

JUDGMENT WITHOUT OPINION

Decided: June 15, 1979.

When this case was called, Counsellor J. Dossen Richard appeared for the appellant. Counsellor John Dennis -- replacing Counsellor Samuel E. H. Pelham, who had been suspended from practice -- appeared for the appellee.

The certified record from the trial court shows that appeal from the judgment against the defendant/appellant was regularly taken and completed, and the said record has disclosed the following facts:

1. On the strength of a Public Land Sale Deed executed on the 6<sup>th</sup> of July, 1976, in favour of the appellee, S. K. Dempster, as plaintiff, brought action of ejection against the appellant, claiming his illegal and wrongful withholding of one fourth of an acre of said property without any color of right. The deed marked exhibit "A" was produced with the complaint and made a part thereof.

2. The defendant, now appellant, appeared and filed an answer in which he denied the plaintiff's right to recover and contended that the property in dispute "had been already alienated to Augusta B. Padmore as more fully appears by Quit Claim Deed from Bill M. Maurice and W. S. Diggs to A. B. Padmore on the 22<sup>nd</sup> of May, 19-6. No copy of this Quit Claim Deed was annexed to his answer, and no document vesting title in him was proffered.

Upon trial of the case the following question was asked the defendant:

Ques: “Mr. Witness, please tell the court and jury what is your line of defense for illegally and wrongfully occupying plaintiff’s premises. Do you have any deed for the said parcel of land?”

Ans: No. I do not have a deed.”

4. In the brief filed and argued by appellee’s counsel, it is contended that although the complaint was filed on the 17<sup>th</sup> day of January, 1977, the defendant’s answer was not filed until the 1<sup>st</sup> day of February, 1977, beyond the 10 days required by statute for this responsive pleading. The record bears out this fact. Accordingly, the judge dismissed the complaint at hearing of the law issues, and the jury tried the case with the defendant on a bare denial of the facts. For reliance, 1 LCL Revised p.106 sec. 9.2. The jury found for the plaintiff and the defendant appealed.

Our law provides that “deeds and other writings shall be admissible against all parties to them and shall also be evidence against all mankind of the transfer of all titles or rights transferred by them” 1 LCL Revised p.204 sec. 25:16.

After studying the record certified to us from the court of origin, in view of the law controlling as cited herein above, and also after hearing argument of counsel on both sides, it is adjudged that the judgment of the trial court should be and the same is hereby affirmed with costs against the appellant. The Clerk of this Court is ordered to send a mandate down to the court below commanding the judge presiding therein to resume jurisdiction over the case and enforce the judgment. And it is so ordered.

NOTE: Mrs. Justice Brooks-Randolph being absent when this case was heard did not take part, hence has not signed this judgment.