

**THE ESTATE OF THE LATE FRANK E. TOLBERT**, by and thru the administrators, ROLAND TOLBERT, C. MONROE TOLBERT and ALEXANDER TOLBERT, Appellant, v. **ANGELINE GIBSON-SONPON**, by and thru her Husband, DR. THEOPHILUS N. SONPON, Appellee.

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

Heard: November 4, 1992. February: 26, 1993.

1. The Supreme Court shall be the final arbiter of all constitutional issues and shall exercise final appellate jurisdiction in all cases both as to law or fact except cases involving ambassadors, ministers or cases in which a county is a party.
2. No person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions laid down in the constitution, and in accordance with due process of law. Justice shall be done without sale, denial or delay; and in all cases arising in courts not of record, under court-martial and upon impeachment, the parties shall have the right to trial by jury.
3. The right of an appeal from a judgment, *decree*, decision or ruling of any court or administrative board or agency, except the Supreme Court, shall be held inviolable. The Legislature shall prescribe rules and procedure for easy, expeditious and inexpensive filing and hearing of an appeal.
4. The provision of Article 97(a) of the Constitution prohibiting the courts or other tribunal to make any order or grant any relief in respect of any act by the People's Redemption Council (PRC) by any person, whether military or civilian, in the name of the council, is in direct contravention to the fundamental rights contained in Article 20 of the Constitution.
5. The Constitution must be construed reasonably to carry out the intention of the framers. It should not be construed to defeat the obvious intent of the drafters. The intent should be gathered from both the letter and spirit of the document, and its provisions must be interpreted in the same spirit in which it is produced. In interpreting the Constitution, the Court should put itself in the position of the framers.
6. Every provision in the Constitution must be interpreted in the light of the entire document rather than a sequestered pronouncement because every provision is of equal importance. None of the provisions must be interpreted so as to nullify or substantially impair the other, and if there is an apparent discrepancy between different provisions, the Court should harmonize them if possible.
7. Article 97(a) is not applicable in the determination of property rights between private citizens and that these rights can only be determined by a court of competent jurisdiction consistent with the provisions laid down in the Constitution in accordance with due process.
8. Title to real property is vested in persons by title deed issued by the Republic of Liberia under the signature of the President, for public lands, or a warranty deed executed by one person called the grantor, in favor of another person called the grantee, for private lands.
9. Only a court or tribunal of competent jurisdiction has the authority to adjudicate dispute regarding the ownership or right of possession of any realty, and the

procedure must be consistent with the provisions laid down in the Constitution.

10. The Bureau of Reacquisition created by the People's Redemption Council Government was never vested with the powers to decide issues arising out of title to real property.

11. Article 97(a) of the Constitution was specifically intended to grant amnesty to the seventeen non-commissioned officers and enlisted men of the Armed Forces of Liberia (AFL) and their agents for crime and other unlawful acts committed by them during the military coup d'etat which overthrew the constitutional government of Liberia, up to and including the date of the adoption and coming into effect of the 1986 Constitution of the Republic of Liberia.

On October 27, 1982, plaintiffs, as administrators of the estate of the late Frank E. Tolbert, instituted an action of ejectment against appellee for the recovery of a parcel of land which they alleged belongs to the estate of the late Frank E. Tolbert, claiming both general and special damages for the loss of the use of said property and for rental income illegally received by appellee. The appellee interposed an answer, denying appellants' claim to the property and contending that title to the said property had earlier been decided in her favor by the Bureau of Reacquisition of the PRC government on September 9, 1982. The appellee also filed a motion to dismiss, contending that the civil law court had no jurisdiction to determine the action because Article 97(a) of the Constitution prohibits a court or tribunal from making any order or granting relief in respect of any action taken by the PRC government pursuant to its decrees. The trial judge granted the motion and dismissed the entire action on grounds that Article 97(a) is binding on the courts. Appellants appealed therefrom to the Supreme Court.

On appeal, the appellee reiterated its claims that title to the subject property had already been determined by the Bureau of Reacquisition, and that the trial court is barred from resurrecting same by virtue of Article 97(a) of the Constitution, and that any attempt to do otherwise constitutes a violation of the Constitution. The appellants, on the other hand, contended that Article 97(a) does not have precedence over Article 20, and that only the courts can determine title to real property. The appellants also argued that Article 97(a) is only applicable to actions brought against former PRC government officials and their agents, and that said provision cannot be used in the determination of property rights between private citizens. Further, the appellants contended that the late Frank E. Tolbert was not a party to the investigation conducted by the Bureau of Reacquisition concerning the subject property, and as said property was not confiscated, they could not be bound by such order.

