

LEROY E. FRANCIS, Appellant, v. **MENZO SALAMI BROTHERS**, a
Lebanese Mercantile Firm doing Business in Liberia and acting for CAVALLA
RIVER CO., Ltd., formerly doing Business in Liberia, Appellees.

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

Argued November 30, December 2, 1953. Decided January 22, 1954.

An injunction to prohibit institution of an action of debt will not be granted since there is an adequate remedy at law.

On appeal from denial of an injunction to restrain the institution of an action of debt, *judgment affirmed*.

A. B. Ricks, assisted by *Leroy E. Francis*, for appellant. *R. F. D. Smallwood* for appellees.

MR. JUSTICE SHANNON delivered the opinion of the Court.

Leroy Francis, appellant, entered into an agreement with Cavalla River Company, Ltd., to which Salami Brothers became successors, for the erection of a concrete building at Grand Bassa according to plans and specifications upon which they agreed. Whether the said building was satisfactorily completed according to the agreement is disputed. Appellant, finding himself threatened with a lawsuit for \$4,783.00 allegedly overdrawn, fled to equity with a suit entitled: "Bill in Equity for Relief and Equitable Settlement of Contract dated 24th May, A.D. 1949," obviously intending this to be a barrier against the institution of an action to recover his alleged indebtedness to the said Salami Brothers, successors to Cavalla River Company, Ltd.

After filing this suit in equity, appellant filed an action of injunction against Salami Brothers to restrain them from instituting an action of debt against him. Salami Brothers appeared and answered with several pleas, some of which the trial judge properly considered not necessary to the determination of the case. Counts "3" and "4" of the answer read as follows :

"3. And also because defendants say that it is illegal and improper for plaintiff to institute an action of injunction against defendants enjoining them from exercising a legal right, a right that can be contested by plaintiff in any court where such action is

filed, and the court sitting in chancery should use its sound discretion in granting a writ of injunction because of its powerful and restraining nature ; and any disobedience whereof subjects the offending party to contempt. Wherefore defendants pray that the injunction be dissolved, the complaint dismissed with costs against plaintiff.

"4. And also because an action of injunction will not lie where there is an adequate and complete remedy at law; that is to say, if an action of debt was instituted against plaintiff, plaintiff has an adequate remedy at law to prove his not being indebted to the defendants. Wherefore defendants pray that the writ be dissolved and action dismissed with costs against plaintiff."

Against these two pleas which, in our opinion, are salient and worthy of consideration, appellant made the following reply in Count "a" thereof ;

"2. And also as to Counts '3' and '4' of said answer, plaintiff denies the legal and equitable soundness of defendants' position taken in said pleas, and maintains that he denies the legal and equitable soundness of the position taken in said pleas by defendants; but on the other hand, he maintains that he rightly prayed for and was granted a writ of injunction against the defendants in this suit. Wherefore plaintiff prays that Counts '3' and '4' of the said answer be dismissed."

We consider this a very weak manner of answering pleas. The trial judge in ruling on the issues raised in the pleadings stated the following:

"The Constitution of this country has guaranteed to every man the right to seek redress for every wrong or injury he might feel himself suffering. The plaintiff in these proceedings instituted this suit of injunction against defendants, praying this court to enjoin and prohibit them from instituting an action of debt against him. I am of the opinion that the perpetuation of this injunction would be inequitable and unconscionable, and I do not see what injury could result to the plaintiff by the institution of an action of debt; for, if he is not liable, he would be so adjudged and the costs of the action would be borne by the defendants. I wish to sound a warning note against these unmeritorious and inequitable applications for injunction. There are several other issues raised in the answer of the defendants ; but the court does not consider it necessary to pass upon them because the bill is void of all equitable grounds. The injunction is therefore dissolved and the case dismissed with costs against the plaintiff."

Although the wording of this decree is not so precise as to show exactly which sections of the answer it sustains, we come to the conclusion that it is based principally upon issues raised in Counts "3" and "4" of the answer. It is axiomatic that an injunction will not generally be issued where there is an adequate and complete remedy at law. 14 R.C.L. 405, 408, *Injunctions*, § 106, 109. It has not been shown that this appellant would have been without an adequate and complete remedy. His vague interpositions and suggestions to the effect that his rights would be endangered and his privileges undermined and hampered by undue and mischievous machinations cannot find favorable consideration from this Court. The unmeritorious resort to injunction or writ of prohibition for the purpose of delaying the operation of the courts has led, in many cases, to the result that poor and unfortunate clients have been induced into payment of undue litigation fees and costs.

In the instant appeal, because of the adequate and complete remedy available at law to the appellant in the event the allegedly threatened action is instituted by the appellees, we find no alternative but to affirm the decree of the lower court with costs against the appellant, plaintiff below; and it is hereby so ordered.

Affirmed.