

**JOHN KOMAI**, Appellant, v. **THE MINISTERS OF JUSTICE** and **PUBLIC WORKS**, and **JOHN WULU**, Director of The Unity Conference Center, Appellees.

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

Heard: June 15, 1989. Decided: July 14, 1989.

1. The Ministry of Justice, as the principal legal advisor to the Government of Liberia, has the proper authority to warn a squatter upon government's property to leave.
2. Prohibition is a special proceeding to obtain a writ, ordering the respondent to refrain from further pursuing a judicial action or proceeding as specified therein.
3. Prohibition will not lie when the act complained of is neither wrong nor illegal, but rather within the scope of authority of the person or office complained against.

On June 14, 1988, the Ministry of Justice addressed a letter to appellant, informing him that the land he occupied in the vicinity of the Unity Conference Center had been acquired by and belonged to the Government of Liberia. Appellant was requested to submit any and all documents in support of his ownership to said property to the Ministry of Justice on or before June 22, 1988, for scrutiny. He was also informed that upon his failure to do so, the Ministry of Justice will be left with no choice but to institute the appropriate legal action against him in order to protect the interest of the Government of Liberia.

Upon the receipt of this letter, the appellant fled to the Chambers Justice for a writ of prohibition on the grounds that he was the owner of the property which he was occupying, and that he had at no time sold said property to the Government of Liberia. He claimed that the government was about to take his property from him without just compensation as required by the Liberian Constitution.

Upon hearing of the petition, the Chambers Justice quashed the alternative writ and denied the petition for the writ of prohibition. From this ruling of the Chambers Justice, appellant appealed to the Supreme Court *en banc* for final determination.

In affirming the ruling of the Chambers Justice, the Supreme Court held that prohibition will not lie because no wrong had been done by the Ministry of Justice, and that the said Ministry, being the principal legal advisor to the Government of Liberia, had the proper authority to warn squatters occupying government property to leave or establish their legitimate ownership. The petition was therefore *denied* and the ruling of the Chambers Justice *affirmed*.

*J. Laveli Supuwood* appeared for the appellant. *Francis S. Korkepor* appeared for the appellees.

MR. JUSTICE BELLEH delivered the opinion of this Court.

This is an appeal from a ruling on a petition for a writ of prohibition by the Chambers Justice, Mr. Justice Junius, who presided over the Chambers during the October Term, A. D. 1988 of this Court. According to records certified to this Court, the original proceeding was provoked by a letter addressed to petitioner by an officer of the Ministry of Justice as follows:

"REPUBLIC OF LIBERIA  
MINISTRY OF JUSTICE MONROVIA, LIBERIA  
June 14, 1988

Dear Mr/Mrs/Madam Komai:

As the land you are now occupying was acquired by the Government of Liberia for the Unity Conference Center, you are hereby requested to submit any and all documents in support of your ownership to the said property on or before June 22, 1988, to the Ministry of Justice for scrutiny."

Please note that upon your failure to submit said documents on the date mentioned above, this Ministry will have no other alternative, but to institute the appropriate legal action against you, in order to protect government's interest. Meanwhile you are strongly advised to desist from any and all constructions on the premises.

Please cooperate so as to spare yourself any future embarrassment."

Appellant, considering this letter as an attempt by government to deprive him of his property without just compensation as provided for under our Constitution, filed an eight-count petition for a writ of prohibition before the Chambers Justice on July 28, 1988. For the benefit of this opinion, we hereunder quote word-for-word petitioner's petition:

"1. That he acquired certain property from Mr. William H. Washington in 1983. Mr. Washington, the grantor, purchased the property from the Government of Liberia (GOL) in 1955.

2. That neither Mr. Washington, the grantor, nor Mr. John Komai has at any time sold said property or any portion thereof to GOL or anyone for that matter. Attached hereto is a copy of the deed of said tract of land marked exhibit 'A' to form part of this petition.

