

BOIMA LARTEY et al., purported surviving heirs and descendants of the late CHIEF MURPHY and Residents of Vai Town (alias VEY JOHN'S PEOPLE),
Plaintiffs/Appellants, v. **ALHAJI VARMUYAH CORNEH, et al.**,
Defendants/Appellees.

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

Heard: May 2, 1989. Decided: July 14, 1989.

Where parties contesting title to real property derive their respective rights from the same source the party showing the prior deed is entitled to the property.

In 1906, the Republic of Liberia issued an Aborigine Land Grant Deed to Chief Murphy, Vai John and Vai John People for twenty-five (25) acres of land on Bushrod Island, Montserrado County, Republic of Liberia. Subsequent thereto, that is in 1931, the said Republic of Liberia issued another Aborigine Land Grant Deed to Alhaji Varmuyah Corneh, Alhaji Sondifu et al. for the identical twenty-five acres of land in Vai Town aforesaid.

The execution of the two (2) deeds gave rise to a prolonged and protracted litigation between the two (2) separate grantees. Because of the protracted court proceedings, the President of Liberia appointed a special committee to probe into the matter, and to find out who were the rightful owners of the 25 acres of land. The committee reported that the descendants of Chief Murphy, Vai John and Vai John People, owners of the 1906 deed, were the rightful owners of the land in dispute. The President approved the report and instructed the Minister of Justice to institute cancellation proceedings in respect of the 1931 deed. The deed was canceled in the Circuit Court for the Sixth Judicial Circuit, Montserrado County. Appeal from the judgment of said cancellation was heard by the Supreme Court and the judgment was confirmed and affirmed.

In affirming the judgment in the cancellation proceedings, the Supreme Court held that since the 1931 deed no longer existed. Therefore, the 1906 deed should be recognized as the valid deed for the 25 acres of land. The Supreme Court also held that where parties contesting title to real property derive their respective rights from the same source, the party showing the prior deed is entitled to the property. Consequently, the appellants withdrew their appeal taken from the dismissal of the action of ejectment and were awarded the twenty-five acres of land situated on Bushrod Island and covered by the 1906 Aborigine Grant Deed.

James D. Gordon appeared for petitioners. *Joseph Williamson* appeared for the respondents.

MR. JUSTICE JUNIUS delivered the opinion of the Court.

The history of this case, as culled from records of the Civil Law Court, Sixth Judicial Circuit, Montserrado County and this Court, shows that the Republic of Liberia issued an Aborigine

Land Grand Deed in fee simple to Chief Murphy, Vai John and Vai John People in 1906, for 25 acres of land on Bushrod Island, Montserrado County, Republic of Liberia. Subsequent thereto, in 1931, the said Republic of Liberia issued another Aborigine Land Grant Deed to Alhaji Varmuyah Corneh, Alhaji Sondifu, et. al., for the identical twenty-five acres of land in Vai Town, Bushrod Island, City of Monrovia, Montserrado County, Republic of Liberia.

The execution of these two deeds gave rise to a prolong and protracted litigation between the two separate grantees, namely, Chief Murphy, Vai John and Vai John People, on the one hand, and Alhaji Varmuyah Corneh, Alhaji Sondifu, et al., on the other hand, for the identical twenty-five acres of land in Vai Town, Bushrod Island, City of Monrovia, Montserrado County, Republic of Liberia. Because of the protracted court proceedings, the President of Liberia appointed a special committee to probe into the matter and find out who were the rightful owners of the 25 acres of land.

The committee prepared a report to the effect that the descendants of Chief Murphy, Vai John and Vai John People, grantees under the 1906 deed, were the rightful owners of the property because they were the direct descendants of Chief Murphy, Vai John and Vai John People. The President approved the report and instructed the Minister of Justice to institute cancellation proceedings in respect of the 1931 deed under which Varmuyah Corneh, et al. claimed. The order was executed by the Minister of Justice and a petition for the cancellation of the 1931 deed was filed in the Civil Law Court, Sixth Judicial Circuit, Montserrado County. The petition was granted by the court and the 1931 deed was decreed cancelled. From the judgment, Varmuyah Corneh et al. appealed to this Court for a review. Following arguments *pro et con* in the cancellation proceedings, this Court confirmed and affirmed the judgment of the trial court cancelling the deed of 1931.

The cancellation of the 1931 deed divested Varmuyah Corneh et. al. of any and all rights to the twenty-five acres of land in question. As such, this Court of dernier resort cannot create a vacuum by not determining the rightful owners of the property, since there exists a genuine deed executed by the late President Arthur Barclay in 1906 which granted the twenty-five acres of land located on Bushrod Island, Montserrado County, Republic of Liberia, to Chief Murphy, Vai John and Vai John People, under which deed of 1906, J. D. Lassanah, Boimah Lartey, Jema Kiadii, Miata Kiadii, Gartee Kiadii, Massa Funjeh, Tietee of Mando, Massa Sunden, Borleor Gray, Massa Kiadii of Kongo, Alhaji J. D. Lassanah, J. D. Lassanah Jr., Brima Kamara, Jeneka Dabla, Lahai Lassana and Zwanah Coleman have claimed ownership to the said property throughout the history of the several court litigations, as shown from the opinions of this Court.