Following arguments, the Supreme Court held that Article 97(a) of the Constitution was intended to be an amnesty provision which was to prevent administrative or judicial inquiries into crimes, atrocities and other illegal acts committed against citizens by the PRC government and its officials during the military regime. Hence the Article was not intended to affect the adjudication of property rights between citizens. The Court also held that any contrary interpretation of this provision would be a violation of the constitution. The Court further opined that the prohibition existing under Article 97(a) restraining the courts or other tribunals from granting any relief in respect of acts committed by the PRC government officials and their agents against any person, whether military or civilian, is a contravention of the safeguard of the fundamental rights contained in Article 20. The Court also opined that the provisions of the Constitution must be construed reasonably to carry out the intention of the framers, and that the intent should be gathered from both the letter and the spirit; and that it should not be interpreted to defeat the intention of the drafters.

The Court stated further that the document issued by the Bureau of Reacquisition, upon which appellee relies as vesting in her title to the property in dispute, cannot be

considered as having any legal validity because title to real property is vested in persons by title deed issued by the Republic of Liberia under the signature of the President for public lands, or a warranty deed executed by one person called the grantor in favor of another called the grantee, for private lands. In the event of a dispute regarding the ownership or right of possession of any realty, only the court or a tribunal of competent jurisdiction may properly adjudicate such dispute, and the adjudication of such dispute must be carried out in the manner consistent with the provisions laid down in the Constitution in accordance with due process. Continuing, the Court held that the Bureau of Reacquisition Commission was never vested with the power to decide title to real property. Consequently, the proceeding held by it which resulted in the decision awarding appellee title to the subject property was completely void of any semblance of due process.

Moreover, the Court stated that the Bureau exceeded its authority by adjudicating property rights when it was only authorized to manage, supervise and control. The Court concluded that the trial judge committed reversible error when he held that Article 97(a) of the Constitution barred the court from hearing the appellants' claims. The judgment of the trial court was accordingly *reversed* and *remanded* for new trial.

*J. Edward Koenig* appeared for appellant and *Roger K. Martin* appeared for appellee.

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

On October 27, 1982, the administrators and heirs of the late Frank E. Tolbert, plaintiffs, filed an action of ejectment in the Civil Law Court for the Sixth Judicial Circuit in Monrovia, Montserrado County, against Angeline Gibson-Sonpon, by and through her husband, Dr. Theophilus N. Sonpon, defendant, seeking to recover a parcel of land located at the corner of Lynch and Benson Streets in the City of Monrovia. The plaintiffs alleged that they had discovered a deed for said parcel of land in the name of the late Frank E. Tolbert but that the parcel of land is being occupied and possessed by the defendant, Angeline Gibson-Sonpon. Plaintiffs prayed that defendant Angeline Gibson-Sonpon be evicted from the subject property and that they be awarded special damages in the sum of L\$18,000.00, representing rental income illegally received by the defendant, Angeline Gibson-Sonpon, and also general damages for the loss of use of said property.

Defendant filed an answer denying that the property sued for is owned by plaintiffs. Defendant claims that she is entitled to said property because her title had been determined by a finding made in her favor by the Bureau of Reacquisition of the Government of the People's Redemption Council, Republic of Liberia, (PRC) in a document dated September 9, 1982. Defendant further contended that the civil law court had no jurisdiction over the subject property by virtue of a constitutional bar which prohibits any court or tribunal from making any order or granting any remedy or relief in respect of any act taken by the People's Redemption Council (PRC) pursuant to any of its decrees. Defendant then filed a motion to dismiss plaintiffs' ejectment suit based on the aforementioned provision found in Article 97(a) of the Constitution.

The trial court, in deciding the issues raised in defendant's motion ruled that the prohibition contained in Article 97(a) of the Constitution is binding on the courts. The court therefore refused jurisdiction over the subject matter of the ejectment suit and dismissed plaintiffs' suit. Hence this appeal.

