

**HONOURABLE MORRIS KABA**, Deputy Minister, Ministry Internal Affairs, and  
**ELIZABETH McCROMSY**, Appellants, v. **TOWNSHIP OF  
GARDNERSVILLE**, represented by and thru SAMUEL PROWD, Chairman,  
Common Counsel of Gardnersville, and **C. TORBOR WON**, Speaker, and  
**MARTHA G. NAGBE**, Appellees.

APPEAL FROM THE RULING OF THE CHAMBERS JUSTICE GRANTING  
THE PETITION FOR THE ISSUANCE OF A WRIT OF PROHIBITION.

Heard: May 5, 1999. Decided: June 3, 1999.

1. An administrative agency has only such powers as have been conferred upon it by law and must act within the granted authority for an authorized purpose.
2. The principal purpose of prohibition is to prevent an inferior court or other tribunal from assuming jurisdiction with which it is not legally vested, in cases where wrong, damages and injustice are likely to follow from the action.
3. The fundamental office of the writ of prohibition is to prevent a usurpation of jurisdiction.
4. A writ of prohibition will be directed to an agency or officer that is usurping jurisdiction only if the agency or official is attempting to exercise a power or function that is not invested by the law.

Petitioner, the Township of Gardnersville, sought a writ of prohibition to restrain respondents, Hon. Morris Kaba, Deputy Minister of Internal Affairs, from removing from office Madam Martha G. Nagbe as superintendent of the Gardnersville Market, and replacing her with Madam Elizabeth McCromsy, and from interfering with the affairs of the market. The Chambers Justice granted the prohibition, reasoning that a private market is not subject to the supervision of the Ministry of Internal Affairs. Respondents excepted to the ruling and appealed to the Court *en bane* for final determination.

The Supreme Court held that public markets built by the Government of Liberia are subject to the supervision and control of the Liberian Marketing Association and the Ministry of Internal Affairs, and that private markets built by citizens and residents of local authorities through self-help initiatives, are subject to the supervision, control, authority and management of such local authorities. The Gardnersville self-help market, therefore, has an exclusive jurisdiction over its market, and to have election for its own corps of officers. Accordingly, the Supreme Court *affirmed* the ruling of

the Chambers Justice, thereby nullifying the appointment of officials of the Gardnersville Market by the Ministry of Internal Affairs.

*Francis S. Korkpor, Sr.* of Tiala Law Associates, Inc. appeared for petitioners. *Joseph Blidi* appeared for respondents.

MR. JUSTICE SACKOR delivered the opinion of the Court.

This case is before us on appeal from the Ruling of Mr. Justice Yancy, then presiding in Chambers of the October Term A. D. 1996 of this Court, granting the writ of prohibition filed by the Township of Gardnersville against Hon, Morris Kaba, former Deputy Minister of Internal Affairs and Elizabeth McCromsy.

We will now briefly state the facts in this case which prompted the Township of Gardnersville to seek the aid of prohibition from this Court to restrain and prohibit the Ministry of Internal Affairs from exercising control, power and authority over the Gardnersville Community Market in an attempt to subject the aforesaid market to the control of the Liberian Marketing Association.

The records in this case reveal that the Gardnersville Community Market came into being in 1995, and was built through self-help initiatives after acquiring two acres of land from the Government of Liberia. The records show that this market was exclusively managed and controlled by the people of the Township of Gardnersville through a Committee of Common Council On Marketing. On the 19th day of July 1982, the Government of Liberia by and through the Acting Director of Deeds and Registration, Doris S. Nimely, wrote the Superintendent for Montserrado County that the then Head of State and Chairman of the People's Redemption Council permitted her (Nimely) to survey two (2) acres of public land free from all encumbrances and not a part of the tribal reserve for the construction of Gardnersville Market. The two (2) acres of land were surveyed and the citizens of the Township of Gardnersville, on a self-help initiative, constructed thereon the subject market.

The Liberian Marketing Association (LMA) was created by an Act of Legislature as a legal entity, which Act was approved on April 8, 1976 and published in hand bill by the Ministry of Foreign Affairs on July 3, 1979. The Act establishes the principal office of the association in Monrovia, Montserrado County, and authorizes this association to establish branches and offices throughout Liberia as are necessary to achieve the purposes of said organization efficiently. The purposes, aims, and objectives of the LMA includes, but is not limited to, the taking of title to property,

real and personal, by gift, purchase, devise, or bequest, for purposes appropriate to its creation, and to hold, manage, lease, mortgage, sell, and convey the same for the benefit of the association; and to own property up to the value of \$25,000.00, etc.

