

E. A. L. McAULEY, Appellant, vs. **H. K. JORGUSIN**, Agent for the African Norwegian Trading Company, Appellee.

LRSC 3; 1 LLR 289

[January Term, A. D. 1896.]

Appeal from the Court of Quarter Sessions and Common Pleas, Sinoe County.

Injunction.

Property duly registered as a homestead under the Homestead Exemption Act of Liberia is exempt from the writs of creditors. Where fraud is alleged to have been the motive, objections should be made against the registration and from all benefits therein.

This is an appeal from the decree of the Court of Quarter Sessions, Sinoe County, at its August term, A. D. 1894, and is submitted by the parties, after arguments, to this court for its judgment on the proceedings of the court below. The appellant submits, first, that the decree of the court in this case should be overruled and set aside, because said decree was rendered without any reference to the issues raised and submitted in the pleadings by the parties to the suit; second, that the court below erred in dissolving the injunction, the plaintiff, now appellant, having made the property attached, a homestead for himself and family in accordance with the Statute of 1889.

The appellee maintains, first, that the decree of the court below should not be reversed, "because the plaintiff in the court below, now appellant, being in debt to the Norwegian African Trading Company at the time that he registered his property under the Homestead Exemption Act, it was fraud on his part, and that the court did not err in refusing to lend its aid to said fraud ;" second, that "the appellant being only possessed of a part of lot No. 13, his act in having the whole of said lot registered under the Homestead Exemption Act was fraudulent and illegal and that said registration is therefore null and void."

These points the court has carefully considered, and will pass upon as many as may be necessary to enable the court to pronounce in this case the judgment of the law. It is the opinion of this court that the court below greatly erred in its decree dissolving the injunction; for while it may be to some extent discretionary with a court to perpetuate or dissolve an injunction, yet all courts are bound to consider the issue raised and submitted by the parties to a suit, and judgments in either courts of law or equity must be confined to the question raised before them, and cannot extend beyond them. In this case it is clear

that the issues were not considered by the court below, for which reason the decree is voidable.

As to the second point raised in the exceptions, the court is of opinion that property registered under the Homestead Exemption Act cannot in any case be taken in execution for debt, and since the decree in substance is in violation of the property act it is further voidable. And just here the court says, that all voidable objections to the registry of property under this act should be offered at the time creditors attempt to enjoy its benefit to the prejudice of their debtors, for property once secured under this act cannot be taken from under its protection either by legal or equitable remedy, according to its provisions.

Therefore the court adjudges that the decree be and the same is reversed and that the injunction be perpetuated, and that the appellant recover full costs from the appellee.