

Max Dennis, the Management of Becky's Nests by and thru its proprietor and/or authorized Representative, the Management of Jewelry Shop represented by its Proprietor, **Musu** and A. B. Carpentry Shop, represented by its **Proprietor**, all of the City of Monrovia, Liberia, APPELLANTS Versus **Christian Reed** also of the City of Monrovia, Liberia, APPELLEE

LRSC 7

ACTION OF EJECTMENT

HEARD: OCTOBER 17, 2012 DECIDED: JANUARY 4, 2013

MR CHIEF JUSTICE a.i., KORKPOR DELIVERED THE OPINION OF THE COURT

On February 27, 2010, Christian Reed, plaintiff/appellee, filed a five-count complaint in the Civil Law Court, Sixth Judicial Circuit, Montserrado County, against Max Dennis et al., defendants/appellants. The plaintiff/appellee prayed the Civil Law Court to have the defendants/appellants ousted, ejected and evicted from a parcel of land consisting of one-half (1/2) lot lying and located on Carey Street, Monrovia, Liberia which he claims to be his property and to have him placed in possession thereof. He further prayed the Civil Law Court to adjudge the defendants/appellants liable in general damages in an amount sufficient to compensate him for unlawfully withholding the said property. We quote the complaint:

1. That on the 3rd day of February, A.D. 1969, plaintiff acquired from James W. Reed Jr. one-half(1/2) lot of land situated, lying and being on Carey Street, City of Monrovia, County of Montserrado, Republic of Liberia; which parcel of land bears the following metes and bounds:

commencing from the Northwestern corner of Carey and Johnson Streets, thence running 123.75 feet to a point, thence North 360 East 132 feet to a point, thence North 54 degrees West 41.25 feet to a point, thence running South 360 feet to a point, touching Carey Street, thence South 540 East 41.25 feet to the place of commencing and containing half (1/2) lot of land and no more.

Attached hereto and marked as Plaintiff's Exhibit P/1 is a certified copy of the Warranty Deed from James W. Reed, Jr. to plaintiff, probated on the 10th day of March A.D. 1969, and registered according to law in Volume 90Y, pages 221-223 of the Archives of Montserrado County, in substantiation of the averment contained herein.

2. That during the administration of the late President Samuel K. Doe, the late Gray D. Allison, while serving as Minister of Defense of the Republic of Liberia in the 1980s, without any color

of right whatsoever, encroached on and took possession and custody of plaintiff's land referred to in count 1 above. Plaintiff submits that he made all efforts to repossess his said land from the said Gray D. Allison but to no avail.

3. That following the death of the late Gray D. Allison, 1st defendant herein being the stepson of the said Gray D. Allison and relying on the mistaken belief that the land, subject of this action of ejectment, belonged to his step-father, also wrongfully and illegally claimed said land and leased or rented same to various business entities and/or individuals, including 2nd Defendants herein. Accordingly, plaintiff, through his legal counsel Sherman & Sherman, Inc., addressed communications to 2nd Defendants inviting them to a conference with the view to having this matter amicably resolved. It was during said meeting that 1st Defendant came in defense of 2nd Defendants, claiming to be the owner of said property, copies of the herein mentioned communications are hereto attached in bulk and marked as Plaintiffs exhibit P/2, to form a cogent and integral part of plaintiff's complaint.

4. That plaintiff has done everything humanly possible to have the defendants to vacate and surrender the land, subject of this action of ejectment, to the plaintiff, but defendants continue to wrongfully and illegally withhold possession and occupancy of plaintiff's property.

5. That for the forceful, willful, illegal and wrongful entering upon and withholding of plaintiff's property by defendants, thus depriving plaintiff of any gainful use thereof, damages will lie against the defendants consistent with law.

Wherefore and in view of the foregoing, Plaintiff brings this Action of Ejectment, praying this Honorable Court to have the above-named Defendants ousted, ejected and evicted from Plaintiff's property described in Count One (1) herein and have the Plaintiff repossess same. Plaintiff also prays Your Honor to adjudge the Defendants liable in general damages in an amount sufficient to compensate Plaintiff for the unlawful withholding by Defendants of Plaintiff's property. Plaintiff further prays Your Honor to grant him any other and further relief as Your Honor may deem just, legal and equitable in the premises with cost of these proceedings ruled against the Defendants.

