MARY E. LERCHEL, Plaintiff/Appellant, v. **FAUZI & NEHMA EID**, Defendants/Appellees.

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

Heard: October 15, 1987. Decided: January 25, 1988.

1. The best evidence which a case admits of must always be produced; that is, evidence is not sufficient which supposes the existence of better evidence.

2. A bill of exceptions is a specification of the exceptions made to the judgment, decisions, orders, rulings, or other matters excepted to at the trial and relied upon for the appeal, together with a statement of the basis of the exceptions. Accordingly, where a party in a count of the bill of exceptions fails to comply with the provisions of the statute, the count with be denied or overruled.

3. All evidence produced at a trial must be relevant to the issue in dispute, and must have the tendency to establish the truth or falsehood of the allegations or denials of the parties, or, in an action of damages, it must relate to the extent of the damages. Rev. Code 1:25.4.

4. Courts will only decide issues joined between the parties and specifically set forth in the pleadings.

5. It is a general principle of law that when the estate of a landlord is leased, the tenant becomes the absolute owner of the demised premises, for all practical purposes, during the existence of the lease and for the term granted, and the landlord's right is confined to a reversionary interest.

6. Where a landlord has a reversionary interest in an estate, he may maintain an action on the *case* for injuries to the demised premises which affect his reversionary rights, no matter how inappreciable the injury may be.

7. A reversion is the residue of an estate left in the grantor to commence possession after the determination of some particular fate granted by him; it is further defined as an inheritable estate which descends to the heirs of the creator of the particular estate upon which it descends, immediately upon his death. The rule of reversion obtains when one owning a fee simple conveys or devises it to another for life and the remainder to a third person in fee.

8. The Court cannot go beyond the terms of a contract to enforce an understanding therein.

9. Special damages must be specifically pleaded in the complaint and proved at the trial, and they will not be awarded or recovered where not specifically alleged and proved.

10. Damages, to be recoverable, must be certain, both in their nature and in respect to the cause from which they proceed.

The appellant and appellees had entered into a lease agreement under the terms of which, in return for a grant to them of twenty (20) years certain and an optional period of an additional twenty (20) years, the appellees agreed to pay the appellant sums certain and to construct on the premises an apartment building and other structures. Under the terms of the agreement also, the appellees were granted the right to terminate the lease upon giving to the appellant one year's notice or making payment of one year's rent in lieu of such notice. When the appellees encountered economic difficulties, they gave the appellant notice to terminate the agreement within one year from the date of the notice.

Upon receipt of the notice of termination, the appellant demanded compensation from the appellees due to the failure of the appellees to construct the apartment building on the premises as was stipulated in the lease agreement. When the appellees refused to provide the compensation demanded, the appellant commenced the current action of damages.

After a trial in the Sixth Judicial Circuit Court for Montserrado County, a verdict was returned in favour of the appellees. A motion for a new trial having been denied, judgment was rendered confirming and affirming the verdict. From this judgment, an appeal was taken to the Supreme Court.

The Supreme Court rejected the contentions set forth by the appellant in the bill of exceptions and argued before the Court. On the trial court's sustaining of objections to certain questions propounded to the appellees and their witnesses, the Court said that some of the issues raised by the questions had not been raised in the pleadings and were therefore not relevant to establishing the truth or falsehood of the allegations or denials of the parties; and that as to others, the witnesses to whom the questions were asked were not the best evidence. The Court noted that under the best evidence rule, no evidence is sufficient which supposes the existence of better

evidence.

With respect to the appellant's claim that she was entitled to damages since she and the appellees had agreed that the apartment building to be constructed was to cost between $50,000.00 and $75,000.00, the Court said that no such amount was stated in the lease agreement, and that it, the Court, did not have the authority to go beyond the terms of the contract entered into between the parties or to add to the terms thereof. The Court observed that the costs stated by the appellant as constituting the value of the building which the appellees had allegedly failed to construct was an estimated cost arrived at by the appellant and not contained in the agreement. The Court held therefore that the amount stated by the appellant was speculative and uncertain, and that under the law of damages, special damages had to be specifically alleged and proved. The Court said that the appellants has failed to meet that standard and therefore could not recover the special damages demanded by her.

