

**MARY J. ANDERSON, Appellant, vs. JESSE SHARP, Appellee.**

**LRSC 2; 1 LLR 121 (1879)**

[January Term, A. D. 1879.]

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

This is an action of injunction brought up by the plaintiff, now appellant, in the Court of Quarter Sessions and Common Pleas, Montserrado County, to restrain the sale of certain property, and which was dismissed on defendant's motion that said Court of Equity had no jurisdiction to try the question involved in the suit.

Upon an examination of the record we discover the case to be brought not to recover dower but to restrain the sale of certain property which she claimed to be then occupying; and we are therefore of the opinion that the court below erred in its ruling, firstly, because it ruled that the Court of Equity had no jurisdiction over the questions involved in the case; secondly, because the court decided upon the facts in the case without the introduction of evidence according to law to prove or disprove them.

Again, the Court of Quarter Sessions having been given by law jurisdiction over actions of injunction, the judge should have allowed a hearing of the plaintiff's complaint, and disposed of the same according to the law and equity of the case.

The case, not having had a hearing, comes before this court entirely bare of any evidence for or against it, by which the mind of this court could be led to a discrimination of the rights and wrongs involved in the case.

The court having no tenable ground upon which could be based a final judgment for either party, and being of the opinion that the lower court has jurisdiction in actions of injunction, therefore rules that the case be remanded, and that the court from which the appeal was taken shall, on the receipt of a mandate from this court, and a copy of this ruling, take jurisdiction over the said case, and according to law and equity proceed to the trial and termination of the same; and that costs shall follow.