On March 17, 2010, the defendants/appellants jointly filed a nine-count answer denying that the land in question belongs to the plaintiff/appellee; they claim that the land instead belongs to the late Gray D. Allison and Angeline W. Allison, mother of co-defendant Max Dennis and that it was being administered as an intestate estate. They therefore requested the Civil Law Court to dismiss the complaint. We quote the defendants/appellants' answer:

1. That as to count (one) of plaintiff's complaint, defendants say that they cannot confirm or deny same as they are without any information to confirm or deny said count.

2. That as to count two (2) of plaintiff's complaint, 1st defendant says that same is false and misleading and says that in September of 1981, during the time [at] which the land was purchased by the late Gray D. Allison and Angeline W. Allison, mother of the 1st defendant, the late Gray D. Allison was not Minister of National Defense, but rather Minister of Information as alleged in count one (1) of plaintiff's complaint.

3. Further to count two (2) of this answer, 1st defendant says that he and his sister, Mrs. Dorothy V. Richards-Tolbert are the administrators of the intestate estate of the late Angeline W. Allison, while the curator of the monthly and Probate Court [of] Montserrado County is administering the intestate estate of the late Gray D. Allison. Attached is a copy of 1st defendants' Letters of Administration marked defendant's exhibit D/1.

4. Further to count three (3) of defendant's answer, 1st defendant says that the property defendants are occupying belongs to the intestate estate of the late Gray D. Allison and Angeline W. Allison, lawfully purchased from Christian Reed, Plaintiff in these proceedings and his mother, Annie Capehart; and a warranty deed was issued in favor of the late Gray D. Allison and Angeline W. Allison, duly probated and registered according to law. Attached is a certified copy of defendant's warranty deed marked defendant's exhibit D/2.

5. That as to count three (3) of plaintiff's complaint, 1st defendant says that the property he and his tenants are occupying, subject of this litigation, belongs to the intestate estate of the late Gray D. Allison and Angeline Allison, which was lawfully purchased from plaintiff and his mother, and therefore, does not form part of the property of plaintiff because he has parted with title as evidenced by the issuance of a warranty deed.

6. That as to counts four (4) and five (5) of plaintiff's complaint, 1st defendant says that said counts are false and misleading and says that their parents, the late Gray D. Allison and Angeline Allison, were the lawful owners of the property, subject of this litigation and that the intestate estate of the late Gray D. Allison and Angeline Allison and their tenants are occupying the subject property based on the strength of their title.

7. Further to count six (6) of defendants' answer, 1st defendant says that [his] parents purchased the property, subject of this litigation from plaintiff and his mother, Annie Capehart in 1981, and have continued to exercise total control of the said property, openly, without adverse claim from any person for over twenty eight years and therefore says that the plaintiff herein is estopped from making any claim to the subject property.

8. Further to count seven (7) of defendants' answer, 1st defendant says that damages will not lie because the property subject of this litigation does not belong to plaintiff because he and his mother have parted with title and passed title to the late Gray D. Allison and Angeline W. Allison.

9. Defendants deny all and singular the averments of both facts and laws as contained in plaintiff's complaint that are not specifically traversed in this answer.

WHEREFORE AND IN VIEW OF THE FOREGOING laws, facts, and circumstances, defendants pray this Honorable Court to dismiss the entire complaint, along with all of its exhibits and affidavit, with cost against the plaintiff; and grant unto defendants any other such relief as your Honor may deem just, legal and equitable.

On March 26, 2010, the plaintiff/appellee filed an eleven (11)-count reply basically confirming and affirming his complaint. We quote counts 3, 4, 5, 6, 8, 9, which we deem relevant and which counts sum up the plaintiff/appellee's reply.

3. That as to count four (4) of the answer, plaintiff says that the averment contained therein is false and misleading, in that, at no time did plaintiff and his mother (Annie Capehart) ever own any piece of real property jointly, and therefore could not have sold the property, subject of the instant action of ejectment, to 1st defendant or any other person(s) for that matter. Plaintiff submits that the referenced property was deeded to him alone by his late father, James W. Reed, Jr., in 1969, as evidenced by a copy of the warranty deed from James W. Reed, Jr. to plaintiff hereto attached and marked as plaintiff's exhibit "P/3", in substantiation of the averment contained herein.