On the 13<sup>th</sup> day of July, A. D. 1984, the then Head of State and Chairman of the People's Redemption Council, CIC Samuel K. Doe, approved the recommendations of the Ministry of Internal Affairs with respect to the outstanding dispute between the Liberian Marketing Association and the Gardnersville Township Marketing Authority, counts "B" and "C" of which this Court deems expedient for the benefit of this opinion. In counts "B" and "C" thereof, the Head of State said among other things that markets which have been actually built by local authorities through self-help efforts to strengthen the masses, be left with the local authorities to control, and that the funds generated therefrom, be used to augment government efforts for the proper maintenance of such facilities for the construction of additional markets as well as to carry on other development programs in their respective localities.

In 1991, the authorities of the Gardnersville Township Market filed a complaint to the Interim Government of National Unity (IGNU) through the former Vice President of Liberia, Dr. Peter Naigow, alleging, inter alia, the ownership of the Gardnersville Market and that the Liberian Marketing Association has appointed corps of officers of said market without reference to the authorities of the Township Market. This complaint was forwarded to the Ministry of Internal Affairs for investigation. A three (3) member board of investigation under the chairmanship of co-respondent Morris Kaba, was constituted to probe into the said complaint. The Board conducted its investigation of the complaint on the 20<sup>th</sup> day of August, A. D. 1991. The Board, on page 3 of the investigative records, said that the land on which the subject market building is erected, is a genuine property of the Township of Gardnersville, and such, cannot be tampered with by a private organization such as the Liberian Marketing Association. The board observed that the appointment of officers of the Gardnersville Township Market by the Liberian Marketing Association without the consent of the township authority was *ultra vires*. The board recommend to IGNU, among other things, that the officers so appointed by the Liberian Marketing Association for the petitioner, be removed; the authority of the Township of Gardnersville be placed in possession of their property; and given the chance to supervise the election of a new corps of officers. See count 3, Page 4 of recommendations to government.

On the 16<sup>th</sup> Day of September, A. D. 1991, C. Roberto Dole, then Acting Coordinator, Ministry of Internal Affairs, wrote the Chairman of the Gardnersville

Marketing Association, informing him of the removal from office, of the officers of LMA and of the turning of over the subject market to its authority with immediate effect and to supervise the election of a new corps of officers. The Board also notified the President of LMA on September 16, 1991 of its decision.

It is revealed by the records in this case that the Ministry of Justice on September 18, 1993, wrote the Interim Government of Liberia, expressing its opinion regarding the status of the Gardnersville Market. The Ministry recommended to Government in its memorandum, that the Government of Liberia does not own the Gardnersville Market and cannot give same to the LMA or any other entity without a just compensation and due process of law. The Ministry also recommend that LMA is a legal entity entitled to own property, and a business entity operating its own market for the benefit of its own members.

The records in this case show that on February 4, 1994, the Interim Legislative Assembly, thru its Chief Clerk, D. Lincoln Bloh, II., wrote the Commissioner of Gardnersville Township informing him of the Assembly's adoption of its Committee's recommendation that LMA should be guided by the decisions of the Ministries of Internal Affairs and Justice and that the Gardnersville Marketeers should have exclusive jurisdiction over their market without the control of the LMA. On the 23rd day of August, A. D. 1995, the then Acting Minister of Internal Affairs, Hon. Morris Kaba, ordered the reinstatement of Mrs. Elizabeth McCromsy as Superintendent for Gardnersville Township Market, thereby removing one Martha G. Nagbe as Superintendent of said market.

The Township of Gardnersville filed an eight count petition on November 16, 1994, praying for the issuance of a writ of prohibition to restrain and enjoin the Ministry of Internal Affairs from removing from office Madam Martha G. Nagbe as Superintendent of the Gardnersville Market. The respondents filed an eleven-count returns on the 5<sup>th</sup> day of December, A. D. 1995. Mr. Yancy granted the prohibition on the 9<sup>th</sup> day of January, A. D. 1996, on grounds that a private market house is not subject to the supervision of the Ministry of Internal Affairs, but has oversight responsibility over the activities of the political and local government activities pursuant to the Executive Law, Rev. Code 12: 25.2(a) (b). The respondent Ministry excepted to this ruling and appealed to this Court for final review and determination.

