JOSEPH K. DASUSEA and **LOUSEAG D. KARGOU** (to be identified), Appellants, v. **GERALD BENETT COLEMAN,** Appellee.

APPEAL FROM THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Heard: March 16, 20, 1989. Decided: July 14, 1989.

1. The plaintiff in ejectment must recover only on the strength of his own title and not on the weakness of the title of his adversary.

2. While generally whatever shows that a plaintiff is not entitled to immediate possession of the premises constitutes a good defense in an action of ejectment, if a recovery may be had on the strength of his own title and not from the weakness or one of title of his adversary, the right of possession under color of claim of title by the plaintiff may nevertheless be *prima facie* evidence of title against a mere intruder.

3. In a case of ejectment which depends upon legal title, the defendant must show an outstanding title in some third person.

4. A mere intruder or trespasser will not be allowed to protect himself in the possession of property by setting up an outstanding title in a stranger where the plaintiff relies on prior possession.

5. Possession, no matter how long, is no bar to recovery by the true owner, if the party in possession entered upon the land without any claim of title, and did not acquire or assert title to the land at any time, or claim to hold it adversely to the true owner.

6. To necessitate an arbitration, there must be a written agreement or stipulation to submit to arbitration the controversy existing at the time of making the agreement or any controversy thereafter arising, without regard to the justiciable character of the controversy. Such agreement is valid, enforceable and irrevocable except upon such grounds as exist for revocation of the contract.

7. To bar a plaintiff in ejectment who has title, by possession in defendant, strict proof is necessary not only that possession was taken under a claim hostile to that of the real owner, but that it continue for the period of limitation provided by the statute.

8. In cases of ejectment, the older and superior title is the controlling principle.

9. A naked possession of land by an intruder cannot prevail against a paper title.

10. In a complaint in an action of ejectment, a plaintiff may demand damages for wrongful detention of the real property as well as delivery of possession of the property.

11. The instructions of a trial judge to the jury, whether right or wrong, constitutes the law of the case, and it is the duty of the jury to follow such instructions.

12. As the assessment of damages is peculiarly the province of the jury, courts should be cautious in overturning a verdict, especially when it appears that the verdict is clear, not exorbitant, and the case has been tried in a fair and impartial manner.

13. When a trial involves mixed issues of law and fact, it is not an error for the court to refuse to instruct the jury on any point in such trial.

14. Damages in action of ejectment is not based on specific damages, rather it is contingent upon general damages.

15. A new trial cannot be granted merely to obtain a slight reduction in damages, little more than nominal, when the plaintiff is entitled to nominal damages at least.

16. The denial of a motion Tor new trial rests within the sound discretion of the trial judge; and the exercise of that discretion does not constitute an error where the verdict of the jury is based on the evidence and the law as instructed by the court.

17. The City Corporation of Monrovia has no authority under its charter to bargain for, sell, grant and convey to any person or persons part or portion of the public land within the city bounds.

Appellee Gerald Bennett Coleman instituted an action of ejectment against Appellants Joseph K. Dasusea and Lansea D. Kardon on January 26, 1983, for a parcel of land known as lot no. 3 in Block L-14, situated and lying in Sinkor, Monrovia, Liberia. With his complaint, he proffered a chain of titles including (a) warranty deed from Georgia B. Coleman to Gerald Bennett Coleman, Lot #1 in Block L-14; (b) warranty deed from Georgia B. Coleman to Gerald Bennett Coleman, Lot #3 in Block L-14; (c) Public Land Grant Deed from the Republic of Liberia to R.H. Hill; and (d) Quit Claim Deed from Diana Louisa Coleman to Georgia Henrietta Beatrice Philips for Lot #9. Against this chain of title, appellants proferted a squatter rights document issued and signed by Major Gaynor Y. Johnson, Mayor of the City of Monrovia.

The case was ruled to trial by a jury under the direction of the court. During the trial and while appellee's first witness was on the cross-examination, the appellants applied for the setting up of a board of arbitration to determine whether or not the land in question was owned by appellee. The application was resisted and denied.

At the conclusion of the hearing of the facts, the trial judge charged the jury and they returned a verdict in favor of appellee, finding appellants liable to appellee and awarding appellee the sum of $2,000.00 as general damages.

Based upon this verdict, judgment was entered by the trial judge. From this judgment and the several rulings made by the trial judge, the appellants excepted and appealed to the Supreme Court for a final determination of the controversy.

The Supreme Court rejected the contention of the appellants and confirmed and affirmed the judgment of the lower court. The Court noted that the appellants were mere intruders and that as such their claim to the property by a mere possession thereof, no matter how long, could not prevail against a title deed, especially where there was no claim of an adverse possession. The Court also noted that the Monrovia City Corporation had no authority under its charter to bargain for, sell, grant, or convey any public land to any person, and that any person receiving such grant held a defective title as opposed to a person whose title was derived from the Republic.

On the question of the damages awarded by the jury, the Court observed that not only had the plaintiff prayed for such damages, but that it was legally permissible for a plaintiff in ejectment to pray for both possession and for damages for the wrongful detention of his property by the defendants. The Court opined that the jury, under such circumstances, had the discretion of awarding such damages as they deemed fit, and it held that such award would not be disturbed or set aside in the absence of a showing that the award was exorbitant or against the weight of the evidence. The trial court, it said, had therefore not erred in confirming the award.

Moreover, the Court rejected the appellants' claim that the trial judge had erred in stating that the appellee had a title deed to the property while the appellants did not. The Court held that this fact was evidenced by the records and that the judge acted properly in instructing the jury thereof. Accordingly, the court affirmed the judgment of the trial court.

Toye C. Bernard appeared for the appellants. *Alfred B. Flomo* appeared for the appellees.

MR. JUSTICE AZANGO delivered the opinion of the Court:

Certain principles of law and facts set the basis for every ejectment proceeding. "Any person who is rightfully entitled to the possession of real property may bring an action of ejectment against any person who wrongfully withholds possession thereof, and such an action may be brought when the title to real property as well as the right to possession thereof is disputed ...." Civil Procedure Law, Rev. Code 1: 62.1. In a complaint in an action of ejectment, the plaintiff may demand damages for wrongful detention of the real property as well as delivery of possession. *Ibid.,* § 62.3. To recover the possession of real property by means of an action of ejectment, the plaintiff must have either a title to the property with a present or continued possession or have had actual *bona fide* possession of the property and a present right to the possession when the action was begun. Although the action may, and frequently does, become the means of trying title, it is essentially a possessory action, and is ordinarily

confined to cases where the claimant has possessory title, and it is a well established principle, which has acquired the force of a maxim, that the plaintiff in ejectment can recover only on the strength of his own title, and not on the weakness of his adversary ... In any case, a plaintiff in ejectment cannot recover as against one without title unless he proves title or prior possession in himself; and if he recovers by virtue of prior possession, he may be said to recover as much upon the strength of his own title as if he had shown a good title to the premises.

On the 26th day of January A. D. 1983, plaintiff/appellee instituted an action of ejectment against defendants/appellants on the basis that he was the owner of a parcel of land located in the City of Monrovia, County of Montserrado, Republic of Liberia, known as Lot #3, in Block L-14, which he bought from Mrs. Georgia B. Coleman, who had acquired the said parcel of land through a Quit Claim Deed from her sister, Diana Louisa Coleman, they being the surviving heirs of their late mother, Mrs. Hannah Hill-Philips, who in turn was the surviving heir of the late Robert H. Hill, the original owner of the said parcel of land. These allegations were supported by the following deeds:

1. Warranty Deed from Georgia B. Coleman to Gerald Bennett Coleman, Lot #1 in Block L-14, situated at Sinkor, Montserrado County "Let this be registered" Gladys K. Johnson, Acting Commissioner of Monthly and Probate Court, Montserrado County. Probated this 8t h day of August, A. D. 1977/Susanna E. Williams, Clerk of Monthly & Probate Court, Montserrado County, Vol. 264-77 pages 480 - 581, with the following contents:

`KNOW ALL MEN BY THESE PRESENTS, that I/we Georgia B. Coleman of Monrovia in the County of Montserrado, Republic of Liberia for and in consideration of the sum of seven hundred ($700.00) dollars paid to me by Gerald Bennett Coleman of the City of Monrovia, in the County of Montserrado, the Republic of Liberia (the receipt whereof is hereby acknowledged) do hereby give, grant, bargain, sell and convey unto the said Gerald Bennett Coleman his/her/their heirs and assigns a certain lot or parcel of land, with the building(s) thereon and all privilege and appurtenances to the same belonging, situated in Sinkor, Monrovia, County of Montserrado, Republic of Liberia, and bearing in the authentic records of said County of Montserrado and Republic of Liberia, the #3 in Block L14 and bounded and described as follows:

Commencing at the Southeastern corner of Lot # 5 in Block L-14, marked by a concrete monument, thence running North 54 degrees West 82.5 feet parallel with Gibson Avenue; thence running North 36 degrees East 132 feet parallel with 14th Street; thence running South 54 degrees East 82.5 feet parallel with a 16 foot alley; thence running South 36 degrees West 132 feet parallel with lot # 3 in Block L-14 to the place of commencement and containing one (1) lot or 1/4 acre of land and no more.

TO HAVE AND TO HOLD the above granted premises to the said Gerald Bennett Coleman, his/her/their heirs and assigns, and to his/her/them and their use and behoof forever.

And I/we, the said Georgia D. Coleman for me/us and my/our heirs, executors, administrators, and assigns do covenant with the said Gerald Bennett Coleman, his/her/ their heirs and assigns that at and until the ensealing of these presents, I/we/ was/were lawfully seized in fee simple of the aforesaid granted premises, that they are free from incumbrances, that I/we have good right to sell and convey unto the said Gerald Bennett Coleman his/her/their heirs and assigns forever, as aforesaid; and that I/we and our/my heirs, executors and administrators, and assigns shall WARRANT AND DEFEND the same to the said Gerald Bennett Coleman his/her/heirs and assigns forever against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, I/we Georgia B. Coleman have hereunto set my/our hands and seal this 23rd day of June in the year of our Lord One Thousand Nine Hundred and Seventy-Seven (A.D. 1977)".