4. That further to count three (3) above, plaintiff says that exhibit D/2 attached to 1st and 2nd defendants' answer-i.e. the purported warranty deed from Annie Capehart and Christian Reed is a product of fraud. Plaintiff submits and reiterates that he and his mother, Annie Capehart, never, ever owned any real property jointly, not to mention the herein mentioned property, and therefore could not have sold same to 1st defendant or any other person for that matter.

5. Also as to counts three and four above, plaintiff says that the signature of Lloyd B. Kennedy affixed to the warranty deed (exhibit D/2 attached to the answer), as Acting Minister of Foreign Affairs, is not the genuine signature of Lloyd B. Kennedy, consequently, defendants' exhibit D/2 is a product of fraud and should therefore be stricken from the record of the case file.

6. That as to count five (5) of the complaint, plaintiff says that same is false and misleading. Plaintiff submits that the intestate estate of the late Gray D. Allison and Angeline W. Allison could not and did not own the referenced property, because plaintiff and his mother never owned the referenced property jointly to have sold same to 1st defendant.

7. That specifically as to count seven (7) of the answer, plaintiff says that assuming without admitting that defendant occupied said property for over twenty-eight years, plaintiff says that it was because the late Gray D. Allison, while serving as minister in the despotic government of the late President Samuel K. Doe, forcefully, wrongfully and illegally entered upon

plaintiff's property; took possession thereof, and threatened plaintiff with punitive action if he ever again claim ownership to the said property. Hence the plea of adverse possession in the instant action of ejectment is wanting.

9. That further to count eight (8) above, plaintiff says that 1st defendant is on a fishing expedition; in that, in count seven (7) of his answer he boastfully relied on the strength of his title deed – i.e. exhibit D/2 attached to the answer – and then hopes to benefit from the plea of adverse possession in count eight (8) of the answer.

Pleadings rested with the filing of the reply. On April 26, 2010, the trial judge heard arguments on the law issues and determined that the pleadings filed by the parties contained only one factual issue to be determined at the trial – whether or not the plaintiff parted with title to the land in favor of the defendant.

Trial commenced on October 14, 2010. Christian Reed, plaintiff/appellee, took the witness stand and testified. He was the lone regular witness for himself. He testified that the property, subject of litigation originally belonged to his grandmother; that his grandmother gave the property to his father, James Reed, Jr. and that his father turned said property over to him. He informed the court that his father gave him deed for the property but unfortunately the deed got missing so he obtained a certified copy from the Center for National Documents and Archives. He further informed the court that he and his mother, Annie Capehart did not jointly own the property and so he and his mother did not sell the property to the defendants/appellants. He maintained that the property was forcefully seized by Gray D. Allison in 1983 when he (Gray D. Allison) arrived from the United States of America, after the military coup; that even though he was in the country at the time and was living on Carey Street, every effort he made to get back his property from Gray D. Allison proved futile; that he was threatened many times by Gray D. Allison when he made attempts to take back his property; that lawyers at the time expressed fear to represent him against Gray D. Allison. He further stated that he went to several lawyers who scheduled conferences with co-appellant Max Dennis concerning the property but that co-appellant Max Dennis did not attend the conferences.

With the foregoing testimony of Christian Reed, plaintiff/appellee, he rested evidence. Documents relied on by the plaintiff/appellee and which were pleaded and annexed to his complaint were then admitted into evidence.

The defendants/appellants produced three witnesses. Max E. Dennis was the first to testify. He testified that he is the first son of the late Angeline W. Allison; that his mother, until the time of her death was married to the late Gray D. Allison; that Gray D. Allison and Angeline W. Allison purchased the property in question from Annie Capehart and her son, Christian Reed, the plaintiff/ appellee. The witness further testified that Mr. and Mrs. Allison jointly owned the property, that they obtained title deed from Annie Capehart

and her son Christian Reed but due to the massive looting of their residence during the period they were accused of ritualistic killings, the deed for the property was lost; that a certified copy of the deed was obtained from the National Archives in 1993, which is annexed to the answer. While answering a question on the cross-examination, the witness told the court that the deed was recorded in volume 375 to 381 on pages 75-77 at the Ministry of Foreign Affairs. On this answer, the counsel for the plaintiff/appellee gave notice to produce a rebuttal witness.