As mentioned earlier, Defendant Angeline Gibson-Sonpon defended her title to said property by asserting that her title had been determined by the Bureau of Reacquisition Commission of the People's Redemption Council (PRC) Government and exhibited, in the trial court, a document issued in her favor by the said Bureau of Reacquisition. We shall quote hereunder the text of said document as follows:

"Republic of Liberia  
Bureau of Reacquisition  
Monrovia, Liberia  
09 September 1982  
BB/D/0108/' 82  
Office of the Director

To Whom It May Concern

Based upon a careful and thorough background investigation and scrutiny of documents presented, we herewith confirm that the property in the City of Monrovia, Montserrado County, purchased, registered and probated on July 20, 1956, is the sole property of Mrs. Angeline Gibson. In view of the above, we are pleased to inform the general public that this is the sole property of Mrs. Angeline Gibson and therefore it does not fall within the category of confiscated properties.

We therefore unconditionally declare the said property on which the building is constructed, the bonafide property of Mrs. Angeline Gibson, over which the Bureau of Reacquisition relinquishes further claims and legal authority. This document certifies her legal ownership over such property and can be considered a letter of clearance from the above captioned Bureau. The general public is advised to adhere to this letter of clearance and deal directly with Mrs. Gibson.

In the cause of the people, the struggle continues! Sgd. J. Yanqui Zaza  
Director

Angeline Gibson-Sonpon also defended her right of title to said property by claiming that in view of the action taken by the Bureau of Reacquisition, as evidenced by the document just quoted, the trial court wherein the action of ejectment was instituted was barred under Article 97(a) of the Constitution of Liberia from making any inquiry into the action taken by the Bureau of Reacquisition in respect of the subject property. We shall also quote for the purpose of this opinion Article 97(a) as follows:

"No executive, legislative, judicial or administrative action by the People's Redemption Council or by any person whether military or civilian in the name of that Council pursuant to any of its decrees shall be questioned in any proceedings whatsoever; and accordingly, it shall not be lawful for any court or other tribunal to make any order or grant any remedy or relief in respect of any such act."

These are the two defenses which appellee relied upon to withhold from the plaintiff the property which it sought to recover.

The briefs of appellant and appellee counsels and their arguments before this Court centered around two principal issues:

- a. Was the trial judge correct in his interpretation and application of Article 97(a) which resulted in his dismissal of plaintiff's action?
- b. What effect, if any, does Article 97(a) of the Constitution has on Article 20 of the Constitution?

Appellant argued that Article 97(a) should not have precedence over Article 20 of the 1986 Constitution. That only the courts of Liberia can determine title to real property or divest anyone of its property. Appellant's counsel further argued that Article 97(a) is applicable only where action was taken against former officials of the People's Redemption Council (PRC) Government. Further, counsel contended that the heirs of the late Frank E. Tolbert were not party to the investigation conducted by the Bureau of Reacquisition Commission concerning the subject property, and finally, that the Bureau of Reacquisition Commission in its document dated September 9, 1982 stated that the subject property was not confiscated property.

Appellee's counsel on the other hand argued that the trial judge correctly interpreted Article 97(a) dismissing the ejectment action. Appellee's counsel contended that the trial court could not delve into the competency of the Bureau of Reacquisition Commission to make the determination which it did in respect to the realty in question, for to do so would be a violation of the Constitution of Liberia.

In order to address these issues, we deem it necessary to state briefly the historical facts which gave rise to its inclusion in the 1986 Constitution of Article 97(a).

Following the military coup d'etat of April 12, 1980, the seventeen non-commissioned officers and enlisted men of the Armed Forces of Liberia (AFL), who staged the coup d'etat constituted themselves into a government called the People's Redemption Council (PRC) Government of the Armed Forces of Liberia. It was this government of military men who ordered the execution of thirteen government officials for the alleged commission of any one of the acts which was defined as high treason under Decree No. 1 promulgated by the People's Redemption Council Government.

