceedings and delays in the administration of justice.³

The procedural framework governing appeals before the Court of Appeal is principally regulated by the Court of Appeal Rules, 1997 (C.I. 19). Rule 8 prescribes the formal requirements of notices of appeal, including the grounds of appeal and the reliefs sought⁴, whilst rule 9 regulates the timelines applicable to appeals against final and interlocutory decisions⁵. Significantly, rule 7 empowers the Court, in the absence of an express procedural provision, to adopt such procedure as the justice of the case may require⁶. This provision assumed particular importance in *Stanley Kotei Hammond v G K Agbleze & Others*, where the Supreme Court relied on the rule in recognising procedural mechanisms through which non-parties may seek leave to appeal.⁷ Furthermore, rule 10(2) authorises the Court of Appeal to direct service of notices of appeal on persons who were not parties to the original proceedings and to make consequential orders as though such persons had originally been parties to the appeal, thereby reinforcing the view that the appellate framework contemplates participation by non-parties where the interests of justice so demand.⁸

Similarly, appellate proceedings before the Supreme Court are governed by the Supreme Court Rules, 1996 (C.I. 16). Rule 8 of the Supreme Court Rules regulates the timelines for appeals from the Court of Appeal to the Supreme Court, while rule 7 governs applications for leave and special leave under article 131 of the 1992 Constitution⁹. The Rules carefully distinguish between appeals that lie as of right and those requiring leave, particularly under article 131(1)(b) and article 131(2), where applications for leave or special leave must ordinarily be filed within fourteen days from the refusal of leave by the lower court.^{10,11} These procedural

¹ Courts Act, 1993 (Act 459) s 21(1).

² Constitution of the Republic of Ghana 1992, art 131(4).

³ Courts Act, 1993 (Act 459) s 11(1), (5).

⁴ Court of Appeal Rules, 1997 (C.I. 19), r 8.

⁵ *ibid.*, r 9.

⁶ *ibid.*, r 7.

⁷ *ibid.*

⁸ Court of Appeal Rules, 1997 (C.I. 19) r 10(2).

⁹ Supreme Court Rules, 1996 (C.I. 16) r 8.

¹⁰ *ibid.*, rr 7, 8.

requirements collectively underscore the principle that although appellate jurisdiction is constitutionally entrenched, its exercise remains subject to carefully structured procedural regulation designed to promote fairness, certainty, and judicial efficiency.

5.0 The Constitutionalisation of Substantive Justice in Appellate Procedure

Although the doctrine that appeals are creatures of statute remains fundamental, contemporary Ghanaian jurisprudence increasingly reflects the constitutionalisation of substantive justice within appellate adjudication. The 1992 Constitution places considerable emphasis on fairness, access to justice, and the protection of legal rights. Article 23 requires administrative bodies and public authorities to act fairly and reasonably, while article 296 imposes constitutional obligations regarding the exercise of discretionary powers. Similarly, article 19 guarantees fair hearing rights, while article 33 empowers courts to enforce constitutional rights where violations occur. These constitutional provisions increasingly influence judicial interpretation of procedural rules governing appeals. The courts have therefore become more willing to adopt purposive interpretations that promote substantive justice rather than rigid procedural technicality. This jurisprudential trend is especially evident in non-party appeals.

In *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, the Supreme Court adopted an expansive interpretation of the phrase ‘person aggrieved’, holding that it includes persons whose substantial interests are adversely affected by judicial decisions even where they were not parties to the proceedings.¹ Likewise, in *John Kwadwo Bobie v 21st Century Construction Co Ltd*, the Supreme Court recognised that non-parties adversely affected by judgments may seek leave to appeal against such decisions.²

The culmination of this jurisprudential evolution occurred in *Stanley Kotei Hammond v G K Agbleze & Others*³. In that case, the Supreme Court held that non-parties who are bound by, prejudicially affected by, or otherwise aggrieved by judicial decisions may invoke appellate jurisdiction with leave of the court.⁴ Importantly, the Court grounded this conclusion not merely in procedural flexibility but in constitutional principles of fairness, justice, and effective judicial protection of rights. In sum, the constitutional and statutory framework governing appellate jurisdiction in Ghana reveals a legal system fundamentally committed to procedural regulation, judicial orderliness, and finality of litigation. The doctrine that appeals are creatures of statute continues to shape appellate competence, timelines, leave requirements, and procedural validity. Nevertheless, modern Ghanaian jurisprudence increasingly demonstrates that procedural orthodoxy cannot be applied in isolation from constitutional values of fairness, substantive justice, and effective judicial protection of rights. The evolving jurisprudence concerning non-party appeals represents a significant constitutional and procedural development within Ghanaian law.

The next chapter examines the traditional rule restricting appellate standing to parties formally joined within proceedings and analyses the gradual judicial emergence of non-party appeals within Ghanaian jurisprudence.

6.0 The Traditional Rule that only Parties may Appeal

A central feature of traditional appellate jurisprudence has been the principle that only parties formally joined in proceedings possess standing to challenge the resulting judgment on appeal. This procedural orthodoxy developed from the adversarial nature of common law litigation, under which judgments were generally regarded as binding only upon the parties before the court and their privies. Consequently, appellate rights were traditionally confined to litigants who participated directly in proceedings and were therefore deemed entitled to challenge the outcome. Within Ghanaian appellate procedure, this traditional approach has long influenced judicial attitudes toward standing to appeal, particularly in relation to strangers to proceedings. However, while the rule limiting appeals to parties promoted procedural certainty and finality of litigation, it frequently created injustice where judicial decisions substantially affected the rights or interests of non-parties. This chapter examines the historical foundations of the traditional rule restricting appellate standing to parties and analyses the gradual judicial departure from strict procedural orthodoxy in favour of substantive justice.

¹¹ Constitution of the Republic of Ghana 1992, art 131(1)(b).

¹ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

² *John Kwadwo Bobie v 21st Century Construction Co Ltd*, *supra* note 7.

³ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

⁴ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

The traditional common law position was founded upon the adversarial structure of litigation. Under classical procedural theory, courts adjudicated disputes only between parties properly before them, and judgments ordinarily bound only those parties and their privies. Since appeals constituted continuations of existing proceedings rather than fresh actions, appellate standing naturally became restricted to persons formally recognised as litigants within the original proceedings. The rationale underlying this approach was largely procedural and institutional. First, restricting appeals to parties promoted certainty and finality in litigation. Secondly, it prevented interference by meddlesome interlopers lacking legitimate interests in disputes. Thirdly, it preserved procedural orderliness by ensuring that appellate courts dealt only with litigants whose rights had already been adjudicated before lower courts.