In Count 4 of their petition, petitioners contend that the Ministry of Internal Affairs does not have any control, power and authority over the Gardnersville Community Market as to empower its Deputy Minister, Hon. Morris Kaba, to forcibly remove

from office Madam Martha G. Nagbe as Superintendent and replace her with Madam Elizabeth McCromsy, in an attempt to subject the market to the control of LMA. Petitioners contend in count 5 of the petition that Madam McCromsy and her corps of officers instituted their own ticketing system and collected money from the tables without legal authority, and unilaterally operated the market without an accountability to the people of Gardnersville Township.

It is argued by petitioners that the Government of Liberia does not own the Gardnersville Market, and as such, the Ministry of Internal Affairs cannot exercise control, power and authority over the said market. Petitioners strongly maintain that the Gardnersville Community Market is a separate and distinct entity from LMA, and that its status had been determined in *many fora* to the effect that it was not subject to the control of the Ministry of Internal Affairs and the Liberian Marketing Association (LMA), but should be allowed to be operated by the people of the Township. Petitioners pray this Court to confirm the ruling of Mr. Justice Yancy.

The respondents contend that it did not dispute the self-help effort by the Township of Gardnersville to buy two acres of land and construct the market thereon, and that the Gardnersville Market is separate and distinct from the Liberian Marketing Association. The co-respondent Ministry however, contends that the Gardnersville Market is under its control, direction, and supervision, in that, the Ministry of Internal Affairs has supervision over political sub-divisions such as the Township of Gardnersville under the Executive Law. *Ibid* 25.1(a). The respondent Ministry also argues before this Court that its decision to re-instate Elizabeth McCromsy is sound in law and within the scope of its authority pursuant to the Executive Law. *Ibid* 25.2(a). The respondent Ministry prays the Honourable Court to reverse the ruling of Mr. Justice Yancy and to dismiss the petitioners' petition.

The cardinal issues for the determination of this case are:

1. Whether or not the Gardnersville Market is a Government Market subject to the control of the Liberian Marketing Association and the Ministry of Internal Affairs.
2. Whether or not the prohibition will lie under the given facts and circumstances in this case.

We shall discuss these issues in the order and manner in which they are raised. As to the issue of whether or not the Gardnersville Market is a government market subject to the control of LMA and the Ministry of Internal Affairs, this Courts says that the

answer to this question is in the negative. The records in this case clearly shows that the Gardnersville Market came into existence in 1975, and had exclusive control over its own activities. A year later, the Liberian Marketing Association was created by an Act of the Legislature which was published in 1979. The Act empowers LMA, as a legal entity, to acquire, hold, and own its own property, but it in no way or manner incorporated the Gardnersville Market into the LMA. Thus, the LMA and the Gardnersville Market are distinct and separate legal entities as conceded by the respondent Ministry.

The records in this case also reveal that the citizens of the Township of Gardnersville built the aforesaid market through self-help initiatives which fact the respondent Ministry also conceded. We observed that the then Head of State, and Chairman of the Peoples Redemption Council, CIC Samuel K. Doe, approved the recommendation of the respondent in 1984 specifically stating that markets actually built by local authorities by self-help efforts to strengthen the market masses should be left with the local authority to control, and that funds generaied therefrom be used for the construction of additional markets and for other development program. This Court holds that the construction of the Gardnersville Market by the people of the Township of Gardnersville through self-help projects shows that it is not a government market even though President Samuel K. Doe personally contributed toward the construction of the market. Hence, it is a private market built by the initiative of the people of Gardnersville Township which is not subject to the control of the Ministry of Internal Affairs in keeping with its own recommendations approved by the Head of State in 1984.

In 1991, the board of investigation under the chairmanship of co-respondent Morris Kaba recommended to the Interim Government of National Unity that the authority of Gardnersville should be placed in possession of the subject market and be given the chance to supervise the election of a new corps of officers. The Ministry of Internal Affairs, through the then Acting Coordinator, C. Roberto Dole, wrote the Gardnersville Market on September 16, 1991 informing its authority that the market was turned over to it with the right to supervise its own election for a new corps of Officers. The Ministry of Justice also decided the status of the Gardnersville Market in 1993 as a private market which is not subject to the control of the Government of Liberia without a just compensation or due process of law. The Legislative Assembly of the Interim Government of National Unity in 1994 confirmed the decisions of the Ministries of Internal Affairs and Justice that the Gardnersville Marketeers should have exclusive jurisdiction over their market without the control of LMA, and urged the authority of the Gardnersville Market to affiliate and associate with the Liberian

Marketing Association, if it so desired. We are therefore taken aback for the then Deputy Minister of Internal Affairs, Morris Kaba, to order the reinstatement of Madam Elizabeth McCrosby in 1995 as Superintendent of the Gardnersville Market against the will of the authority of Gardnersville Market when he had earlier advocated in his recommendations in 1991, that the authority of the Gardnersville Market should supervise the elections of the Officers of said market. In this regard, the Ministry of Internal Affairs acted without any authority to order the reinstatement of Madam Elizabeth McCrosby thereby removing Madam Martha G. Nagbe duly selected by the authority of Gardnersville Market as Superintendent thereof.

