

CHARLES T. O. KING, III, and BURGESS HOUSTON, JR., Nephew and Grand Nephew of the Late CECIL D. B. KING, and heirs to Two Pieces of Property of the Late CECIL D. B. KING, Objectors/Appellants, v. ANNA COOPER-HARRIS, Executrix of the Last Will and Testament of CECIL D. B. KING, Respondent/Appellee.

**King, III et al v Cooper-Harris [2000] LRSC 8; 40 LLR 70 (2000) (12 May 2000)**

APPEAL FROM THE JUDGMENT OF THE MONTHLY AND PROBATE COURT FOR MONTSERRADO COUNTY.

Heard: April 12, 2000. Decided: May 12, 2000.

1. Heirs or distributees who have legal capacity may release or relinquish their existing interest amongst one another, provided that such release is effected by the execution and delivery of a formal document, even if the property involved consists entirely of personality.
2. A party complaining of an instrument made by himself or his privy is estopped from denying the validity of his own act, or the act of the maker of the instrument with whom he is in privy.
3. Objections to the probate of a Will conveying real property, which was transferred to the testator more than twenty years prior to the testator death and the filing of the objections, are dismissible under the statute of limitations.
4. Persons who are not heirs and/or beneficiaries of a testator have no standing to challenge his Will.
5. Where siblings are considered as legitimate, and are recognized and dealt with as co-heirs of their deceased parents, by other siblings who are considered as illegitimate, the legitimate siblings are barred from subsequently refusing to share with the illegitimate siblings the property of the deceased, or to deal with or recognize the illegitimate siblings as heirs of the deceased.

Charles T. O. King, III, son of Charles T. O. King, II, and Burgess Houston, Jr., grandson of Ellen King-Burgess, filed objections to certain provisions of the Last Will and Testament of the late Cecil D. B. King, III, and the codicil thereto, which conveyed two parcels of land. The Objectors contended that the properties sought to be conveyed by the testator did not legally belong to the testator since the original conveyances of said properties to the testator by quit-claim and administrators' deeds were invalid.

The objectors asserted as reasons for the assertion of invalidity of the deeds that (a) at the time of the conveyance under the quit-claim deed, the grantor, Cecil T. O. King, II possessed no title to the property quit-claimed to his brother, the testator, as the property at the time was part and parcel of the Intestate Estate of the late Charles D. B. King; (b) only Cecil T. O. King, III, one of the three administrators of the Intestate Estate of the late Charles D. B. King had signed the administrator's deed which conveyed the property in question to the testator. And, they noted that because of the irregularities and invalidity of the conveyances, the properties remained a part of the Intestate Estate of the late Charles D. B. King and should be

equally divided amongst the children of the late Charles D. B. King, of which the objectors were grandson and great grandson.

The trial court dismissed the objections and ordered the admission of the Will and codicil into probate and the properties conveyed thereunder distributed. On appeal, the Supreme Court affirmed the ruling of the probate court, holding as follows: (a) that the objectors lacked legal standing to challenge the acts of their forebears who, at the time of the conveyances under the quit-claim and administrator's deeds, were not only the ones that held titled to and interest in the properties, but had made the conveyances without any objections from any persons, including the parents of the objectors and were adults and could have objected had they wanted to; (b) that the objectors were barred by the statute of limitations and had suffered laches, the transactions involving the questioned conveyances having occurred more than thirty-seven years earlier, and the testator having been in open and notorious possession of the same for over twenty-years; and (c) that the objectors were estopped from raising the subject objections, being bound by the acts of their forebears who owned the properties in fee simple, had the legal right and capacity to release and relinquish their interests in the property, and with whom the objectors were in privity. The Court noted that the acts of the ancestors were binding on their heirs, who in the instant case were the objectors.

The Court also rejected the claim by the objectors that they were not barred by the statute of limitations because they were unaware of the transactions until the death of the testator, and it noted that as the objectors were not heirs of the testator, they were precluded from raising a challenge to his Will.

