

The **Christ Believer Pentecostal Church**, by and thru its Pastor Samuel Saydee, Alfred Blayon, Sr. Head Deacon, et al of the Township of Johnsonville
PETITIONER/APPELLEE VERSUS **Solomon Nyesoiwah**, Assistant Deacon, **Elijah Pah, George Colley, Duplah Weah, Gibson Nyeforel, Martha Toe, Mary Mensaw, Augustine Targbeh** of Believer Temple, and also Father **Regina J. Parson, Edwin Miller, Comfort Grant and Amelia Ross** United Methodist Church, all Of the Township of Johnsonville, Montserrado County, Liberia, as well as Surveyor **Francis Nyannohn, Sr.**

RESPONDENT/APPELLANT

APPEAL FROM A PETITION FOR THE WRIT OF PROHIBITION

HEARD: May 6, 2008 DECIDED: July 24, 2009

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This matter is an appeal from the ruling of the Justice in Chambers for a petition for a Writ of Prohibition. The writ sought by the appellee, the Christ Believer Pentecostal Church, seeks to prohibit the issuance of a deed in the name of Believers Temple by the grantor, and co-appellant, Amelia Ross United Methodist Church; and to order Amelia Ross United Methodist Church to instead issue the deed in the name of Christ Believer Pentecostal Church.

The facts gathered from this case and the argument before this Bench are that co-appellants Solomon Nyesoiwah et al. and appellee were all members of a congregation named and styled "Believers Temple". This congregation, established in Johnsonville, Montserrado County, paid for a plot of land from Amelia Ross of the United Methodist Church, Johnsonville. Prior to the issuance of the deed in the name of the Believer Temple, the appellee alleges that the congregation met and agreed to incorporate the church and have the name of the congregation changed from Believers Temple to Christ Believers Pentecostal

Church. It is alleged that the name Christ Believers Pentecostal Church was accepted by all members of the congregation, including both appellee and appellants. It was further alleged that all programs of the Church carried the name of Christ Believer Pentecostal Church with said name being printed on all church cards held and used by the Church. The appellee alleges further that for some unknown reasons, some dissatisfaction ensued and the co-appellants, Solomon Nyesoiwah et. al., insisted that the deed of the property paid for by the congregation be issued in the name of Believers Temple instead of Christ Believers Pentecostal Church, the alleged newly agreed name of the congregation.

The co-appellants, Solomon Nyesoiwah et al., on the other hand, responded also alleging that the senior pastor, his wife, brother-in-law and sister in fact clandestinely incorporated the new church named and styled Christ Believers Pentecostal Church; that this change of name did not meet their consent.

Thereafter, the appellee employed Surveyor Francis Nyanohn, Sr. to prepare the deed for the same property with the name Christ Believers Pentecostal Church. The appellee/petitioners in this case then approached the Amelia Ross United Methodist Church to sign the deed with the new name for the identical property, but upon presentation of the deed to the Amelia Ross United Methodist Church, the coappellant refused to sign the deed apparently based on the tussle between the two parties. Appellee insisted that the property be deeded in its name and when the Amelia Ross United Methodist Church refused, the appellee then proceeded to file a petition for a writ of prohibition to prevent the grantor, Amelia Ross United Methodist Church, from issuing the deed in the name of Believers Temple.

The lone issue considered by this Court is, *when is prohibition properly cognizable before this Court, and whether under the circumstances of this case, prohibition will lie?*

Our Civil Procedure Law, ILCL revised, Section 16.21(3) Purpose of Writs, states, "Prohibition is a special proceeding to obtain a writ ordering the respondent to

refrain from further pursuing a judicial action or proceeding specified therein". ILCLR, page 228. Black's Law Dictionary defines prohibition as "An extraordinary writ issued by an appellate court to prevent a lower court from exceeding its jurisdiction or to prevent a non-judicial officer or entity from exercising a power." 8th Edition, page 1248

A review of the office of prohibition by this Court has been stated as one which seeks to *"prevent inferior courts or tribunals from assuming jurisdiction which is not legally vested in them."* LAMCO J.V. Operating Company vs. Judge Alfred B. Flomo and Barclay Wollie; 27 LLR, 52, 58, (1978). Holding more fully, this Court has ruled that, *"Prohibition will lie where the tribunal or respondent has assumed jurisdiction not ascribed to it by law, or has exceeded its designated jurisdiction or, in the exercise of its lawful jurisdiction, is proceeding by wrong rules other than those which should be observed at all times. In all three of these instances, prohibition will lie to restrain the respondent."* Garlawolu et al. vs. Election Commission; 41 LLR, 371, 384, (2003).

This Court must say whether the co-appellant the Amelia Ross United Methodist Church is the proper respondent against whom prohibition proceeding will lie?

Generally, the purpose of the Writ of Prohibition excludes the writ against any person or group of persons acting in a purely private capacity. 63Am Jur. 2nd, Prohibition, Section 41. In this light, this Court, in assuming jurisdiction in a prohibition matter, has always entertained cases complaining a judge, administrative tribunal, agency or officer exerting or carrying out judicial or quasi judicial function. See Kaba Halaby, et al. vs. Messrs, Import-Export Company; 41 LLR, 249, 261, (2002); Weasua Air Transport Company Ltd. Vs. The Ministry of Labour; 40 LLR, 225, 233, (2000); Kormah vs. Judge Pearson, Moniba et al., 33 LLR, 42, 45 (1985); Also, prohibition proceedings have been employed to determine the constitutionality of either a law, act or conduct of the legislative or executive branches of government. Ayad vs. Dennis; 23 LLR, 165, 177, (1974); Republic of Liberia vs. The Leadership of the Liberian National Bar Association; 40 LLR, 635, 650, (2001)

In this case where appellant seeks to prevent a grantor from issuing a deed to another party, we can not hold that this is a matter within the purview of the Writ of Prohibition. The action which the appellee seeks to prevent can not be defined as a judicial, quasi judicial or an illegal act or conduct of the legislature or executive branch of government that needs to be reviewed and prohibited by this Court. *"In order to regard an act as a jural act, it must be of a kind that would be engaged in by someone who is enforcing a law, determining an infraction of the law, making or changing a law, or settling a dispute."* Black's Law Dictionary, 8th Edition, page 26.

Based on the legal reasons cited above, that prohibition will not lie against person(s) acting in a purely private capacity, the ruling of the Justice in Chambers is reversed; the alternative writ of prohibition issued quashed and the preemptory writ denied.

The Clerk of this Court is ordered to issue a mandate to the parties, giving effect to this judgment, with costs against the appellees. And it is hereby so ordered.