

THE INTESTATE ESTATE OF THE LATE JOHN N. LEWIS, represented by
DEBORAH B. TEQUAH and JOSEPH N. LEWIS, Informant, v. **WILLIAM B.
METZGER**, Assigned Judge, Sixth Judicial Circuit, Montserrado County, September Term,
A. D. 1996, **MOHAMMED JALLOH** and **THE HEIRS OF THE LATE SOLOMON
B. MENSAH**, represented by EDWIN D. WALKER and HANNAH A. HOLDER,
Respondents.

INFORMATION PROCEEDINGS

Heard: June 2, 1997. Decided: July 22, 1997.

1. An administrator of an estate is a person to whom letters of administration has been granted by a court of competent jurisdiction to administer the estate of a decedent who died intestate; and the letters of administration is a formal document issued by the probate court appointing one as administrator of an estate.
2. The authority to act for an intestate estate is only exercisable by one duly qualified and legally appointed to carry out functions prescribed by the court. It is not assumed and must *be* clearly and specifically authorized.
3. The court has the responsibility to ensure that the property of a decedent is protected and whenever it is required to be disposed of, that disposition must be in accordance with law.
4. The protection of intestacy is fundamental to the court and the activities of administrators are to be monitored and supervised by the probate court at all times.
5. Any fraudulent action against an intestacy, and specifically by imposters, should not prejudice the intestacy.
6. In order for a party to be concluded by a judgment in a suit, he must have been made a party to such suit.
7. The posing of any person as representative of an intestacy is tantamount to deception.

These information proceedings were instituted by the administrators and administratrix of the intestate estate of the late John N. Lewis, claiming that although the estate was never made a party to the suit in the trial court, yet the trial court, in attempting to enforce the judgment of the Supreme Court had ordered the ejection of the estate 'from premises owned by the estate as well as the ejection and ouster of persons occupying property under authority of the estate. The records in the case revealed that Co-respondent Mohammed Jalloh instituted an action of summary proceedings to recover possession of real property which he claimed title to. In the action, he moved the court to join the intestate estate of the late John N. Lewis as a party-defendant. The returns filed to the motion indicated that the

parties named had no objections to being joined as defendants to the action. Judgment in the proceedings was entered in favour of the complainant, from which an appeal was take but not perfected. The Supreme Court therefore dismissed the appeal in a judgment without opinion and ordered the trial court to resume jurisdiction over the case and enforce its judgment. In enforcing the judgment, the trial court ordered the ejectment of the intestate estate from the premises as well as persons occupying the same under authority of the estate.

It was the above action by the trial court that caused the informant to file a bill of information before the Supreme Court, contending that the intestate estate was never made a party to the suit in the trial court and that the property of the estate did not fall within the area claimed by the complainant in the summary proceedings.

The Supreme Court granted the information, noting that at the time the summary proceedings were instituted, the individuals named and posing as administrators and administratrix of the intestate estate of the late John N. Lewis had not been appointed to such positions and therefore could not have represented or consented to represent the estate. The Court, observing that the individuals purporting to represent the intestate estate were not appointed to such positions until after the summary proceedings had been determined, and noting its long standing position that a person not made a party to a suit could not be bound by the judgment, opined that the estate was not legally bound by the judgment. The Court therefore ordered that the proceedings be commenced anew and proper service effected on the representative of the estate so that it is adequately represented.

The Court frowned on the individuals posing as administrators and administratrix of the estate at a time when they had not yet been appointed to such positions and fined each of them for their involvement in the proceedings at the trial court, which the Court characterized as deceptive. Given the foregoing, the Court granted the information.

Roger K Martin of the Martin Law Firm appeared for the informant. *Moses K Yangbe* appeared for the respondents.

MR. JUSTICE GAUSI delivered the opinion of the Court.

Informant in these proceedings, the intestate estate of the late John N. Lewis, is represented by Joseph N. Lewis, and Deborah Tequah, who were joined as co-respondents in the summary proceedings to recover possession of real property in-the court below upon motion by Petitioner Mohammed D. Jalloh, now co-respondent, in this bill of information.

Mohammed Jalloh, petitioner/co-respondent, instituted summary proceedings in the Civil Law Court for the Sixth judicial Circuit, Montserrado County, at its June 1995 term, to recover possession of real property against Charles F. Jrateh, Sr. and Charles F. Jrateh, Jr., to oust, eject, and evict them from a certain parcel of land in Monrovia.