English common law authorities historically reflected this position. In *Amon v Raphael Tuck & Sons Ltd*, Lord Greene MR observed that a person generally becomes entitled to participate in proceedings only where his legal rights are directly affected by the litigation.¹ Although the case concerned joinder rather than appeals, it significantly influenced later jurisprudence concerning locus standi within judicial proceedings which even found expression under Rule 45 of the Supreme Court Rules in Ghana². Similarly, academic writers have traditionally justified restrictions on appellate standing on grounds of judicial economy and procedural certainty. Sir Jack Jacob observed that appellate systems cannot function effectively if unrestricted rights of challenge are conferred upon every person indirectly affected by litigation.³

The traditional Ghanaian position similarly reflected a restrictive understanding of appellate standing. Since appellate rights were regarded as statutory creations, courts generally assumed that only parties to proceedings possessed the competence to invoke appellate jurisdiction. This restrictive orientation was reinforced by procedural rules governing notices of appeal and service of appellate processes. The Court of Appeal Rules, 1997 (CI 19), for example, primarily contemplate appeals between plaintiffs, defendants, appellants, and respondents formally recognised within proceedings. The restrictive approach also derived support from decisions emphasising that appellate jurisdiction must be exercised strictly within the confines of constitutional and statutory authorisation. In *Frimpong v Poku*, the Court stressed that statutory conditions regulating appellate rights must be strictly complied with before appellate jurisdiction becomes properly vested.⁴

Similarly, in *In re Amponsah*, the Court reaffirmed that appellate courts possess no inherent jurisdiction to entertain appeals outside statutory authorisation.⁵ This procedural orthodoxy often led courts to assume that strangers to proceedings lacked standing to invoke appellate jurisdiction unless expressly authorised by statute.

Notwithstanding its procedural logic, the traditional rule limiting appeals to parties frequently produced substantive injustice. Modern litigation increasingly affects persons who, though not formally joined in proceedings, possess significant proprietary, possessory, commercial, or legal interests directly impacted by judicial decisions. This is particularly common in land litigation, probate disputes, representative actions, insurance claims, corporate proceedings, and execution processes. For example, persons in actual possession of disputed property may face eviction pursuant to judgments delivered in proceedings to which they were not parties. Likewise, beneficiaries under wills, insurers, corporate shareholders, or purchasers of disputed land may suffer substantial prejudice from judicial decisions rendered without their participation. In such circumstances, strict adherence to procedural orthodoxy risks undermining constitutional fairness and access to justice.

Legal scholars like Lon Fuller have increasingly criticised excessive procedural formalism within appellate jurisprudence. Lon Fuller argued that procedural rules derive legitimacy only where they facilitate rather than obstruct substantive justice.⁶ Similarly, Mauro Cappelletti observed that modern procedural systems must adapt to ensure meaningful access to justice for persons substantially affected by judicial outcomes.⁷ Within Ghanaian constitutionalism, these concerns assume particular significance because the 1992 Constitution places strong emphasis upon fairness, judicial accountability, and protection of rights.⁸

¹ *Amon v Raphael Tuck & Sons Ltd* [1956] 2 WLR 372.

² Supreme Court Rules, 1996 (C.I. 16) r 45.

³ Sir Jack Jacob, 'The Inherent Jurisdiction of the Court' (1970) 23 *Current Legal Problems* 23, 40.

⁴ *Frimpong v Poku*, *supra* note 3.

⁵ *In re Amponsah*, *supra* note 2.

⁶ Lon L Fuller, *The Morality of Law* (Yale University Press 1969) 81.

⁷ Mauro Cappelletti and Bryant Garth, *Access to Justice* (Sijthoff and Noordhoff 1978) 8-10.

⁸ Constitution of the Republic of Ghana 1992.

Although the traditional rule remained influential for many years, both English and Ghanaian jurisprudence gradually evolved toward a more flexible conception of appellate standing. At common law, the courts increasingly recognised that non-parties substantially affected by judicial decisions ought, in appropriate circumstances, to possess limited rights of appellate challenge. In *In re Securities Insurance Company*, Lindley LJ stated that a person who, though not formally a party, is bound by or prejudicially affected by an order may appeal with leave of the court.¹ The Court explained that while parties possess automatic rights of appeal, non-parties may obtain leave where they demonstrate a prima facie grievance arising from the impugned decision. This approach significantly influenced subsequent common law jurisprudence.

In *M A Holdings Ltd v George Wimpey UK Ltd*, the English Court of Appeal reaffirmed that appellate standing may extend to non-parties whose interests are directly affected by judicial decisions.² Dyson LJ rejected the argument that appellate rights were confined strictly to formal parties within proceedings.

Ghanaian jurisprudence gradually adopted similar reasoning. In *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, the Supreme Court expanded the concept of a 'person aggrieved' to include persons whose substantial interests are adversely affected by judicial decisions notwithstanding their non-participation in the proceedings.³ Likewise, in *John Kwadwo Bobie v 21st Century Construction Co Ltd*, the Supreme Court affirmed that non-parties adversely affected by judgments may seek leave to appeal against such decisions.⁴ The culmination of this doctrinal evolution occurred in *Stanley Kotei Hammond v G K Agbleze & Others*, where the Supreme Court comprehensively rejected the restrictive assumption that only formal parties may invoke appellate jurisdiction.⁵ The traditional rule restricting appellate standing to parties emerged from legitimate procedural concerns relating to certainty, finality, and judicial orderliness.

However, the increasing complexity of modern litigation exposed the limitations and potential injustices associated with rigid adherence to procedural orthodoxy. Both common law and Ghanaian jurisprudence have progressively recognised that judicial decisions may substantially affect persons who were not formally joined within proceedings. Consequently, appellate standing has gradually evolved beyond narrow procedural formalism toward a more substantive conception grounded in fairness, justice, and effective protection of rights.

The next chapter examines in detail the emergence of non-party appeals within Ghanaian jurisprudence and analyses the doctrinal foundations upon which the Supreme Court has progressively expanded appellate standing beyond formal parties to litigation.

7.0 The Emergence of Non-Party Appeals

The gradual recognition of non-party appeals within Ghanaian jurisprudence represents a significant doctrinal shift from rigid procedural orthodoxy toward a more justice-oriented conception of appellate standing. Traditionally, appellate jurisdiction was confined strictly to parties formally joined in proceedings, consistent with the long-established principle that appeals are creatures of statute. However, the increasing complexity of modern litigation, coupled with the constitutional imperative to ensure fairness and access to justice, has necessitated a reconsideration of this restrictive position. The emergence of non-party appeals is thus best understood as a response to the inadequacies of procedural formalism in addressing situations where judicial decisions substantially affect the rights and interests of persons who were not parties to the original proceedings.

The doctrinal foundations of non-party appeals are traceable to the common law, which has long recognised that persons who are not formal parties to proceedings may nevertheless be sufficiently affected by judicial decisions to warrant appellate intervention. In *In re Securities Insurance Company*, Lindley LJ articulated the classical position that while a party may appeal as of right, a non-party who is bound by or prejudicially affected by an order may appeal only with leave of the court.⁶ This principle established a dual framework: automatic appellate rights for parties and conditional rights, subject to judicial discretion, for non-parties. The rationale underlying this approach lies in balancing the need to prevent abuse of appellate processes by interlopers with

¹ *In re Securities Insurance Company*, *supra* note 11.