Finally, the Court opined that as the appellees had complied with the terms of the lease agreement in terminating the lease, the appellant could not demand damages, especially since she did not have a reversionary interest vested in her, at the time of the termination, which had been injured and which injury was necessary for any recovery. In view of the foregoing, the Court *affirmed* the judgment of the trial court.

Nelson W. Broderick appeared for appellant. *Joseph A. Dennis* and *John Mathis* of the A. Amos George Law Firm appeared for appellees.

MR. JUSTICE AZANGO delivered the opinion of the Court.

On the 24th day of June, 1976, plaintiff/appellant and defendants/appellees signed a lease agreement for the premises of plaintiff/appellant, known as lot Nos. 11 and 13, located in blocks 5 and 15, and situated and lying in Sinkor, City of Monrovia. The lease, for valuable consideration, was to last for a duration of twenty (20) years. Clause three (3) of the lease agreement provided that the LESSEES agreed to build on the demised premises, at the LESSEES' own cost and expense, apartment buildings with one or more stores, as determined by the LESSEES. The buildings were to be constructed of concrete and reinforced steel, in accordance with the plans and specifications to be approved by the Ministry of Public Works or such other agency of the government responsible for such matter. It was further expressly stated that at least one of such apartment buildings should be completed within five (5) years from the effective date of the agreement and that the remaining structures should be built at such times as determined by the LESSEES, according to their

financial capability during the life of the agreement. The LESSEE were also responsible to make such further improvements on the said premises as they deem necessary.

In count five (5) of the lease agreement, it was provided that in the event the LESSEES found themselves unable to continue with the obligations of the lease, either during the original term of the agreement or during the optional period thereof, the LESSEES had the right to terminate the lease by giving the LESSOR one (1) year's written notice, or alternatively, by the payment of one year's rent.

Prior to the end of the first five (5) year period, the plaintiff/ appellant, together with her legal counsel, visited the defendants/ appellees at their place of business. During the visit, the appellees intimated their intention to terminate the lease agreement, as per clause five (5) of the said agreement. In addition to this notice, the defendants/appellees paid One Thousand ($1,000.00) dollars as one year's rent.

On the 25th day of June, 1981, counsels for plaintiff/ appellant wrote to appellees, wherein they acknowledged the conversation that ensued between the appellant and the appellees during the visit of the appellant to the appellees' place of business, and with specific reference to the termination of the contract due to economic reasons and by virtue of clause five (5) of the lease agreement.

Regarding the defendants/appellees' letter under reference, the appellant claimed that it was understood during the negotiation of the contract that the cost of the buildings to be constructed on the premises by the defendants/appellees was estimated to be between Fifty Thousand ($50,000.00) and Seventy-Five ($75,000.00) thousand dollars. She stated therefore that since the appellees intended to terminate the contract without constructing the buildings, she had suffered damages. She noted, however, that in view of the economic situation prevailing in the country, she (appellant) had claimed the nominal sum of Ten Thousand ($10,000.00) dollars as settlement for the damages she had incurred and suffered, in consequence of appellees failure to comply with the agreement and their notice to pursue the cancellation of the lease agreement.

On the 29th day of May, 1981, counsel for defendants/ appellees wrote counsel for plaintiff/appellant wherein he referred to the letters of June 25, and July 9, 1981 concerning the lease agreement between the parties, and appellant's claim of Twenty-Five Thousand ($25,000.00) dollars as damages, including the Ten Thousand ($10,000.00) dollars mentioned herein before, and an additional sum of two thousand

($2,000,00) dollars as counsel fee, as settlement of the damages alleged by the appellant. In the letter, the appellees' counsel reiterated that because of the economic situation in the country, as well as other unavoidable circumstances, the appellees were compelled to terminate the lease agreement. He therefore suggested that he and the appellees meet with the appellant at her earliest convenience, with a view to amicably settle the matter and thus avoid unnecessary court litigation.

Obviously, the communications exchanged between the parties were unsatisfactory to the appellant. As a result, she instituted this action of damages, claiming as special damages between Fifty Thousand ($50,000,00) dollars and Seventy-Five Thousand ($75,000,00) dollars, as well as general damages to compensate her for the loss and damage she allegedly sustained as a direct result of the alleged refusal and failure of the defendants/appellees to build the apartment buildings.