With regard to the respondents claim that Co-objector Houston was without legal standing since his grandmother, under whom he had claimed heirship, was not a legitimate child of the late Charles D. B. King and therefore not entitled to share in the late Charles D. B. King Estate, the Court observed that not only had the late Charles D. B. King recognized the co-objector grandmother as his daughter, had allowed her to live with him, and had married her off, but also that she had received properties from him as well as his Intestate Estate. The Court also opined that as the legitimate siblings had recognized and dealt with the illegitimate sibling as an heir, the legitimate siblings were barred from contesting the heirship of the co-objector's grandmother or dealing with her siblings as heirs, or objecting to having her heirs share in any property to which they would be entitled, the same as the legitimate siblings. The Court nevertheless, on the basis of the rationale set forth earlier, affirmed the ruling of the trial court dismissing the objections and admitting into probate the Last Will and the codicil of the testator.

Joseph Patrick Henry Findley appeared for the objectors. Henry Reed Cooper and M. Kron Yangbe appeared for respondent.

**MR JUSTICE WRIGHT delivered the opinion of the Court.**

This case is on appeal from a ruling of the Monthly and Probate Court for Montserrado County, in which the judge denied objections to the probaton of certain clauses of the Last Will and Testament of the late Cecil D. B. King, and the Codicil to said Will, and ordered the said instruments admitted into probate. The objectors, being dissatisfied with the probate judge's ruling, announced an appeal therefrom and perfected the same to this Court.

To put this case into proper perspective, we shall first identify the parties. The late Liberian President, Charles Dunbar Burgess King, died intestate in the early 60's, leaving his wife, the late Jeanette L. King, and two "legitimate" lineal heirs, viz, C. T. O. King, II and Cecil D. B. King (Emphasis supplied). The objectors are (1) C. T. O. King III, son of C. T. O. King, II, and (2) Burgess Houston, Jr., grandson of Ellen King-Houston, daughter of President Charles Dunbar Burgess King and sister of the two "legitimate" heirs. The respondent is Anna Cooper-Harris, maternal cousin of Cecil D. B. King and sole executrix of his Will.

From the records in the case file, and from the arguments of counsels for both parties, we find the following facts. After the death of President King in 1961, his intestate estate was closed on January 12, 1962 by Judge J. Gbaflen Davies, then Commissioner of Probate for the Monthly and Probate Court for Montserrado County. In the ruling closing the estate the court ruled that after all debts of the deceased's estate were liquidated, the estate was to be divided between the two heirs of the deceased (i.e. Charles T. O. King, II and Cecil D. B. King), subject to the one-third (1/3) dower right of the widow, Jeanette L. King, as per the agreement of the parties, since the widow had earlier objected to the granting of the petition as made because the two sons and the widow were the three administrators. President King left several pieces of property.

Prior to this time, that is, on December 16, 1961, Charles T. O. King, II had issued a quit claim deed to his younger brother, Cecil D. B. King, for Lots No. 146 and 147, located on Broad Street, Monrovia. The said deed was duly probated on March 6, 1962, and registered according to law. This prior transfer was not objected to by the widow at the time the estate was being closed on January 12, 1962. Moreover, from the date of the issuance of the quit claim deed in December 1961, Cecil D. B. King continued to possess and control these properties without any objections from his brother, Charles T. O. King, II or his step-mother, the widow, Jeanette L. King, until his death in 1998.

Charles T. O. King, II had also on the same day, December 16, 1961, issued to his younger brother, Cecil D. B. King, an administrator's deed for the same two lots on Broad Street, Monrovia, which deed was also duly probated on March 16, 1962 and registered according to law. The two brothers also always treated the Sinkor property, wherein was the residence of their father, as belonging to only the two of them, subject to the widow's dower interest. Cecil remained in open and notorious possession and control of Lot No. 147, which is now subject of the objection to his Will. Cecil D. B. King signed his Will on December 31, 1997, and thereafter executed a Codicil thereto on July 28, 1998. In his said Will, he named his cousin, Mrs. Anna Cooper-Harris as his sole executrix and he therein directed how his properties should be distributed. He died on August 11, 1998.

