

W. B. HARRIS, Appellant, vs. WILFRED LOCKET, Appellee.

1 LLR 79 (1875)

[January Term, A. D. 1875.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Ejectment.

1. Deeds for grants of lands by the government are valid only when issued and made during the incumbency of the president whose signature they bear; the authority of a president in this relation is that of an agent. It follows, therefore, that a deed, which is a contract, cannot be valid when issued after the expiration of the agency or presidential tenure.

2. In ejectment questions of a mixed character are involved and under statute must be tried by a jury under the direction of the court.

In this action appellant introduced in the court below the original deed from the government, which upon inspection is found bearing the signature of President D. B. Warner, of which deed a question was raised in the court below, as to the legality; and upon examination of the same, the court below says: 'Deeds deposited in the registrar's department under statute laws, bearing the signature of the president of the Republic, may be legally issued, but only during the time said president is actually in office.'

This court says the opinion of the court below is correct as to the non-effect of a blank deed bearing the signature of a president and filled up by the registrar after that president's term of office had expired. For it would be a gross violation of the law of agency and a strong inducement for fraud for a court of justice to encourage a doctrine so annoying in its tendency, and absurd in its principles, as urged by appellant's counsel.

This court maintains that the official signature of a president to a blank deed deposited in the registrar's office, agreeable to the direction of the statute and filled up by the registrar with a description of a certain lot or parcel of land and the name of the grantee, as being the deed of land granted by virtue and authority of the office of the president whose signature is thereunto affixed, while at the same time the said president's term of office had expired, is void and of no effect. Because to give legal effect to a deed, both parties must be competent to contract at the time the contract was entered into, otherwise the contract is illegal.

The president is the agent of the government to sign deeds granted according to law. His signature to a deed executed and made perfect during the legal existence of his official term of office, is binding and of effect in law, and in all cases when there is not collusion, double conveyance or fraud. Emigrants of African descent under the Constitution of Liberia have a right to claim and hold lands in accordance with such regulations made by the Legislature of this Republic.

Ejectment, being an action involving a mixture of questions of law and fact, must be tried by a jury. And as it does not appear to this court by the record for whom judgment ought to be given in this case, it is hereby remanded to the Court of Quarter Sessions in which it was originally tried, to be tried over again, all costs to follow the case.