Sgd. Georgia B. Coleman

Georgia B. Coleman"

2. Warranty Deed from Georgia B. Coleman to Gerald Bennett Coleman, Lot #3 in Block L-14, situated at Sinkor, Montserrado County "Let this be registered" Gladys K. Johnson, Acting Commissioner of Monthly and Probate Court, Montserrado County. Probated this 8th day of August A.D. 1977, Susanna E. Williams, Clerk of Monthly and Probate Court, Montserrado County. Registered according to Law, Vol. 264-77, pages 478-479, with the following content: "

KNOW ALL MEN BY THESE PRESENTS, that I/we Georgia B. Coleman of Monrovia, in the County of Montserrado, Republic of Liberia, for and in consideration of the sum of seven hundred ($700.00) dollars paid to me by Gerald Bennett Coleman of the City of Monrovia, in the County of Montserrado, Republic of Liberia (the receipt whereof is hereby acknowledged) do hereby give, grant, bargain, sell, and convey unto the said Gerald B. Coleman his/her/their heirs and assigns a certain lot or parcel of land, with the building(s) thereon, and all privileges and appurtenances to the same belonging, situated in Sinkor, Monrovia, County of Montserrado, Republic of Liberia, and bearing in the authentic records of said County of Montserrado the number 3 in Block L-14 and bounded and described as follows:

Commencing at the Southeastern corner of lot #5 in Block L-14, marked by a concrete monument; thence running North 54 degrees West 82.5 feet parallel with Gibson Avenue; thence running North 361 degrees East 132 feet parallel with lot #1 in Block L-14; thence

running North 54 degrees East 82.5 feet parallel with a 15 foot alley; thence running South 36 degrees West 132 foot parallel with lot #5 in Block L-14 to the place of commencement and containing one (1) lot or 1/4 acre of land and no more.

"TO HAVE AND TO HOLD the above granted premises to the said Gerald Bennett Coleman his/heir/their heirs and assigns and to his/her/them and their use and behoof forever.

"And I/we the said Georgia B. Coleman for me/us and my/our heirs, executors, administrators and assigns do covenant with the said Gerald Bennett Coleman, his/her/ their heirs and assigns that at and until the ensealing of these presents, I/we/was/were lawfully seized in fee simple of the aforesaid granted premises; that they are free from incumbrances; that I have good right to sell and convey unto the said Gerald Bennett Coleman, his/her/ their heirs and assigns forever, as aforesaid; and that I/we and our/my heirs, executors and administrators, and assigns shall WARRANT AND DEFEND the same to the said Gerald Bennett Coleman his/her heirs and assigns forever against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, I Georgia B. Coleman have hereunto set my hands and seal this 23' day of June in the year of our Lord One Thousand Nine Hundred and Seventy-Seven (A.D. 1977).

Sgd. Georgia B. Coleman

Georgia B. Coleman"

3. PUBLIC LAND GRANT DEED from the Republic of Liberia to R. H. Hill, of Monrovia, County of Montserrado, Republic of Liberia, as recorded in Volume 27, page 22 of the Records of Montserrado County; filed in the Archives of the Department of State, with the following contents:

"TO ALL TO WHICH THESE PRESENTS shall come, know ye, that in consideration of R. H. Hill of Monrovia, in the County of Montserrado, Republic of Liberia, having performed thirty (30) days military service as volunteer in the campaign against Buyer under the command of Col. B. P. Yates, A.D. 1853 and a bounty land certificate having been legally issued for said service in conformity to an Act of the Legislature entitled "An Act Pertaining to Bounty Land", approved January 13, 1863, and the right title and interest to R. H. Hill as is evidenced by said certificate filed in the office of the Commissioner of Public Land for Montserrado County in accordance with said Act; therefore, I, W.D. Coleman, President of the Republic of Liberia, for myself and my successors in office in pursuance of the Act cited above, have given, granted, and confirmed and by these presents do give, grant, and confirm unto the said R.H. Hill, his heirs, executors, administrators or assigns all the

piece or parcel of land situated, lying and being in the city of Monrovia, South Beach, County of Montserrado, and Republic aforesaid and bearing in the authentic records of said City the number 9 on South East Beach and bounded and described as follows:

COMMENCING at the South East angle of adjoining lot # 8 South East of Monrovia, owned by Alex Jordan's estate and running down the beach of Monrovia South, 52 degrees East 40 chains, North 32 degrees West 7 chains, South 38 degrees West 40 chains to the place of commencement and containing thirty (30) acres of land and no more.

TO HAVE AND TO HOLD the above granted premises together with all and singular the buildings, improvements and appurtenances thereof and thereto belonging to the said R. H Hill, his heirs, executors, administrators, or assigns, and I, the said W.D. Coleman, President as aforesaid for myself and my successors in office do covenant to and with the said R.H. Hill, his heirs, executors, administrators or assigns that at and until the ensealing hereof, I, the said W. D. Coleman, President aforesaid, by virtue of my office, have good right and lawful authority to convey the aforesaid premises in fee simple. And I, the said W.D. Coleman, President as aforesaid and my successors in office will forever warrant and defend the said R. H. Hill his heirs, executors, administrators and assigns against the claims of any person or persons.

IN WITNESS WHEREOF, I, the said W. D. Coleman, have hereunto set my hand and caused the seal of this Republic to be affixed this 7th day of
February, A.D. 1898 the Republic this 51'
Sgd. W. D. Coleman
W. D. Coleman PRESIDENT"
S. L. Watson
LAND COMMISSIONER, MONTSERRADO COUNTY
ENDORSEMENT PUBLIC LAND GRANT DEED
from the Republic to R. H. Hill as recorded in Volume 27, page 222, Montserrado County.

4. QUIT CLAIM DEED from Diana Louisa Coleman to Georgia Henriette Beatrice-Philips, all of the City of Monrovia, Republic of Liberia, as recorded in Volume 58 pages 358-369 of the Records of Montserrado County, filed in the Archives of the Ministry of Foreign Affairs with the following contents:

"KNOW ALL MEN BY THESE PRESENTS, that I, Diana Louisa Coleman of Monrovia, in the County of Montserrado and Republic of Liberia for and in consideration of the exchange of mutual interest and relinquishment of corresponding rights reserved to me in the within described property being a cognisance to Georgia Henrietta Beatrice Coleman-Philips, our mother, the execution and receipt of this deed being hereby acknowledged, do hereby demise, release, convey and forever quit claim and by these presents have demised

released, conveyed and forever quit claim, for me and my heirs, executors, administrators, or assigns, unto the said Georgia Henrietta Beatrice Coleman-Philips, her heirs and assigns, a certain lot or parcel of land, with the building thereon and all the privileges and appurtenances of the same belonging, situated, lying and being in the City of Monrovia, County of Montserrado, Republic of Liberia, and bearing in the authentic records of said City the number 9, and bounded and described as follows:

"Commencing 3 3/4 chains South 32 degrees East from the growing stick shown by the Horace's man named Joseph, bordering onto the South side of the motor road, and running South 38 degrees West 22 chains; to a point near the sea beach, thence South 52 degrees East parallel with the beach 33/4 chains; thence North 38 degrees East 40 chains crossing the motor road and allowing chains for width of the road; thence North 52 degree West 3 1/4, chains thence South 38 degrees West 18 chains to the place of commencement and contains 15 acres of land and no more."

TO HAVE AND TO HOLD the said premises, unto the said Georgia Henrietta Beatrice Coleman-Philips, her heirs and assigns to her and their only proper use and behoof forever; so that neither I, the said Diana Louisa Coleman, or any other person in my name and or my behalf shall or will hereafter claim or demand any right or title in and to the within described premises or any part thereof, but that they and every one of these shall these presents be excluded and forever barred.

IN WITNESS WHEREOF, I, Diana Louisa Coleman, have hereunto set my hand and Seal this 7' day of August in the year of our Lord One Thousand Nine Hundred and Forty-Six (A.D. 1946)"

t/Diana L. Coleman
s/Diana L. Coleman"
-ENDORSEMENT-
QUIT CLAIM DEED from Diana Louisa Coleman to Georgia Henrietta Beatrice Philips for lot 9, City of Monrovia." "Let this be registered" Doughba C. Caranda, Judge of Monthly and Probate Court, Montserrado County, Republic of Liberia, Commissioner of Probate. Probated this 6 th day of December, A. D. 1946. J. Everett Bull, Clerk of said Court. Registered in Vol. 58 pages 368-369 this 10th day of December A.D. 1946. Reuben B. Logan, Registrar, Montserrado County."

Based on these four (4) deeds, plaintiff/appellee, by and through his legal counsel, requested the defendants/appellants to vacate his property. The letters written to the defendants/ appellants are as follows:

LETTER DATED DECEMBER 7, 1982 FROM COUNSELLOR TOYE C. BERNARD TO MR. JOSEPH K. DUSUSEA OF SINKOR, MONROVIA.

"December 7, 1982
Mr. Joseph K. Dausea
Sinkor, Monrovia,
LIBERIA.

Dear Sir:
Our client, Mr. Gerald Bennett Coleman, has informed us that you are illegally occupying his property located in Sinkor, Monrovia, Liberia and that despite several warnings to you to vacate said property; you have refused and neglected to move therefrom.

This letter is therefore to request you to vacate our client's property not later than December 15, 1982. Upon your failure so to do, we shall have no other alternative but to have you evicted through court.

With kindest regards,
Very truly yours,
t/Toye C. Bernard
s/Toye C. Bernard
COUNSELLOR-AT-LAW" TCB/jd
CC: Mr. Gerald B.Coleman
LETTER DATED DECEMBER 7, 1982 FROM COUNSELLOR TOYE C. BERNARD TO MR. LOUSEAG D. KARGOU OF SINKOR MONROVIA.

December 7, 1982
Mr. Louseag D. Kargou
Sinkor, Monrovia,
LIBERIA.

Dear Sir:
Our client, Mr. Gerald Bennett Coleman, has informed me that you are illegally occupying his property located in Sinkor, Monrovia, Liberia and that despite several warnings to you to vacate said property, you have refused and neglected to move therefrom.

This letter is therefore to request you to vacate our client's property not later than December 15, 1982. Upon your failure to do, we shall have no other alternative but to have you evicted through court.

With kindest regards,
Very truly yours,
t/Toye C. Bernard
s/Toye C. Bernard"
TCB/jd.

CC: Mr. Gerald B. Coleman

In his complaint, appellee also demanded compensation as damages in an amount to be determined by the jury for the illegal occupation of appellee's property by the defendants, and to grant unto plaintiff such other relief as the court deemed just and equitable.

