

**SALAH FARHAT**, Appellant, v. **SAIYE DEHKEE** and the Magistrate for the  
Monrovia City Court, Appellees.

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

Heard: April 16, 1998. Decided: August 5, 1998.

1. Where title is not in issue, a special proceeding to recover possession of real property may be maintained in a circuit court or a court of a justice of the peace or a magistrate.
2. The court of the justice of the peace or magistrate shall have jurisdiction only of cases in which the amount of the judgment demanded does not exceed \$300.00.

The appellant herein, Salah Farhat, entered into a lease agreement with one Victoria Hamilton, by and through her attorney-in-fact, Bob M. Singbeh, for a dwelling home situated in Sinkor, Monrovia, for a period of 20 years certain. The agreement at article II required advance payment of the amount of L\$2,000.00 per annum, for the first 10 years of the lease agreement, and thereafter L\$3,000.00 for the remaining ten-year period, also payable annually in advance.

Appellant Farhat subsequently rented the subject property to appellee, Saiye Dehkee, under an oral arrangement for US\$3,000.00 per annum. Appellee Dehkee subsequently purchased the leased property from appellant's lessor, Bob M. Singbeh, attorney-in-fact for one Victoria Hamilton, and a transfer deed was duly executed in favor of appellee. Appellant was accordingly notified on February 27, 1996, by his previous lessor of the sale of the leased premises to Appellee Dehkee.

On the 5<sup>th</sup> day of March, A. D. 1996, the appellant instituted an action to recover possession of real property against appellee in the Monrovia City Court for irregular rental payments and to recover the balance of US\$1,440.00, as accrued arrears. Appellee subsequently exhibited a transfer deed, indicated that he had a title deed to the real property, subject of the proceedings before the court, and argued that the magistrate did not have jurisdiction over the subject matter of the case because title was in issue. Before the magistrate could hear the case, the appellee filed summary proceedings against the magistrate before the Civil Law Court of the Sixth Judicial Circuit, Montserrat County, contending that because title was involved, the magistrate had no jurisdiction and the correct action to file should have been ejectment and

not summary proceedings to recover possession of real property. Appellant filed a six-count return contending that summary proceedings to recover possession of real property were the proper action. The trial court judge ruled that title was involved and that the magistrate had no jurisdiction.

The Supreme Court confirmed the judgment of the trial court, holding that as the amount demanded by the appellant was above the amount specified by the statute to confer jurisdiction on the magistrate court, the matter was properly cognizable before the circuit court. The Court further held that as the issue of title had been raised by the appellee, the matter was beyond the jurisdiction of the magisterial court. The Court therefore ordered that the circuit court resume jurisdiction over the case and proceed to determine the possessory rights of the parties on the basis of the legal instruments held by them, i.e. the lease agreement and the title deed, under the circumstances presented in the case.

Marcus R. Jones appeared for appellant. William A. N. Gbaintor appeared for appellees.

MR. JUSTICE SACKOR delivered the opinion of the Court.

The appellant herein, Saleh Farhat, entered into a lease agreement on the 15th day of June, A. D. 1992 with one Victoria Hamilton, by and through her attorney-in-fact, Bob M. Singbeh, for a dwelling house situated in Sinkor, Monrovia, for 20 years certain, commencing from the 30th day of August, A. D. 1992, up to and including the 31st day of August A. D. 2012. Article 11 of the lease agreement provided that the lessee (appellant) should pay his lessor for the subject property the sum of LD\$2,000.00 per annum in advance for the first ten years of the lease agreement, and the amount of LD\$3,000.00 payable annually in advance for the remaining ten years.

The certified records in this case show that appellant, in an oral agreement, rented said property to Saiye Dehkee, appellee, in 1995 for the amount of US\$3,000.00 per annum. The records also reveal that appellee, tenant of appellant under the oral agreement, subsequently purchased the leased property from appellant's lessor, Bob M. Singbeh, attorney-in-fact for one Victoria Hamilton, and a transfer deed was duly executed in his favor on the 29th day of February A.D. 1996 for the sum of US\$25,000.00. Appellant was accordingly notified on February 27, 1996 by his previous lessor to the effect that the leased premises has been sold to appellee as the present owner.

On the 5th day of March A. D. 1996, appellant instituted an action of summary proceedings to recover possession of real property against appellee in the Monrovia City Court to recover said property because of irregular rental payment, and to recover the balance of US\$1,440.00 as rental arrears accrued from September A. D. 1995 to February A. D. 1996. When the case was called for hearing, appellee proffered a transfer deed and informed the magistrate that he had a title deed to the real property, subject of the summary proceedings to recover possession of real property, and that the magistrate did not have jurisdiction over the subject matter. The magistrate however assigned the case for hearing on April 5, 1996. Whereupon, appellee filed a petition for summary proceedings against the magistrate before the Civil Law Court, Sixth Judicial Circuit, Montserrado County, presided. over by Her Honour Frances Johnson-Morris, then assigned circuit judge.

