THOMAS GLASSCO et al., Appellants, v. **KOFA THOMPSON,** Appellee.

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

Heard: November 15-16, 1982. Decided: February 4, 1983.

1. It is the inherent power of courts to punish for contempt.

2. A person need not be a party to a pending suit to be punished for contempt.

3. A contempt proceeding is a sui generis action. Thus, the court, without a complaint, may on its own motion institute proceedings to punish for offenses against its dignity and authority.

4. In an action for contempt, the admission and denial of averments in a bill of information, without qualification, will be deemed as an admission against interest and proof of the matter asserted.

5. Refusal to obey a court order constitutes contempt, regardless of the unsoundness or voidness ab initio of the court's judgment.

6. The purpose of contempt proceedings is to vindicate the dignity of the courts. Distinct from any litigation from which they may arise, contempt proceedings must be separately tried and adjudicated. Under the "New Judiciary Law", every court has the power to punish for a criminal contempt.

7. A person may be permitted to intervene in a case prior to rendition of final judgment where his rights or interest are, or will be materially affected.

8. The Supreme Court, may in its discretion, permit a third party to intervene in a case in which he was not an original party.

A default judgment was rendered in favor of appellee and a writ of possession placed in the hands of the sheriff to put appellee in possession of the property sued for. Appellants were not parties to the suit. When the sheriff went to effect the execution, he was confronted by a mob, including appellants herein, who physically obstructed him and refused to vacate. A bill of information was filed complaining of the obstruction and appellees, defendants in the ejectment action, were cited to appear to show cause why they should not be held in

contempt. Appellants were not named as defendants. However, when the sheriff went to serve the citation for the contempt proceedings, appellants were identified as those who were part of the mob that obstructed the sheriff in enforcing the writ of possession. They were therefore cited to appear.

Appellants appeared and argued that by failing to name them as parties to the ejectment suit and to the bill of information, the court was without jurisdiction to punish them for contempt. They also argued that they not being parties to the ejectment action, they had the right to protect their properties from unlawful seizure by the sheriff. The judge rejected their argument, adjudged them guilty of contempt, and imposed a fine of $300.00 on them. From this judgment, appellants appealed to the Full Bench.

The Supreme Court held that it is the inherent power of the courts to punish for contempt and that a person need not be a party to an action to be punished for contempt, and the fact that the appellants were not parties to the ejectment action and not served with the writ of possession, is immaterial to the issue of contempt as long as they knew that the writ was issued by a court, but chose to disregard judicial authority. Accordingly, the Supreme Court affirmed and confirmed the judgement.

M. Fahnbulleh Jones appeared for appellants. James Doe Gibson appeared for appellee.

MR. JUSTICE YANGBE delivered the opinion of the Court.

The appellants in this bill of information were charged with contempt and fined $300.00 by the circuit judge below for physically obstructing the sheriff and preventing him from enforcing a writ of possession issued in an action of ejectment to which they were not parties.

On this appeal, we are asked to determine whether the judge committed a reversible error by imposing a fine of $300.00 upon all five (5) of the appellants for their deliberate and admitted interference with the enforcement of the writ of possession.

From the records certified to us in this case, we want to observe the following facts.

On January 10, 1980, Mr. Kofa Sayon Thompson, the plaintiff, appellee herein, filed an action of ejectment against one Tarpeh Comnlah, Daniel Crusco, Isaac Wolo, Sayon, Old lady Nmanson and other appellants, of New Kru Town to be identified, alleging that the said appellants were illegally occupying a tract of land which he, Kofa Sayon Thompson, had purchased from the heirs of King Peter.

No answer to the complaint was filed within the statutory time. Hence, a clerk's certificate to this effect was consequently obtained by Mr. Thompson and at the disposition of the law issues, the appellants were placed on a bare denial.

When this case was called for trial on May 4, 1981, the appellants likewise failed to appear. A default judgment was entered against them under Rule #7 of the Circuit Court, with the exceptions taken and the appeal announced on their behalf by a court-appointed counsel.

After the appellants refused to pay the bill of costs and failed to perfect their appeal, Mr. Thompson then filed a motion to dismiss the appeal and to enforce the judgment entered in his favor. Needless to say, the motion was entertained without a resistance and in the absence of Counsellor Jones for appellants.

The first writ of possession was immediately thereafter issued but when it was later discovered that the deed to the land contained some error, Mr. Thompson promptly petitioned the Circuit Court for a correction of his deed. The petition was granted and the necessary corrections made by the court, with no motion to intervene, no caveats, or any legal objections from adjacent property owners.

Based upon the corrections made after final judgment in the ejectment suit, through the assistance of a government surveyor from the Ministry of Lands, Mines and Energy, a second writ of possession was issued by the court ordering the sheriff to restore Mr. Thompson in possession of his property. When the sheriff went to New Krutown to place Mr. Thompson in possession of his property, he was confronted by a mob who physically obstructed him and refused to vacate.

It appears that appellants - Thomas Glassco, Jackson Doe, Joseph Wolo, Garrison Togba and Oldlady Nmanson were among the persons who had physically obstructed the sheriff, but because the names of all the persons involved in the mob action were not immediately available to the court at the time of the filling of the bill of information, only the original defendants to the ejectment suit were cited for contempt. But when the sheriff proceeded along with Mr. Thompson to New Kru Town to serve the bill of information, they saw appellants and recog-nized them on sight as participants and cited them to appear.