The defendants/appellees filed an eight (8) count answer in response to the complaint. In count two (2) thereof, they contended that in keeping with clause five (5) of the lease agreement, they had the unrestricted right to terminate the said agreement by giving the plaintiff/appellant one year's written notice or by the payment of one year's rent in lieu of such notice. They contended that in conformity with clause five (5) of the agreement, they had on June 25, 1982, given written notice to the appellant of the termination of the same, to take effect one year from the date of the aforesaid notice; that is, June 25, 1981 and July 2, 1982, respectively.

In count six (6) of the answer, the defendants/appellees categorically denied that the plaintiff/appellant had suffered great loss and damage to her reversionary interest, or that she had any right to an apartment building estimated at the cost of between Fifty Thousand ($50,000,00) Dollars and Seventy-Five Thousand ($75,000.00) Dollars, as contended in the complaint. The defendants/appellants asserted further that the amount between Fifty Thousand ($50,000.00) Dollars and Seventy-Five Thousand ($75,000.00) Dollars claimed by the plaintiff/appellant in the complaint was uncertain, contingent and speculative. They contended that clause 3 of the Lease Agreement, relied on by the appellant in making the claim to the aforesaid amount, did not state the estimated cost of the building or buildings which were to be erected. The amount between Fifty Thousand ($50,000,00) Dollars and Seventy-Five Thousand ($75,000.00) Dollars, they said, only partially meets the requirement of the law since the amount, having been specifically pleaded in the complaint, was susceptible of definite proof. That issue, as well as the many other legal issues raised, and which were resolved by the trial court, were ruled to jury trial.

During the December, 1985 Term of the Civil Law Court, Sixth Judicial Circuit, the trial commenced. After the production of witnesses by both parties, the trial culminated in favour of the defendants/appellees, with the jury returning a verdict of not liable on the 24th day of December, 1985. A motion for a new trial was filed, resisted by the defendants/appellees, argued, and denied by the court. Thereafter, the court entered a final judgment confirming and affirming the verdict of not liable. To this judgment, the plaintiff/appellant excepted and announced an appeal. The appeal having been perfected, the case is now before this august Body for its final adjudication.

In count one (1) of appellant's bill of exceptions, she contended that the trial judge erred in sustaining the objection of counsel for defendants/appellees to the following question propounded by the empaneled jury to co-defendant Nehme Eid:

"Ques: You said that the amount of Fifty Thousand ($50,000.00) Dollars was not included in the agreement. In other words, you did not mention the cost of 654 the building to be fifty or seventy-five thousand dollars. Please tell us if you had planned to build the house how much you think it would have cost?

To which question defendants/appellees object on the grounds:

1. Not the best evidence and the witness is not a builder, (2) hypothetical; (3) opinionative."

The court sustained the objection without indicating the grounds. The plaintiff/appellant argued however that the question propounded by the jury was well taken and should have been allowed since defendants/appellees' bone of contention throughout the trial was that the cost of the apartment building which was to be constructed on the leased premises was not stated in the lease agreement. The appellant argued further that if codefendant Nehme Eid had the genuine desire to construct the apartment building(s) on the leased premises, he was the best evidence to say what he intended the cost of the apartment building to be. The question, she said, was therefore not hypothetical or opinionative. Rather, she maintained, it was designed to elicit the true intent (or motive) of the defendants as to whether they in fact intended to construct an apartment building on the leased premises or not. Counteracting this argument, the appellees counsel maintained that the trial judge correctly sustained the objection on the grounds given. The counsel also asserted that as a matter of law, a point of contention must be first raised during the trial, passed upon by the trial court, and exceptions noted thereto before it can legally be included

in a bill of exceptions for appellate review. They said that in count one (1) of the bill of exceptions, the appellant claimed that she noted exceptions to the court's ruling sustaining the objections of the appellees to the question propounded to the witness, but there is no indication in the records of exceptions having been taken to the ruling. If the trial court refused to note the exception, appellees argued, appellant should have called the court's attention to the alleged refusal in order for the trial court to pass upon it, so as to have same included in the bill of exceptions. Concluding, the appellees maintained that as the point was not passed upon by the trial court, count one (1) of the bill of exceptions did not meet the requirement for appellate review.

According to our Civil Procedure Law, the best evidence which the case admits of must always be produced; that is, no evidence is sufficient which supposes the existence of better evidence. Rev. Code 1: 25.6 (1). Also, according to the same statute, a bill of exceptions is a specification of the exceptions made to the judgment, decisions, order, ruling, or other matter excepted to at the trial and relied upon for the appeal together with a statement of the basis of the exceptions. Rev. Code I: 51.7. The appellant, not having complied with these provisions, count one of the bill of exceptions is overruled.