Following Cecil's death, Counsellor Henry Reed Cooper, cousin of both the deceased and his executrix, filed a four-count petition praying the Monthly and Probate Court for Montserrado County to break open the seal on a sealed envelope and to read in open court the contents of said envelope, which was purported to be the Last Will and Testament of the Late Cecil D. B. King, and to thereafter issue letters testamentary. The said envelope was accordingly opened and the contents read in open court. The court subsequently ordered that notices be placarded on the bulletin of the court and in other conspicuous places where the properties were located, so as to give notice to would-be objectors that papers purporting to be the Last Will and Testament of Cecil D. B. King had been read in open court and that whosoever had objections thereto should file the same within the statutory period of thirty (30) days.

On December 7, 1998, Charles T. O. King, III and Burgess Houston, Jr., nephew and grand nephew of Cecil D. B. King, filed a five-count objection in the Monthly and Probate Court for Montserrado County, praying the court to strike out clauses 3 and 5 of the Will and the first part of the Codicil to the Will, as well as to deny the petition seeking admission of the documents into probate.

The essence and basis of the objection was that the properties sought to be distributed under clauses 3 and 5 of the Will and in the first part of the Codicil to the Will, were not properties legitimately owned by the testator, Cecil D. B. King. The objectors contended that the administrator's deed and the quit claim deed, issued and signed by the late Charles T. O. King, II (Father of Co-objector Charles T. O. King, III and grand uncle of Co-objector Burgess Houston, Jr.) were not valid conveyances because the late Charles T. O. King, II had no title to the estate as would vest in him the right to issue the two deeds, and that as such the properties covered thereunder remained a part of the Intestate Estate of the late President C. D. B. King. The objectors maintained that as the properties did not belong to Cecil D. B. King, he could not devise the said properties to anyone.

As to the administrator's deed, the objectors contended that upon the death of President King, his intestate estate was ordered administered by three persons, namely, his two sons, Charles and Cecil, and his widow, Jeanette. Therefore, they said, any conveyance made in respect of the properties of the said Estate should have been signed by at least two of the three administrators. With regard to the quit-claim deed, the objectors contended that the transfer under the said deed was incomplete because Cecil had failed to make good on his side of the quit claim bargain by failing to transfer his interest in the Sinkor property, in exchange for which his brother Charles was supposed to have quit claimed his interest in the Broad Street property.

The objectors argued, therefore, that Cecil D. B. King did not legally acquire title to the pieces of property covered under clauses 3 and 5 of his Will and the first part of his Codicil, and hence, that the said properties were not part of his estate to go to his legatees. Instead, the objectors asserted, the pieces of property referred to, being part of the Intestate Estate of the late President C. D. B. King, the same should be distributed to the heirs of his three (3) children, namely: Charles T. O. King, II, Cecil D. B. King, and Ellen King-Houston, in equal proportions of one-third to each set of the King heirs.

The respondent filed her resistance to the objections, raising several important points. Firstly, respondent contended that when the late President C. D. B. King died, his three children were alive and were adults and that as such the objectors have no standing and interest whatsoever to assert the objections since their respective parent and grandparent were adults and alive and were the ones who had interest and standing.

Secondly, respondent contended that the objections were illegal and void under the principle of adverse possession, the same being barred by the statutes of limitation, in that the two sons having acted to divide their late father's estate since the early 1960's, and had done so to the satisfaction of all parties concerned, including the probate court, without any successful challenge to their action, which action was open, adverse and notorious; and further that they, having possessed their respective properties exclusively unto themselves from the time of

their father's death to the time of their own respective deaths, Testator Cecil D. B. King's title to all such properties included in his Will was absolute and proper against the whole world, including his brother's son and the grandson of his sister.