The defendants/appellants' second witness was Alexin Howard. She identified herself as a Pastor and a retiree from the United States Government. She testified that Annie Capehart, the mother of the plaintiff/appellee is her cousin on her mother's side and that Christian Reed is her cousin, Annie Capehart's son. She further testified that her 92-year old mother who is very sound and close to her cousin, Annie Capehart, told her that Annie Capehart sold the property to the late Watta Allison; so Max Dennis is the actual owner of the property. According to the witness, there are several family members in Caldwell like the Hill family, the Berrian family and the list is long, who know that Watta Allison bought the land from Annie Capehart.

Defendants/appellants' third witness, Wilfred Smith, testified that he worked for the Ministry of Information, Cultural Affairs & Tourism for 32 years as a Cameraman; that during his tenure, Gray D. Allison served as Deputy Minister of Information and Annie Capehart, whom he referred to as Sis. Annie worked in the cafeteria. He informed the court that one day he went to Deputy Minister Gray D. Allison's office; that while he was in the office, Annie Capehart entered to see the Deputy Minister; that he left the office due to an urgent call outside; that upon his return to the office, Deputy Minister Gray D. Allison had just gotten through counting some seven-comer coins (which were then legal tender in Liberia) and gave them to Annie Capehart and she left; that the Deputy Minister told him: that is Watta's money I am paying for her land. After the testimony of this witness, the defendants/appellants rested and admitted into evidence documents they pleaded and annexed to their answer.

The plaintiff/appellee then requested the trial court for the issuance of the writ of subpoena duces tecum and ad testificandum to be served on the Ministry of Foreign Affairs and the National Archives to produce record(s), testify to and rebut the testimony given by the defendants/appellants' first witness, Max Dennis, that the warranty deed offered by defendants/appellants is registered in Volume 375 -381 at pages 75-77. The application was granted.

In obedience to the writ of subpoena duces tecum and ad testificandum, two officials appeared in court, one from the Ministry of Foreign Affairs and the other from the Center for National Document and Records. Charles Kollie, Acting Director of Archives, Ministry

of Foreign Affairs, was the first to testify. He informed the court that he conducted a search in the Bureau of Archives, Ministry of Foreign Affairs and did not find volume 375-381; he could not therefore confirm whether or not the volume exists. He requested for the original of the certified copy of the deed presented by the defendants/appellants to continue the search. The court granted the request and ordered the clerk to transmit to the witness the original copy of the certified copy of the deed presented by the defendants/appellants. The witness was told to appear in court on October 22, 2010, at 10:00 a.m. with a written report.

Mustapha K. Wisseh, Acting Registrar of Deed and Titles, National Documents and Records who was also subpoenaed then took the witness stand. Like Charles Kollie, Acting Director of Archives, Ministry of Foreign Affairs, he informed the trial court that he did not find the instrument, subject of the subpoena duces tecum and ad testificandum. He said, while on the cross-examination, that many ledgers in which documents were registered were looted from their office during the period of the Liberian civil crisis. The counsel for defendants/appellants made an application to court to have witness Mustapha K. Wisseh do more research to establish whether other volumes beyond volume 375 exist at the National Documents and Records Agency. Concerning this application, the trial court held that the certified copy of the instrument sought to be produced in court and testified to was not obtained at the National Documents and Records Agency, neither was it signed by any authority of that Agency. Thus, according to the court, the Archives at the Ministry of Foreign Affairs is the best institution that can give clarification on this matter. The application was therefore denied and the subpoenaed witness, Mustapha K. Wisseh, was discharged and relieved from producing documents and/or testifying in this case.