Defendants/appellants appeared and denied the legal right of plaintiff/appellee to recover in the action and therefore moved the court to dismiss the said complaint on the following grounds:

1. That plaintiff has woefully failed and neglected to proffer or annex any genuine evidence of his title to the lot claimed by him or to show any right of possession whatsoever, in that, plaintiff alleged in his purported complaint that he..."is the owner of a parcel of land located in the City of Monrovia, County of Montserrado, Republic of Liberia, known as lot #3 in Block L-14, which he bought from Mrs. Georgia B. Coleman...." Yet plaintiff failed to proffer the title deed for lot #3, Block L-14, but instead proffered copy of a purported warranty deed for lot #1, in Block L-14, which, according to its description, commenced at the south western corner of lot #3 in Block L-14 and "parallel with lot #3 in Block L-14 to the place of commencement". Defendants most respectfully maintained that under our law, "when a pleading refers to a written instrument, a copy of the instrument must be annexed to the written instrument, and made a part of the pleading". Therefore, plaintiffs failure to annex copy of his title deed, if any, to lot #3 renders the entire complaint incurable, bad, defective, and a fit subject for dismissal, and defendants so pray.

2. That they are not occupying land belonging to plaintiff, neither does the Quit Claim Deed from Diana Louisa Coleman to Georgia Henrietta Beatrice-Philips of 1946, proffered with plaintiffs complaint, extend as far as the swamp land situated between 14th to 15th streets at Gibson Avenue in Sinkor, which defendants reclaimed by permission of the City Corporation of Monrovia as having been declared a public land for a number of years, without objection from plaintiff's grantor or anyone else. The claim of plaintiff is therefore an attempt to cheat, defraud and wickedly harass the defendants and this should not be condoned or countenanced by a court of justice. Defendants attach hereto a copy of squatter's rights note granted to them by the Monrovia City Authority, dated March 16, 1982, to form a part of this answer and marked exhibit "A".

3. That the Quit Claim Deed proffered and relied upon by plaintiff is bad, defective, and indefensible, in that although the Government of Liberia allegedly granted R.H. Hill, the supposed original owner of the thirty (30) acres of land, which measured "52 degrees East 7 2/3. chains ....north 38 degrees east, 40 chains, north 52 degrees west 71 chains, south 38 degrees west 40 chains to the place of commencement", yet in the said quit claim deed, the thirty(30) acres were increased by a half (1/2) chain, thereby changing the bearings from 40 chains. Defendant strongly maintained that in the absence of any evidence showing

additional grant by the government or a court proceeding ordering an amendment or correction of the original deed, the said quit claim deed is a legal nullity and was drawn purposely to deprive other citizens of their *bona fide* properties, which act is indeed criminal and punishable under our penal laws.

To this answer, plaintiff/appellee replied as follows:

"1. That as to count one (1) of defendants' answer, plaintiff says that he alleged ownership to the parcel of land which is being illegally occupied by defendants, and that as proof of his ownership he proffered copy of his deed to the said property, thus giving defendants sufficient evidence of plaintiffs ownership to the property as well as notice of what he intends to prove. Having satisfied the statute governing pleadings, the said count, and with it the entire answer, should be dismissed.

2. That as to count two (2) of the answer, plaintiff says that defendants' exhibit "A", squatter's rights grant, issued by the City Corporation of Monrovia, does not convey to defendants title to plaintiff's land; nor is it superior to plaintiffs deed which predates the squatter's rights grant by five (5) years. Moreover, a squatter's right is not evidence of title under the law in the face of a valid title deed. Count two (2) of the answer should therefore be overruled and together with it the entire answer.

3. That plaintiff's land was never declared public land, and defendants have not shown when such declaration was made or that the area in the squatter's right grant does not fall within the metes and bounds of plaintiffs land. Therefore, count two (2) of the answer should be overruled.

4. And also because as to count three (3) of the answer, plaintiff denies changing the bearings in the quit claim deed since the land in the quit claim deed was carved out of the public land grant, and hence the description of the two pieces of property would naturally be different. Moreover, defendants have not shown any evidence of title to the property and cannot, therefore, recover on the alleged defect in this quit claim deed. Therefore count three (3) should be overruled."

The records reveal that appellants submitted what they called a squatter's right grant from the Commonwealth District of Monrovia giving them authority to own the land in question. It reads as follows:

"By virtue of the power in me vested, I Major Gayflor Y. Johnson, Mayor of the City of Monrovia, do hereby grant squatter rights to Messrs. Joseph N. Dasusea and Louseag D. Kargou to occupy an area measuring 75x98, 75' = 7,425 sq. ft. in Sinkor between 14t h and 15th Streets on Gibson Avenue (SWAMP LAND).

To construct a house, Mr/Miss/Mrs is empowered to occupy this area until such time when Government finds it necessary to use the land, in which case, one month notice will be given to the squatters.

His/Her rental fee shall be five ($5.00) dollars monthly, payable in advance, on an annual basis, to the Monrovia City Corporation.

It is also understood that Messrs. Joseph K. Dausea and Louseag V. Kargou will conform to the building code as it exists within the law.

DONE AT THE MONROVIA CITY HALL AND SEALED THIS_ DAY OF MARCH, A.D. 1982.

Sgd: t/Gayflor Y . Johnson
s/Gayflor Y. Johnson
CITY MAYOR:"

The first question which comes to one's mind is whether a squatter's right is applicable in the face of a claim of title based on a warranty deed? The next inquiry is whether the squatter's right is not vague, indistinct, indefinite and mathematically inaccurate so as to render it worthless and meaningless? These first two questions are based on the contents of the squatter's right grant, which states as follows:

"I Major, Gayflor Y. Johnson of the City of Monrovia do hereby grant Squatter's Right to Messrs. Joseph K. Dasusea and Louseag D. Kargou to occupy an area measuring 75 feet X 98 feet = 7,425 sq. ft. in Sinkor between 14th and 15th Streets on Gibson Avenue."

Another question which comes to mind is whether Mayor Gayflor Johnson had the legal authority to issue squatter's right certificate for public or private land without investigation?

The said squatter's right has no legal standing in a court of law. There is no written evidence, receipt or otherwise, showing that appellants ever deposited the rental fee of five ($5.00) dollars monthly in the Republic of Liberia revenue, commencing March 16, 1982 up to and including the 21th day of January, A.D. 1983, when this action was instituted, or for that matter, up to and including the present status of the case, in the amount of sixty ($60.00) dollars or more a year or in the amount of seven hundred twenty ($720.00) dollars from 1983 - 1989.

The Act of Legislature repealing The Act Creating The Commonwealth District of Monrovia and to Create In Lieu Thereof the City of Monrovia, County of Montserrado and to Grant it a Charter, states, as follows:

"SECTION 1. The Act approved February 8, 1982 entitled An Act To Create The Area Known As The City of Monrovia A Commonwealth District be and the same is hereby repealed.

"SECTION 2. From and immediately after the passage of this Act, the Commonwealth District of Monrovia, within Montserrado County; Republic of Liberia, be and is hereby created a body politic and corporate under the name and style of the City of Monrovia, and in such name it may sue and be sued, plead and be impleaded, and do all other acts that are usually done by similar bodies corporate.

"SECTION 3. The chartered officers of the Municipal Government shall consist of a Mayor and a Common Council composed of eleven (11) members, one of whom shall be elected by the said Council as its Chairman. The chartered officers must be citizens of Liberia not less than eighteen (18) years old and must be residents of said City for at least one (1) calendar year and must own real property to the value of not less than one thousand ($1,000.00) dollars within the City.

SECTION 4: The City of Monrovia shall have jurisdiction within its corporate bounds; the corporate bounds shall be the same area which comprised the bounds of the Commonwealth District, and in case it should be necessary to execute lawful process without the bounds of the said City, then and in that case, any justice of the peace within the county may issue judicial process on representation of any city officer being made to him, and the same may be executed by any constable of the said county.

SECTION 5. The City of Monrovia shall have full power and authority to make and fulfill contracts, take and hold real and personal estate to the value of ten million ($10,000,000.00) dollars. Subject to the approval of the President, it shall pass all necessary municipal laws and ordinances and levy all such taxes as may be necessary for city purposes; and shall perform all other necessary acts not incompatible with the general laws of this Republic.

SECTION 6: The Mayor and Councilmen shall hold their offices for a period of four (4) years and their election shall be held quadrennial on the third Tuesday in October. The inauguration of the Mayor-Elect shall be held on the third Monday in February of the year following the election.

SECTION 7. Vacancies in the Common Council shall be filled by special or by-election to be called by the President in the case of death, removal or resignation of the Mayor or a Councilman; and in the case of death, removal or resignation of the Mayor, the Chairman of the Common Council shall take over as Acting Mayor until a new Mayor has been duly elected and inaugurated.

SECTION 8. There shall be a City Court which shall be composed of a magistrate, a clerk and a seal and two (2) associate magistrates to serve in cases of venue and petty larceny and

shall try and determine all cases in keeping with statute. The jurisdiction of the City Court shall be limited to that of a magisterial court. The magistrate shall, within the precinct of the City, exercise the functions of a magistrate in all offenses occurring in the jurisdiction of the City, and, appeal from the said court shall be to the circuit court of Montserrado County. The said court shall, by its clerk, keep detailed reports of all matters and things which shall come before it in book or record provided for that purpose.

SECTION 9. The fiscal year for the administration of the City of Monrovia shall run from January to December of each year.

SECTION 10. This Act shall take effect immediately upon publication in hand bills.

Any law to the contrary notwithstanding.

Approved July 19, 197

PUBLISHED BY AUTHORITY

GOVERNMENT PRINTING OFFICE OF THE MINISTRY OF FOREIGN AFFAIRS, MONROVIA, LIBERIA AUGUST 16, 1973"

Closely examining the Act referred to *supra,* we have been unable to find the authority given by the Legislature of the Republic of Liberia to the Commonwealth District of the City of Monrovia to bargain for, sell, grant, and convey to any person or persons part or portion of public land within the Commonwealth District of Monrovia, much more to even grant a squatter's right. Nevertheless, appellants have vehemently argued and contended that their right to occupy the land in question is based upon a squatter's right.

Let us define the terminology of what is a squatter's right is as against a valid title, and what is its effect. "Squatter", according to Black Law Dictionary, is:

"A term of American origin applied to settlers on public lands of the United States who have not complied with the regulations of the land office." BLACK'S LAW DICTIONARY 1226.