Thirdly, and further to the first issue, the respondent contended that a grandson or great grandson of a deceased cannot have any interest in the intestate estate of a deceased as long as his parent (i.e. a child of the deceased) is alive. Accordingly, the respondent asserted, the objectors cannot question the issuance of the administrator's deed and the quit claim deed by C. T. O. King, II to his brother Cecil D. B. King. The respondent said further that when C. T. O. King, II executed the deeds to his brother, Cecil C.D. King and while the former was still alive, Co-objector, C. T. O. King, III had no interest in or title to the subject properties and that as such could not now raise objections. Additionally, the respondent said that when the transactions took place in the early 1960's, both Ellen King-Houston, sister of the two brothers, and her son Burgess Houston, Sr., grandson of President King, nephew of the two King brothers, and father of Co-objector Burgess Houston, Jr., were alive and of adult ages, but raised no issue concerning the conveyances from one brother to the other. Therefore, the respondent stated, the objectors, who at the time of the transactions had no interest in or title to the subject properties, could not now raise objections.

In count six of the resistance, the respondent contended that the three children were adults and alive when their late father died and that they thereafter lived together in peace and harmony until their respective deaths, the first being Ellen King-Houston in the late 1960's or 1970's, then C. T. O. King, II in the 1980's, and later Testator Cecil King in 1998. Further, respondent asserted that upon the death of their father, the three children of the late President Charles D. B. King divided his properties, as a result of which C. T. O. King, II, father of Co-objector Cecil King, III, was given the property of their father located at the Corner of Gurley and Broad Street, Monrovia; that Ellen King-Houston was given the property of their father on Front Street, Monrovia; and that the two brothers were each given an equal share of the land and buildings which was the last home of their late father, located in Sinkor, and which is one of the properties subject of these objections. It is these properties of the late President King that the objectors claimed should be divided into three equal parts, the basis for which they showed no evidence.

In count seven (7) of the respondent's resistance, she contended that the late President King had only two legitimate children by lawful marriage, namely, C. T. O. King, II and Cecil D. B. King, the testator herein, and that by the law of intestate succession, only they were entitled to his property in Sinkor. The resistance noted that it was only those two children who, during their lives and following their father's death, controlled, considered, and treated said property as being in common for the two of them.

The probate court heard arguments on the petition, the objections, and the resistance on February 26, 1999 and thereafter handed down its ruling on April 6, 1999. The court denied the objections and proceeded to approve and probate clauses 3 and 5 of the Last Will of Cecil D. B. King.

Because we are in agreement with the disposition of this matter by of the probate court judge, we hereunder quote the relevant portions of his ruling and incorporate the same as part of this opinion:

This Court has resolved to determine this matter based on the following issues: (1) Whether or not the quit claim deed from Charles T. O. King to Cecil D. B. King, dated the 16th day of December, A. D. 1961, probated on the 16th day of March, A. D. 1962, and registered according to law in Vol. 86-B, page 54, passed title, interest or claim which he had in lot No. 147 to his brother, Cecil D. B. King, and that his heirs are prohibited from inheriting his interest in said property by virtue of said deed? (2) Whether or not the property located and lying on Gardner Avenue, between 13th and 14th Streets, Sinkor, City of Monrovia, and described in clause 5 of the said Will as being leased by the Government of Liberia and utilized as the National Public Health Center and/or Central Office, is to be distributed as contained in said clause, of 1/3 interest each to the heirs of C. T. O. King, II, Cecil D. B. King and Ellen King-Houston, as alleged by objectors?

We shall begin the determination of these two (2) issues by taking up the first one: Whether or not the quit claim deed from Charles T. O. King to Cecil D. B. King dated the 16th day December, A. D. 1961, probated on the 16th day of March, A. D. 1962, and registered according to law in Vol. 86-B, page 54, passed title, interest, or claim which he had in lot No. 147, to his brother C. D. B. King, and that his heirs are prohibited by law from inheriting his interest in said property by virtue of said act? Objectors argued that a quit-claim deed is not necessarily a conveyance of property, because it purports only to transfer that interest which the grantor has in the property and in fact transfers nothing at all. 7 AM JUR LEGAL FORM 2d, Quit Claim Deeds, § 87.31, p. 264. They further argued that while C. D. B. King's Estate was still in court and not closed, C. T. O. King, II alone issued an administrator's deed to his brother without Administratrix Jeanette King's consent; that the deed being illegal, Cecil D. B. King cannot then will the property in question to his heirs as the conveyance by said administrator's deed is illegal.

