

**BOIMA LARTEY, ALHAJI J. D. LASSANNA, BRIMA KAMARA et al.,**  
Petitioners, v. **HAWAH KIAZOLU-WAHAB, ALHAJI VARMUYAH**  
**CONNEH, et al.,** Respondents.

SUBMISSION FILED PURSUANT TO A BILL OF INFORMATION PENDING  
BEFORE THE SUPREME COURT.

Heard: November 16, 1988. Decided: December 30, 1988.

1. Under the constitution, the Supreme Court is the final arbiter of constitutional issues and exercises final appellate jurisdiction in all cases, except in those cases where it is granted original jurisdiction.
2. Under the constitution, the Legislature cannot make any law or create any exception to deprive the Supreme Court of any authority granted by the constitution.
3. An ancillary bill or suit is one that grows out of, or is an auxiliary to another action or suit, either at law or equity; it is one growing out of a prior suit in the same court, depending upon and instituted for the purpose either of impeaching or enforcing judgment or decree in a prior suit.

Petitioners, along with the Minister of Justice, filed a "submission" before the Supreme Court to demarcate land which was the subject of a decision of the Court, related to the cancellation of title deeds. In their submission, petitioners stated that the suit should have been filed before the civil law court, which the Supreme Court had earlier ordered to enforce its mandate, but because a pending bill of information related to the cancellation was before the Supreme Court, and it had ordered the civil law court to halt any action on the matter, they decided to file the submission directly to the Court. In passing on the appeal, the Supreme Court determined that the action was not ancillary to any main suit pending before it, or even the pending bill of information. The Court concluded that to grant the submission is tantamount to assuming original jurisdiction over a cause in which it does not have original jurisdiction under the constitution. Submission denied.

James D. Gordon for petitioners. Joseph Williamson for respondents.

MR. JUSTICE BELLEH delivered the opinion of the Court.

During this October Term AD. 1988, the Minister of Justice of the Republic of Liberia, Honourable Jenkins K. Z.B. Scott, in association with counsellor Isaac Nyeplu, filed a "submission" before this Court entitled " Submission for Order to

Demarcate the 25 acres Vai Town land under the 1906 deed in favor of Chief Murphy and the residents of Veytown (Vey John's people)" on behalf of Boima Lartey, Alhaji J. D. Lassana, et al., all claiming rights in the 25 acres of land in Vai Town, granted by the Government of the Republic of Liberia by an Aborigine Grant Deed in 1906.

The said submission concluded with a prayer that we grant this submission "by ordering the Ministry of Lands, Mines & Energy, through the civil law court, to re-survey and demarcate the 25 acres under the 1906 deed, and that we grant petitioners all such and further relief as we may see just."

In the said submission, it is substantially alleged that in March, 1986, the Republic of Liberia filed a petition before the civil law court for the Sixth Judicial Circuit, Montserrado County, praying for the cancellation of one of the two deeds involved in this matter, the 1931 deed, for fraud; that after regular trial, judgment was rendered by the said court ordering and canceling the said deed of 1931. Thereupon, an appeal was filed before us, and after regular hearings and arguments, *pro et con*, we affirmed and confirmed the judgment of the court below canceling said Aborigine Grant Deed of 1931. Thereafter, a mandate of this Court ordering the cancellation has long been executed and the matter closed. Petitioners say further that, notwithstanding the foregoing facts, "the metes and bounds of the twenty-five acres of the Vai Town land remain unknown to the surviving heirs of Chief Murphy and the residents of Vey Town (Vey John's people) as in keeping with the 1906 deed issued to Chief Murphy by the Republic of Liberia, the grantor of the said twenty-five acres of land."

Count four of the said submission goes on to say "that it is the binding duty of the Republic of Liberia, grantor of the twenty-five acres of land under the 1906 Aborigine Grant Deed, to fully protect and defend the interest of its grantees, hence, the Republic of Liberia has filed this submission before your Honors praying for an order to the Ministry of Lands, Mines & Energy, through the civil law court, to demarcate and resurvey the twenty-five acres of land in keeping with the 1906 Aborigine Grant Deed so as to establish the metes and bounds."