² *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

³ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

⁴ *John Kwadwo Bobie v 21st Century Construction Co Ltd*, *supra* note 7.

⁵ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

⁶ *In re Securities Insurance Company*, *supra* note 11.

the equally compelling need to ensure that persons adversely affected by judicial decisions are not left without remedy. This common law position has been consistently reaffirmed in English jurisprudence.

In *M A Holdings Ltd v George Wimpey UK Ltd*, the Court of Appeal confronted directly the question whether a non-party could invoke appellate jurisdiction. Rejecting a restrictive interpretation of the term “appellant,” Dyson LJ held that nothing in the Civil Procedure Rules limited appellate standing to parties in the proceedings below.¹ Rather, the court emphasised that a “person” adversely affected by a decision may, in appropriate circumstances, seek permission to appeal. The court further observed that to deny such a right would risk serious injustice, particularly where the person affected possesses a legitimate interest in the subject matter of the litigation and the original parties elect not to pursue an appeal.

The influence of these common law principles on Ghanaian jurisprudence is both direct and constitutionally grounded. Article 11(2) of the 1992 Constitution incorporates the common law into the laws of Ghana, thereby providing a doctrinal basis for the reception of English authorities on appellate standing.² The Supreme Court of Ghana has, in recent years, drawn upon these principles to develop a more flexible approach to non-party appeals. A pivotal step in this evolution occurred in *Republic v High Court, Ho; Ex parte Awusu (No 1)*, where the Court adopted an expansive definition of a “person aggrieved.” Wood JSC held that a person aggrieved includes not only a party to the proceedings but also any individual whose legal rights have been infringed or whose substantial interests are adversely affected by the impugned decision.³ This broader conception of standing laid the conceptual groundwork for recognising non-party appeals within Ghanaian law.

The jurisprudential turning point, however, is found in *Stanley Kotei Hammond v G K Agbleze & Others*, where the Supreme Court undertook a comprehensive re-examination of the traditional rule. The Court unequivocally rejected the proposition that only parties to proceedings may appeal, describing such a view as inconsistent with both constitutional provisions and settled judicial practice.⁴ The Court emphasised that the right of appeal is a substantive right conferred by the Constitution and statute, and that nothing in article 137 of the Constitution limits that right exclusively to parties to the proceedings in the court below.

In a detailed analysis, the Supreme Court clarified that appellate right must be determined not by formal party status but by the nature and extent of the applicant’s interest in the subject matter of the dispute. The Court recognised two principal categories of non-parties who may be entitled to appeal. The first consists of persons who are legally bound by the judgment, such as privies to a party, against whom doctrines such as estoppel per rem judicatam may operate. The second includes persons who, although not strictly bound by the judgment, are nevertheless prejudicially or injuriously affected by it in a substantial manner. In both categories, the Court held that justice demands that such persons be afforded an opportunity to challenge decisions adversely affecting their rights, subject to obtaining leave of the appellate court.

The Supreme Court further grounded its reasoning in both constitutional and procedural considerations. Constitutionally, the Court relied on the broad language of article 137, which confers appellate jurisdiction without expressly restricting it to parties.⁵ Procedurally, the Court examined the Court of Appeal Rules⁶, and concluded that the rules do not preclude non-parties from appealing. In particular, the Court noted that provisions such as rule 10(2) of the Court of Appeal Rules, which permits service of a notice of appeal on persons not parties to the original proceedings, implicitly recognise the possibility of non-party participation in appellate processes.⁷

Importantly, the Court reaffirmed that the right of a non-party to appeal is not absolute but is subject to the requirement of leave. This requirement serves as a critical safeguard against frivolous or vexatious appeals by ensuring that only persons with a prima facie grievance and a substantial interest in the outcome of the litigation are permitted to invoke appellate jurisdiction.⁸ In this regard, the Ghanaian position aligns closely with the

¹ *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

² Constitution of the Republic of Ghana 1992, art 11(2).

³ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

⁴ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

⁵ Constitution of the Republic of Ghana 1992, art 137.

⁶ Court of Appeal Rules, 1997 (CI 19)

⁷ Court of Appeal Rules, 1997 (CI 19), r 10(2).

⁸ See also *John Kwadwo Bobie v 21st Century Construction Co Ltd*, *supra* note 7.

established common law approach articulated in *In re Securities Insurance Company*.¹

The emergence of non-party appeals has also been supported by academic commentary emphasising the primacy of substantive justice in modern procedural systems. Cappelletti and Garth have argued that access to justice requires procedural rules to be sufficiently flexible to accommodate the interests of all persons materially affected by judicial decisions.² Similarly, Fuller's theory of procedural morality underscores the necessity of aligning procedural rules with the fundamental objective of achieving just outcomes.³ These perspectives reinforce the view that rigid adherence to party-based standing rules is incompatible with contemporary notions of fairness and judicial accountability.

Ultimately, the recognition of non-party appeals in Ghana reflects a broader transformation within appellate jurisprudence, characterised by a movement away from strict procedural formalism toward a more purposive and justice-oriented approach. While the traditional doctrine that appeals are creatures of statute remains intact, it is now tempered by a constitutional and common law commitment to ensuring that persons whose rights are substantially affected by judicial decisions are not denied access to appellate remedies. The decision in *Stanley Kotei Hammond v G K Agbleze & Others*⁴ thus marks a decisive moment in this evolution, firmly establishing the principle that appellate standing in Ghana is ultimately grounded not in formal party status but in the substantive impact of judicial decisions on the rights and interests of individuals.

8.0 Analysis of the case of *Stanley Kotei Hammond v G.K. Agbleze & Others*⁵

The decision in *Stanley Kotei Hammond v G.K. Agbleze & Ors* marks a decisive doctrinal shift in Ghanaian appellate jurisprudence, particularly on the question whether non-parties may invoke appellate jurisdiction.⁶ The Supreme Court, per Pwamang JSC, undertook a corrective and clarificatory exercise, reconciling procedural orthodoxy with the imperatives of substantive justice. A central contribution of *Stanley Kotei Hammond v G.K. Agbleze & Ors* lies in its rejection of the rigid proposition that only parties to proceedings may appeal. The Court of Appeal had endorsed this restrictive view, relying on *Fynhout v Minister Responsible for Lands*,⁷ but the Supreme Court decisively disapproved this extension. The apex court clarified that the principle in *Fynhout* was confined to review jurisdiction and could not be transposed wholesale into appellate law.⁸

Instead, the Supreme Court emphasized that the right of appeal is fundamentally statutory and constitutional, not merely procedural.⁹ Article 137 of the 1992 Constitution confers appellate jurisdiction in broad terms without limiting it to parties to the original proceedings.¹⁰ This interpretive move is significant because it displaces procedural technicalities as gatekeepers of appellate access and foregrounds constitutional text as the primary source of appellate entitlement.

