

**ISAAC SAMUELS et al.**, Informants, *v.* **STEPHEN LOGAN** and **WILMOT LOGAN**, Heirs and Administrators of the Intestate Estate of the late **JOSIAH P. LOGAN**, and **HER HONOUR MARTHA K. MASSOUD**, Resident Circuit Judge, Grand Bassa County, and **ROBERT HODGES**, Sheriff, Grand Bassa County, Respondents.

#### INFORMATION PROCEEDINGS

Heard: October 24, 1984. Decided: November 22, 1984.

1. The phrase “administer according to law” means administering an estate according to the terms of the letters of administration and the decedents Estates Law. It vests in the administrators the right only to proceed to law and the appropriate forum for enforcement of the estate’s rights against intruders.
2. When an administrator finds out that trespassers are encroaching upon the decedent’s estate entrusted to him, his proper course is to bring an action of ejectment in law to obtain possession thereof.
3. A judge sitting in probate and dealing with the question of interference with a decedent’s estate cannot issue a writ of possession to the administrator to take possession of the estate. The award of a writ of possession in such circumstances is the proper function of a court of law, in an action of ejectment.
4. A judge sitting in probate is deemed to have acted out of order where he or she orders the sheriff to place the administrator of an estate in possession of the estate.
5. Where the administrators of an estate believe that the property of the estate which they are charged to administer is in question, they should use their letters of administration to sue out in ejectment as required by law.
6. A probate judge’s orders to the sheriff to put the administrators in possession of property said to belong to the estate is tantamount to eviction of the occupants without due process of law.

7. A bill of information to the Supreme Court is the proper remedy where a lower court judge or judicial officer erroneously executes or attempts to execute a mandate of the Supreme Court.
8. A bill of information is a formal written petition to a superior court for action to be taken in a cause already determined.
9. A remedial writ brought against a judgment of the Supreme Court *en banc* is contemptuous.

Informants are occupants of a parcel of land which the administrators of a decedent's estate claimed to be part of the estate. The administrators, having been granted letters of administration, had filed a bill of information in the Circuit Court for Grand Bassa County, sitting in probate, charging the informants herein with interference with the estate. The respondents in the court below claimed title to or interest in the property. The judge before whom the information was filed ruled that the administrators had the right, under the letters of administration, to perform their duties according to law. Respondents therein excepted to the ruling and applied to the Supreme Court for a writ of certiorari. The writ was denied and the case remanded with instructions that the trial judge enforce the ruling.

In enforcing the ruling, the respondent judge ordered the issuance of a writ of possession, to be placed in the hands of the sheriff, to put the administrators in possession of the property.

The occupants, informants herein, proceeded by information to the Supreme Court, charging that the respondents had ordered their eviction when no ejectment action had been instituted against them.

The Supreme Court agreed with the informants and granted the information. The Court held that the trial judge had acted out of place in ordering the issuance of a writ of possession to put the administrators in possession of the property. This act, the Court said, was tantamount to evicting the informants from the property without according them due process of law. The issuance of letters of administration, the Court opined, only placed the administrators in the position to sue out an ejectment action against persons alleged to be

occupying the property of the estate. This did not give the administrators the right to a writ of possession. And, in any event, the Court said, a court sitting in probate could not issue such a writ.

The Court also rejected the contention of the respondents as to the appropriateness of the information, stating that information will lie where a lower court erroneously executes or attempts to execute a mandate of the Supreme Court. The Court therefore *granted* the information and *ordered* that the administrators proceed to an ejectment action at law against the occupants of the property, if the administrators desired the occupants ejected from the property alleged to belong to the Estate.

*Joseph P. Findley* appeared for informants. *M. Fabnbulleh Jones* appeared for respondents

MR. CHIEF JUSTICE GBALAZEH delivered the opinion of the Court.

The genesis of this dispute is derived from the death of one Josiah P. Logan, intestate, of Lower Buchanan, Grand Bassa County. Upon attaining their majority, his heirs and successors applied to the Second Judicial Circuit in Bassa, sitting in probate, for letters of administration. The application was heard and granted, and the letters of administration were accordingly issued in favor of the respondents. The aforesaid administrators later brought a bill of information before His Honour J. Jeremiah Z. Reeves, Judge of the said Second Judicial Circuit, alleging interferences with the intestate estate of their late father by certain individuals. Specifically, they charged that those individuals had unlawfully occupied lot No. 40-D, situated and lying on Tubman Street, Lower Buchanan, Grand Bassa County; that the said individuals had received rental due on the property; and that the said individuals had committed various other acts adverse to the rights of the administrators and the estate. Respondents, against whom the information had been filed, claimed title or some other form of interest in the land, inconsistent with the ownership and possession of the estate. (*See* Opinions of the Supreme Court, March Term, 31 LLR \_\_ (1983).

In ruling on the information, the late Judge Reeves held:

"That since all the properties involved constitute a part of the intestate estate.....the administrators have the right to perform their duties in keeping with the letters of

administration and the law controlling intestate estates. And it is so ordered.”