The late Frank E. Tolbert was among the thirteen officials of government who were executed by firing squad after being summarily convicted by a military tribunal for the crime of high treason, a crime defined by a decree promulgated by the Military Government as: (a) mal-administration; (b) contravention of the democratic process; (c) rampant corruption and flagrantly managing the affairs of the state. PRC Decree Number One. Those who were executed forfeited their real and personal properties which were confiscated by the People's Redemption Council Government and placed under the control of the Bureau of Reacquisition Commission; a bureau set up by the People's Redemption Council Government to manage all confiscated properties. The property located at the corner of Lynch/Benson Streets, which is the subject of the ejectment action now on appeal before this Court, was confiscated as the property of the late Frank E. Tolbert and turned over to the Bureau of Reacquisition Commission for management and control.

We shall now proceed to examine and analyze the issues raised and decided by the trial court in this case now on review, with particular reference to the trial judge's interpretation of Articles 97(a) and 20 of the Constitution, and also the document issued to defendant by the Bureau of Reacquisition Commission of the People's Redemption Council Government which confirmed that defendant was the legal owner of the subject property.

From the brief historical facts recited above, it is clear that the government that emerged out of the 1980 coup d'etat was a military government. One of the first acts of this government was to suspend the existing constitution which obligated any Government of Liberia to protect the rights of citizens and residents. With the suspension of the Constitution, military government was free to act as it pleased, ignoring any and every basic right of the citizens of our great country. This is exactly what the government did. Citizens of every class, clan, tribe and gender were subjected to military trials and actions since there was no Constitution which prohibits such trials and wrongful acts. Those tried could not enjoy the right to due process of law; and private properties were confiscated and disposed of as the warlords wished. Again, there was no means to prevent illegal and arbitrary actions by those who governed us.

Then suddenly the military government decided to surrender our country back to civilian rule. In this regard the military head of state commissioned a committee to draft a new constitution to replace the one previously suspended. No doubt those who drafted the new constitution or, more correctly, those who initiated its drafting entertained great fears that unless some safeguards were included in this document, those individuals who were responsible for depriving citizens and residents of their

rights during the suspension of the Constitution, might be called upon to give account by citizens and residents who may elect to invoke their rights against such provisions even under the new Constitution, which guarantees protection of their fundamental rights.

We observed during the argument of this matter before us, that the counsel for appellants, in person of Counsellor Edward. Koenig, was a member of the constitutional advisory assembly, the body of Liberian citizens that was entrusted with the responsibility for the final draft of the 1986 Constitution, which the people of Liberia adopted. This Court asked Counsellor Koenig about the inclusion of Article 97(a) in the Constitution. He replied that the People's Redemption Council (PRC) decree that created the Reacquisition Bureau gave no right to that bureau to determine title to property. He also stated that Article 20 of the Constitution of Liberia guarantees the right to party litigants to have their rights to property adjudicated in the courts of Liberia and no intent can be gathered from Article 97(a) of the Constitution to the effect that it would give any institution other than the courts of Liberia, the right to decide title to property.

The Constitution states in Article 66 that the Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases ... "both as to law and fact except cases involving ambassadors, ministers or cases in which a county is a party". LIB. CONST., Art. 66 (1986).

This case contains some facts and issues, the resolution of which depend upon our interpretation of Article 97(a) and Article 20 of the Constitution of Liberia. We are duty bound to exercise our constitutional rights, and interpret these two articles as they relate to this matter and all other cases which present facts similar to the one now on review.

We are of the opinion that Article 97(a) was included in the final draft of the Constitution as an amnesty provision which was drafted and included in the Constitution to prevent judicial and administrative inquiry of crimes, atrocities and other illegal acts committed against citizens by the military government and their agents under the disguise of prosecuting the overthrown government and its officials for acts which the People's Redemption Council Government defined in its Decree No. 1 as a crime of "high treason". Article 97(a), was not intended to affect the adjudication of private rights between citizens nor does it in fact affect such right. Any interpretation of Article 97(a) to the contrary would be a flagrant violation of the basic objectives of our constitutional guarantees.

For example, Article 20 of the Constitution, as found in chapter II, entitled Fundamental Rights, reads thus:

Article 20:

a. "No person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions laid down in this Constitution and in accordance with due process of law. Justice shall be done without sale, denial or delay; and in all cases arising in courts not of record, under court martial and upon impeachment, the parties shall have the right to trial by jury.

b. The right of an appeal from a judgment, decree, decision or ruling of any court or administrative board or agency, except the Supreme Court, shall be held inviolable. The Legislature shall prescribe rules and procedures for easy, expeditious and inexpensive filing and hearing of an appeal.