In their responsive pleadings, the Jratehs, respondents in the summary proceedings, proferted a title deed signed by E. Kofa Benson, Deborah B. Tequah, and Joseph N. Lewis, administrators and administratrix of the late Manneh Lewis. Subsequently, Solomon B. Mensah, heir of the grantors of Petitioner/Co-respondent Mohammed S. Jalloh, filed a motion to intervene in the summary proceedings to recover possession of real property. Thereafter, Petitioner/Co-respondent Jalloh filed a motion to add the intestate estates of John N. Lewis, Sr. and Jr. and Albert Tarpolee as co-respondents.

The basis of the motion to add is found in counts 2 and 3 of said motion. Firstly, the petitioner/co-respondent stated that the amended answer filed on July 20, 1997 by Co-respondents Charles F. Jrateh Sr. and Jr. alleged that they (the Jratehs) had acquired the land from the intestate estate of John N. Lewis, Jr. Secondly, petitioner/co-respondent contended that in order to obtain complete relief and to avoid a multiplicity of actions, persons who ought to be joined as parties to an action for complete relief to be accorded shall be joined and, as such, he found it necessary to have the intestate estate of the late John N. Lewis joined as co-respondent.

On August 10, 1994, Joseph N. Lewis, E. Kofa Benson and Deborah Tequah filed returns to the motion to add, by and thru the Atlantic Law Chambers. In count three (3) of the returns, the respondents, purporting to represent the estate of John N. Lewis, Jr., interposed no objection to having the estate become a party to the action.

The two motions referred to above were disposed of by the court and subsequently the law issues raised in the pleadings were also passed upon by the trial court. According to the petitioner/co-respondent's brief, the case was ruled to trial by jury upon consent of both parties. After submission of the case, following the production of evidence and entertainment of arguments, the jury was instructed by the trial judge. The jury returned a verdict in favor of petitioner/co-respondent. A motion for new trial was filed by co-respondents/informants, the same was resisted, arguments *pro et con* had, and a ruling made by the court in favor of petitioner/co-respondent, and denying the motion for new trial.

The co-respondents/informants thereafter filed an approved bill of exceptions within the statutory period of ten days. It appears that the co-respondents/informants did not complete the other statutory steps for perfecting the appeal, i.e., filing of an approved appeal bond and service and filing of a notice of completion of the appeal. Thus, a motion to dismiss the appeal was filed. Following the filing of the motion, a judgment without opinion was rendered by this Court in its March Term, A. D. 1995. A mandate issued pursuant to the judgment was sent to the court below, and the court resumed jurisdiction to enforce its judgment.

Co-respondents/informants, the Intestate Estate of the late John N. Lewis, Jr., fled to this Court by this bill of information, complaining in count three thereof as follows:

"...contrary to the said judgment without opinion and against the above stated principle of law, His Honour William B. Metzger, instead of confining and restricting the implementation of said judgment without opinion of non-title holders, has ordered the Intestate Estate of the late John N. Lewis, Jr. evicted together with all grantees of said intestate estate contrary to law, for which this information will lie. A review of the records disclosed that the judgment without opinion granted the motion to dismiss the appeal based upon the applicable laws and the Clerk of this Court was ordered to send a mandate to the court below to resume jurisdiction and enforce its judgment. Also, the order from the Civil Law Court, Sixth Judicial Circuit, signed by the assistant clerk of that court, upon the orders His Honour William B. Metzger, Sr. has reference to the report of the sheriff that 'one Mr. Kamara and others are trying to encroach and enter upon the parcel of land already decided by the Honourable Supreme Court without regards to the mandate given...' The order warned all persons concerned to desist and stop any work on the said premises."

The informants contended that the judge acted contrary to this Court's mandate based upon the above. We think not. We are however concerned that the disputed property appears also to include the intestacy, and because of this concern, we must be clear in determining whether the intestate estate of John N. Lewis was properly brought under the jurisdiction of the court. Co-respondents/informants strenuously contended before this Court, both in their brief and oral argument, that the intestate estate of the late John N. Lewis, Jr. was not made a party to the summary proceedings to recover possession of real property, and that as such, the enforcement of the judgment should not extend to said intestacy. The Court notes that the informants raised several other issues, including the office of summary proceedings to recover possession of real property, but those issues should have been raised on a regular appeal had the appeal been perfected in keeping with law.

