

NAPOLEON T. KING, JOHN ZOEDOE, and F. TOGBA BLAMO, Administrators
of the Intestate Estate of the Late **KING PETERS**, Informants, *v.* **MOSES
JARNVENEH., ROBERTSON FALLAH, FAYAH SACKOR BROWN, BEN
NAGBE et al.**, Respondents.

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

Heard: December 13, 2004. Decided: February 28, 2005

1. The Full Bench of the Supreme Court cannot pass on a matter pending before the Chambers Justice.
2. Where the Justice in Chambers before whom a petition for a writ of prohibition and returns thereto are filed has not rendered a ruling on the issues raised therein, the Supreme Court cannot determine the prohibition as it is not before the full bench.
3. According to the Liberian Constitution, the Supreme Court sits in appellate jurisdiction and does not take cognizance of cases that are not of an appellate nature, except cases involving ambassadors, Ministers, or cases in which a county is a party.
4. The Supreme Court is the final arbiter of constitutional issues and exercises final appellate jurisdiction in all cases, whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact, except cases involving ambassadors, ministers, or cases in which a county is a party. In all such cases, the Supreme Court exercises original jurisdiction.
5. If a party to a case before or decided by the Chambers Justice, and who does not appeal there from, feels aggrieved by the improper execution of the mandate of the Chambers Justice, or if a party is impeding or obstructing the enforcement of the mandate, a bill of information is the appropriate action to obtain relief.
6. Where a matter is pending before a Justice in Chambers, a bill of information growing out of such matter must be venue before the Justice in Chambers and not the Full Bench of the Supreme Court.

The appellants, administrators of the Intestate Estate of the late King Peters, alleging that the said Estate owned a certain parcel of land, instituted an action of summary proceedings to recover real property against certain of the respondents whom they accused of occupying a portion of the land owned by the estate. Judgment was entered by the lower court in favor of the informants. From this judgment the respondent appealed to the Supreme Court.

While the appeal was pending before the Supreme Court, the petitioners in prohibition, learning that the judge presiding in the lower court had ordered a writ of possession to be issued against them to evict them from the premises, filed a petition for a writ of prohibition

before the Justice in Chambers of the Supreme Court to prohibit the lower court and the informants from evicting them. The petition in prohibition stated that petitioners were not named in the writ of summons issued by the lower court and were therefore not served with summons, and hence, had no opportunity to appear, answer and defend their rights to their various properties. The Justice in Chambers ordered the alternative writ issued and served on the informants.

While the prohibition remained pending and undetermined by the Justice in Chambers, the informants, plaintiffs in the lower court, filed a bill of information before the full bench of the Supreme Court alleging that notwithstanding the pendency of the appeal taken to the Supreme Court by the respondents in information, the latter were continuing to operate businesses and dwelling houses on the disputed property without paying rents there for to the informants. The informants therefore prayed the Supreme Court to have the Marshall collect the rents from the property that was in possession of the respondents in information and to have the same placed in escrow. Based on the said allegations, the alternative writ of information was ordered issued. On the agreement of the parties, the appeal, prohibition and information were consolidated.

The Supreme Court dismissed the information, holding that it was filed before the wrong forum. The Court observed that the information grew out of the prohibition filed before the Justice in Chambers and that the prohibition had not been determined by the Justice or any ruling made thereon by him. It said that under the circumstances, if there were contentions regarding the case while the prohibition was pending before the Justice, the information should have been filed before the Justice and not the full bench.

Speaking directly on the prohibition, which was consolidated with the appeal and the information, the Court held that the Constitution of Liberia gives to it only appellate jurisdiction except in certain matters. Accordingly, it said, it does not take cognizance of cases that are not of an appellate nature. The Court therefore concluded that as the Justice in Chambers had not rendered a decision on the prohibition and the matter was still pending before the Justice, it could not assume original jurisdiction over the prohibition.