The prohibition existing under Article 97(a) of the Constitution restraining the courts or other tribunal from making any order or granting any relief in respect of any act by

the People's Redemption Council against any person whether military or civilian, in the name of that Council pursuant to its decree, is in direct contravention to the fundamental rights contained in Article 20 quoted above.

The various provisions of the Constitution must be construed reasonably to carry out the intention of the framers. It should not be construed to defeat the obvious intent of the framers. The intent should be gathered from both the letter and spirit of the document. The rule being that the written Constitution should be interpreted in the same spirit in which it was produced. The Court should put itself in the position of the men and women who drafted this instrument. 16 AM JUR. 2d., *Constitutional Law*, § 64, pages 239-240.

This Court must therefore put itself not only in the place of those individuals who drafted Article 97(a) of the Constitution but also in the place of even those persons who requested its drafting. Human beings consists of men and women with conscience; therefore as human beings we have the capacity to reassess our doings and, in doing so, we can appreciate the gravity of our acts and the possible repercussion our actions may have upon us. We can imagine this was the position in which those who has anything to do with the inclusion of Article 97(a) in the Constitution found themselves and decided to do something about it.

In interpreting the Constitution, it is the duty of this Court to have recourse to the instrument to ascertain the true meaning of every particular provision. Every statement in the Constitution must be interpreted in the light of the entire document rather than a sequestered pronouncement. This is so because fundamental constitutional provisions are of equal importance and dignity. None of those provisions must be enforced so as to nullify or substantially impair the other. If there is an apparent discrepancy between different provisions, the court should harmonize them if possible. 16 AM JUR 2d., *Constitutional Law*, § 66, page 242.

In our opinion there is an apparent inconsistency between Article 20 and Article 97(a) of the Constitution. We therefore hold that Article 97(a) is not applicable in the determination of property rights between private citizens and that these rights can only be determined by a competent court in this Republic consistent with the provisions laid down in the Constitution in accordance with due process of law.

The document issued by the Bureau of Reacquisition Commission upon which defendant Angeline Gibson-Sonpon relies as vesting in her title to the property, in dispute, cannot be considered as having any legal validity whatsoever. In this Republic, title to real property is vested in persons by title deed issued by the Republic of Liberia under the signature of the Executive head of this Republic, for public lands, or a warranty deed executed by one person called the grantor, in favor of another person called the grantee, for private lands.

In the event of a dispute regarding the ownership or right of possession of any realty, only a court or tribunal of competent jurisdiction can properly adjudicate such dispute. Such adjudication to settle title or ownership to realty under the laws of this Republic must be carried out in a manner consistent with the provisions laid down in the Constitution in accordance with due process of law. The Bureau of Reacquisition created by the People's Redemption Council Government was never vested with such powers to decide title to real property. The proceedings held by that Bureau which resulted in its decision awarding appellee title to the subject property was completely void of any semblance of due process of law. More than this, the Reacquisition Bureau Commission far exceeded its authority by attempting to adjudicate title to property which by decree it was only obliged to manage, supervise and control.

In view of the foregoing facts and laws, it is the unanimous opinion of this Court that Article 97(a) of the Constitution of Liberia cannot deprive any of the citizens and residents of this Republic from exercising any fundamental rights guarantee to them

under the Constitution of Liberia.

Article 97(a) of the Constitution is a provision specifically intended to grant amnesty to the seventeen non-commissioned officers and enlisted men of the Armed Forces of Liberia (AFL) and their agents for crimes and other unlawful acts committed by these persons from April 12, 1980, the date of the military coup d'etat which overthrew the constitutional government of Liberia, up to and including the date of the adoption and coming into effect of the 1986 Constitution of the Republic of Liberia.

It is our opinion that the judge's interpretation of Article 97(a) of the Constitution to the effect that said Article bars the court from hearing the plaintiffs case, is erroneous and the ruling dismissing plaintiff's action is hereby reversed. This case is hereby remanded to the trial court with instructions that the court disposes of the issues of law presented in the pleadings of the parties consistent with this opinion, and that the said ejectment suit be ruled to trial on the facts. The Clerk of this Court is ordered to send a mandate to the trial court in accordance with this opinion. Costs against appellee. And it is hereby so ordered.

*Judgment reversed; case remanded*