3. That Mr. John Komai is not the only individual owning land in the area or near the OAU Center. Notwithstanding, Mr. John Wulu, the director of the Unity Conference Center has singled out Petitioner Komai herein as having acquired his land within the OAU area and hence, he, the petitioner, must relinquish said land; although the grantor, Mr. Washington, has shown evidence of prior ownership to Mr. John Wulu, the Ministers of Justice and

Public Works. Attached hereto is a copy of the grantor's deed, issued by the Republic of Liberia marked exhibit "B" and made a part hereof.

4. That he at no time sold his land to GOL (Government of Liberia) for public use nor did he receive payment from GOL or anyone as required by law.

5. The petitioner contends that under the Constitution of Liberia private land cannot be taken for public use without just compensation; but in contravention of this constitutional provision, the Minister of Justice and the director of the Unity Conference Center have authorized the Minister of Public Works to illegally enter the premises of petitioner, Mr. Komai, with a bull dozer to demolish his concrete dwelling house in which his family is living.

6. That this petition is not filed for dilatory purpose.

7. Those respondents are without jurisdiction to evict and oust any person or persons whomsoever without benefit of the due process of law. Hence, respondents are usurping the functions of the court, quite repugnant to the doctrine of separation of powers.

8. That no judgment has been rendered to be enforced and petitioner gives notice that he will produce other evidence to substantiate his case.

Wherefore, petitioner prays this Honourable Court to issue the writ of prohibition against the respondents restraining and prohibiting them from perpetrating their illegal act complained of herein above and to grant other relief to petitioner as Your Honour may deem fair and proper to the ends of justice.

On the strength of the foregoing petition, the Chambers Justice ordered issuance of the alternative writ, which was served and returned served by the marshal of this Court. Having entertained arguments *pro et con*, the Chambers Justice ruled, denying the petition. The Justice held that "respondents have not taken an action neither have they committed the act complained of. It is only fear that has brought petitioner before this Court and as such prohibition will not lie.

The petitioner was dissatisfied with the ruling of the Chambers Justice and therefore appealed to this Court *en banc*. Upon careful perusal of the records certified to us, and after arguments on both sides, we are convinced that the sole issue here is whether or not prohibition will lie. Our answer to this question is no.

As we indicated earlier in this opinion, the petition for a writ of prohibition was applied for by appellant upon receiving a letter from the Ministry of Justice, which letter we have earlier quoted in this opinion.

We believe appellant and his counsels had taken the said letter out of context to mean that government was taking away petitioner's property without just compensation, as our Constitution requires.

In fact the Ministry of Justice's letter was only a warning to appellant that if he failed to comply with the Ministry of Justice request: "this Ministry will have no other alternative but to institute the appropriate legal action against you in order to protect Government's interest. Meanwhile, you are strongly advised to desist from any and all construction on the premises.

There was nothing threatening in this letter to the effect of illegal seizure of private property by the government. The Ministry of Justice informed appellant that upon his failure it would have no alternative "*but to institute the appropriate legal action against you, in order to protect government's interest.*" (Emphasis ours). This clearly shows that whatever action the government intended to take or ever takes would have been in keeping with law and consistent with due process. Prohibition cannot therefore lie where the action is in keeping with law and due process.

The Ministry of Justice, as the principal legal adviser to the Government of Liberia, has the proper authority to warn a squatter upon government property to leave. Anyone receiving such warning and knowing that he is not a squatter, but rather a legitimate owner of said property may submit his title document to the Ministry of Justice for inspection as has been requested by the appellee.

From the foregoing, we are convinced that prohibition will not lie in this case as prohibition is "a special proceeding to obtain a writ ordering the respondent to refrain from further pursuing a judicial action or proceedings specified therein." Civil Procedure Law, Rev. Code 1: 16.21(3). The act to be restrained must be wrong or illegal.

There is nothing that the appellees have done or are doing at the moment that is wrong or illegal; and therefore there is nothing to be restrained by us.

It is therefore our considered conclusion in this matter that the ruling of the Chambers Justice appealed from be and the same is hereby affirmed. And it so ordered.

*Petition denied.*