In this context, therefore, it is inconceivable that the Legislature of the Republic of Liberia would have empowered the Commonwealth District of Monrovia, through its mayor, to grant squatter's right to a citizen (presumably) who is not a settler but capable of acquiring and possessing land in his own right, with the provision that he complies with the law in such cases made and provided without molestation from any quarter. The alleged declaration made by Mayor Gayflor Y. Johnson to the effect that "by virtue of the power in him vested", he had the right to grant squatter's right to Messrs. Joseph K. Dausea and Louseag D. Kargou to occupy an area measuring 75 X 98' 75" = 425 sq. ft. area in Sinkor between 14th and 15th Streets on Gibson Avenue (swamp)" appears to us not only nebulous, spurious and indistinct, but was unauthorized as against a valid title deed. In other words, the phrase "and to do all other acts that are usually done by similar bodies Corporate" should never be

construed as vesting in the City Corporation the right or power to give title to private land, for it was never intended by the Legislature that the City Corporation be given this right. On the contrary, the act the of City Mayor, Major Johnson, was incompatible with the general laws of Liberia concerning acquisition of lands in the Republic of Liberia.

Notwithstanding the legal consideration mentioned above, since the modern tendency of trial procedure is to dispense with legal technicalities and afford substantial justice to party litigants by the simplest and most direct means, this Court notes that law issues having been disposed of, a trial of the factual issues was conducted in the court below. Appellee testified in his own behalf, essentially confirming and affirming his complaint, was cross examined by appellants' counsel, and thereafter prayed to be admitted into evidence documents marked by Court, P/1, P/2, P/3, P/4, P/5 and P/6 which were his title deeds and letters, which had been identified, confirmed and affirmed by a preponderance of evidence, without any objections from appellants' counsel.

We wish to observe from the records of the court below that after the cross examination of the first witness for plaintiff, appellants' counsel applied for a board of arbitration to be appointed to determine whether or not the land in question was owned by the appellee in the proceedings. The application was resisted by appellee's counsel on the ground that the court had empaneled a jury, who were the trial of the facts, and as that the case had been ruled to trial without any issue as to the location and identification of the property, there was no need for a board of arbitration. The court ruled as follows:

"This case has been ruled to trial since 1983, and the issue ruled to trial did not invoke and cannot invoke any proceedings for arbitration. If the case had not already been set for jury trial, which jury is now on panel and the case on trial, maybe consideration could have been given to the application of defendants' counsel for arbitration; but at this stage, where a jury has been empaneled, counsel for defendant suffers waiver. Therefore, we shall proceed with the trial. And it is so ordered."

After appellants' counsel's notation of exceptions to the ruling, the trial continued with the second witness of plaintiff/ appellee. Here is a portion of the testimony culled from the records, which we believe is pertinent to the determination of the case at bar:

PLAINTIFF'S FIRST WITNESS ON THE STAND

"Q. Please state your name and place of residence?

"A. My name is Georgia Coleman and I live on Coleman Avenue between 15th and 16th Streets, Sinkor, Monrovia, Liberia.

"Q. Are you acquainted with the plaintiff in this case and if so, do you have any relationship to him?

"A. Yes. The plaintiff in this case is Gerald Coleman, who is my son.

"Q. Are you also acquainted with the defendants in this case?

"A. Not personally. But I know them to be occupying the plaintiffs premises, and I have talked with them.

"Q. The plaintiff has filed an action of ejectment against the defendants, and you have taken the stand to testify on behalf of the plaintiff. Please tell this court and jury all facts and circumstances in your certain knowledge touching the subject matter of the case?

A.. "From my window, you can look at the property in question. I noticed one day that somebody was constructing a building on the plaintiffs land. I went there and I asked the man whom I met there if he knew that he was building on somebody's property? He answered "yes", and later said to me that if the owner of the land come I will move. And when my son came back to Liberia, I called his attention to the fact that somebody was building on his premises. I asked my son if he is the one who gave them permission. He replied "no", and that he was going there to talk with whomever was building on his land. From then on, when we came back to the man who was building on the land, he said that the property was his and told us that City Hall gave him squatter's right. I know that I have deeds for the property that I have inherited from my mother who inherited them from her father. My mother was Hanna Hill Philips, who inherited the property from her father, Robert Hill, and he, Robert Hill, got this property from the Republic of Liberia. I have several deeds to show as proof. I rest.

"Q. You have referred to the deeds relating to the property. Were you to see them, will you be able to recognize them?

"A. Yes.

"Q. I pass you these instruments, look at them and say what you recognize each to be, and whose signature appear on each of them?

"A. P/1 is a deed from me, Georgia Coleman, to my son Gerald Bennett Coleman, Block #1 and block #14 and is signed by me, Georgia B. Coleman; "P/2 is Warranty Deed from me to Gerald Bemett Coleman signed by me; P/3 is a Quit Claim Deed to me, Georgia B. Coleman from my sister, Diana L. Coleman, signed by Christopher Minikon, Deputy Minister of Foreign Affairs and also signed by Augustine Jallah, Director of Archives; P/6 is a certified copy of the deed from the Republic of Liberia to Robert Hill, signed by President Coleman. The certified copy is signed by the Secretary of State, Gabriel L. Dennis, and the Chief of the Bureau of Archives, Edward King.

"Q. Please say where is the whereabout of the original of P/6 if you know?

"A. The original of P/6 was misplaced during the coup of 1980.

"Q. Refresh your memory and say whether you recall any communication to the defendants in this case, and if so whether you can identify it?

"A. Yes, Counsellor Bernard wrote them with regards to occupying the place

"Q. If you saw said instruments, will you be able to recognize it?

"A. Yes.

"Q. I pass you these instruments; please look at them and say what you recognize them to be?

"A. P/3 and P/4 are letters written to the defendants by Counsellor Toye C. Bernard."

On the cross examination, defendants/appellants propounded a question to plaintiff/appellee, but it was objected to by plaintiffs counsel on the grounds of (1) irrelevancy, (2) immateriality, and (3) that the documents spoke for themselves, and hence the said documents were the best evidence in the case. Here is the question:

"Q. Madam witness, you have testified and identified documents marked by court P/6. You have also mentioned in your testimony in chief, among other things, that the defendants contended and maintained that they obtained certificate of squatter's right from the City Corporation, declaring the portion of the parcel of land the plaintiff is claiming as free government land. Will you mind telling the court and jury whether or not the place was surveyed ascertaining that the particular portion of land falls within the property you sold to your son, plaintiff in this proceeding?

The objection was sustained and exception was noted to the judge's ruling. Appellants' counsel then rested with witness Georgia Coleman. Counsel for appellee rested oral testimony and offered into evidence documents marked by court P/1 through P/6, which were testified to, identified, marked by court, confirmed and affirmed to form a part of the appellee's written evidence in the case. Thereafter, counsel for appellants made the following submission:

"Counsel for defendants says that he interposes no objection to the application made by plaintiff's counsel, praying for the admission into evidence documents marked by court P/l through P/6."

Accordingly, the judge ordered the documents admitted into evidence. Thereafter, counsel for the appellants requested the court to suspend the case to the following day.

The first witness for the appellants was one of the appellants, in person of Joseph K. Dasusea, whose testimony was substantially as follows:

1. That the Lands & Mines sent him (Joseph K. Dasusea) to Public Works and the Public Works referred him to the City Corporation and the City Corporation measured the place and gave him paper, meaning the Certificate of squatter's rights.

2. That they, the defendants, did not have deeds for the property on which they were squatting and which the plaintiff was claiming.

3. That he paid sixty ($60.00) dollars to Major Gayflor Johnson, the Mayor of the City Corporation, but was not given a Revenue receipt by the City Hall.

4. That he knew Plaintiff Gerald Coleman and his mother.

5. That he came to know them when his uncle was working with the mother.

When asked whether or not he ever talked with Gerald Coleman and his mother, he answered as follows:

"Mr. Gerald Coleman said that his ma said I have two (2) lots behind your house and when he said that, I told him that this place was given to us by the government. All I know government gave us this place. I do not know you".

Co-appellant Joseph K. Dausea testified to and identified his squatter's right certificate and it was marked by the court. Thereafter, he was cross-examined by appellee's Counsel. Pertinent parts of the cross-examination are as follows:

Q. Mr. witness, we want to know how you got to know this land before going to Lands & Mines and City Hall and before you were told that it was for government?

(a) I saw people building there and I went there and the people told me that the land was for government. The old man who gave me the information is now dead.

Q. Mr. Witness, please tell this Honourable court and the empaneled jury as to whether besides the paper under question, you have any other document to prove that this land is yours?

A. No.

Q. Mr. witness, did you complete your house before Mr. Gerald Coleman informed you that this land was his?

A. I completed my building before he informed me.

After the cross-examination, the jury asked questions but the judge waived all questions. The appellants then called Mr. Edwin Soumie to the stand as their next witness. Here are the pertinent parts of Witness Edwin Soumie's testimony:

Q. Mr. witness, please state your name and place of residence?

A. My name is Edwin Soumie, and I live on Camp Johnson Road, Monrovia, Liberia.

Q. Are you acquainted with plaintiff and the defendants in these proceedings?

A. Yes, I am.

Q. The plaintiff has filed an action of ejectment against the defendants. You have been cited before this Honorable Court as witness for the defendants. You will now state briefly all that lie within your certain knowledge touching all facts and circumstances in this case?

A. Sometime ago in 1982, Mr. Joseph Dausea asked me to help him to carry him to the Ministry of Public Works, and we went there. Later on, we were sent to Lands & Mines. From Lands & Mines we went to City Hall, and there we talked with the City Mayor, Mr. Johnson; at which time he asked us to give him Sixty ($60.00) dollars for a piece of land located on 14t h Street, Sinkor. He received the sixty dollars and he gave us receipt, and gave us squatter's right to go ahead. That's all I know. I rest.

Q. In your statement in chief, you made mention among other things that a certificate of squatter's right was issued by the Commissioner of City Corporation, Mr. Johnson. Were you to see said document, will you be able to identify and recognize same?

A. Yes.

Q. I pass you the document in my hand, look at it and say what you recognize it to be?

A. Yes, I recognize this to be the squatter's right I made mention of in my general statement.

At that stage, counsel for appellants requested the court for a mark of identification to be placed on the document that had been testified to and identified by the witness. Application granted"

The document marked by the court D/1 was confirmed. Whereupon, counsel for the appellants rested with the witness with the usual reservation. The witness was then cross-examined as follows:

-CROSS EXAMINATION -

Q. Mr. witness, please say whether the Sixty ($60.00) dollars you say you paid was paid in the Bureau of Revenues and if you have any receipt for it?