In count two of the bill of exceptions, the appellant contended that the trial judge erred in overruling a question propounded to defendants' witness. The appellant stated in the said count that on the cross-examination of co-defendant Nehme Eid, he said that the lease agreement was signed by them in their individual capacities, and that the agreement had nothing to do with the corporation; yet, he also said that the business (corporation) was running. The appellant noted also that the defendants' witness, B. S. Chaugancy, had testified on the direct that whenever the annual rental was due, he, as comptroller, usually issued the check and paid same to the plaintiff. This, appellant said, necessitated her counsel putting the question to the witness on the cross-examination, to wit: "Ques: Please tell us against what account the checks were drawn that you prepared for the payment of the annual lease, that is to say, whether the check was prepared to be drawn on the account of the business for which you were comptroller or drawn from the personal account of Nehme Eid?" Counsel for defendants/ appellees objected to the question on the grounds: "(1) Entirely irrelevant and immaterial and not the issue raised in the pleadings and ruled to trial". The objections were sustained by the trial judge. Appellant contended that since co-defendant Nehme Eid has placed on record that the lease agreement was signed by them in their individual capacities and had nothing to do with the corporation, and witness B. S. Chaugancy had testified that he was Comptroller for

the business (corporation) in which he was employed and was the one who usually issued the check for the payment of the annual lease money to plaintiff, it became necessary, under cross-examination, for witness B. S. Chaugancy to say on what account the check for the payment of the lease was drawn, i.e., whether from the account of the business (corporation) or from the personal account of co-defendant Nehme Eid. This question, appellant argued, was to test the truthfulness of co-defendant Nehme Eid's testimony as to whether the annual lease money was paid by the business corporation or by the individual defendants. The issue was therefore relevant and material to test the credibility, motive, inclination, interest and bias of co-defendant Nehme Eid.

Opposing count two (2) of the appellant's bill of exceptions, the defendants/appellees contended that issues that are not raised in the pleadings and passed upon by the trial court should not be introduced during the trial because they are irrelevant and immaterial to the points raised in the pleadings. Appellees argued that there was no question raised in the pleadings with respect to what account the checks issued by the appellees were charged, or whether said checks were charged to the personal account of the business or the private account of co-appellee Nehme Eid. They contended, therefore, that the issue not having been raised in the pleadings and ruled to trial, the trial judge did not commit a reversible error in sustaining the objection on grounds of irrelevancy and immateriality.

The Civil Procedure Law provides that all evidence must be relevant to the issue: that is, it must have a tendency to establish the truth or falsehood of the allegations or denials of the parties or it must relate to the extent of the damages. Civil Procedure Law, Rev. Code 1:25.4. In addition, this Court held in the case *Clarke v. Barbour,* 2 LLR 15 (1909) that courts will only decide issues joined between the parties and especially set forth in their pleadings. After reviewing the records and the questions propounded at the trial, it is our view that the contention of the defendants/appellees in count two (2) of their brief are well taken and therefore sustained as against count two of appellant's brief.

In count three (3) of plaintiff/appellant's brief, she contended that the trial judge erred in overruling a question propounded to defendants' witness B. S. Chaugancy. The records reveal that the appellant's counsel had asked the witness to state whether or not defendants had built and constructed one apartment building on the leased premises, in keeping with clause 3 of the lease agreement. However, counsel for defendants had objected to the question on the ground that he was not the best evidence, and that the defendants would be. The plaintiff/appellant maintained that

the witness was competent to say whether or not the apartment building was built and constructed on the leased premises, or if he did not know, to say that he did not know, since he was under cross-examination. The question, appellant argued, was relevant and within the *res gestae* of the case, but that notwithstanding this, the court had sustained the objection, to the prejudice of the plaintiff/appellant.

In opposing this contention of plaintiff/appellant, defendant/ appellees argued that counsel for appellant has posed the following question to the witness: "Are you telling this court and jury that the lessees/defendants did build and construct the one apartment building on the said lease premises in keeping with clause three of the said lease agreement". The defendant/ appellees contended that the witness to whom the question was put was neither a party to the suit nor the lessee of the premises, and that therefore he was not the best evidence to say whether lessees had built the apartment building in keeping with clause three of the lease agreement.