On the question of the appeal taken from the final judgment of the lower court, the Supreme Court held that the appeal be set aside pending the outcome of the prohibition proceedings which remained undetermined before the Justice in Chambers, noting that it would not dealt with cases in piece meal.

Joseph H. Constance and *Manston Manley* of Greene and Associates, Inc. appeared for the informants. *Joseph N. Blidi* of the Joseph N. Blidi Legal Consultancy appeared for the respondent.

MR. JUSTICE CAMPBELL delivered the opinion of the Court.

The records in this case reveal that the Intestate Estate of the Late King Peters, by and thru its administrators, hereinafter called informants, instituted an action of summary proceedings to recover possession of real property against Sackor Brown, Fayiah, et al., hereinafter referred to as the respondents, in the Sixth Judicial Circuit, Civil Law Court, Montserrado County, praying the court to evict the respondents who were said to be illegally occupying six hundred (600) acres of land belonging to the estate.

The respondents filed their answer together with a motion to dismiss the informants' complaint. In both the answer and motion to dismiss, the respondents contended, among other things: That the action was statute barred in that the respondents had lived on the premises for more than 35 years without any one questioning them, and that therefore they owned the property under the principle of adverse possession. The respondents therefore prayed the lower court to dismiss the action of summary proceedings to recover possession of real property instituted against them.

The motion to dismiss was heard and denied, and the case was ruled to trial. After the production of evidence on both sides and arguments *pro et con*, the lower court entered final judgment holding respondents liable to the informants. It therefore ordered them evicted from the property.

To this ruling the respondents excepted and announced an appeal to the Honorable Supreme Court. The appeal was granted as a matter of law. Thereafter, the co-respondents filed their bill of exceptions, an approved appeal bond, and a notice of completion of appeal.

While the appeal was pending before the Supreme Court and upon hearing that a writ of possession was ordered by the presiding judge below to evict them from their premises, co-respondents John Saah, William Tamba, Taylor Pokpeh, Joseph Washington, Frances James Decker, Beatrice M. Doe-Blidi, Sunday Doe, and Morley Saror fled to the Chambers Justice and filed a petition for a writ of prohibition against the informants and His Honor Sebron J. Hall, Assigned Circuit Judge, Sixth Judicial Circuit, Montserrado County.

The prohibition filed with the Chambers Justice alleged, among other things: That they were not named in the writ of summons as party-defendants and that therefore said writ of summons, together with the complaint in the action of summary proceedings to recover possession of real property filed by the informants, the administrators of King Peters' Estate, was never served on them. Hence, they had no opportunity to appear, answer and defend their rights to their various properties. They alleged also that at no time were they approached by the informants, the administrators of the Late King Peters' Intestate Estate, as individuals also occupying the six hundred acres (600) of land, the subject of said action. Thus, they said, they were not bound by the judgment. The Justice in Chambers ordered the alternative writ issued, which ordered the informants to file their returns within ten days.

The informants filed a 12-count returns which alleged, among other things: That the co-respondents were summoned and brought under the jurisdiction of the court; that they appeared in court on several occasions; that because they are many, they appointed one

Sackor Brown to testify on their behalf after their legal counsel requested the court to consolidate the action; that respondents had their day in court; and that therefore the judgment “is binding on them.”

Although the petition for a writ of prohibition is still pending before the Chambers Justice undetermined, the informants filed a four-count bill of information before the Full Bench against Moses Jaryeneh, Robertson Fallah, Fayiah, Sackor Brown, Ben Nagbe et al, as co-respondents.

The four-count bill of information filed with the Supreme Court alleged, among other things: That the informants had won the case of summary proceedings to recover possession of real property in the lower court, which case is pending before the Supreme Court on appeal; that the petition for a writ of prohibition which grew out of the summary proceedings to recover possession of real property is also pending before the Chambers Justice of the Supreme Court; and that despite the pendency of the appeal and prohibition, the respondents have continued to operate several businesses and dwelling houses on the subject property without paying rents to informants. They therefore prayed the Supreme Court to mandate the Marshal of the said Court to collect all rents from the businesses and dwelling houses that are located on the six hundred (600) acres of land and that such rents be assessed by the Marshal of the Supreme Court in keeping with informants’ copy of the deed attached to the bill of information, with the exception of those to whom the informants had conveyed properties.