A. I do not know whether it was paid in revenue, but he gave us receipt.

Q. Did you ever meet the plaintiff in this case, Mr. Gerald Coleman?

A. Yes, I have seen him, but I never met with him.

Q. You said that you know the plaintiff and the defendants, now you are saying you have seen the Plaintiff but you do not know him. Which of the two statements do you want us to accept as the true one?

A. Seeing is different, and knowing is different.

Q. When asked by your lawyer whether you are acquainted with the plaintiff and the defendants in this proceeding, your answer was: "Yes", I am". Please explain what you mean by being acquainted with the plaintiff and the defendants?

A. I simply mean that I have seen him before.

Q. Please say what you mean by "him" since I am referring to both the plaintiff and the defendants?

A. To him, the plaintiff.

Q. Please say whether you accompanied the defendants to City Hall when they paid the Sixty ($60.00) dollars which you have referred to, or how do you come to know about it?

A. The defendants asked me to go with them.

Appellee then rested with the witness. Redirect was waived, as was the re-cross. But the jury asked several questions.

"JURY QUESTIONS

Q. Mr. witness, in your testimony, you mentioned that you and Mr. Joseph went to the Public Works Ministry. Who sent you to Lands & Mines, from the Public Works Ministry?

A. Joseph and I went to Public Works and he asked me to wait for him when he went to his house and when he came back, he asked me to follow him to Lands & Mines; then later, he and I went to City Hall.

Q. You did mention in your testimony that you people were given a squatter's right. In measuring this squatter's rights, did you find or see any sign of ownership on said land?

A. I did not see any sign of ownership, government gave us the go ahead.

The jurors rest questions, witness discharged".

Counsel for appellants at that stage rested oral evidence and offered for the court's admissibility into evidence document marked by court D/1 and confirmed to form part of appellants' evidence in the proceedings:

The application was granted and document marked by court D/1 was admitted into evidence. Whereupon counsel for appellants rested evidence in toto.

The records reveal that after both parties had rested evidence in the case, arguments were entertained and the jurors charged by the trial judge. The charge was concluded with these words:

"Therefore, Mr. Foreman, ladies and gentlemen of the empaneled jury, we consider you to be sound men and women, and you have sat here for about three (3) consecutive days, listening to the facts in this cause, the right of ownership and the legal issues explained to you. You are therefore charged to retire into your room of deliberation and bring a verdict of not liable in favor of the defendants according to your understanding of the facts and the law explained to you. You may bring down a verdict of liable against the defendants and that the plaintiff should have his land; and within your own conscience, you may award damages to the plaintiff. And you are so ordered".

There was no exception taken to this charge of the trial judge, and this Court has held on many such occasions that unless the party aggrieved by or dissatisfied with a ruling or order or actions of a lower court excepts, the ruling or order or action is not subject to review by this Court.

After deliberations by the jurors, on the 26' day of January, A. D.1985, they returned with a verdict unanimously agreeing that the defendants were liable to the plaintiff and obligated to pay the sums of Two Thousand ($2,000, 00) dollars for general damages.

A four-count motion for new trial was filed, resisted, heard, and denied. it might be of interest to mention in passing that the main issues raised in the said motion for new trial essentially embraced the following: (1) Appellee's failure to offer into evidence any title deed to Lot #3, and that instead he offered title deed to Lot # 1 in Block L-14 claimed by him; (2) that the title deed from the Government of Liberia to R. H. Hill for thirty (30) acres or 40 chains was altered and changed to 40'/2 chains or 31 1/3 acres of land, thereby encroaching on other lands not belonging to R. H. Hill nor granted by the Government of Liberia to appellee nor his grantor; (3) that appellee refused to submit to an arbitration or a resurvey of the parcel of land claimed by him to determine whether or not the spot which appellants erected their dwelling houses fell within his deed; and that this was a clear proof that appellee had no legal right nor title the parcel of land upon which appellants resided, and therefore any verdict in favour of appellee was a legal nullity and founded upon no legal evidence; (4) that it was not enough to merely claim a parcel of land under a purported deed and recover, but it was mandatorily required by law that proof be presented that the appellants were occupying the same parcel of land covered by such deed, which proof must be adduced in evidence at the trial; (5) that the instructions of the judge to the jury to the effect that in ejectment, title deed is the main issue, and the fact that appellee had title deed and appellants did not have title deed, inflamed the minds of the juror and, therefore, was prejudicial to the appellants.

We have found nothing in the records that the appellants challenged the ambiguity or the vagueness of the verdict to the effect that the appellants were liable to the appellee and is obligated to pay the sum of Two Thousand ($2,000.00) dollars for general damages so as to have given the trial judge an opportunity to pass upon same. We are of the opinion that said issue was therefore waived and ought not be raised and considered at this appellate level. In the trial judge's final judgment, he concluded as follows:

"Therefore, in view of the foregoing, the unanimous verdict of liable against the defendants in this case is hereby confirmed and affirmed and the defendants are hereby adjudged liable and they are to pay to the plaintiff as general damages, the sum of Two Thousand ($2,000,00) dollars. The clerk of court is hereby ordered to issue a writ of possession in favor of the plaintiff, evicting and ousting the defendants from the said premises and turning the same over to the plaintiff herein, and the defendants are hereby ruled to costs. And it is so ordered".

GIVEN UNDER OUR HANDS IN OPEN COURT THIS 20th DAY OF FEBRUARY, A.D. 1985

Sgd. Eugene L. Hilton
Eugene L. Hilton"

Appellants, being dissatisfied with this judgment and several rulings of the trial judge, appealed to this forum for final review and adjudication.

In arguing before us, appellants have submitted a bill of exceptions containing five (5) counts.

In count one (1) of the bill of exceptions, appellants contended:

That in their defense to the plaintiffs complaint, defendants filed a four-count answer raising pertinent legal and factual issues to the effect that the deed proffered with the complaint does not correspond with plaintiffs allegations in claiming ownership to lot # 3, but that plaintiff proffered a deed for Lot # 1; that the quit claim deed from Diana Louisa Coleman to Georgia H. B. Philips does not extend to 14th and 15th streets, Gibson Avenue in Sinkor; that the said quit claim deed is bad and defective because the original metes and bounds of the land, thirty (30) acres of land, have been unauthorizedly changed (increased), thereby taking in part of the public domain of the land and other people's property; and that the lot occupied by defendants is not part of plaintiffs land but a public property controlled by the City Corporation of Monrovia. These salient issues, according to the defendants, the trial judge prejudicially ignored and dismissed defendants' answer and ruled them to a bare denial of the facts.

In passing upon this count, we hold the view that whilst we are in agreement that generally speaking, whatever shows that the plaintiff is not entitled to the immediate possession of the

premises claimed constitutes a good and valid defense in an action of ejectment; if a recovery may be had on the strength of his own title and not from the weakness or want of title of his adversary, the right of possession under color of claim of title by the plaintiff may nevertheless be *prima facie* evidence of title against a mere intruder. In effect, a defendant who has no title to the premises may not contest the plaintiffs title thereto where the latter has shown *a prima facie* right to the premises. 25 AM JUR 2d., *Ejectment,* § 57.

Furthermore, since it is a general rule of law that the plaintiff in ejectment must recover upon the strength of his own title, and may not rely upon the weakness of the defendant's claim, it is well settled that if the case depends upon the legal title, the defendant should show an outstanding title in some third person, which defendants have not done. A mere intruder or trespasser will not, however, be allowed to protect himself in the possession by setting up an outstanding title in a stranger where the plaintiff relies on prior possession.

Continuing, we further hold the view that in keeping with general principles of law, possession, no matter how long continued, is no bar to recovery by the true owner, if the party in possession entered upon the land without any claim of title, and did not acquire or assert title to the land at any time or claim to hold it adversely to the true owner. To bar a plaintiff in ejectment, who has title, by possession in the defendant, strict proof is necessary not only that possession was taken under a claim hostile to that of the real owner, but that it continued for the period of limitation provided by the statute. In the instant case, the records reveal that appellee proffered a title deed to lot #3, which was admitted into evidence without any objection, together with other deeds. Also from the evidence adduced at the trial, it is clear that the appellants failed to show that appellee was not entitled to the immediate possession of the premises in question. The records show that appellee relied upon the strength of his own title deed for lot #3, supported by a chain of titles from the Republic of Liberia to R. H. Philips, then to Hannah Philips, and a quit claim deed from Georgia Coleman to Diana Coleman who, by inheritance, acquired their property from their mother, Hannah Philips. Appellee's right of possession under color or claim of title therefore is *prima facie* evidence against the appellants who were intruders merely relying upon a paper entitled "squatter's right". The contention of appellants that appellee had failed to annex copy of his title deed to lot #3 to his complaint is hereby overruled, since for the records show that a warranty deed for lot #3 was annexed to the complaint. In other words, appellants having failed to set up a legal title as against the title of appellee, the trial judge did not commit any reversible error in dismissing their answer and ruling them to a bare denial of the facts in the complaint, for there was no title deed to be matched against appellee's title for the jury to pass upon.

Appellants contended that they were on the premises long before appellee claimed possession of the said premises. Although there was no evidence to this effect, because the evidence adduced showed that they were occupying the premises upon authority of the City

Corporation of Monrovia, nevertheless, in keeping with universal law extant, no matter how long defendants continued to live on a premises, it is no bar to recovery by the true owner of the land, if the party in possession entered upon the land without any claim of title and did not acquire or assert title to the land at any time or claim to hold it adverse to the true owner of the land. Strict proof was necessary given appellants' notion that possession was taken under a claim hostile to that of the real owner. Furthermore, there are no records before us showing that the appellants fully acquired and perfected a title deed for the parcel of land or a portion thereof, under which they claimed title by adverse possession, to have necessitated a joint survey made under warrant of the court by means of arbitration proceeding.

On the question of arbitration, the law is that to necessitate an arbitration, there must be a written agreement or stipulation to submit to arbitration the controversy existing at the time of the making of the agreement or any controversy thereafter arising, without regard to the justiciable character of the controversy. Such agreement is valid, enforceable and irrevocable except upon such grounds as exist for revocation of a contract.