Our statute states that the best evidence which the case admits of must always be produced, and that no evidence is sufficient which supposes the existence of better evidence. Rev. Code 1:25.6. It is our view that the objection being well taken, the ruling thereon, made by the trial judge should be sustained. Count three of appellant's brief is therefore overruled as against count three of defendants/appellees' brief.

In count four of appellant's bill of exceptions, she contends:

1.That it was improper for the trial judge to again orally charge the jury after charging them in his written charge on the minutes/records of the trial thereby rendering it impossible for counsel for plaintiff to except specifically to that portion of the charge prejudicial to plaintiff.

2. Since the lease agreement provided in clause five that notice of termination of the lease agreement must be in writing; counsel for plaintiff requested the trial judge to so charge the jury, but the trial judge failed and refused to do so, to the great prejudice of plaintiff.

3. Counsel for plaintiff requested the trial judge to charge the jury on which of the parties to the lease agreement terminated the agreement but the judge failed and refused to do so.

4. In their oral argument before the jury, counsels for defendants argued that the cost of the one apartment building that was to be built on the leased premises was not

stated in the lease agreement and that therefore the plaintiff could not recover the cost of the said apartment building that was to have been built on the leased premises. The trial judge so charged the jury, although the estimated cost of the apartment building to be constructed on the leased property was stated at between Fifty Thousand ($50,000.00) and Seventy-Five Thousand ($75,000.00) Dollars in plaintiffs complaint, testified to by plaintiff and her witness, and never denied in defendants answer. The trial judge's charge to the jury on this request was prejudicial to plaintiff and constituted a reversible error together with the refusal of the trial judge to charge the jury on the concept of a breach of contract to build.

5. Counsel for plaintiff requested the trial judge to charge the jury on the ruling of his colleague, His Honour J. Henrique Pearson, in the disposition of the law issues and motion for summary judgment, wherein Judge Pearson ruled the case to trial by jury to determine the amount of damages plaintiff is entitled to. But the trial judge disregarded and ignored the request of plaintiffs counsel and the ruling of Judge Pearson and neglected and refused to charge the jury thereon to the great prejudice of plaintiff thereby committing a reversible error.

Continuing, appellant argued that the trial judge had erred in sustaining the appellees' contention that because the cost of one apartment building to be built and constructed on the leased further erred, she said, in charging the jury to that effect and in reiterating the same in his ruling on plaintiffs motion for a new trial and in the court's final judgment, in all of which the trial judge emphasized that the cost of the apartment building, estimated as between Fifty Thousand ($50,000.00) and Seventy-Five Thousand ($75,000.00) Dollars was uncertain, conjectural and speculative. The appellant contended that she and her witness had testified to the estimated cost of the building as being between fifty thousand ($50,000.00) and seventy-five thousand ($75,000.00) dollars and that the said estimate was based on clause three (3) of the subject lease agreement wherein it was stated that the subject apartment building was to be constructed on "concrete and reinforced steel and such other standard building materials, in accordance with plans and specification to be approved by the Ministry of Public Works, etc."

Against this argument, defendants/appellees contended that the appellant's allegation that the trial judge made an oral charge to the jury after he had given a written charge was false. They argued that the entire charge was written and clearly supported by the records of the trial court; and that in any case, the appellant had not stated what the contents of the oral charge to the jury were so as to afford the court the premises was not stated in the lease agreement, plaintiff could not recover. The trial judge

opportunity to decide whether the alleged oral charge was prejudicial to the interest of the appellant. The appellees therefore maintained that the appellant, not having stated expressly the contents of the oral charge and the consequences thereof to the appellant, there was absolutely no controversy presented to this Honourable Court to pass upon. Further, the appellees asserted that count four (4) of the bill of exceptions was false, arguing that the trial judge had charged the jury appropriately with respect to the requirement of the law and to the effect that notice for termination of a written agreement must be in writing.

Moreover, they said, the contention that the trial judge had failed to indicate to the jury which party terminated the agreement was without legal merits, as it was solely within the province of the jury, who were the sole judges of the facts to make that determination. It was not the function of the court, they said, to dictate to the jury which party terminated the agreement in the action of damages for breach of contract, for to do so would have been a usurpation of the function of the jury. They argued therefore that the contention that the court should have instructed the jury which party terminated the contract was untenable.