The Court is therefore reluctant to entertain those issues as they could encourage a discussion of the merits of the case as if an appeal is pending before this Court. As this is a bill of information, the Court will focus on the relevant issue of whether the informants were made parties to the proceedings in the court below, and if not, should the judgment be enforced against the intestate estate?

In traversing the above issue in his brief, the petitioner/corespondent maintained that a motion to add the intestate estate was filed in the court below and that, with no objections, the court granted the motion and the intestate estate, represented by E. Kofa Benson, Deborah B. Tequah, and Joseph N. Lewis were joined as co-respondents. Also; in count 2 of his brief, the petitioner/co-respondent stated that Charles D. F. Jrateh Sr. and Charles D. F. Jrateh, Jr., respondents below, were summoned and they filed a joint answer with an

administrator's deed from the administrators and administratrix of the estate of the late John N. Lewis, in persons of E. Kofa Benson, Deborah B. Tequah, and Joseph N. Lewis. On the contrary, co-respondents/ informants contended that the intestate estate was not made a party to the proceedings in the trial court because the persons named as administrators and administratrix were representing the intestate estate of Manneh Lewis and not, John N. Lewis. In other words, E. Kofa Benson, Deborah B. Tequah and Joseph N. Lewis were not the administrators and administratrix of John N. Lewis at the time the summary proceedings to recover possession of real property was being litigated.

In resolving the issue presented, a few observations should be made. Firstly, the respondents in the summary proceedings to recover possession of real property proferted an administrator's deed from E. Kofa Benson, Deborah B. Tequah, and Joseph N. Lewis, administrators and administratrix of the intestate estate of Manneh Lewis and not John N. Lewis. The Court wonders why these persons were joined as administrators and administratrix of the intestate estate of John N. Lewis in the court below.

Secondly, the returns filed by Atlantic Law Chambers carried the heading: 'RESPONDENTS' JOSEPH N. LEWIS, E. K. BENSON AND DEBORAH TEQUAH OF THE ESTATE OF THE LATE JOHN N. LEWIS, JR., RETURNS TO PETITIONER'S MOTION TO ADD RESPONDENTS AS CO-RESPONDENTS'

The reference to "Joseph N. Lewis, E. K. Benson and Deborah Tequah of the estate of the late John N. Lewis again leaves the Court wondering what the Atlantic Law Chambers represented by a J. N. Blidi meant, i.e. whether by the phrase "of the intestate estate of the late John N. Lewis Jr.," the attorney meant that the persons named therein were administrators and administratrix of the intestate estate of the late John N. Lewis Jr. The word "of" in its usage means proceeding, composed of, or relating to. It is associated with, or connected with, usually in some causal relation, efficient, material, or formal. It is equivalent to after, at, or belonging to, in possession of. BLACK LAW DICTIONARY 1080 (6thed).

As used in the phrase above, we think it inferably implies in possession of that is, the intestate estate is in possession of those persons so named. This does not in our view confer authority on those persons as administrators and administratrix at the time the case was litigated in the court below.

What a lawyer! The legal profession is a noble one. The law and practice are not learned by guesses; they are not acquired by a sudden stroke of luck, but by toiling day and night, reading, thinking, and writing; writing concisely and precisely.

A lawyer whose writing is so vague and ambiguous creates legal troubles for his clients. Such clients may become legally injured. Hence, we believe that in all of his work, the lawyer must

take the time to say precisely what he means, not only for the person reading in good faith to understand, but equally so that the person reading in bad faith cannot misunderstand.

These observations are necessary because, as already noted from the informants' contention, they were not administrators and administratrix of the intestate estate of the late John N. Lewis, Jr. at the time the summary proceedings to recover possession of real property was instituted, and even up to the time judgment was rendered in the court below.

An administrator of an estate is a person to whom letters of administration has been granted by a court of competent jurisdiction to administer the estate of the decedent who died intestate. Decedents Estates Law, Rev. Code 8: 101.11(b). It is a formal document issued by the probate court appointing one as an administrator of an estate. Thus, the authority to act for an intestacy is only exercised by one duly qualified and legally appointed to carry out functions prescribed by the court. It is not assumed; it must be clearly and specifically authorized. If not, many would pose themselves as administrators and administratrices, and capriciously dispose of intestate estates. In those cases, the souls of the dead would be restless, for imposters would be feasting and enriching themselves at the expense of their intestate estates.