The alternative writ of information was ordered issued and the respondents were ordered to file their returns and to stay all further proceedings until otherwise ordered.

Upon receipt of the writ and the bill of information, the respondents filed a seven-count return. For the benefit of this opinion we deem it necessary to quote Counts 3, 4 and 5 of the returns, which read thus:

“3. That as to count four (4) of informants’ information, respondents aver that they did file a petition for a writ of prohibition against the informants herein before the then Chambers Justice, His Honor Fulton Yancy, who issued the alternative writ of prohibition ordering the co-respondent judge Sebron Hall, and the informants herein in paragraph three (3) thereof, to stay all further proceedings until otherwise ordered and to file their returns in the office of the Clerk of this Honorable Court on or before the 2nd of January, A. D. 1997, which they have failed and neglected to do up to and including the time of filing their bill of information and the filing of these returns. Copy of the alternative writ of prohibition is marked as exhibit “D” and attached hereto to form an integral part of these returns;

“4. That further as to count four (4) of informants’ information, respondents contend that since a stay order was placed on the proceedings, the appeal by respondents and the petition for writ of prohibition have not been heard and determined against the respondents. Respondents are not required and cannot, under the circumstances, pay

rent to the informants for the property in dispute; therefore, informants' information should be dismissed;

“5. Respondents further say that another major reason why the appeal by the respondents/appellants has not been heard and determined by the Full Bench of this Honorable Court is that one copy of the two land deeds upon which the informants/appellees relied to institute the action of summary proceedings to recover possession of real property in the Civil Law Court was not clear and could not be read by the then Justices of this Honorable Court prior to and during the perfection of the said appeal and up to the present. The Court has a policy whereby if an important exhibit such as the said deed is not clear and readable; the case would not be heard until the party in whose favor it was presented produces a clear and readable copy. Hence, His Honor, then Chief Justice James Bull, insisted that the case could not be heard on appeal by this Honorable Court until this defect was corrected by the informants/appellees. Up to and including the date of filing these returns, this defect has not been cured by the informants/appellees. The Clerk of this Honorable Court is a living witness to this fact and respondents hereby give notice to this Honorable Court that they will produce evidence to prove this fact during the hearing into this cause of action. Respondents therefore pray this Honorable Court to dismiss the informants' entire bill of information.”

From the facts and circumstances in this case, the issue for our determination is whether or not this Court can pass upon the appeal, the petition for prohibition and bill of information in the absence of the determination of the prohibition proceedings involving the same parties and growing out of the summary proceedings to recover possession of real property which is still pending before the Chambers Justice? In other words, can we entertain these proceedings in a consolidated form while the petition for prohibition is still pending, undetermined before the Chambers Justice?

In deciding the issue mentioned above, there is a need to revert to the records in this case. The case records reveal that the action of summary proceedings to recover possession of real property was disposed of by the lower court in favor of the informants and the court ordered the respondents evicted from the premises. To the trial court's final judgment, respondents excepted and announced an appeal to the Honourable Supreme Court and thereafter perfected their appeal in keeping with law.

While this appeal was pending before the Honourable Supreme Court, the co-respondents filed a petition for a writ of prohibition before the Chambers Justice and contended therein, among other things: That they were not party to the action of summary proceedings to recover possession of real property instituted by the informants, and that although they were never served a writ of summons as party-defendants, yet the lower court decided to evict them from their premises, contrary to law. The alternative writ of prohibition was issued and the co-respondent judge and the informants were ordered to stay

all further proceedings in the case. They were further ordered to file their returns to the prohibition. In obedience to said order, the informants filed their returns.