The Supreme Court's adoption of a broader conception of "person aggrieved" aligns Ghanaian law with modern jurisprudential trends. Drawing on *Republic v High Court, Ho; Ex parte Awusu (No 1)*, the Court affirmed that an aggrieved person includes anyone whose legal rights or substantial interests are affected by a decision.¹¹ This formulation is doctrinally important because it shifts the focus from formal party status to substantive justice. It resonates with academic commentary that conceives appellate rights as a function of legal injury rather than procedural participation.¹² Consequently, the Court implicitly endorsed a functional approach to locus standi in appellate proceedings.

The Court further grounded its reasoning in the received common law, reaffirming that non-party appeals have long been recognised, albeit subject to leave. The reliance on *In re Securities Insurance Company* establishes that a non-party who is bound by or prejudicially affected by a judgment may appeal with leave upon

1 *In re Securities Insurance Company*, *supra* note 11.

2 Mauro Cappelletti and Bryant Garth, *Access to Justice* (Sijthoff and Noordhoff 1978) 8–10.

3 Lon L Fuller, *The Morality of Law* (Yale University Press 1969) 81.

4 *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

5 *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

6 *ibid.*

7 *Fynhout v Minister Responsible for Lands* [1963] 1 GLR 471.

8 *ibid.*

9 *Republic v High Court, Koforidua; Ex parte Ansah Otu* [2009] SCGLR 141, 152.

10 Constitution of the Republic of Ghana 1992, art 137.

11 *Republic v High Court, Ho; Ex parte Awusu (No 1)* (*Nyonyo Agboada (Sri III) Interested Party*), *supra* note 6.

12 HWR Wade and CF Forsyth, *Administrative Law* (11th edn, OUP 2014) 683.

demonstrating a prima facie grievance.¹ Similarly, authorities such as *Akinola Maja v Johnson* and *M.A. Holdings Ltd v George Wimpey UK Ltd* reinforce the principle that courts retain inherent jurisdiction to prevent injustice where a non-party's interests are at stake.² The Supreme Court's reasoning therefore reflects continuity with both historical Chancery practice and contemporary English procedural law.

In providing doctrinal justification for non-party appeals, the Supreme Court articulated several situations in which such appeals may properly arise, including circumstances involving privies bound by judgment, successors in title, persons estopped by standing by during proceedings, and persons whose proprietary or legal interests are adversely affected by the decision.³⁴ These categories reflect the operation of doctrines such as *res judicata* and *estoppel*, illustrating that non-parties may, in substance, be treated as parties for purposes of legal consequence. The decision thereby aligns appellate access with the broader logic of binding effect in civil adjudication.

By focusing on the centrality of leave to appeal as a control mechanism, the Court opined that while appellate access should be expanded in the interests of substantive justice, procedural safeguards remained necessary to prevent abuse. Consequently, the Court held that a non-party cannot appeal as of right but must obtain leave by demonstrating that he is bound by or prejudicially affected by the decision and that the intended appeal has reasonable prospects of success or some other compelling justification.⁵ This dual requirement reflects a balancing exercise between openness and finality. It mirrors scholarly views that procedural safeguards are necessary to prevent meddlesome interlopers from destabilising litigation outcomes.¹⁵

The Supreme Court further consolidated the doctrinal framework governing non-party appeals by formulating structured procedural guidelines to regulate the exercise of such appellate rights. The Court observed that although historical Chancery practice permitted relatively liberal *ex parte* applications by non-parties, contemporary appellate procedure required stricter safeguards in order to balance substantive justice with procedural certainty. Accordingly, the Court held that an application by a non-party for leave to appeal must be brought within the time prescribed under rule 9 of the Court of Appeal Rules, 1997 (CI 19), either for appealing or for applying for extension of time to appeal.⁶ The application must be commenced by motion on notice to persons directly affected by the appeal and supported by affidavit evidence disclosing good and substantial reasons for the application.⁷

The Court further emphasised that leave would only be granted where the applicant demonstrates that he is bound by, prejudicially affected by, or otherwise aggrieved by the impugned decision, and that the intended appeal possesses reasonable prospects of success or some other compelling justification.⁸ In addition, the Court directed that where parties in the proceedings below with substantially similar interests had already appealed or indicated an intention to appeal, that circumstance should be considered in determining whether further appeals by non-parties were necessary.⁹ This requirement promotes procedural economy and guards against duplicative litigation.

The Court also clarified that applications for leave should ordinarily be made first to the trial court and, upon refusal, may subsequently be renewed before the appellate court.¹⁰ Furthermore, where the trial court fails to determine the application within one month, the applicant may proceed directly before the appellate court.¹¹ Where leave is eventually granted, the notice of appeal endorsed with the date of the order granting leave must be filed together with a certified copy of the order.¹² Significantly, the Supreme Court stressed that these principles were not exhaustive but constituted evolving judicial safeguards aimed at reconciling openness in appellate access with the need for finality in litigation.¹³

¹ *In re Securities Insurance Company*, *supra* note 11.

² *M.A. Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12

³ *Robertson v Nii Akramah II* [1973] 1 GLR 445 (CA).

⁴ *Egyin v Aye* [1962] 2 GLR 187 (SC).

⁵ *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

⁶ Adrian Zuckerman, *Zuckerman on Civil Procedure* (3rd edn, Sweet & Maxwell 2013) 987.

⁷ Court of Appeal Rules 1997 (CI 19) r 9.

⁸ *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ *ibid.*

¹² *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

¹³ *ibid.*

On the facts of the *Stanley* case itself, the appellant company, though directly affected by the cancellation of its land registration, failed to obtain leave before purporting to appeal.¹ This omission proved fatal, rendering the appeal incompetent and therefore a nullity.² Moreover, the Court noted that the appellant had stood by while parties with aligned interests litigated the matter, and those parties had already exercised their appellate rights. In such circumstances, granting leave would risk repetitive litigation and undermine procedural economy. An important ancillary holding in *Stanley* concerns the distinction between non-joinder and nullity. The Court reaffirmed that failure to join a necessary party does not render proceedings void but merely limits their binding effect.³ This clarification is crucial because it forecloses attempts by non-parties to circumvent appellate procedures by attacking judgments as nullities. Instead, the appropriate remedy lies in seeking leave to appeal in accordance with established procedural requirements.

On the whole, the doctrinal significance of *Stanley Kotei Hammond v G.K. Agbleze & Ors* lies in its synthesis of constitutionalism, common law continuity, and procedural pragmatism. By grounding appellate rights in article 137 of the 1992 Constitution, recognising longstanding common law practice on non-party appeals, and simultaneously introducing structured safeguards against abuse, the Supreme Court recalibrated Ghanaian appellate procedure from rigid formalism toward a more justice-oriented framework. The decision therefore stands as a landmark authority in Ghanaian appellate jurisprudence, demonstrating that procedural law must serve, rather than obstruct, the broader ends of substantive justice.