What is puzzling from the foregoing is that count three (3) of the "returns" filed by the Atlantic Law Chambers for correspondents/informants interposed no objections to its clients being joined as parties. Two of the persons, Deborah B. Tequah and Joseph N. Lewis, who were co-respondents below, are now the informants in these proceedings. We must therefore ask whether the action of the attorney was authorized? That is, did those persons whom he claimed to have represented agree to be joined as administrators and administratrix of the Intestate Estate of John N. Lewis?

Ordinarily, the court may not question the authority of an attorney who represents a party. However, the matter here involves an intestate estate which has been affected by the judgment of the court below. Thus, this Court must be satisfied that the intestate estate was made a party and was adequately represented in the summary proceedings to recover possession of real property. It is the responsibility of the Court to ensure that the property of a decedent is protected, and that whenever it is to be disposed of in any manner, such disposition must be in accordance with law. The protection of intestacy is so fundamental to the Court that the activities of an administrator must be monitored and supervised by the probate court at all times. In the case *Caulcrik v. Lewis*, 22 LLR 37 (1973), text at page 43, this Court, speaking through Mr. Justice Henries, said:

"In the administration of a decedent's estate, a sale of real property can be legally made by virtue of an express order of the probate court... If it cannot be shown that the sale of the land in question was duly authorized by the probate court, then the sale by the administrators is void."

While in that case the issue was the sale of real property by the administrator, we think that the protection of the decedent's property was the essential element. Any fraudulent action, as in this case, against an intestacy and especially by imposters, should not prejudice the intestacy.

Additionally, in order for a party to be concluded by judgment in a suit, he must have been made a party. *Mokob Boys v. Nelson*, 27 LLR 174; *Tubman v. Murdoch*, 4 LLR 179. It is further puzzling to the Court the role played by E. Kofa Benson, Deborah B. Tequah, and Joseph N. Lewis when they submitted to the jurisdiction of the court below as representatives of the intestate estate of the late John N. Lewis, Jr. and participated in the trial as such. It is inconceivable how these persons held themselves out as representatives of the intestate estate when they were not so authorized.

The Court takes note of clerk's certificate dated May 27, 1997, from the probate court that Joseph N. Lewis, Deborah B. Tequah and Patrick Lewis were appointed administrators and administratrix of the intestate estate of the late John N. Lewis on December 17, 1996; that is, after the conclusion of the summary proceedings in the court below. Clearly, the action of E. Kofa Benson, Deborah B. Tequah, and Joseph N. Lewis, in posing as representatives of the intestate estate, amounted to deception. This deception has been exposed by the same Deborah Tequah and Joseph N Lewis, who filed this bill of information, by and thru the Martin Law Firm. They admitted in the brief filed by their lawyer that they were not administrators and administratrix of the intestate estate of the late John N. Lewis at the time they appeared in the court below.

Therefore, this Court frowns on the dishonest conduct of the said E. Kofa Benson, Deborah Tequah, and Joseph N. Lewis. This is most reprehensible. Consequently, each of them is fined L\$1000.00, to be paid into the government's revenue, Ministry of Finance, and official flag receipts exhibited by them within 48 hours from the date this opinion is delivered in open Court.

In consideration of these irregularities and the particular circumstances of this case, we hold that it is in the interest of justice to remand the case to the court below for a new trial with instruction that Joseph N. Lewis, Deborah Tequah and Patrick Lewis, appointed by the probate court on December 17, 1996, as administrators/administratrix of the intestate estate of the late John N. Lewis, be given an opportunity to plead and adequately represent the interest of the intestate estate.

Accordingly, the Clerk of this Court is ordered to send a mandate to the court below ordering it to resume jurisdiction and expeditiously try said case. The mandate of this Court, growing out of its judgment without opinion during the March A. D. 1995 Term, directing the court below to resume jurisdiction and enforce its judgment, hereby excludes the

intestate estate of the late John N. Lewis. Costs to abide final determination of this case.
And it is hereby so ordered.

Information granted; informants fined for deception.