On October 22, 2010, Charles Kollie, Acting Director of Archives, Ministry of Foreign Affairs again appeared in court. He informed the trial court this time that he conducted a search at the archives of the Ministry of Foreign Affairs which established that a) the seal of the Republic of Liberia appearing on the certified copy of the deed presented by the defendants/appellants was authentic; b) the signatures of the Acting Minister of Foreign Affairs, Lloyd Kennedy and the Director of Archives, James W. Mason on the certified copy of the deed are true and genuine; and c) that the records made in 1981, in their possession indicate that volumes 352-81 to 380-81 are recorded in the inventory of the Archives, Ministry of Foreign Affairs with the exception of volume 375-81.

At the close of the trial the empanelled jury returned a majority verdict of liable against the defendants/appellants.

On October 27, 2010, the defendants/appellants filed a motion praying the trial court to set aside the jury verdict and conduct a new trial on the ground that the verdict returned by the jury is against the weight of the evidence adduced during the trial of the case. The

trial court heard the motion for a new trial, denied it and confirmed the verdict returned by the jury. Thereafter, the trial court entered final ruling holding the defendants/appellants liable in ejectment and ordered that they be ousted, ejected and evicted from the contested property and the plaintiff/appellee be placed in possession thereof. The plaintiff/appellee was awarded special damages in the amount of Twenty Five Thousand United States Dollars (US\$25,000.00) for the wrongful withholding of the contested property.

The defendants/appellants announced an appeal from the final judgment entered by the trial court and have come to us for appellate review of the final judgment on a seven-count bill of exceptions. We quote counts 1, 3, 4, 5 and 6 of the defendants/appellants bill of exceptions which we deem are germane to the determination of this case:

1. That the trial jury committed reversible error when they ignored and denied count seven (7) of defendants' answer in which defendants pleaded and informed this Court that the late Gray D. Allison and Angeline Watta Allison purchased the property, subject of this litigation from plaintiff and his mother, Annie Capehart in 1981, and have since continued to exercise total and unrestricted control over the said property openly without any adverse claim from any person(s) for over Twenty- Eight (28) years and therefore say that plaintiff is estopped from making any claim to the subject property.

2. That the trial jury committed reversible error when they ignored plaintiff's testimony which is found on pages 10 and 11 of the minutes of October 14, 2010, same being the 23rd day jury sitting, when he said in answering two questions that he has been in Liberia and has been living on Carey Street, but did not file any action until after twenty-eight (28) years of occupancy by the defendants.

3. That the trial jury committed reversible error when they ignored plaintiff's subpoena[ed] witness' testimony as found on page Six (6) of the minutes of October 22, 2010, same being the 29th day jury sitting, who testified, "And we established from our verification authenticating the seal of the Republic of Liberia on this deed and the two signatures both of the Acting minister of Foreign Affairs, Lloyd Kennedy and the Director of Archives, James W. Mason to be correct.

4. That the trial jury also committed reversible error when they ignored defendants' second witness' (Wilfred Smith) testimony as found on page 17 of the minutes of October 15, 2010, who testified, Gray D. Allison took a bag from under his desk with seven corner coins we were using at that time and when I came back in the building, he had just got through counting it and given it to Sis. Annie and she left and he told me that's Watta's money I am paying for her land and I said ok.

5. That Your Honour committed reversible error when Your Honour, on the 19th day of November, A.D. 2010, denied movants/defendants motion for new trial and affirmed and

confirmed the verdict as returned by the empanelled jury, to which movants/defendants' counsel excepted.

In the brief filed and argued before this Court, counsels for the defendants/appellants have argued that plaintiff/appellee Christian Reed and his mother, Annie Capehart sold the property to the late Gray D. Allison and his wife, Angeline Watta Allison in 1981, and parted with title; that the testimonies of two of their witnesses, Pastor Alexin Howard and Wilfred Smith confirm that indeed the property was sold to the late Gray D. Allison and Angeline Watta Allison. They also argued that the testimony of rebuttal witness Charles Kollie, Acting Director of Archives, Ministry of Foreign Affairs attests to the legitimacy of the certified copy of the defendants/appellants' deed issued by plaintiff/appellee Christian Reed and his mother, Annie Capehart when he confirmed that the signatures of both the then Acting Minister of Foreign Affairs, Lloyd Kennedy and James W. Mason, Director of Archives, Ministry of Foreign Affairs, appearing on the certified copy were correct and genuine. They further argued that the late Gray D. Allison and his wife, Angeline Watta Allison exercised total and unrestricted control over the disputed property until their death during the Liberian civil crisis; that following their death, Max Dennis took over and administered their estate without contest or adverse claim from the plaintiff/appellee or anyone until 2010, for the period of more than 28 years after the purchase of the property before the plaintiff/appellee filed this action of ejectment.