9.0 Comparative Perspectives from English Law

The question whether a non-party may competently appeal against a judgment, decision, and ruling that prejudicially affects his rights has occupied both Ghanaian and English jurisprudence. The Ghanaian Supreme Court in *Stanley Kotei Hammond v G.K. Agbleze & Ors* drew heavily from English common law authorities in resolving the issue of appellate standing for non-parties.⁴ The decision demonstrates that the Ghanaian law of appeals is not developing in isolation, but rather within the broader common law tradition inherited from English procedural jurisprudence. The comparative perspective therefore reveals substantial doctrinal continuity between Ghanaian and English law, particularly concerning the balance between procedural regularity and substantive justice.

Historically, English law recognised that a person who was not formally joined to proceedings could nevertheless possess sufficient legal interest to challenge a judgment affecting that interest. The foundational authority is *In re Securities Insurance Company*, where Lindley LJ stated that a non-party who is “bound by the order or is aggrieved by it, or is prejudicially affected by it” may appeal with leave of the court.⁵ This principle became a settled feature of Chancery practice and was later reaffirmed in *Re B (An Infant)*, where Lord Evershed MR acknowledged that any person who could “by possibility have been made a party” may be granted leave to appeal.⁶ The English courts therefore adopted a pragmatic rather than formalistic conception of appellate right, recognising that justice may require extending appellate access beyond the immediate parties on the record.

This common law position substantially influenced the reasoning of the Ghanaian Supreme Court in *Stanley Kotei Hammond v G.K. Agbleze & Ors*. Rejecting the restrictive position adopted by the Court of Appeal, the Supreme Court held that a non-party who is bound by, prejudicially affected by, or otherwise aggrieved by a judgment may appeal with leave of the court.⁷ In reaching that conclusion, the Court expressly relied on English authorities including the cases of *M.A. Holdings Ltd v George Wimpey UK Ltd*⁸ and *In re Securities Insurance Company*.⁹ The Court thereby reaffirmed that Ghanaian appellate jurisprudence remains deeply rooted in English common law principles preserved under article 11(2) of the 1992 Constitution of the Republic of Ghana.¹⁰

The modern English position was comprehensively articulated in *M.A. Holdings Ltd v George Wimpey UK*

¹ *ibid.*

² *ibid.*

³ *Republic v High Court, Accra; Ex parte Okudzeto & Ors CM J5/68/2017 (SC, 24 October, 2018; High Court (Civil Procedure) Rule, 2004 (CI 47) Order 4 r 5.*

⁴ *Stanley Kotei Hammond v G.K. Agbleze & Others, supra note 9.*

⁵ *In re Securities Insurance Co, supra note 11, 413–414 (Lindley LJ).*

⁶ *Re B (An infant) [1958] 1 QB 12.*

⁷ *Stanley Kotei Hammond v G.K. Agbleze & Other, supra note 9.*

⁸ *M.A. Holdings Ltd v George Wimpey UK Ltd, supra note 12.*

⁹ *In re Securities Insurance Co, supra note 11.*

¹⁰ Constitution of the Republic of Ghana 1992, art 11(2).

Ltd. In that case, the English Court of Appeal considered whether a company that was not a party to proceedings in the High Court could appeal against a decision quashing portions of a local development plan which affected its property interests. Dyson LJ rejected the argument that only parties to proceedings below could qualify as “appellants” under the English Civil Procedure Rules. He held that the term “person” within the English Civil Procedure Rules (CPR) 52.1(3)(d) was deliberately broad and not confined to litigants on record.¹ The Court reasoned that procedural rules should not be interpreted so narrowly as to occasion injustice where a non-party possesses a genuine and substantial interest in the outcome of litigation.

The reasoning in *M.A. Holdings Ltd v George Wimpey UK Ltd*² significantly influenced the Ghanaian Supreme Court’s interpretative methodology in *Stanley Kotei Hammond v G.K. Agbleze & Ors*³. The Ghanaian Supreme Court adopted Dyson LJ’s purposive approach to appellate standing and similarly rejected rigid procedural orthodoxy. Indeed, the Supreme Court criticised the Court of Appeal for assuming that non-party status automatically deprived a person of appellate rights. Instead, the Court emphasised that the constitutional right of appeal under article 137 of the 1992 Constitution does not expressly restrict appeals to parties only.⁴ This interpretation aligns closely with the English judicial preference for substantive justice over technical procedural exclusion.

Another important comparative feature is the requirement of leave. English law traditionally required a non-party to obtain leave before appealing. In *In re Securities Insurance Company*, Lindley LJ emphasised that leave serves as a filtering mechanism to prevent abuse by “intermeddling busybodies”.⁵ Similarly, the English Court of Appeal in *M.A. Holdings Ltd v George Wimpey UK Ltd* stressed that permission would ordinarily be refused to persons lacking a genuine interest in the litigation.⁶ Ghanaian law has now adopted the same safeguard. In *Stanley Kotei Hammond v G.K. Agbleze & Ors*, the Supreme Court held that non-parties must seek leave to appeal and laid down detailed guidelines governing such applications. These guidelines require the applicant to demonstrate that he is bound by or prejudicially affected by the judgment and that the intended appeal possesses reasonable prospects of success.⁷

The convergence between the two jurisdictions is therefore striking. Nevertheless, some distinctions remain. English procedural law under the Civil Procedure Rules expressly incorporates judicial discretion and broad case-management powers, enabling appellate courts to adapt procedural requirements flexibly in the interests of justice. Ghanaian appellate procedure, by contrast, remains more heavily dependent on constitutional provisions and judicially developed principles due to the absence of detailed procedural rules governing non-party appeals. The Supreme Court in *Stanley Kotei Hammond v G.K. Agbleze & Ors* acknowledged this legislative gap and effectively formulated interim procedural guidelines pending intervention by the Rules of Court Committee⁸. Thus, while English law provided the conceptual foundation, Ghanaian law has had to develop supplementary procedural safeguards through judicial innovation.

The comparative jurisprudence also illustrates a shared judicial concern for balancing finality of litigation with fairness to affected persons. English courts have consistently recognised that procedural exclusion may produce injustice where an individual’s proprietary or legal interests are substantially affected by a judgment. Likewise, the Ghanaian Supreme Court acknowledged that justice and fairness require affording a remedy to non-parties whose rights are materially prejudiced by judicial determinations. The courts in both jurisdictions therefore reject a purely formal understanding of party status in favour of a more functional analysis centred on legal interest and practical prejudice.