Respondent, in arguing her side of the matter stated that firstly Charles T. O. King, II issued both a quit claim deed and an administrator's deed to Cecil D. B. King for the property in question on the 16th day of December 1961, which was probated on the 16th day of March, A. D. 1962, and registered according to law in Volume 86-B, page 54-55, after the closing of the late President King's Estate in January, A. D. 1962; that Burgess Houston has no standing as a party to this suit, and that as his grandmother or father should have brought it, they both waived same, and therefore he is estopped; that C. T. O. King, III cannot also raise a claim, in that it was his very father who was to inherit the interest in said property who willingly gave up his interest in the property, and that since March, 1962, the testator had been openly and notoriously enjoying said property to the extent of collecting the rents up until his death without any interference from C. T. O. King, II and his heirs or from Ellen King-Houston and her heirs. Therefore, the respondent said, the objectors are estopped from doing so now that the testator is dead.

We hold that under the circumstances prevailing in this matter, it would be quite difficult at the this stage to hold that the heirs of Cecil D. B. King should relinquish the interest to the heirs of C. T. O. King, II which had been relinquished to his brother Cecil D. B. King in March of 1962 by virtue of a quit claim deed and an administrator's deed. Further, through out the years, from 1962 until his death sometime last year, the testator had been in open and notorious possession of the property in question (some 37 years) without any interference from the heirs of Ellen King Houston or C. T. O. King, II. They are therefore estopped and barred, under the principle of adverse possession, from now contesting the respondent's right to the property. 'Heirs or distributees who have legal capacity may release or relinquish their existing interest among one another'.

It has been held that such a release must be effected by the execution and delivery of a formal document, and that this is true even where the property involved consist entirely of personalty.” [23 AM JUR. 2d](#), Deeds, § 173, p. 887. Also in the case *Cooper v. C. F. A. O.*, [\[1972\] LRSC 68](#); [20 LLR 554](#) (1972), text at 558, this Court said: ‘A party complaining of an instrument made by himself is estopped from denying the validity of his own act. The same rule applies when he is in privity with the maker.’

As to the second issue of whether or not the property located and lying on Gardner Avenue between 13th and 14th Streets, Sinkor, City of Monrovia, and also described in clause 5 of the said Will as being leased by the Government of Liberia and utilized as the National Public Health Center and/or central office, should be distributed as contained in said clause of 1/3 interest each to the heirs of C. T. O. King and Ellen King-Houston as alleged by the objectors, the objectors argued that said property should be divided into three (3) parts among the three (3) children of the late former President C. D. B. KING or their heirs taking one-third ( ) interest each. Respondent countered that the late Former President C. .D. B. King left two legitimate heirs: C. T. O. King, II and Cecil D. B. King, which can be seen from the court's Minutes of January 12, A. D. 1962, 5th day's sitting of the Monthly and Probate Court of Montserrado County, Republic of Liberia.

We hold that indeed during the closing of the Intestate Estate of the late President C. D. B. King (See minutes of the 5th day's sitting, January 12, 1962, sheet four (4), the Monthly and Probate Court, Montserrado County, Republic of Liberia, presided over by J. Gbaflen Davies, the then Commissioner of Probate, recognized that beside the widow, Jeanette L. King, there were only two other heirs of the late President (i.e. C. T. O. King, II and Cecil D. B. King). We therefore hold that the house/property on Gardner Avenue should be shared between the heirs of the late Cecil D. B. King and C. T. O. King, II, 50% interest each.

WHEREFORE AND IN VIEW OF THE ABOVE, the objections of the objectors are hereby denied and this Court has no alternative but to proceed to approve and probate clauses 3 and 5 of the Last Will, dated July 28th 1998, with costs against the objectors.’ See sheets 7 thru 10, inclusive, of the probate court minutes, 3rd day’s session, April Term A. D. 1999, Tuesday, April 6, 1999.”