The counsels representing the plaintiff/appellee on the other hand have contended that the plaintiff/appellee adduced sufficient evidence to establish his title to the property, subject of this ejectment action. They further contended that the verdict of the trial jury is in harmony with the evidence adduced at the trial; that the jury carefully examined the evidence produced by both parties and reached the conclusion that the disputed property belongs to the plaintiff appellee, thus the jury verdict should not be disturbed. The counsels for the plaintiff 'appellee have relied on the case: Levi Tolbert vs. Republic, 30 LLR, 3, (1982) wherein the Supreme Court held that where the trial is regular and the proof is clear, the judgment of the lower court ought to be sustained.

After having carefully reviewed all the records in this case, including the pleadings filed by the parties and the exhibits thereto, the testimonies of their witnesses, and the briefs filed and argued by counsels representing them before this Court, we shall now analyze and address the contentions of the parties in determining this case.

We must say that in a title suit such as the one before us wherein one party seeks to eject the other from a real property, the best evidence of title is the original copy of the party's deed. The Supreme Court has held that the courts have the legal duty to ensure that the deeds presented by the parties and upon which they rely for asserting claim of ownership or title to a disputed property are clean and leave no ambiguity or doubt as to their

genuineness. The Estate of the Late Karman Dassen vs. Bawo, Captan et al, decided on August 16, 2012, during the March Term, 2012, of this Court.

We note, however, that none of the parties to this ejectment action produced the original copy of the title deed they rely on to recover. Both parties in the case before us have represented that even though they obtained title deeds from their respective grantors, their title deeds were lost so; they applied for and obtained certified copies of their deeds from the archives.

The plaintiff/appellee averred that on the 3rd day of February, A.D. 1969, he acquired from James W. Reed Jr., his father, one-half(1/2) lot of land situated, lying and being on Carey Street, City of Monrovia, Republic of Liberia; that his father gave him deed for the property but the deed got missing; so he obtained a certified copy thereof from the Center for National Archives which he attached to his complaint.

The defendants/appellants also relied on a certified copy of a deed. They maintained that even though the late Gray D. Alison and his wife, Angeline Watta Alison were issued title deed in 1981, when they purchased the property in question from plaintiff/appellee Christian Reed and his mother, Annie Capehart, the said title deed was lost due to the massive looting of the home of Mr. and Mrs. Allison; so defendants/appellants obtained certified copy of the deed from the archives in 1993, which they annexed to their answer.

The plaintiff/appellee has challenged the certified copy of the defendants/appellants' deed. He did so on several grounds. In count five of his reply, the plaintiff/appellee contended that the signature of Lloyd B. Kennedy affixed to the certified copy of the defendants/appellants' deed as Acting Minister of Foreign Affairs is not the genuine signature of Lloyd B. Kennedy. The plaintiff/appellee also challenged the certified copy of the defendants/appellants' deed on the ground that the original copy of said deed was not registered in volume 375-81 on pages 75-77 at the Ministry of Foreign Affairs as seen on the face of the instrument and as testified to by co-appellant Max Dennis. The plaintiff/appellee therefore maintained that the instrument was a product of fraud.

But, Lloyd B. Kennedy did not testify for the plaintiff/appellee to support this important position taken by the plaintiff/appellee that Lloyd B. Kennedy's signature on the certified copy of the deed presented into evidence by the defendants/appellants was a product of fraud. To our mind, the plaintiff/appellee should have requested Lloyd B. Kennedy to testify for him. No one could have served as a better witness than Lloyd B. Kennedy on this point. The law requires that the best evidence the case admits of must always be produced; that is, no evidence is sufficient which supposes the existence of better evidence. Reliance: Section 25.6(1), 1LCLR, Civil Procedure Law.