Essentially, the comparative analysis demonstrates that Ghanaian law concerning appeals by non-parties is firmly situated within the mainstream common law tradition inherited from England. The decision in *Stanley Kotei Hammond v G.K. Agbleze & Ors* represents an important doctrinal development that harmonises Ghanaian appellate procedure with modern English jurisprudence while adapting those principles to Ghana’s constitutional framework. The emerging position in Ghana reflects a deliberate judicial effort to reconcile procedural

¹ Civil Procedure Rules 1998 (UK), SI 1998/3132, r 52.1(3)(d).

² *M.A. Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

³ *In re Securities Insurance Co*, *supra* note 11.

⁴ Constitution of the Republic of Ghana 1992, art 137.

⁵ *In re Securities Insurance Co*, *supra* note 11.

⁶ *M.A. Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

⁷ *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

⁸ *ibid*.

orthodoxy with substantive justice by ensuring that persons genuinely affected by judicial decisions are not denied appellate redress merely because they were absent from the formal record of proceedings.

10.0 Substantive Justice versus Procedural Finality

One of the most enduring tensions within appellate jurisprudence concerns the reconciliation of substantive justice with procedural finality. On the one hand, the legal system demands certainty, stability, and conclusiveness in litigation. On the other hand, courts are equally obliged to ensure that procedural technicalities do not occasion injustice, particularly where judicial decisions substantially affect persons who were not parties to the proceedings. The jurisprudence concerning appeals by non-parties in Ghana increasingly reflects an attempt by the courts to balance these competing imperatives within the broader constitutional framework of fairness and access to justice.

The doctrine of procedural finality is deeply rooted in common law adjudication. Litigation must, at some stage, come to an end, and courts have consistently emphasised that procedural rules governing appeals are necessary to preserve certainty, judicial economy, and the integrity of the adjudicatory process. Ghanaian courts have repeatedly affirmed that appeals are creatures of statute and that compliance with statutory procedural requirements is ordinarily indispensable. In *Bosompem v Tetteh*, the Court emphatically held that no right of appeal exists except as conferred by statute.¹ Similarly, in *Frimpong v Poku*, the Supreme Court stressed that statutory conditions regulating appeals must be strictly complied with before appellate jurisdiction can properly be invoked.² This strict procedural approach serves important institutional objectives by preventing endless litigation and protecting successful litigants from perpetual uncertainty.

The principle of finality also explains the traditionally restrictive approach toward non-party appeals. Since non-parties were not formally before the court during the original proceedings, permitting unrestricted appellate intervention by strangers to litigation could undermine certainty and encourage endless collateral challenges to judgments. English courts historically recognised this danger. In *In re Securities Insurance Company*, Lindley LJ warned that leave requirements exist partly to prevent interference by “intermeddling busybodies.”³ Likewise, in *M A Holdings Ltd v George Wimpey UK Ltd*, the English Court of Appeal acknowledged that although non-parties may appeal in appropriate circumstances, the jurisdiction must be cautiously exercised to avoid procedural abuse.⁴

Notwithstanding these concerns, modern appellate jurisprudence increasingly recognises that rigid procedural orthodoxy may itself produce injustice where persons substantially affected by judicial decisions are denied any opportunity to challenge them. The demands of substantive justice require courts to look beyond mere formal party status and examine the practical effect of judicial determinations upon affected persons. This broader conception of justice has become particularly significant in constitutional democracies where access to justice and fair hearing constitute fundamental constitutional values.

The Ghanaian Supreme Court’s decision in *Stanley Kotei Hammond v G.K. Agbleze & Ors* represents the clearest judicial attempt to reconcile these competing considerations.⁵ In that case, the appellant company had not been joined as a party to the original land litigation before the High Court, yet the final judgment directly affected its registered interest in the disputed land by ordering the cancellation of its registration at the Lands Commission. The Court of Appeal adopted a strict procedural approach and held that a non-party could not competently appeal against a judgment in proceedings to which it was not formally joined.

The Supreme Court, however, rejected this restrictive position and held that a non-party who is bound by, aggrieved by, or prejudicially affected by a judgment may, with leave of the court, invoke the appellate jurisdiction of the Court of Appeal.⁶ In reaching this conclusion, the Supreme Court deliberately prioritised substantive justice over excessive procedural formalism. The Court observed that articles 131 and 137 of the 1992 Constitution confer appellate jurisdiction in broad terms without expressly limiting the right of appeal to

¹ *Bosompem v Tetteh*, *supra* note 1.

² *Frimpong v Poku*, *supra* note 3.

³ *In re Securities Insurance Co*, *supra* note 11.

⁴ *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

⁵ *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

⁶ *ibid.*

parties on record.¹ Pwamang JSC further reasoned that the common law, incorporated into Ghanaian law under article 11(2) of the Constitution, had long recognised the right of non-parties prejudicially affected by judgments to appeal with leave of the court.² The Court relied extensively on English authorities such as *In re Securities Insurance Company* and *M A Holdings Ltd v George Wimpey UK Ltd*, thereby situating Ghanaian appellate jurisprudence firmly within the mainstream common law tradition.³

The decision in *Stanley Kotei Hammond* reflects a broader judicial shift toward substantive fairness in appellate adjudication. The Supreme Court recognised that strict insistence on formal party status could lead to grave injustice, particularly where a person's proprietary or legal interests are directly affected without an opportunity to be heard. This reasoning aligns closely with the Court's earlier expansive interpretation of the phrase "person aggrieved" in *Republic v High Court, Ho; Ex parte Awusu (No 1)*, where Wood JSC held that the expression includes not only parties to proceedings but also persons whose legal rights or substantial interests are adversely affected by an impugned order.⁴

Importantly, however, the Supreme Court did not entirely abandon procedural safeguards in favour of unrestricted substantive discretion. Rather, the Court sought to strike a careful balance between fairness and finality by insisting that non-party appeals remain subject to leave of the appellate court.⁵ The leave requirement therefore functions as an important filtering mechanism designed to prevent frivolous, vexatious, or meddlesome appeals while preserving access to justice for genuinely affected persons. This balancing approach mirrors the English position articulated in *M A Holdings*, where Dyson LJ emphasised that appellate courts retain discretion to refuse leave where the applicant lacks a genuine and substantial interest in the litigation.⁶

The tension between substantive justice and procedural finality is therefore not resolved through the complete triumph of one principle over the other. Rather, contemporary appellate jurisprudence increasingly seeks a principled accommodation between both objectives. Procedural rules remain essential to orderly judicial administration and the stability of judgments, but they cannot be applied so rigidly as to defeat fairness and constitutional justice. As the Supreme Court recognised in *Stanley Kotei Hammond*, procedural orthodoxy must ultimately yield where its strict application would deprive affected persons of any meaningful judicial remedy.⁷

The emerging Ghanaian jurisprudence consequently reflects a modern constitutional understanding of appellate justice, one which recognises that procedural rules are instruments for achieving justice rather than ends in themselves. By permitting non-parties who are genuinely prejudicially affected by judicial decisions to appeal with leave, the courts have attempted to reconcile the competing demands of finality and fairness in a manner consistent with both constitutionalism and the common law tradition.