This Supreme Court therefore holds, as the probate judge did, that the objectors lack the legal standing to sue out these objections. We view the objections as a tacit attempt by the objectors to challenge the acts of their respective forebears who, at the time, were the ones who had the title to and interest in the subject properties, whose acts were not objected to by anyone at the time, and who had the legal right and authority to release or relinquish their existing interests among one another by the execution and delivery of a formal document. [23 AM JUR 2d](#), Deeds, § 173, p. 887.

Also, their objections are dismissible because the acts were completed more than twenty (20) years prior to the institution of the suit. On this question, being one of adverse possession, objectors argued that they could not have brought the suit earlier than they did because during the lifetime of the testator (their uncle and grand uncle) they (the objectors) were not aware of the conveyances and did not know until he had died, and his Will was offered for probate.

There are two problems objectors have to overcome. They are: (1) If we go back to the dates of the conveyances in 1961 and 1962, respectively, then by effluxion of time the statute has run and adverse possession would lie. (2) If, on the other hand, we go to the date when the

Will was offered for probate and the objections were filed on December 17, 1998, then the objections would be barred for laches because the acts complained of were already completed, and, if they were not heirs of the testator, as certainly they are not, then they do not have standing to challenge his Will as they are not his beneficiaries.

The objectors are therefore bound by the acts of their father and grand uncle, who owned the property in fee simple and as such could dispose of it as he wished. Because they are in privity with their father and granduncle, they are estopped from raising such claims. *Jackson v. Mason*, [\[1975\] LRSC 7](#); [24 LLR 97](#) (1975).

Before closing this opinion, there is one issue we would like to address in passing and that relates to the respondent's reference to Mrs. Ellen King-Houston as being "illegitimate". In her resistance, at clause seven (7), the respondent said that the late President C. D. B. King had only two "legitimate" children, namely, C. T. O. King, II, and Cecil D. B. King. In the written brief, at issue No. 3, at page 4, and during oral argument before this Court, respondent argued that the late Ellen King-Houston was the illegitimate child or foster child of the late former President C. D. B. King. It was contended that he took care of her and did everything for her, including giving her properties, and even to the extent of giving her away in marriage, but that he stopped short of legitimizing or adopting her. The respondent also argued that at the time President King died, Ellen King-Houston was an adult but made no claim to his intestate estate.

In counter argument to this, the objectors said that the claim of respondent is not correct; that the three children of President King lived together in peace and happiness, and that it was respondent who, not being of the King family blood line, sought to drive a wedge among the heirs of the three King children simply for the sake of property. The objectors' argument stemmed from the fact that the late Ellen King-Houston was not legitimized or adopted by the late President King. We note however that although Ellen King-Houston was not legitimized or adopted, she was recognized as President King's daughter, even to the extent that she lived with the Oldman, got some properties from him and from his intestate estate, as admitted by respondent, and was married-off by her father. Yet, when it comes to the Sinkor, property (homestead) and the Broad Street property on which ITC Bank is located, the respondent (representing one of the King brothers) refers to her as "illegitimate".

This Court has held that if the siblings who are otherwise considered "legitimate" have recognized and dealt with other siblings who are otherwise considered "illegitimate" to be co-heirs of their deceased parents, then the "legitimate" heirs are barred from subsequently refusing to share with, deal with, or recognize those "illegitimate" siblings as heir of the deceased. *Knowlden v. Johnson et al.*, [39 LLR 345](#) (1998). In any event, the probate judge has already addressed the issue and we have already affirmed and endorsed his ruling, which we herewith again re-confirm.

Wherefore, and in view of the foregoing, it is the considered opinion of this Court that the appeal of the objectors be and the same is hereby denied and the ruling of His Honour John L. Greaves, Probate Court Judge for Montserrat County, confirmed and affirmed as made and rendered, the same being sound in law. Accordingly, the Clerk of this Court is hereby ordered to send a mandate to the Monthly and Probate Court for Montserrat County commanding the judge presiding therein to resume jurisdiction over the case and enforce his judgment. Costs are ruled against the objectors. And it is hereby so ordered.



Ruling affirmed; appeal denied.