And the Supreme Court has held that the best evidence of a fact is the testimony of a person with direct knowledge thereof. *Blamo vs. Republic*, 17 LLR, 232, (1966).

But as stated earlier in this opinion, Charles Kollie, Acting Director of Archives, Ministry of Foreign Affairs who was subpoenaed by court at the instance of the plaintiff/appellee, appeared and testified that he conducted a search at the archives of the Ministry of Foreign Affairs which established that a) the seal of the Republic of Liberia appearing on the certified copy of the deed presented by the defendants/appellants was authentic; b) the signatures of the Acting Minister of Foreign Affairs at the time, Lloyd B. Kennedy and the Director of Archives, James W. Mason on the certified copy of the deed presented by the defendants/appellants are true and genuine; and c) that the records made in 1981, in their possession indicate that volumes 352-81 to 380-81 are recorded in the inventory of the Archives, Ministry of Foreign Affairs with the exception of volume 375-81.

To our mind, the testimony of Charles Kollie, Acting Director of Archives, Ministry of Foreign Affairs confirms that the certified copy of the deed presented into evidence by the defendants/appellants is authentic - he testified that the seal of the Republic of Liberia appearing the certified copy is genuine and that the instrument was signed by competent authorities at the Ministry of Foreign Affairs at the time.

Regarding the registration of the instrument in volume 375 to 381 on pages 75-77 at the Ministry of Foreign Affairs, the Acting Director of Archives confirmed that the Ministry of Foreign Affairs has in its possession volumes 352-81 to 380-81; but he did not find volume 375-81. We agree with the contention of counsels for the defendants/appellants that the issue of the missing volume could be attributed to the massive looting of the archives, and not the fault of the defendants/appellants.

The plaintiff/appellee has also challenged the certified copy of the defendants/appellants' deed on the ground that he and his mother did not jointly own the disputed property and that he and his mother did not sell the property to anyone. But he concedes the point that as far back as 1983, the property was alienated from him and has, since that time, been in the control and possession of defendants/appellants. As stated above, apart from the title instrument presented by the defendants/appellants they also raised the issue of adverse possession. They maintained that the late Gray D. Allison and his wife, Angeline Watta Allison purchased the property from the plaintiff/appellee and his mother, Annie Capehart in 1981, and exercised total and unrestricted control over it until their death during the Liberian civil crisis 1990; that following their death, co-defendant Max Dennis took over and administered the estate without contest or adverse claim from the plaintiff/appellee or anyone until 2010, a period of more than twenty-eight years after the purchase of the property before the plaintiff/appellee filed this action of ejectment. This contention was

raised in count 7 of the defendants/appellants answer and it was listed as the first count in the bill of exceptions filed by the defendants/appellants.

We take note that even though the defendants/appellants squarely raised the plea of adverse possession in their answer and produced witnesses who testified indicating that the property in question was purchased in 1981, and that no claim was lay to it until 2010, the trial court did not pass on this issue. And the records do not show that the trial judge charged the jury with respect to the question of adverse possession. Consequently, the issue of adverse possession was never considered by the trial jury in deciding this case.

The question is, assuming without admitting that the defendants/appellants do not have good title or any title at all, as the plaintiff/appellee wants us to belief, what becomes of their open, continuous and notorious occupation of the subject property for more than 28 years without legal challenge from the plaintiff/appellee? Having they, by operation of law, acquired the property by adverse possession in keeping with statute? We think they have.

Section 9.6, 1LCLR, Civil Procedure Law, provides that a party may set forth two or more statements of claim or defense in the alternative. When two or more statements are made in the alternative and one of them, if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. Thus, it is permissible for a party, while relying on a title instrument in support of his/her ownership to a real property, subject of dispute; to, at the same time, enter an alternative plea of adverse possession.

The law requires that all actions be commenced within the time prescribed by law. An action to recover real property or its possession shall be barred if the defendants or his privy has held the property for a period of not less than twenty years. Reliance: Section 2.12(2) 1LCLR, Civil Procedure Law.