The issue to which this Court must now address itself concerns the ownership of the property in question. In that connection, the question that comes to this Court's mind is where two parties claim the same property with different deeds at different times, as in the

case before us, and where one of the deeds has been cancelled and the other remains undisturbed, recognized and valid, as with the case of the 1906 deed, what is the status of claimants under the undisturbed, recognized and valid deed?

The long history of this case does not disclose that the 1906 deed was ever annulled or cancelled by its grantor for any reason and no evidence has been shown to the contrary. In normal circumstances, where two conflicting deeds of conveyances exist and there is a dispute over their legal validity, the one issued subsequent to the first is inferior. This is precisely the case before us concerning the 1906 and the 1931 deeds. Under the elementary principle of law governing deeds relating to realties, the latter deed must yield.

From the foregoing, it is quite clear that the descendants of Chief Murphy, Vai John and Vai John People are the legitimate and rightful owners of the twenty-five acres of land in Vai Town, Bushrod Island, City of Monrovia, Montserrado County, Republic of Liberia. This position was upheld by this Court when former Chief Justice A. Dash Wilson, delivering an opinion of this Court in this very case, as found in 18 LLR 177 (1967), said that there were two deeds found in the records executed by two Presidents of Liberia at different times: one vested title in Chief Murphy, Vai John and Vai John People which is the 1906 deed executed by the late President Arthur Barclay, and the other, from the Republic of Liberia to Morve Sone, Varmuyah Corneh, et. al. executed by the late President Edwin J. Barclay in 1931.

This Court observes that following the cancellation of the 1931 deed by this Court, the descendants of the grantees under the deed of 1906, who had earlier filed an action of ejectment against those claiming under the 1931 deed, which ejectment action traveled to this Court and had been on appeal since, filed a notice of withdrawal on November 15, 1988, in this Court, withdrawing the appeal, since the 1906 deed under which they claim is the only deed now valid. *Republic v. Morve Sone et al.*, 35 LLR 129 (1988), March 1988 Term of the Supreme Court.

For the purpose of clarity, it is better that we give a brief history of the ejectment suit and, in so doing, quote hereunder the content of the bill of exceptions made by counsel for appellants in the ejectment suit:

"1. Because appellants say that Your Honour committed a reversible error when, on the 7th day of August, 1982, you conferred upon yourself appellate jurisdiction and granted in blatant violation of the relevant statutes on pleadings and numerous opinions of the Supreme Court of Liberia, the so-called 'motion to dismiss or abate proceedings,' which was filed on the 5th day of August, 1982. Appellants submit that Your Honour's act in granting the motion and dismissing their action of ejectment was intentional and deliberate in that, on August 6, 1982, a day prior to your ruling on said motion, appellants, in resisting the motion, cited Civil Procedure Law, Rev. Code 1: 11.2(1), which provides that a motion to dismiss must be filed at the time of service of responsive pleading. Appellants further submit that in

spite of the clear and unequivocal language of the code just cited, Your Honour, without citing a single authority, ignored it and capriciously granted the motion to dismiss.

2. And also because appellants say that Your Honour's sole objective in dismissing the action is to stifle justice since as far back as January 14, 1982, said action had been ruled to trial by His Honour Frank W. Smith whom Your Honour has referred to as "your colleague," and to which ruling the defendants, now appellees, duly excepted in its entirety and gave notice that they would take advantage of the statute. Appellants submit that Your Honour knew that to dismiss this action at the time when you did was illegal, since indeed you had earlier made record to that effect on said action on Friday, July 30, 1982, 34' day's session, sheets 2 and 3: "Hence, this court will proceed as a matter of record to dispose of the injunction and in doing so the ruling might be preemptive since we cannot undo what our colleague has already done"_(emphasis added).

From the foregoing, it leaves no doubt in the mind of this Court that appellants J. D. Lassanah Sr., Boimah Lartey, Jema Kiadii, Miatta Kiadii, Gartee Kiadii, Masa. Funjeh, Tietee of Mando, Massa Sundeh, Borleor Gray, Massa Kiadii of Karnga, Alhaji J. D. Lassanah, J. D. Lassanah, Jr., Brima Kamara, Jeneka Dabla, Lahai Lassanah and Zwannah Coleman who filed the ejectment suit, their rights having been established by the cancellation of the 1931 deed, are the direct heirs and descendants of Chief Murphy, Vai John and Vai John People, and therefore legitimate owners of the 25 acres of land, covered by the 1906 deed, and which is situated in Vai Town, Bushrod Island, City of Monrovia, Montserrado County, Republic of Liberia. They are legitimately entitled to the immediate possession of the aforesaid twenty-five acres of land located on Bushrod Island, Montserrado County, Republic of Liberia, and should be placed in possession of same.

In view of the foregoing, it is our order that the Clerk of this Court should send a mandate to the court below, being the Circuit Court for the Sixth Judicial Circuit, Montserrado County, to that effect. And it is hereby so ordered.

Judgment affirmed.