11.0 Leave Requirements of Appeals and Safeguards Against Abuse

The recognition of a non-party's right to appeal in Ghana is not absolute. It is carefully controlled through the requirement of leave, which operates as an important procedural safeguard against frivolous, speculative, or meddlesome appeals. The Supreme Court in *Stanley Kotei Hammond v G K Agbleze & Others* affirmed that although a non-party whose interests are prejudicially affected by a judgment may appeal, such an appeal can only be brought with the leave of the appellate court.⁸ The Court relied extensively on the long-established common law principle articulated in *In re Securities Insurance Company*, where Lindley LJ stated that a non-party who is "bound by the order or is aggrieved by it, or is prejudicially affected by it" may appeal only with leave of the court.⁹ The leave requirement therefore serves as a filtering mechanism designed to preserve the finality of litigation while simultaneously preventing injustice to persons substantially affected by judicial decisions.

Similarly, in *M A Holdings Ltd v George Wimpey UK Ltd*, the English Court of Appeal recognised that a

¹ Constitution of the Republic of Ghana 1992, arts 131 and 137.

² *ibid.*, art 11(2).

³ *In re Securities Insurance Co*, *supra* note 11; *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

⁴ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

⁵ *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

⁶ *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

⁷ *Stanley Kotei Hammond v G.K. Agbleze & Others*, *supra* note 9.

⁸ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

⁹ *In re Securities Insurance Company*, *supra* note 11.

non-party directly affected by a judgment may seek permission to appeal, particularly where refusal would occasion substantial injustice.¹ Dyson LJ observed that it would be “surprising” if procedural rules entirely prevented a person substantially affected by a decision from invoking appellate review.² Ghanaian jurisprudence has now substantially adopted this position through the decision in *Stanley Kotei Hammond*, thereby harmonising Ghanaian appellate procedure with broader common law principles incorporated under article 11(2) of the 1992 Constitution.³

The grant of leave, however, is not automatic. The applicant must demonstrate a legally recognisable interest in the subject matter of the dispute and establish that the impugned decision directly binds, prejudicially affects, or substantially infringes his rights or interests. In *Republic v High Court, Ho; Ex parte Awusu (No 1)*, Wood JSC defined a “person aggrieved” as one whose legal rights have been infringed or whose substantial interests are adversely affected by the impugned order.⁴ This threshold prevents mere busybodies or officious intermeddlers from improperly invoking the appellate jurisdiction of the courts.

Furthermore, the leave requirement protects judicial economy and the principle of finality in litigation. Ghanaian courts have consistently emphasised that appeals are creatures of statute and must be exercised within carefully regulated procedural limits.⁵ Consequently, non-party appeals must not become instruments for reopening concluded litigation unnecessarily or circumventing procedural discipline. The requirement of leave therefore enables appellate courts to scrutinise whether the proposed appeal raises genuine issues of injustice deserving judicial intervention. In this regard, the principles governing special leave articulated in *Joseph Kotey v Peter Kofi Koley* remain highly relevant. Bamford-Addo JSC explained that leave exists principally to prevent failures of justice where meritorious grounds of appeal exist.⁶

Equally significant are procedural safeguards relating to timelines and jurisdiction. In *Stanley Kotei Hammond*, the Supreme Court reiterated that although non-parties may appeal with leave, they remain bound by the procedural rules regulating appeals, including statutory timelines under the Court of Appeal Rules, 1997 (CI 19).⁷ Thus, substantive justice does not eliminate procedural compliance; rather, it moderates procedural rigidity where strict adherence would produce manifest injustice. Ultimately, the leave requirement represents the judicial compromise between procedural orthodoxy and substantive justice by ensuring that only genuinely affected non-parties with arguable grievances may access appellate review.

12.0 Implications of Stanley’s Case for Ghanaian Civil Procedure

The recognition of appeals by non-parties in Ghana carries significant implications for the future development of Ghanaian civil procedure. Traditionally, Ghanaian procedural law has been dominated by strict procedural orthodoxy grounded in the principle that appeals are creatures of statute and exercisable only within clearly prescribed procedural limits.⁸ However, the Supreme Court’s decision in *Stanley Kotei Hammond v G K Agbleze & Others* marks an important doctrinal shift toward a more substantive conception of justice within appellate adjudication.⁹ The decision demonstrates that procedural rules cannot be applied mechanically where judicial orders substantially prejudice persons who were not formally joined to proceedings. Consequently, Ghanaian civil procedure is gradually evolving from rigid formalism toward a more justice-oriented and rights-sensitive framework.

One immediate implication of the decision is the expansion of the concept of locus standi within appellate practice. Prior to *Stanley Kotei Hammond*, appellate standing was generally understood to be confined to parties formally participating in proceedings. The Supreme Court, however, adopted the broader common law conception of a “person aggrieved” articulated in *Republic v High Court, Ho; Ex parte Awusu (No 1)*, namely, a person whose legal rights or substantial interests are directly affected by an impugned decision.¹⁰ This broader approach strengthens procedural fairness by ensuring that persons adversely affected by judicial determinations

¹ *MA Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

² *ibid.*

³ Constitution of the Republic of Ghana 1992, art 11(2).

⁴ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

⁵ *Bosompem v Tetteh*, *supra* note 1.

⁶ *Joseph Kotey v Peter Kofi Koley*, *supra* note 4.

⁷ Court of Appeal Rules, 1997 (CI 19), rr 7–9.

⁸ *Bosompem v Tetteh*, *supra* note 1; *In re Amponsah*, *supra* note 2.

⁹ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

¹⁰ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

are not denied access to appellate justice merely because they were omitted from the original proceedings. The decision also reinforces the constitutionalisation of civil procedure in Ghana.

In recognising the appellate rights of non-parties, the Supreme Court relied not only on procedural rules but also on articles 11(2), 125 and 137 of the 1992 Constitution.¹ This constitutional approach signifies that procedural rules must increasingly be interpreted purposively and consistently with constitutional values of fairness, access to justice, and the protection of legal rights. The case of Stanley establishes that modern procedural law must function as an instrument for achieving justice rather than an end in itself. The implication is that Ghanaian courts may become more willing to relax procedural rigidity where strict adherence would occasion substantial injustice.

Furthermore, the decision exposes important gaps within Ghana's procedural framework regulating appeals. Neither the Court of Appeal Rules, 1997 (CI 19) nor the Supreme Court Rules, 1996 (CI 16) expressly provide comprehensive procedures governing appeals by non-parties. The Supreme Court therefore resorted to common law principles incorporated into Ghanaian law under article 11(2) of the Constitution and relied extensively on English authorities such as *In re Securities Insurance Company*² and *M A Holdings Ltd v George Wimpey UK Ltd*.³ This reliance demonstrates the continuing influence of English common law on Ghanaian procedural jurisprudence while simultaneously highlighting the need for legislative and procedural reform.