The plaintiff/appellee in this case does not deny that the defendants/appellants and their privies exercised open and continuous control over the subject property for more than 28 years prior to the institution of the action of ejectment in 2010. The plaintiff/appellee's position is that the late Gray D. Allison, while serving as Minister of Defense in the despotic government of the late President Samuel K. Doe, forcefully, wrongfully and illegally entered upon the property, took possession thereof, and threatened the plaintiff/appellee with punitive action if he ever again claimed ownership to the property. In an answer to questions on the cross examination, the plaintiff/appellee, Christian Reed said as follows:

Question: Mr. witness, where have you been since Gray D. Allison seized your property?

Answer: I was living at the house on Carey Street.

Question: Mr. witness, up to the filing of this suit in 2010, I presume you lived in Liberia, am I right?

Answer: Yes, I was in Liberia.

So, the plaintiff/appellee admits that he was all along in the country and resided within the vicinity of the disputed property when, according to him, his property was being openly claimed and occupied by the defendants/appellants. He waited for more than 28 years before instituting this action of ejectment. He has not asserted any of the defenses under the law that would stop the statute of limitation from operating against him. His contention that the late Gray D. Allison threatened him with punitive action if he ever claimed ownership to the property in question is not tenable and is not a defense to stop the statute of limitation from running against him. Under the circumstance, where he waited for more than 28 years before pursuing court action to protect his property interest, we hold that he is time barred from asserting ownership to the said property.

This Court has held that an action to recover real property or its possession shall be barred if the defendant or his privy has held the property adversely for a period of not less than twenty years. *Seku Freeman et. al vs. A. Kini Freeman et. al*, 31LLR, 235 (1983).

This Court has held, also, that a person who, being under no legal disability at the time, stands by and permits property, which he claims, to pass into the possession of another without objecting thereto is presumed to have assented to the act and is estopped from afterward raising claims thereto. *Jackson vs. Mason*, 24LLR, 108 (1975).

Speaking further in the *Jackson v. Mason* case cited above, the Supreme Court held that there would be untold disturbance to society if unduly belated demands were allowed to defeat long established vested titles to real property, especially where the silence of claimants for a long period of time could be presumed as acquiescence in the previous disposition of the property.

Given the foregoing facts and circumstances, it was an error for the jury to have returned a verdict for the plaintiff/appellee. The jury verdict is not in harmony with the evidence adduced at the trial. It was an error, also, for the trial judge to have denied the motion for new trial filed by the defendants/appellants. The statute provides that after a trial by jury of a claim or issue upon the motion of any party, the court may set aside a verdict and order a new trial of a claim or separable issue where the verdict is contrary to the weight of the evidence or in the interest of justice. Reliance: Section 26.4, 1LCLR, Civil Procedure Law.

But we will not order a retrial in this case. This Court is authorized by law to affirm, reverse or render such judgment as will effectuate the administration of justice, equity and law. *R. J Reynolds International Export, Inc. vs. United Africa Company (Liberia) Ltd.* 30 LLR, 135 (1982).

In our opinion, the evidence produced by the defendants/appellants in support of their ownership to the disputed property is overwhelming. We take particular note of the alternative plea of adverse possession entered by the defendants/appellants which was not denied by the plaintiff/appellee. We do not believe that there will be a different outcome other than finding for the defendants/appellants were we to order a retrial of this case.

WHEREFORE, we hold that the jury verdict returned in this case, being contrary to the evidence adduced at the trial is hereby reversed; the judgment of the trial court confirming the jury verdict is also reversed. We hold further that the defendants/appellants' reliance on the alternative plea of adverse possession which was never denied and rebutted by the plaintiff/appellee presents a stronger proof of ownership; the defendants/appellants are therefore entitled to the property, subject of dispute.

The Clerk of this Court is hereby ordered to send a mandate to the trial court ordering the judge presiding therein to resume jurisdiction over this case and give effect to this judgment. Costs are ruled against the plaintiff/appellee. IT IS SO ORDERED.

COUNSELLOR NECULAR Y. EDWARDS APPEARED FOR THE DEFENDANTS/APPELLANTS. COUNSELLOR ALBERT S. SIMS APEPARED FOR THE PLAINTIFF/APPELLEE.