The records before us reveal that there was no application before court giving information about (1) the existence of an agreement between the parties to submit to arbitration the controversy or the facts of the ejectment proceedings, (2) that appellants were parties to such an agreement, (3) that the matter in controversy be referred to arbitration, (4) and that there was a refusal by the appellee as party to such agreement to submit to arbitration. It is only upon such application, supported by the agreement to arbitrate, that would compel this Court to further investigate the claim of arbitration. And if through the inquiry it is found that (1) there was an agreement as referred to in this opinion; (2) plaintiff was a party to the agreement; (3) the controversy was referable to arbitration; (4) the right to proceed to arbitration had not been waived by the adverse party; and (5)that the agreement has not been revoked by either party and yet the determination was made in favor of the adverse party, this Court would then order the parties to arbitrate. In the absence of fulfilment of these statutory requirements, we hold the view that the judge did not err when he refused to submit the parties to arbitration. Civil Procedure Law, Rev. Code 1:64.1, 64.2 and 64.3.

As to count two (2) of the bill of exception, appellants have contended and argued that the instructions of the trial judge were prejudicial to them and constituted a reversible error. The portion of the instructions complained of was as follows:

"Plaintiff has title deed, the defendants did not have title deed. . . a person who holds a title deed has right of ownership to that property and prevails over one who does not have a deed."

These instructions, the appellants say, were contrary to the principle of law laid down by this Court in the case *Duncan v. Lewis,* 13 LLR 510 (1960); that the same were prejudicial and inflamed the minds of the jury to return the adverse verdict against appellants. This, they

said, necessitated appellant moving for a new trial, which motion the trial judge erroneously and prejudicially denied, and affirmed the erroneous and prejudicial verdict. To these rulings appellants excepted.

In the first instance, we strongly feel that the holding of the *Duncan* case supports the position we assume in the instant case. We therefore deem it lawful and fair to the parties in this case to quote the relevant parts of the opinion in the *Duncan* case:

(1) Priority of claim to title is a material element in an action of ejectment; and

(2) A plaintiff in an ejectment action must rely upon proof of title in himself, and cannot prevail merely by reason of defects in the defendant's title.

Some authorities hold that a recovery of plaintiff in ejectment may be defeated by the defendant showing title in himself, and that this is so, although he acquired the same subsequent to the commencement of the suit. 28 C.J.S., *Ejectment,* § 35. In Liberia, the older and superior title has always been controlling principles in cases of ejectment, and we know of no time that this principle did not control decisions in cases of ejectment in the courts of Liberia. Furthermore, the primary objective in suits of ejectment is to test the strength of the titles of the parties and to award possession of the property in dispute to that party, whose claim of title is so strong as to effectively negate his adversary's right of recovery.

Our position would have been different in this opinion if appellants had proffered a warranty deed covering the area which they claim and had filed such warranty deed with their answer, in which transfer of title to the disputed land was made to them in fee simple. If it appeared from the deed presented by appellee and the deed presented by appellants that they described two different pieces of property, one would think that it was then and only then that a board of arbitration would have resolved the issue. Appellee has claimed title to lots #1 and 2 and has also exhibited a chain of title to support that allegation. On the other hand, appellants have relied on a squatter's right with an indefinite and inaccurate description. Appellants have therefore failed to show title in themselves. There can be only one legal deed for a property. In the *Duncan* case, relied upon by appellants, there were two separate deeds before court; hence, it was erroneous for the trial judge in that case to have informed the trial jury that the appellants had no deed. The legal authority relied upon was therefore inapplicable to the instant case.

Moreover, we must observe here that ejectment supports the idea of adverse possession in the appellants. The questions involved in such trials are of a mixed nature of law and facts which, under the statutes, must be tried by a jury under the direction of the court. It is not an error for the court to refuse to instruct the jury on any point in such trials when, in its opinion, it does not appear proper to do so. In the instant case, the appellee had shown in himself a legal title to the property in dispute to recover it. By title here is meant the right of

possession arising either from descent or purchase and the right of entry. It was therefore, not an error for the court to instruct the jury that a party had offered no legal evidence in the shape of a deed to the property in dispute. It was also not an error for the court to instruct the jury that the appellee must recover upon the strength of his own title and not upon the weakness of the appellee's. *Reeves v. Hyder,* 1 LLR 271 (1897); *Harris v. Locket,* 1 LLR 79 (1875).

Further, as to the issue that the court below instructed the jury to the effect that the defendants in this case had no evidence in the shape of a deed of title, we are of the opinion that the trial court committed no error, because after a careful examination of the entire records and the proceedings in this case, we have not found in the said records wherein the appellants offered written testimony to prove the right of possession, the right of entry, or any lawful or equitable title to lot #1 in block L-14 or lot #3 in block L-14 in Sinkor, City of Monrovia, or, for that matter, even a chart or a map of the area in question, showing the area being occupied by appellants.

As to the issue that the court's refusal to grant a new trial when prayed for after the verdict, it is our opinion that the granting or refusal of a new trial is a matter in the sound discretion of the court according to the exigency of the particular case, and based upon principles of sound justice and equity. The discretion is not generally reviewable as an error when the court is satisfied that the verdict is not contrary to the law, the evidence and the legal instructions of the court.

This court has tenaciously held and confirmed over and again that in ejectment, the plaintiff must recover on the strength of his own title and not on the weakness of the appellants', and this is applicable to all actions for the recovery of real property. If the plaintiff had actual prior possession of the land, this is strong enough to enable him to recover it from a mere trespasser who entered without any title. A naked possession of land by an intruder cannot prevail against a paper title. *Minor et al. v. Pearson et al.,* 2 LLR 82 (1912); *Couwenhoven v. Beck et al.,* 2 LLR 364 (1920). This Court has also held that ejectment supports the idea of adverse possession in the defendant. *Clark et al. v. Lewis,* 3 LLR 95 (1929).

As to count three (3) of appellants' bill of exceptions, they have contended and argued before us as follows:

That although in ejectment a plaintiff must recover, if at all, only on the strength of his title and not upon the weakness of defendants' title and plaintiff failed to establish any title to lot #3, block L-14 claimed by him in the complaint; and there wasn't any proof adduced in evidence by plaintiff that defendants were occupying lot #1 or #3, yet the trial judge upheld the erroneous verdict of the trial jury and denied defendants' motion for new trial.

This count of the bill of exceptions must be overruled as a matter of law and fact, because a recourse to the records of this case showed that a warranty deed from Georgia B. Coleman to Gerald Bennett Coleman for lot #1 in block 1-14, situated at Sinkor, Montserrado County, probated and registered on the 8th day of August, A. D. 1977, in Volume 264-77, pages 480-481, was proffered, testified to, marked by the trial court P/1 and confirmed. The records further showed that another warranty deed from Georgia B. Coleman to Gerald Bennett Coleman for lot #3, in block 1-14, situated at Sinkor, Montserrado County, probated and registered on the 8t h day of August, 1977, in Vol. 264-77, pages 478-479, was also proffered, testified to, marked by the trial court as P/2, confirmed, and made to form a part of the court's records. Hence, this count is not sustained.

Appellants have also contended in counts four (4) and five (5) of their bill of exceptions, as follows:

that although there was neither allegations of specific damages in the complaint, nor any scintilla of a proof of damages, yet, the trial judge erroneously and prejudicially upheld and sustained the arbitrary verdict of the trial jury and denied defendant's motion for a new trial; that the final judgment rendered by the trial judge in favor of plaintiff on the 20th day of February, 1985 is a nullity. It does not specify what property is awarded to plaintiff, whether Lot #3 or lot #1 in block L-14, which is not claimed but which deed was proffered and admitted into evidence to prove ownership to lot #3; that the amount of two thousand ($2,000.00) dollars awarded is a mere speculation because there is no scintilla of evidence to justify said award; and that the verdict upon which said judgment was predicated was not supported by the facts, the evidence adduced, or the law controlling."

As to the issue of appellants' motion for a new trial, it is not necessary to repeat our view here below, since this issue was disposed of earlier in this opinion.

On the issue of damages, our statute provides that in a complaint of an action of ejectment, the plaintiff may demand damages for wrongful detention of the real property as well as delivery of possession. Civil Procedure Law, Rev. Code 1:62.2.

In the prayer in appellee's complaint, we have found the following:

"Wherefore, and in view of the foregoing, plaintiff respectfully prays this Honourable court for a judgment evicting, ousting and ejecting the said defendants from the premises of the plaintiff herein described. Plaintiff also demands compensation as damages, in the amount to be determined by the jury for illegal occupation of plaintiffs property by the defendants. Plaintiff prays further that Your Honour will grant unto plaintiff such other relief as in the court's judgment would be deemed just and equitable."

Clearly, appellants have misapplied the question of damages in an ejectment action and the law controlling same. Damages in an action of ejectment is not based on specific damages,

rather it is contingent upon general damages. Hence, the awarding of such damages was left in the sound discretion of the jury which has been done in the instant case. Moreover, the said verdict was not arbitrary, but was in conformity with the weight of appellee's evidence which outweighed that of the appellants by sufficient preponderance. The evidence of appellee was not only by the testimony of witness Georgia B. Coleman but it was supported by the title deed presented by appellee which identified the land in dispute and established a *prima facie* case of the plaintiffs title or right of possession thereto. Plaintiffs evidence was able to completely and perfectly connect his title with the original source of the title, the Republic of Liberia. It is our view therefore, that the trial judge did not err when he gave an affirmative charge in favour of the appellee who had shown title to the property.

In ejectment actions or proceedings in the nature as we have in the instant case, the usual rules as to the necessity, propriety and sufficiency of instructions in civil actions generally apply. The instructions of the trial judge, having shown that he correctly stated the law applicable to the case, the same was not confusing, conflicting, or misleading, and it did not ignore or exclude any of the issues properly raised in the pleading by either party in support of which evidence was introduced. The verdict given on the said charge was not arbitrary.

We note that appellants' counsel laid great emphasis on an alleged arbitrariness of the verdict which they considered to be erroneous. For example, they point to an alleged failure by appellee to establish any title to lot #3 in block L-14, claimed by him in his complaint, and they assert that there was no proof adduced in evidence by appellee that appellants were occupying Lot Nos. 1 or 3. They claimed that there was no allegation of specific damages in the complaint and that there was not a scintilla of proof of damages presented by the appellee. Hence, they said, the judgment awarding appellee Two Thousand ($2,000.00) Dollars as damages was merely speculative and not supported by a scintilla of evidence to justify the award. It is our view that besides the treatment which we have already given in this opinion, which we do not think expedient to repeat here, we must remark that with respect to the forms and requisites of verdicts in actions of ejectment or other statutory proceedings, the same general rules apply as in other civil actions; that is, the verdict must comprehend the whole issue or issues submitted to the jury in the particular case and that it must certainly find for or against a party in the suit. This form and these requisites have all been observed with the verdict and the final judgment. The verdict reads:

"Gerald Bennett Coleman of the City of Monrovia, Liberia---PLAINTIFF VERSUS Joseph K. Dausea and Louseag D. Kargou (to be identified) the City of Monrovia, Liberia----------DEFENDANTS VERDICT (ACTION OF EJECTMENT)

We the petit jurors to whom the case, Gerald Coleman, plaintiff versus Joseph K. Dasusea and Louseag D. Kargou, defendants was submitted, after a careful consideration of the evidence adduced at the trial of the above entitled cause of action, we do unanimously agree

that the defendants are liable to the plaintiff and are obligated to pay the sum of Two Thousand ($2,000.00) Dollars for general damages."