Appellee contended in the trial court that the magistrate did not have jurisdiction over the subject matter, in that he had a title deed to the real property which appellant sought to evict him from and recover. Appellee also contended that an action of ejectment was the proper action instead of an action of summary proceedings to recover possession of real property.

On the 26th day of June A. D, 1997, appellant filed a six-count returns contending that title was not in issue but possession of real property and that appellant had a valid lease agreement for 20 years certain. Appellant also contended that a subsequent claim of a warranty deed for said property by appellee did not excuse appellee's obligations to appellant under said valid agreement as a tenant at will from year to year. Appellant maintained that a tenant cannot challenge his landlord's/lessor's possession or title.

On the 29th day of July A.D. 1997, His Honour Varnie D. Cooper, Assigned Circuit Judge, ruled that title was in issue and that the magistrate lacked jurisdiction over the subject matter. Appellant excepted to this ruling and announced an appeal to this Court upon a two-counts bill of exceptions, count one of which this Court deems relevant for the determination of this case.

Appellant alleged in count one of his bill of exceptions that the trial judge committed a reversible and prejudicial error when he ruled that title was in issue, in that, a subsequent transfer of title to the real property in the face of the twenty year valid lease agreement did not terminate previously acquired possession as appellee's acquired title was subject to the lease agreement.

Appellant argued before this Court that he has a valid lease agreement for the subject property for twenty years certain, commencing from August 30, 1992, up to and including August 31, 2012; and that as such, the subsequent acquisition of a title deed for the said property by appellee did not terminate appellant's prior vested rights under the valid lease. Appellant also contended that the purchase of the premises by appellee did not excuse his obligation to appellant under the valid agreement as a tenant from year to year and at will.

Appellant further contended that title was not in issue in the instant case, in that appellant was entitled to the possession of the property under the lease agreement and that the appellee acquired a reversionary interest but not title until the expiration of appellee's lease agreement in the year 2012. Appellant strongly averred that the trial judge committed a reversible error when he ruled that the magistrate lacked jurisdiction because title was at issue, since a tenant cannot dispute his landlord's title and that it was immaterial whether or not appellee had a warranty deed to the property for which he was a tenant, notwithstanding his purchase of the property subsequent to the lease agreement held by of his landlord. Appellant therefore prayed this Court to reverse the ruling of the court below and to order the judge presiding therein to mandate the magistrate to resume jurisdiction over the subject matter.

On the other hand, appellee contended that title was in issue because he had a title deed to the real property, subject of the summary proceedings to recover possession of real property. Appellee maintained that summary proceedings to recover possession of real property can not be maintained before a magistrate wherein title is at issue. Appellee therefore requested this Court to confirm the ruling of the trial judge.

The facts and circumstances in this case present a single issue, which is whether or not summary proceedings to recover possession of real property can be maintained before a magistrate wherein the amount of the judgment demanded exceeds three hundred dollars.

The records in this case clearly show that appellant instituted an action of summary proceedings to recover possession of real property against the appellant predicated upon his irregular payment of the rent specified in the oral agreement the parties entered into in 1995, wherein appellee was a tenant of appellant from year to year. Appellant demanded the recovery of the property and the balance rental of US\$1,440.00 (US one thousand four hundred forty dollars), accrued from September A. D. 1995 to February A. D. 1996.

The Civil Procedure Law, Rev. Code 1:62.21, provides that "Where title is not in issue, a special proceeding to recover possession of real property may be maintained in a circuit court or a court of a justice of the peace or a magistrate. The court of a justice of the peace or magistrate shall have jurisdiction only of cases in which the amount of the judgment demanded does not exceed three hundred dollars."

The above quoted statutory provision requires that an action for summary proceeding to recover possession of real property can only be determined before a magistrate or justice of the peace wherein the amount of the judgment demanded does not exceed three hundred dollars. We observed from the records before us that the amount of the judgment demanded by appellant is to the tune of US\$1,440.00 which is statutorily beyond the jurisdiction of the magistrate before whom he maintains his action of summary proceedings to recover possession of real property. Hence, the magistrate lacked jurisdiction over the subject matter.

This Court also observes the claim of both parties to the subject property. Appellant claims possession of the property under a valid lease agreement and appellee also claims title and possession of said property under a title deed duly executed by appellant's previous landlord/lessor. In other words, the subject property was acquired by appellee during the existence of a valid lease between' the seller and the appellant.

In this regards, the Civil Law Court for the Sixth Judicial Circuit Court, Montserrado County, has jurisdiction over the subject matter to determine the possessory rights of the parties under the lease agreement and the title deed. The lower court is therefore required to determine the possessory rights of the parties under the instruments mentioned herein.

Wherefore, and in view of the foregoing, it is the considered opinion of this Court that the judgment of the lower court should be and the same is hereby confirmed with modification that the judge presiding therein is required to resume jurisdiction over this case and determine the possessory rights of the parties to the subject property under the lease agreement and the title deed. The Clerk of this Court is hereby ordered to send a mandate to the court below informing the presiding judge to resume jurisdiction over this case and give effect to this opinion. Cost to abide final determination of this case. And it is hereby so ordered.

*Judgment affirmed, with modification.*