The appellees further argued, regarding the allegations in count four (4) of the bill of exceptions, relative to the denial of the cost of the building, that the trial judge did charge the jury on the point in these words:

"However, during argument, defendants' counsel read a portion of his answer which denied the cost of the building. The maxim *falsus in uno falsus in ominibus* (means false in one false in all".)

Finally, also with reference to count four of the bill of exceptions, plaintiff/appellant argued that while on the witness stand as a witness in her own behalf, she testified that at the negotiations for the lease of the land, it was established that the apartment building would cost between Fifty Thousand ($50,000.00) and Seventy-Five Thousand ($75,000.00) Dollars, that this was corroborated by plaintiff's witness, and that the same was never denied by the defendants in their answer. Moreover, she said, clause three (3) of the Lease Agreement provided that the buildings shall be constructed of concrete and reinforced steel and such other standard building materials, in accordance with plans and specifications approved by the Ministry of Public Works or such other agency of the government thereafter having responsibility for such matters. This, she said, clearly indicated that the apartment building would be a substantial building. She therefore argued that since the cost of the apartment building, which was to be built at the lessees' expense, was not stated

in the lease agreement, the estimated cost of the building, as stated in plaintiffs complaint and testified to by plaintiff and her witness, should be the basis for or criterion to use in determining the cost of the building and assessing the measure of damages. She asserted that she did not know of any lease agreement which provided for a building to be erected on the leased property at the lessees own cost and expense to state that the cost of the building to be stated in the lease agreement. Thus, she argued, the jury should have returned a verdict in her favour in a sum certain not less that Fifty Thousand ($50,000,00) Dollars and not exceeding Seventy-Five Thousand ($75,000.00) Dollars, as they may have determined.

Having stated the facts, as they appear to us from the records, the law and circumstances, and studied the plaintiff/ appellant having prayer to this court to reverse the judgment of the trial court, render final judgment in her favour, and awarding her a sum certain not less than Fifty Thousand ($50,000.00) Dollars to compensate for her reversionary interest and right in and to the apartment building which the lessee had failed, refused, and omitted to build and construct on the leased and demised premises, we must decide whether the appellant can recover under the legal principle of reversion at this point in time.

Taking recourse to the lease agreement, subject of this action, we note that the contending parties agreed, as to count two (2) of the said agreement, on the following:

1. To have and to hold the above described and demised premises unto the said lessees jointly and severally, with all rights, easements, and appurtenances thereto and otherwise appertaining unto the said lessees, for the full and complete period of twenty (20) years certain, commencing from the 24th day of June, A. D. 1976, and including the 23rd day of June, A. D. 1996; yielding and paying there for unto lessor the rental of one thousand ($1,000.00) dollars per annum for the first ten (10) years and One Thousand Five Hundred ($1,500.00) dollars per annum for the second ten (10) years, to complete the twenty calendar years certain, granted under this lease agreement; it being expressly understood that at and upon the signing and in sealing of this agreement, lessees will pay unto lessor the full sum of One Thousand ($1,000.00) Dollars as rental payment in advance for the first year of the first ten (10) years of this agreement, the receipt whereof lessor doth thereby acknowledged; and thereafter lessees will pay unto lessor annually in advance the annual rental payments for the remaining first ten (10) years and thereafter, also annually in advance, the annual rental payments for the second ten (10) years, thereby completing the annual rental payment for the twenty (20) years certain, granted under this agreement, with

an optional period of twenty (20) calendar years, hereby granted by lessor unto lessees, after the completion and termination of the twenty (20) calendar years period certain granted under this agreement, beginning from the 24th day of June, A. D. 1976 up to and including the 23rd day of June, A. D. 1996, up to and including the 23rd day of June, A. D. 2016; yielding and paying therefor unto lessor the rental of Two Thousand Five Hundred ($2,500.00) Dollars per annum for the first ten (10) years and Three Thousand Five Hundred ($3,500.00) Dollars per annum for the second ten (10) years, all payable annually in advance during the life of this agreement.

If by operation of law and logical conclusion, the terms and conditions of the present lease agreement would not expire until 1996, with a possible inclusion for consideration, the optional terms that will commence on the 23r d day of June, 1996, and end on the 26th day of June, 2016, we wonder whether plaintiff/ appellant's claim for damages, based upon a reversionary interest could be maintainable at this juncture? Certainly not, but especially when there is no reversionary lease agreement duly executed by the parties and put into operation.