This verdict is unambiguous and needs no additional or specific grammatical or rhetorical construction or interpretation. It has showed appellants' responsibility in the suit. It showed also the defendants' state of condition of affairs which gave rise to the obligation.

It is the answer (verdict) of the jury given to the court concerning the matter of fact committed to their trial and examination. It makes no precedent and settles nothing but the immediate controversy to which it relates. It is the decision made by the jury and reported to the court and, as such, it is an elemental entity which cannot be divided by a judge. 29 R.C.L.834. It is not a verdict against evidence, 20 R.C.L. 273, and it is neither a verdict contrary to law 20 R.C.L. 271, nor against the instructions or charges of the court. Indeed, there was no exceptions noted for our review.

The court's charge to the jury read as follows:

"Mr. foreman, ladies and gentlemen of the empaneled jury:

This is an action of ejectment instituted by the plaintiff against the defendants. The facts are very simple. In keeping with the evidence, you saw here with your own eyes plaintiff produced title deed to justify his right and title to the property and in rebuttal the co-defendants brought a piece of paper indicating that it is a certificate, and you heard in the facts defendants told you that they paid some money in the sum of Sixty ($60.00) dollars but it was not paid to Government to have received a Government Receipt ...The important issue in this case is that plaintiff has title deed and defendants do not have title deed, and we want you to understand that in keeping with law, the person who holds a title deed has right of ownership to that property, and he prevails over one who does not have a deed.

Mr. Foreman, ladies and gentlemen of the empaneled jury, we charge you to concentrate on that issue in your room of deliberation. Another issue is that in an action of ejectment, the plaintiff is entitled to damages because of the alleged illegal withholding of the said property from the plaintiff by the defendants. This damage is left with your conscience to award any amount or sum total you feel within your judgment that the plaintiff should receive for the alleged molestation committed by the defendants against the plaintiff for withholding his said property.

Therefore, Mr. foreman, ladies and gentlemen of the empaneled jury, we consider you to be sound men and women, and you have sat here about three (3) consecutive days listening to the facts in this cause and also the right of ownership and legal issues explained to you. You are therefore charged to retire into your room of deliberation and bring a verdict of not liable in favor of the defendants according to your understanding of the facts and law, or in keeping with your understanding of the facts and the law explained to you. You may bring

down a verdict of liable against the defendants and that the plaintiff should have his land and with your own conscience; you may award to the plaintiff damages. And you are so charged".

No exception was noted to this charge of the trial judge.

A review of this verdict or decision given by the jury reveals that there is no evidence that the jury disregarded the charge of the trial judge on questions of law embraced by the issues to have necessitated the court to reverse the decisions of the empaneled jurors and to order a new trial because of their neglect to follow the directions of the trial judge upon matters of law. It was the legal duty of the jurors to comply with such directions; and if they had refused to do so, it was the duty of the trial court to set aside the verdict, except where there was evidence from which the jury could have found that the conditions required by the instructions did not exist. In any case, according to the weight of authorities, regardless of whether the instructions were right or wrong, they constituted the law of the case and it was the duty of the jury to follow them.

There is nothing in the evidence, taken as a whole, that could cause the trial court to form the opinion that the verdict of the jury was contrary to the evidence, or that the said verdict could not be sustained by the weight of the evidence, or that substantial justice would not be done between the parties; or that the verdict was so manifestly against the evidence as to show that the jury adopted some wrong principles in their deliberations; or that the minds of the jurors were not opened to reason and conviction; or that they were improperly influenced by ignorance or corruption; or that it was not the result of impartial and honest judgment; or that it was from some improper motive or condition or passion. There is no evidence that the award of damages in the amount of Two Thousand ($2,000.00) Dollars was excessive, exorbitant, extravagant, outrageous or unmeasurable; or that the evidence manifestly showed that the jury acted under the influence of prejudice or passion, or under clear misunderstanding of duty and the facts of the case. And since the assessment of damages is peculiarly the province of the jury, the court will be very cautious in overturning a verdict, especially when it appears that the verdict is clear, not exorbitant, and that the case has been tried in a fair and impartial manner. A new trial will be denied under such circumstances.

"The law is that no mere difference of opinion, however decided, justifies interference with the verdict of a cause. A new trial cannot be granted merely to obtain a slight reduction in damages, little more than nominal, when the plaintiff is entitled to nominal damages at least." 20 R.C.L. 64, p. 281.

As it is true of judgments in other civil actions, a judgment in ejectment should conform to the verdict. The judgment in the instant case, not having deviated from the verdict, as

aforesaid, the said judgment should be and the same is hereby affirmed and confirmed to all intents and purposes.

Concerning appellants' argument that the amount of Two Thousand ($2,000.00) Dollars was arbitrary and speculative because there was no scintilla of evidence to justify said award, and that the verdict upon which said judgment was predicated was not supported by facts, this Court says this cannot be accepted as true. Besides the testimony of appellee Gerald B. Coleman in which he narrated how and when he purchased the land in question, by letter through his counsel, as well as the continuous notices he gave the appellants, both orally and in writing, that he was the owner of the land and that he had deeds to prove same, his request to appellants to vacate the premises were ignored. Then there are the insults they gave him by saying that "this was their time". In addition, appellee's testimony was corroborated by Georgia Coleman, his grantor.

The appellants deliberately, intentionally, obstinately, unreasonably and perversely refused to leave the land, continued to occupy and withhold plaintiffs land much to his disadvantage and displeasure, which land could have been used for purposes other than building thereon and generated or yielded income to the benefit of appellee. It was from these facts of appellants' conduct that motivated appellee to institute the action to recover through spending of funds which were all observed by the jurors, which thus justifiably awarded the reasonable sum of Two Thousand ($2,000.00) Dollars, and which was confirmed by the court's final judgment. Appellee complied with the requirement of law as found in this Court's decision in the case *East African Company and Muller v. Dunbar,* 1 LLR 279 (1895), by putting the point in the prayer and respectfully demanding compensation as damages in an amount to be determined by the jury for the illegal occupation of appellee's property by appellants.

We must remark here that it is a settled principle of law that ejectment is a form of action in which the right of possession to corporate hereditaments may be tried and the possession obtained... It is a possessory action. The action may doubtless involve both the right of possession and the right of property. But the true purpose of the remedy is to obtain the actual physical possession of the specific real property together with damages for its detention rather than to try mere abstract questions of title, although the claim of appellee must have the possessory title and it is ordinarily necessary to determine the title to the property or at least to decide whether the claimant or appellee has a present right of entry and possession as against the appellants... Accordingly, the appellee must have a legal right to the possession of the property described in the pleadings and the only relief that may be granted him is the judgment for its possession and for damages. 25 AM JUR 2d, *Ejectment,* §§ 1, 2 and 3.

Under these circumstances, as we have observed from both the law and facts, it is our opinion that the judgment of the lower court, being in conformity with the evidence and the law, should not be disturbed. A writ of possession is hereby ordered issued in favor of Appellee Gerald Coleman.

Our distinguished colleague, His Honour the Chief Justice, has not agreed with the majority opinion findings and determination of the majority; hence, he has prepared and filed a dissent. But in as much as our opinion is fully supported by law, facts, circumstances and precedent, we firmly hold that it shall be the decision of this Court undisturbed.

The Clerk of this Court is hereby ordered to send a mandate to the lower court empowering it to resume jurisdiction over the subject case and enforce its judgment. Costs are ruled against the appellants. And it is hereby so ordered.

Judgment affirmed

MR. CHIEF JUSTICE GBALAZEH *dissent.*

I have disagreed with the mighty majority in this case because of the gross failure of the said majority to abide by precedents, and to adhere to the principles of decided cases hoary with age. Additionally, I decline to accept the assumption advanced by the majority that a holder of any deed is indeed the owner of any land.

Appellee, plaintiff below, brought an action of ejectment against defendants, now appellants, in the Circuit Court for the Sixth Judicial Circuit, Montserrado County, in January 1982. In the complaint appellee alleged as follows.

"That the plaintiff is the owner of a parcel of land located in the City of Monrovia, County of Montserrado, Republic of Liberia, known as lot no. 3, in block L-14, which he bought from Mrs. Georgia B. Coleman, who acquired the said parcel of land though a quit-claim deed from her sister, Diana Louisa Coleman, they being surviving heirs of their late mother, Mrs. Hannah R. Hill-Philips, the surviving heir of the late Robert H. Hill, the original owner of the said parcel of land. Copies of the public land grant from the Republic of Liberia to R. H. Hill, recorded in Volume 27, page 222, of the records of Montserrado County, over the signature of the late President W.D. Coleman, dated 7th February, A. D. 1898; a copy of the quit claim deed from Diana Louisa Coleman to Georgia Henrietta Beatrice-Philips, dated August 7, 1946, recorded in Volume 511, pages 358-355, of the records of Montserrado County; and a copy of the warranty deed from Georgia B. Coleman to Gerald Bennett Coleman, registered according to law in Volume 264-77, pages 478-479 of the Registry of Montserrado County, probated on the 8' day of August,1977, inclusive, are hereto attached and marked exhibit "A", forming, a part of this complaint."

The complaint concluded that the defendants/appellants (hereafter appellants) were occupying the property described *supra* without any color of right and that although repeated

demands made by plaintiff/appellee (hereafter appellee) to the appellants to vacate the said property, they had failed and refused to do so. The said action was therefore brought in order to evict them and to award appellee damages for the illegal occupancy.

Appellants answered denying the allegations and claiming that they had been given squatters' rights by the Monrovia City Corporation in 1982, to occupy the said land which was the bona fide property of the government.

After the trial, the jury retired and returned with a verdict of liable, and then awarded appellee damages amounting to $2,000.00. Upon denial of appellants' motion for new trial, the trial judge rendered a final judgment, affirming and confirming the verdict of the jury. Whereupon, the appellants appealed to this Court of final resort.

