

R. R. JOHNSON, Appellant, vs. THOS. H. CASSELL, Appellee.

LRSC1; 1 LLR 161

[January Term, A. D. 1883.]

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

A writ of injunction does not lie in cases where the title to real estate is an issue involved. Courts of law, and not equity, have jurisdiction over cases involving title to real property, according to the Statutes of Liberia.

This case is an appeal from the decree of the judge of the Court of Common Pleas and Quarter Sessions, Montserrado County.

An action of injunction is one in which plaintiff seeks to compel the defendant to permit matters to remain in the present state, or requiring some specific act to be done. This action must be commenced by a writ of injunction, to obtain which, the plaintiff must show in his complaint, verified by his own oath, and by such other evidence as the court or judge may think proper to receive, that he has a good cause for applying for such a writ; whereupon, if the court or judge in the exercise of sound discretion, should discover that the right of the plaintiff is sufficient to warrant its interposition, the writ may be issued, but otherwise it ought not to be granted.

This court regards it an indispensable duty to state just here, in emphatic terms, that in no case where the issue involves questions respecting the validity of title to real estate, which ought to be settled in a court at common law, should a writ of injunction be granted for the purpose of deciding upon the validity of such title. In this case, this Supreme Court will only consider the rights of the parties under the circumstances surrounding the case, without interfering with the validity of the title right of either party. It is, however, evident from the oral testimony in this case and from the admissions of the contending parties, that the coffee trees, which defendant in the court below was sought to be enjoined to abstain from picking the coffee off, are on the same lot of land claimed by appellant and appellee.

We refrain from any expression as to the validity of the title rights of the parties in this case, to said lot of land. But it is our duty to say, whether the appellant has a good and bona fide right and title for said lot of land; or, on the other hand, whether Jordan Hardy's title under which the appellee (defendant below) sets up his defence, is a good and bona fide one or not, it is not a subject material to the issue in this case. Because the transfer from James Butler to R. R. Johnson, for lot number ninety-one in the settlement of Brewerville, so described in plaintiff's complaint, gives the appellant an apparent right to said lot; also does the Jordan Hardy's deed from the Republic of Liberia, give whomsoever claims under said deed a like apparent right to the said lot of land. This fact the oral testimony in the case plainly shows.

It is not injudicious for this court at this juncture to observe, that whatever may have been the right of the appellee, under Jordan Hardy's deed, to pick the coffee off the trees on said lot, that right obviously followed the foreclosure of Hardy's mortgage. It is therefore proof presumptive, that the appellee in picking the coffee acted on a right assumed, and not from any right apparent, derived from Jordan Hardy to the lot now in dispute.

Therefore, the judgment of the court below is hereby reversed, and this court adjudges that the appellee be and is hereby forever enjoined to abstain from picking coffee off the coffee trees upon said lot of land now in dispute, under any pretext of rights derived from Jordan Hardy's deed as administrator of said estate. The appellee is ruled to pay all costs incurred in this action.