Respondents thereupon excepted to said ruling and moved by certiorari to this Court. The Justice in Chambers heard and denied the writ; and, upon appeal, the full Bench upheld the ruling on the grounds that the ruling sought to be reviewed, being final, adjudicated the ultimate rights of the parties, and could not therefore be reviewed by certiorari. *Ibid.* This Court thereafter mandated the judge below to proceed to enforce the judgment of Judge Reeves, cited *supra*.

Upon receiving our mandate, the co-respondent judge, Martha Massoud, proceeded to enforce Judge Reeves' ruling precisely as follows:

"In view thereof, the sheriff of this Honourable Court is hereby ordered to proceed on the scene of the property and place the administrators in possession of said intestate estate; that is to say, the buildings occupied by the respondents/petitioners, the properties involved and which constitute a part of the intestate estate, and the same to be administered in keeping with the Letters of administration and the law controlling intestate estate.”

It is this order of Judge Massoud that is the subject of the present bill of information. Basically, informants herein contend that the co-respondent Judge, Martha Massoud, erred in executing the mandate of the Supreme Court when she ordered the sheriff to place the administrators in possession of said intestate estate. They further maintained that the co-respondent Judge, Martha Massoud, erred when she ordered the sheriff to evict respondents from their house without a writ of possession, particularly as no suit had been instituted against them by the administrators for that purpose. They asserted that the information, filed by the administrators, was not the subject of ejection but for interference.

Contrary to the above assertions, however, the respondents argued in their returns that Judge Massoud's directive merely meant to have the sheriff introduce the administrators to the occupants of the building, and to let them know that the said administrators are empowered by the court to administer the estate. They further contended that the fact that the trial judge never issued a writ of possession shows that she never intended evicting the respondents.

Weighing said arguments *pro and con*, two issues are basic for the determination of the bill of information: Firstly, to determine the meaning of Judge Reeves' ruling, cited *supra*; and secondly, to consider whether or not Judge Massoud over-stepped the ruling of Judge Reeves, which she was required to enforce.

The focal point in Judge Reeves' judgment was that the administrators, having received letters of administration from the Court, were empowered to proceed to administer the estate according to law. That ruling is not in dispute. In our opinion, the phrase "administer according to law" means administering according to the terms of the letters of administration and the Decedents Estates Law of Liberia. The Decedents Estates Law of Liberia does provide for administrators of decedents' estates to proceed to law for enforcement of their rights against intruders, and to remove other hazards which may be in their way. Decedents Estates Law, Rev. Code 8:107.3, 109.1, and 110.5. Therefore, whenever an administrator finds out that some trespasser is encroaching upon a decedent's estate entrusted to him, his proper course in administering the estate legally is to bring an action of ejectment in law to obtain possession thereof by a writ of possession. Certainly, a judge sitting in probate and dealing with the question of interference with a decedent estate cannot issue a writ of possession to an administrator to possess said estate. The award of a writ of possession in said circum-stances is the proper function of a court of law, in a proper action of ejectment. BLACK'S LAW DICTIONARY (5th ed.), *Ejectment: writ of possession*.

Consequently, it is not difficult to see that Judge Massoud's order to the sheriff to place the administrators in possession was out of place while she was in probate. All she was mandated to do was to read to the parties the ruling of Judge Reeves to the effect that if the informants below believed the property in question to be part of the estate they were empowered to administer, then they should use the instrument or weapon at their disposal, their letters of administration, as is required by law. *Anderson v. McGill*, 1 LLR 46 (1868). This meant that they were to sue in law for the eviction of respondents from the estate. To have ordered the sheriff to proceed to the scene and to put the administrators in possession, in a word, amounted to ordering the sheriff to evict the occupants without due process of law.

Considering whether a bill of information is the proper action to be brought where a lower

court judge erroneously executes a mandate of this Court, we are of the opinion that a bill of information is the right course of action in such circumstances. According to Black's Law Dictionary, a bill of information is a formal written petition to a superior court for action to be taken in a case already determined. This is especially the proper action in this jurisdiction because any remedial writ brought against a judgment of the Supreme Court *en banc* is contemptuous. *Smith v. Stubblefield*, 15 LLR 582 (1964). This Court has held that a bill of information to the Supreme Court is the proper remedy when a judicial officer attempts to execute its mandate erroneously. *Raymond International (Liberia) v. Dennis*, 25 LLR 131 (1976). Also see *Thomas et. al. v. Dayrell*, 17 LLR 284 (1966); *Alpha v. Tucker*, 21 LLR 458 (1973); *Reeves v. Webster-Ankra*, 22 LLR 181 (1973); *Ballah v. Thorpe*, 29 LLR 286 (1981); and *Liberian Bank for Development and Investment v. Holder*. 29 LLR 310 (1981).

For these reasons, we hold that Judge Massoud erred when she ordered the sheriff to put the administrators in possession of the property on Lot No. 40-D, located on Tubman Street, in Buchanan, Grand Bassa County. The Court further holds the view that the entire judge was required to do was to direct the administrators to proceed legally in keeping with the Decedents Estates Law of Liberia in administering the estate.

Wherefore, and in view of the above, the information is hereby *granted* and the judge presiding in the court below is mandated to direct the administrators in this case to proceed to administer the estate according to law. And it is hereby so ordered.

*Information granted.*