The records show that the petition for the writ of prohibition has not been determined by the Chambers Justice; that is to say, the petition is still pending before the Chambers Justice. And while the prohibition proceedings which grew out of the summary proceedings to recover possession of real property is pending in Chambers, the informants filed this bill of information with the Full Bench, informing this Honourable Court that the respondents are doing business on the premises of the informants and collecting rents to the detriment of the informants. They therefore prayed this Court to order the Marshal to collect all rents and have same placed in an escrow account with the exception of those individuals that the estate had sold land to.

The records further show that the appeal from the main suit of summary proceedings to recover possession of real property, the prohibition, and the bill of information were ordered consolidated by the previous Bench. This Bench, as a matter of law, has to hear these consolidated proceedings and that is what was done during this October Term of this Court.

The parties are aware of the pendency of the prohibition proceedings, and, even in their briefs filed with the Clerk of this Court and their arguments before the Full Bench, they agreed that the prohibition is still pending undetermined. Yet, the informants filed this information and both parties' counsels agreed for this Court to consolidate the appeal, prohibition and the bill of information. By coming to us while the prohibition proceedings are still pending before the Chambers Justice, we hold that the parties are seeking a short-cut to the disposition of this matter, which is contrary to law.

Since the Chambers Justice has not rendered any ruling on the issues raised in the prohibition and its returns which grew out of the main suit of summary proceedings to recover possession of real property, this Court cannot proceed to determine the prohibition which is not before the Full Bench.

According to our Constitution, the Supreme Court sits in appellate jurisdiction and does not take cognizance of cases that are not of an appellate nature, except cases involving ambassadors, Ministers, or cases in which a county is a party. Therefore, the Supreme Court cannot pass on the prohibition proceedings and decide the issues raised in the petition for prohibition and its returns thereto. Under our Constitution, the original jurisdiction of the Supreme Court is very narrow and restricted. Our Constitution provides that:

“The Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases, whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact, except cases involving ambassadors, ministers, or cases in which a county is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the powers granted herein....” LIB.

CONST., Art. 66, eff. 1986.

It is therefore our holding that since the prohibition grew out of the summary proceedings to recover possession of real property which has not been determined by the Chambers Justice, it would be contrary to law for this Bench to pass upon said prohibition.

The most that could be done by this Bench is to order the parties to proceed to the Chambers Justice for the determination of the prohibition proceedings. Anything to the contrary is tantamount to the Supreme Court assuming original jurisdiction in prohibition proceedings.

We further hold that the bill of information should have been directed to the Chambers Justice and not to the Full Bench since said bill of information grew out of the prohibition. The alternative writ of prohibition having been ordered issued by the Chambers Justice with a stay order, if there is a contention by any of the parties regarding the case while the prohibition is pending, it is the Chambers Justice who should have been informed.

“If a party to a case before or decided by the Chambers Justice, and who does not appeal therefrom feels aggrieved by the improper execution of the mandate of the Chambers Justice, or if a party is impeding or obstructing the enforcement of the mandate, a bill of information is the appropriate action to obtain relief, but the bill of information must be venued before the Chambers Justice, not the Full Bench of the Supreme Court.” See the case *Majority Membership of the United Church of the Lord, Inc. v. Minority Membership of the United Church of the Lord, Inc. et al.*, 39 LLR 692 (1999).

Even though there is an appeal before this Honourable Court from the trial court’s final judgment in the action of summary proceedings to recover possession of real property which this Court has the constitutional mandate to review, this Court has held in several cases that it will not decide cases by piece meal. Thus, since the prohibition is pending undetermined, it is only proper and legal that the appeal be set aside until the outcome of the prohibition proceedings.

Wherefore and in view of the facts, circumstances and the law citations recited hereinabove, it is our holding that the bill of information is hereby dismissed for being venued before the wrong forum; the appeal growing out of the final judgment is set aside pending the outcome of the prohibition proceedings. The Clerk of this Court is hereby ordered to inform the parties to proceed to the Chambers Justice for the disposition of the prohibition. Costs disallowed pending final determination. And it is hereby so ordered.

Information dismissed.