At the conclusion of arguments before this Court, the majority of my colleagues have decided to uphold the ruling of the trial court and to confirm its judgment. Notwithstanding, from my own understanding of the various documents before us, and after carefully listening to the arguments and explanations of counsels, I have found it difficult to follow their judgment and have therefore refused to append my signature thereto; and I have rather resolved to file this dissenting opinion for certain obvious reasons, as hereinafter stated.

Firstly, I have found several anomalies in appellee's complaint and also in both the award and verdict of the jury and in the judgment of the lower court. The appellee's complaint woefully failed to specifically state which portion of his land is being occupied by appellants for which he had instituted the action. Furthermore, both the verdict of the jury and the final judgment of the trial court failed to specifically state and describe the award of land made to the appellee, or whether there was in fact an award of land or merely an award of damages. The said verdict reads thus:

"VERDICT

"We the petit jurors to whom the case Gerald B. Coleman, plaintiff versus Joseph K. Dausea and Lousea D. Kargou, defendants was submitted, after a careful consideration of the evidence adduced at the trial of the above entitled cause of action, do unanimously agree that the defendant is liable to the plaintiff and is obligated to pay the sum of $2,000.00 (Two Thousand Dollars for general damages.

WE RESPECTFULLY SUBMIT.

DATED THIS 25 TH DAY OF JANUARY, A.D. 1985."

On the other hand, the final judgment of the trial court, after narrating the procedures through which the case had traveled, concluded as follows:

"Therefore, in view of the foregoing, the unanimous verdict of liable against the defendants in this cause is hereby confirmed and affirmed and the defendants are hereby adjudged liable

and they are to pay to the plaintiff as general damages the sum of $2,000.00. The clerk of court, is hereby ordered to issue a writ of possession in favor of the plaintiff evicting and ousting the defendants from the said premises and turning the same over to the plaintiff herein, and the defendant are hereby ruled to costs. And it is hereby so ordered."

"Given under our hand in open court
this 20th day of February, A.D. 1985.
Eugene L. Hilton
ASSIGNED CIRCUIT JUDGE PRESIDING"

What an inconclusive and highly irregular verdict; a verdict contrary to law, especially so in an action of ejectment where properties are described by metes and bounds. The foregoing verdict and judgment are so quaint that one can hardly imagine how the clerk would have prepared the writ of possession without metes and bounds, and how the sheriff would be able to enforce same.

This Court has always held that "a verdict must show what was awarded, and must not be so uncertain that a writ of possession cannot be issued upon it." *Duncan v. Perry,* 13 LLR 510 (1960).

This Court reiterated the said principle by specifying in a later opinion that: "In an action of ejectment, the jury's verdict must sufficiently describe the land awarded so that a writ of possession can be issued based upon the description."(Our emphasis). *Ginger et al. v. Bai et al.,* 19 LLR 372 (1969).

The verdict in the case at bar completely ignored these legal injunctions from this Court, and failed to adequately describe the land awarded, if any was awarded at all, in metes and bounds to facilitate its location on the ground without much difficulty at all. I hold the view that both the verdict and the final judgment are uncertain; and therefore, the judgment of my colleagues confirming same on this appeal will not receive my support.

Secondly, I have refused to subscribe to the majority opinion because real estate matters are very important as they involve interests of immense value. I therefore cannot support the award of real property or the deprivation of same, except where there is clear and convincing evidence that can reasonably defend my position for posterity long after my demise.

Property rights are so important to mankind that this Court has in the past rendered judgments outlining the circumstances under which a person may be deprived of property, and showing how one without possession might evict and oust the occupier of certain property to which both assert some claim.

However, I am convinced that the trial judge in this case had indeed ignored the several rulings of this Court with respect to ejectment, and he had merely ruled in favour of the

appellee for the simple fact that he possessed a deed which, appellee alleged was part of a chain of title to the disputed property derived from a Public Land Grant to his ancestor by President W. D. Coleman in 1898; while on the other hand, appellants merely possessed a Squatter's Right Certificate from the Monrovia City Corporation.

Hence, the judge instructed the jury, and the jury found that the land in question was the property of appellee who has a deed, since the holder of a deed to any property is the owner. This instruction was given notwithstanding the law of adverse possession, perhaps and despite the fact that an alleged deed of realty might not be an authentic one, or that the proffered deed might just be a deed covering some other property.

I am sure this Court should not entertain such a position, because to do so will be like opening a Pandora's Box, wherein anyone with claims to property wins as long as he proffers any deed, while a defendant who has failed to proffer any deed loses. In fact, such a position is in direct contravention of, and in disregard for, the precedents of this Court on this matter.

As early as 1895, this Court held that Tin ejectment, the plaintiff must show in himself a legal title to the property in dispute to recover it; by title here is meant the right of possession arising either from descent or purchase, and the right of entry." *Reeves v. Hyder,1* LLR 271 (1895). The Court also held in later years that "In an action of ejectment, title must be proved by the successful party. *Cooper v. Cooper-Scott, 11* LLR 7 (1951).

In addition, this Court re-emphasized those principles in the same matter of *Cooper v. Cooper-Scott* when they reappeared before it in 1963, holding: (1) that a plaintiff in ejectment must recover upon proof of title, which must be evidenced by a continuous and consistent chain; (2) that a plaintiff in ejectment must recover unaided by any defects or mistakes of the defendant, and the proof of the plaintiffs title must be beyond question; and (3) that "in an ejectment action, the plaintiff's title is not presumed, but must be established." *Cooper v. Cooper-Scott,* 15 LLR 390 (1963).

The foregoing citations of law might be termed the most forceful and definite holdings of this Court on the subject of actions of ejectment vis-a-vis the rights of the appellee and the appellants. Disappointingly, however, the trial judge had completely ignored this Court's holding in *Cooper v. Cooper-Scott* and proceeded to confirm a jury verdict and award to the appellee in ejectment simply for having an alleged deed to the property without more, and appellants had none. The judge, jury, and the appellee had all taken the chance to rob appellants of their rights because their title was allegedly defective.

Appellee's complaint alleged that the deed to the disputed property originated from a deed of public land grant given his ancestor by President Coleman in 1898, and from that, quit

claim deeds were made by descendants until he finally came in possession of the said land by a Warranty Deed issued him in 1977 by a later ancestor.

However, the public land grant deed from the Republic of Liberia issued to plaintiff's ancestor in 1898 by President William D. Coleman, which he considers to be the bud in a chain of various ownerships and possessions, reads as follows:

"Therefore I, W.D. Coleman, President of the Republic of Liberia for myself and my successors in office in pursuance of the Act above cited, have given/granted, and confirmed and by these presents do give, grant and confirm unto the said R.H. Hill, his heirs, executors, administrators or assigns all the piece or parcel of land situated, lying and being in the City of Monrovia, South Beach, County of Montserrado, and Republic aforesaid and bearing in the authentic records of said City the number 9, on South East Beach and bounded and described as follows:

"COMMENCING at the South East Angle of adjoining Lot No.8 South East of Monrovia, owned by Alex Jordan's Estate and running down the beach of Monrovia South 52 degrees East, 7Y2 chains, North 38 degrees East 40 chains, North 38 degrees East 40 chains, North 52 degrees West 7 1/2 chains, south 38 degrees West 40 chains to the place of commencement and contains (30) acres of land and no more.---------- ----------"

"In witness whereof, I, W. D. Coleman, have hereunto set my hand and caused the seal of this Republic to be affixed this 7th February A.D. 1898, the Republic the 51st .

W. D. Coleman

PRESIDENT"

The foregoing public land grand deed from President W. D. Coleman issued in 1898 to Mr. R. H. Hill, the ancestor of appellee, from whom his present claims derive, gives land "situated, lying and being in the City of Monrovia South Beach., County of Montserrado, and Republic aforesaid and bearing in the authentic records of said City the Number 9 on South East Beach and bounded and descried as follows:..." (Emphasis mine)

Everyone on this Bench knows that area of Monrovia usually referred to as South Beach which is the beach area of Monrovia around "Coconut Plantation" and extending to the back of Barclay Training Center and the Budget Bureau. And to my mind and sound judicial judgment, I believe doggedly, that the land granted by the Republic of Liberia through President W. D. Coleman in 1898 to R. H. Hill, appellee's purported original grantee, covered (30) thirty acres of the area of Monrovia we know and have herein described as South Beach, Monrovia, or Monrovia South Beach. Yet, both the deeds of 1946 allegedly recorded in Volume 58, pages 358-359 of the records of Montserrado County, and that of 1977, registered in Volume 264-77, pages 478-479, of the Registry of Montserrado County,

which purportedly derive from the deed of 1898, refer to land in Sinkor; not even Sinkor towards the beach, but Sinkor between the Corners of Gibson Avenue and 14th Street, both of which are on the left-hand side of Tubman Boulevard, far from any beach. This is a strange anomaly which ought to have caught the attention of both my colleagues and of the trial court and jury. The fact that it didn't would certainly lend credence to a charge of inadequate understanding, or else to a charge of inadequate examination and study of the records of this case, and of the law on ejectment.

I am convinced, and this Court has held, that "instruments conveying real property are to be interpreted literally according to the text of the conveying instrument." *Wayne et. al. v. Cooper,* 21 LLR 50 (1972). Hence, I firmly maintain that the trial judge had sufficient evidence of the inadequacies of the chain of title deriving from the original deed, that ought to have convinced him, as well as my colleagues here, that in fact plaintiff had failed to prove his title to the disputed property, especially in view of the holding of this Court that "in an action of ejectment, if neither party establishes any legal right, the appellee cannot recover." *Moore v. Gye,* 19 LLR 429 (1970). Moreover, this Court held that in an action of ejectment, where the declaration sets up a claim to a specific parcel of land and distinctly describes it, a deed wherein appears none of the boundaries and descriptions mentioned in the declaration is not admissible as *prima facie* evidence of title. *Page et al. v. Harland et aL,* 1 LLR 463 (1906).

I am aware, unlike my majority colleagues, that the Supreme Court may render such judgment as would have been rendered by the trial court in a particular case if it had been properly decided below. *Townsend v. Cooper,* 11 LLR 52 (1951); *Williams and Williams v. Tubman,* 14 LLR 109 (1960); and Civil Procedure Law, Rev. Code 1:51.17.

In concluding, therefore, it is my considered opinion that the judgment should be reversed. Hence, this dissent.