This Court holds that the public markets built by the Government of Liberia are subject to the supervision and control of the Liberian Marketing Association and the Ministry of Internal Affairs, and that private markets built by citizens and residents of local authorities through self-help initiatives are subject to the supervision, control, authority and management of such local authorities. The Gardnersville Self-help Market, therefore, has an exclusive jurisdiction over its market, to have election for its own corps of officers, and that funds generated therefrom should be used for the construction of additional markets as well as other development programs for the Township of Gardnersville.

A recourse to the relevant statutory provision cited by respondent Ministry of Internal Affairs shows that the duties of the Minister as contained in the Executive Law relate to the supervision and control of the activities of the political subdivisions of the central government and the management of tribal affairs and all matters arising out of tribal relationships. *Ibid.*, 25.2 (a) (b). It does not include a private market building built through self-help efforts by citizens and residents of a locality for its own social and economic development. It is held that "an administrative agency has only such power as have been conferred upon it by law and must act within the granted authority for an authorized purpose." 1 AM. JUR. 2d, *Administrative Law*, § 188.

As to the issue of whether or not prohibition will lie, this Court answers this question in the affirmative. The Ministry of Internal Affairs had declared the status of the Gardnersville Market as a private market with the exclusive right to have elections for its own corps of officers since 1984 as stated earlier in this opinion. The Ministry of Justice has also declared that the Government of Liberia does not own the Gardnersville Market, and cannot exercise control over it without a just compensation and in accordance with due process of law. The records in this case are devoid of any evidence that the Government of Liberia ever acquired the

Gardnersville Market with a just compensation so as to subject same to the control and supervision of the Ministry of Internal Affairs. Thus, the law does not confer any authority on the Ministry or the LMA to control the Gardnersville Market. The removal of Madam Martha G. Nagbe from office as Superintendent for the market and the appointment of Madam Elizabeth McCromsy by the Ministry of Internal Affairs, is not within the scope of its authority.

It is held that "the principal purpose of prohibition is to prevent an inferior court or other tribunal from assuming jurisdiction with which it is not legally vested, in cases where wrong, damage and injustice are likely to follow from the action..." 22 Ruling Case Law, *Prohibition*, § 3. Prohibition is the proper remedy to prevent the usurpation of jurisdiction, and is therefore directed to an agency or an officer thereof from exercising a power or function not legally vested by statute. It is further held that "the fundamental office of the writ of prohibition is to prevent usurpation of jurisdiction... A writ of prohibition will be directed to an agency or officer that is usurping jurisdiction only if the agency or official is attempting to exercise a power or function that is not invested by the law.." 63 AM. JUR. 2d, *Prohibition*, § 37.

The Ministry of Internal Affairs indeed assumed jurisdiction which is not legally vested in it by law for which prohibition will lie, and that prohibition will undo what has already been unlawfully done. *Parker v. Worrell*, 2 LLR 525(1925); *Fazḡab v. National Economy Committee*, 8 LLR 85 (1943); *Thomas v. Ministry of Justice*, 26 LLR 129 (1977); *Nelson v. Boye*, 27 LLR 174 (1978).

The Act creating the Liberian Marketing Association empowers the association to acquire, hold, and own property among other things. The LMA is therefore free to negotiate with the Gardnersville Township Market Authority to affiliate with the Association. It is also the legal obligation of the LMA to acquire, hold, and own the subject market in keeping with the Legislative enactment establishing the association through negotiation. We encourage the Township of Gardnersville market to also freely affiliate with the Liberian Marketing Association.

Wherefore, and in view of the foregoing, it is the considered opinion of this Court that the ruling of Mr. Justice Yancy should be, and the same is hereby affirmed. The appointment of officials of the Gardnersville Market by the Ministry of Internal Affairs is hereby nullified, and the people of the Township of Gardnersville are authorized to elect their own corps of Officers of the market and the funds therefrom should be used for the development of the Township of Gardnersville. The Clerk of this Court is hereby ordered to send a mandate prohibiting, restraining



and enjoining the Ministry of Internal Affairs and the Liberian Marketing Association from exercising supervision and control over the Gardnersville Market. Costs disallowed. And it is hereby so ordered.

*Petition granted*