When they appeared through Counsellor M. Fahnbulleh Jones, appellants argued that by failure to name them as parties to the ejectment suit, or as respondents in the bill of information, the court was without jurisdiction to punish them for contempt and that they had a right to protect their properties from unlawful seizure by the sheriff.

The court rejected this argument, saying that even if its judgment was clearly wrong and appellants' properties were thereby adversely affected, they did not have a right to take the law into their own hands by attacking the sheriff. All five (5) of them were fined $300.00 for contempt of court.

On this appeal, they have raised similar arguments and buttressed them by a claim that the $300.00 fine imposed on them is excessive and contrary to the statutory limit of $100.00.

We now turn to the merits of these arguments in light of the applicable laws.

The Supreme Court of the Republic of Liberia has held that it is the inherent power of the courts to punish for contempt; that to be punished for contempt, a person need not be a party to the suit. See In Re Moore, 2 LLR 97 (1913). The fact that appellants were neither named parties to the ejectment action, nor were they served with copies of the writ of possession issuing there-from, is immaterial to the issues of contempt, as long as they knew that the writ was issued by a court but chose to disregard judicial authority; for it has been held by this Court that obedience to a restraining writ, whether it is a writ of injunction or otherwise, commences from the time the party charged with contempt had actual knowledge of such a writ or the issuance thereof. Ibid; also see Porte v. Dennis, 9 LLR. 213(1947).

A contempt proceeding is a sui generis action. Thus, the court without complaint may of its own motion institute contempt proceedings to punish for offenses against its dignity and authority, although the contempt was not strictly speaking committed in the actual presence of court. Above all, the seriousness with which the Supreme Court regards contempt depends on the intent of the respondent's act. Gibson v. Wilson and Blackie, 8 LLR 165 (1943). See also In re Caranda, 8 LLR 249 (1944).

Counsel for appellants has admitted that when his motion to vacate execution of the writ of possession was heard and denied in his "absence, a bill of costs was issued and attempted to be served on the appellants who now DISREGARD the said bill of costs." (see middle passage of his brief on page 2). On page 3 of counsel's brief, he also unequivocally admits that: "When the sheriff in the lower court went to execute the second writ of possession, dated 4th day of February, 1982, some of the appellants herein resisted and refused to be evicted on the grounds that they knew nothing of this case even though they were parties to the ejectment suit, and no judgment was rendered against them which would be enforced." (emphasis supplied).

Despite this glaring admission to the charge of unlawful interference with a writ of possession, counsel for appellants denies in count 4 of his brief that his clients ever obstructed the writ of possession. In an action for contempt, the admission and denial of

averments in the bill of information, without qualifications, will be deemed as an admission against interest and proof of the matter asserted. This Court will therefore view counsel's admission as a conclusive evidence of contempt. 13 C. J. S., Contempt, § 61.

Refusal to obey a court order constitutes contempt, regardless of the unsoundness, or voidness ab initio, of the court's judgment. The International Trust Company of Liberia v. Weah, 15 LLR 568 (1964). Similarly, where the court had jurisdiction over the persons and subject matter of the action the fact that the injunction or restraining order is merely erroneous, or was improvidently granted or irregularly obtained, is no excuse for violating it. The order of a court must be obeyed until vacated or modified by the issuing court, or until reversed on appeal by a superior court. Therefore, when an injunction has been violated, an order holding the violator in contempt will be held. Oost Afrikaansche Compagnie v. Mensah and Davis, 13 LLR 11 (1957).

The purpose of contempt proceedings is to vindicate the dignity of the courts. Distinct from any litigation from which they may arise, contempt proceedings must be separately tried and adjudicated. Kpunel et al. v. Gbassie and Hunter, 15 LLR 50 (1962).

In conclusion, we hold that the trial judge committed no reversible error by imposing a $300.00 fine upon the five (5) appellants in this case for their deliberate and admitted obstruction of the sheriff in the execution of a writ of possession lawfully issued in the action of ejectment below.

Under the "New Judiciary Law", every court has the power to punish for a criminal contempt. Judiciary Law, Rev. Code 17: 12.6. But the fine for a criminal contempt of a circuit court is limited to $100.00. There are five (5) persons in this case who were fined $300.00 for contempt, or $60.00 each, which is far less than the maximum allowed by statute. Appellants' contention that the fine was excessive is, therefore, unmeritorious.

The appellants were not without adequate legal remedy even if their rights were clearly violated by the writ of possession. Their rights to file a motion to intervene (Civil Procedure Law, Rev. Code 1:5.63), a motion for a relief from the judgment (Ibid., 1: 41.7), or to avail themselves of the remedy provided for persons not personally served (Ibid, 1:3.44) were and still are, available to the appellants in this case.

Although this Court has said that the rights of no one shall be concluded by a judgment rendered in a suit to which he was not a party, it has also held that, under certain circumstances, a person may be permitted to intervene in a case pending before a court prior to the rendition of final judgment, where his rights and interests are, or will be, materially

affected. Johns v. Witherspoon, 9 LLR 152 (1946). The same principle was upheld in the case of Childs and Johnson v. States, 4 LLR 138 (1934), where this Court said that upon proper application made and good cause shown, the Supreme Court may, in its discretion, permit a third party to intervene in a case in which he was not an original party.

Based upon these decisions of the Supreme Court, we hold that the ruling of the circuit judge finding the appellants guilty of contempt does not constitute a reversible error. We therefore affirm same. And it is so ordered. Judgment affirmed.