However, in count six of the submission, petitioners maintained that although a submission for the demarcation of land such as this could have been filed in the civil law court, notwithstanding, since there is pending before this Honourable Court a bill of information which grew out of the cancellation proceedings that was heard and determined by this Court, and since the bill of information had restricted the civil law court from interfering with the twenty-five acres of the Vai Town land or any fragment thereof, co-petitioner, Republic of Liberia, invokes the judicial arm of this

Honourable Court, where the information is pending, to grant this submission in order that the twenty-five acres can be demarcated."

Respondents, on the other hand, filed their returns in which they prayed that the Court will refuse jurisdiction over the submission since it is an original action and not one of such cases in which this Court exercises an original jurisdiction, nor does it grow out of some action already pending in the said court. And further "that the information filed by Hawah Kaizolu Wahab does not authorize the filing of a submission for a survey of the twenty-five acres of land under the 1906 Aborigine Grant Deed. Petitioners' return made to the information does not carry any indication for a survey of the land granted under the 1906 Aborigine Grant Deed. Hence the allegations contained in count three of the amended submission are immaterial and irrelevant to the determination of the legality of the amended submission. Therefor count three should be dismissed with costs against petitioners."

These constitute the basic facts of this submission, and from arguments of counsels of both parties and the record of this matter, we conclude that there is only one issue to be decided by this Court:

"Whether or not this submission belongs to the class of cases over which the Supreme Court has an original jurisdiction."

We say not at all. In fact, as narrated, *supra*, petitioners themselves concede in count six of their submission the fact that their submission is not of the class of cases over which the Supreme Court exercises an original jurisdiction, and that the submission for an order to demarcate should have been filed in the civil law court instead. Notwithstanding, petitioners gave as justification for the filing of their submission the fact that a bill of information is pending before us over the said twenty-five acres of land in Vai Town, and since this Court has earlier ordered the lower court to halt all further proceedings involving said land, the only reasonable course left open to petitioners was a submission of this nature. We believe that those reasons were inadequate to justify the submission for an order to demarcate before the Supreme Court, especially when the action was not ancillary to any main suit pending before us.

The powers of this Court as spelled out in Article 66 of the Constitution of Liberia provides that: "the Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of records, courts not of records, administrative agencies, autonomous agencies or any other authority, both as to law and fact except cases involving

ambassadors, ministers, or cases in which a country is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law or create any exceptions as would deprive the Supreme Court of any of the powers granted herein." Liberian Constitution, Article 7, Article 66.

Obviously, from the foregoing constitutional provision, the submission for demarcation is not an original action for determination by the Supreme Court. The Supreme Court is the final and highest Court of appeal in all cases, except those in which the constitution gives it original jurisdiction, and the submission does not belong to the class above enumerated at all.

In the normal course of cases, a "submission" or "information" before this Court is an ancillary action. An ancillary bill or suit is defined as a bill or suit "growing out of, or an auxiliary to another action or suit, either at law or equity, such as a bill of discovery, or a proceeding for the enforcement of a judgment, or to set aside fraudulent transfer of property. One growing out of a prior suit in the same court, dependent upon and instituted for the purpose either of impeaching or enforcing the judgment or decree in a prior suit." *Caspers v. Watson*, 132 F. 2d. 614-615, as cited in BLACK'S LAW DICTIONARY 79 (5 th ed.).

Unfortunately, this submission for demarcation before us is not an ancillary suit, as it is not a natural consequence of another action already before us. The submission for demarcation is wholly unrelated to the information pending before us, even though both may concern the same plot of land.

In view of the laws cited and the circumstances in this case as we have narrated, it is our considered opinion that the submission be, and the same is hereby dismissed. And it is so ordered.

*Submission denied.*