It is a recognized general principle of law that when the estate of a landlord is leased, the tenant becomes the absolute owner of the demised premises, for all practical purposes, during the existence of the lease and for the term granted, and that the landlord's right becomes confined to a reversionary interest. it is also a recognized principle of law that a landlord may maintain an action on the case for injuries to the demised premises which affect his reversionary rights, no matter how inappreciable the injury may be. However, in the instant case there is no reversionary interest between the contending parties which have been breached and upon which this action would lie. Indeed, the injury to a reversionary interest which is complained of must be of such a character as to affect the reversion. In other words, the injury to the reversion must have been sufficiently disclosed by the pleadings which averred acts done by the defendants constituting an injury to the freehold. In such a case, there need not be any formal statement that the reversion was injured.

Reversion is the residue of an estate left in the grantor to commence possession after the determination of some particular fate granted by him. It is the return of land to the grantor and his heirs after the grant is over. The reversion is a vested interest of estate and arises by operation of law only. BOUVIER'S LAW DICTIONARY 2954.

A reversion is an inheritable estate which descends to the heirs of the creator of the particular estate upon which it descends, immediately upon his death. 77 ALR 324,

text at p. 326; *see* also 9 R.C.L. 39, 40 and 65.

The rule obtains when one owning the fee simple conveys or devices it to another for life, and the remainder to a third person in fee. Since, in such a case, the owner has parts with all his interest, the estate cannot under any circumstances return to him. 9 R.C.L., § 32.

"A reversion is the remnant of an estate continuing in the grantor indisposed of after the grant of a part of his interest. It differs from a remainder in that it arises by act of the law, whereas a remainder is by act of the parties. A reversion moreover is the remnant left in the grantor. . ." 77 ALR 1005.

A remainder is defined as what is left of an entire grant of lands or tenements after a preceding part of the same grant or estate has been disposed of in possession, and whose regular expiration the remainder must await. (77 ALR 324, text at p. 330, quoting 1 MINOR ON REAL PROPERTY (2nd. ed,) § 702. Reversions are always vested estates corresponding to vested remainders. *Ibid.*

This Court has held that all deeds, agreements or contracts relating to the sale, transfer, mortgage, exchange or otherwise of real property shall be in writing, and our statute provides that such documents shall be registered and probated within four (4) months from the date of execution. *Massaquoi and Massaquoi v. Republic et. al,* 8 LLR 115 (1943). If any property deed is not probated and registered as provided by law within four (4) months after its execution, the title of the owner to such real property shall be void. *Shell Company Limited v. Ghandour,* 18 LLR 298, 306 (1968).

This Court has also held that special damages must be specifically pleaded in the complaint and proved at the trial. *Firestone Plantations Company v. Greaves,* 9 LLR 250 (1947); that special damages cannot be awarded unless alleged and proven. *Townsend v. C. V. Dyer Memorial Hospital, 11* LLR 288 (1952); that uncertain, contingent or speculative damages cannot be recovered, and that special damages must be specifically alleged and proved. *Franco Liberian Transport Company and Sautet v. Bettie,* 13 LLR 318 (1958); and that special damages must be specifically pleaded and proved at the trial to justify a recovery therefor, and that damages to be recoverable must be certain both in their nature and in respect to the cause from which they proceed. *Brant, Willig & Company v. Captan,* 23 LLR 98 (1974). We have also said that the Court cannot go beyond the terms of a contract to enforce an understanding therein. *Collins v. Elias Brothers, 11* LLR 258 (1952).

In view of what we have observed from the records and the briefs of the contending parties, including the arguments, and in consideration of the facts, circumstances and the laws applicable herein, none of which we have inadvertently overlooked, it is our considered opinion that the verdict of the empaneled jury and judgment of the lower court, being sound, and the trial being regular, same should not be disturbed. Hence we hereby confirm and affirm same to all intents and purposes.

The Clerk of this Court is hereby ordered to send a mandate to the court below informing it of this judgment and instructing it to resume jurisdiction over the cause of action and enforce its judgment. Costs are hereby ruled against the appellant. And it is hereby so ordered.

Judgment affirmed