There is now a compelling case for explicit procedural rules regulating non-party appeals, including requirements relating to leave, timelines, standing, and notice to affected parties. Consequently, the recognition of non-party appeals may significantly affect litigation strategy and judicial administration in Ghana. Trial courts may become more cautious in granting orders affecting identifiable third parties without joinder, particularly in land, probate, corporate, and representative actions where non-parties are frequently prejudicially affected by judgments. Equally, appellate courts will increasingly be required to balance competing interests between finality of litigation and substantive justice. The leave requirement therefore assumes heightened importance as a safeguard against abuse and frivolous interventions. Ultimately, the evolving jurisprudence reflects a broader transformation within Ghanaian civil procedure: the gradual reconciliation of procedural orthodoxy with the constitutional imperative of substantive justice.

13.0 Recommendations for Reform

The emerging jurisprudence on non-party appeals in Ghana reflects a commendable judicial shift from rigid procedural formalism towards substantive justice. Nevertheless, the absence of clear statutory and procedural regulation continues to create uncertainty regarding the scope, conditions, timelines, and procedural mechanisms governing appeals by non-parties. It is therefore imperative that comprehensive reforms be undertaken to consolidate the evolving principles established in *Stanley Kotei Hammond v G K Agbleze & Others* and related authorities.

First, the High Court (Civil Procedure) Rules, 2004 (CI 47), Court of Appeal Rules, 1997 (CI 19) and the Supreme Court Rules, 1996 (CI 16) should be amended expressly to recognise the right of a non-party, who is bound by, aggrieved by, or prejudicially affected by a judgment, to apply for leave to appeal. The Supreme Court in *Stanley Kotei Hammond v G K Agbleze & Others* rightly affirmed that a non-party may appeal with leave where the decision substantially affects his legal interests⁴. This principle, which derives from longstanding common law practice, should now be codified to eliminate procedural ambiguity and inconsistent judicial approaches. Such reform would align Ghanaian appellate procedure with the principles articulated in *In re Securities Insurance Company*, where Lindley LJ held that a non-party prejudicially affected by an order may appeal with leave of the court,⁵ and reaffirmed in *M A Holdings Ltd v George Wimpey UK Ltd*, where the English Court of Appeal recognised that appellate jurisdiction may extend to non-parties directly affected by judicial decisions.⁶

Secondly, the procedural rules should clearly prescribe the threshold requirements for granting leave to

¹ Constitution of the Republic of Ghana 1992, arts 11(2), 125 and 137.

² *In re Securities Insurance Company*, *supra* note 11.

³ *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

⁴ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.

⁵ *In re Securities Insurance Company*, *supra* note 11.

⁶ *M A Holdings Ltd v George Wimpey UK Ltd*, *supra* note 12.

non-parties. The courts should require proof that the applicant possesses a direct, substantial, and legally recognisable interest adversely affected by the impugned decision, consistent with the expansive interpretation of a “person aggrieved” adopted in *Republic v High Court, Ho; Ex parte Awusu (No 1)*.¹ This would prevent frivolous or meddlesome appeals while preserving access to justice for genuinely affected persons.

Thirdly, legislative reform should introduce express procedural timelines and mechanisms governing applications by non-parties. Presently, uncertainty exists regarding when time begins to run against a non-party who may only become aware of the judgment after delivery. The rules should therefore provide that time commences from the date the non-party became aware, or ought reasonably to have become aware, of the decision affecting his interests. Such a reform would better accord with constitutional principles of fairness and natural justice under articles 23 and 296 of the 1992 Constitution.²

Finally, Ghanaian appellate jurisprudence should continue to embrace purposive and justice-oriented interpretation of procedural rules. As Atuguba JSC observed in *Trustees, Synagogue Church of All Nations v Agyeman*, established procedural practice must not be applied in a manner that defeats justice.³ Procedural rules exist to facilitate, and not obstruct, the administration of justice. Consequently, the courts must remain vigilant to ensure that procedural orthodoxy does not operate to deprive affected persons of meaningful judicial protection where their proprietary, constitutional, or legal interests are substantially prejudiced by decisions rendered in proceedings to which they were not parties.

14.0 Conclusion

The evolving jurisprudence on appeals by non-parties in Ghana reflects a significant doctrinal transition from rigid procedural formalism toward a more purposive and justice-oriented conception of appellate adjudication. Although the orthodox principle that appeals are creatures of statute remains foundational within Ghanaian law, recent decisions of the Supreme Court demonstrate that procedural rules governing appellate standing cannot be interpreted in a manner that defeats substantive justice or denies effective judicial protection to persons substantially affected by judicial decisions. Through decisions such as *Republic v High Court, Ho; Ex parte Awusu (No 1)*⁴, *John Kwadwo Bobie v 21st Century Construction Co Ltd*⁵, and most decisively *Stanley Kotei Hammond v G K Agbleze & Others*⁶, the Supreme Court has progressively expanded appellate standing beyond formal party status to encompass persons whose legal rights, proprietary interests, or substantial interests are prejudicially affected by judgments.

The recognition of non-party appeals represents not a departure from procedural orderliness, but rather an attempt to reconcile procedural orthodoxy with constitutional values of fairness, access to justice, and the prevention of miscarriages of justice. The requirement that non-parties obtain leave of the appellate court operates as an important safeguard against frivolous or meddlesome appeals while simultaneously ensuring that deserving applicants are not denied appellate remedies merely because they were not formally joined in the proceedings below. In this respect, Ghanaian jurisprudence has aligned itself with established common law principles reflected in authorities such as *In re Securities Insurance Company and M A Holdings Ltd v George Wimpey UK Ltd*.

Nevertheless, considerable procedural uncertainty still persists regarding timelines, jurisdictional competence, and the procedural mechanisms governing non-party appeals. There remains an urgent need for legislative and procedural reform to provide a clearer and more comprehensive framework regulating such appeals under Ghanaian appellate procedure. Ultimately, the emerging jurisprudence demonstrates that the legitimacy of appellate adjudication in Ghana lies not merely in strict procedural compliance, but in the capacity of the courts to ensure that justice is not sacrificed at the altar of technicality.

¹ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

² Constitution of the Republic of Ghana 1992, arts 23, 296.

³ *Trustees, Synagogue Church of All Nations v Agyeman* [2010] SCGLR 717, 721.

⁴ *Republic v High Court, Ho; Ex parte Awusu (No 1) (Nyonyo Agboada (Sri III) Interested Party)*, *supra* note 6.

⁵ *John Kwadwo Bobie v 21st Century Construction Co Ltd*, *supra* note 7.

⁶ *Stanley Kotei Hammond v G K Agbleze & Others*, *supra* note 9.