

BOYMAH KROMAH, FODAY KAIDII, OLDMAN GRAY, E. BALLAH BURPHY,
et al, representing the Vais of Fanima, Informants, *v.* **HIS HONOUR E. S.**
KOROMA, Assigned Circuit Judge, presiding over the June Term, A. D. 1978, of the
Sixth Judicial Circuit, Montserrado County, and **DAWODA HARMON, LAMINE**
COLEMAN and all of the tenants of **DAWODA HARMON, LAMINE COLEMAN**
and **LAMINE YATES** et al., Respondents.

INFORMATION PROCEEDINGS.

Heard: November 12, 1979. Decided: December 20, 1979.

1. Acts which tend to belittle, degrade, obstruct, interrupt, prevent or embarrass the Court in the administration of justice is contemptuous.
2. The entry of a ruling, judgment or order in a case contrary to the mandate of the Supreme Court constitutes contempt of the Supreme Court by the judge and such judge shall be held liable in contempt.

The decree canceling a public sale deed was affirmed and confirmed by the Supreme Court and the mandate executed by the judge presiding over the trial court. Subsequently, the defendants in the cancellation proceeding appeared at the same trial court, under the gavel of another judge assigned there, and moved the trial court to enforce the same mandate of the Supreme Court by the issuance of a writ of possession in his favor. The motion was granted and the writ of possession issued. The informants, being plaintiffs in the cancellation proceedings, fled to the Supreme Court through a bill of information. After a hearing, the Supreme Court *reversed* the trial court's ruling on the motion, confirmed the nullification of the public land sale deed, *granted* the information, and adjudged the trial judge liable in contempt of the Supreme Court for ignoring the mandate of the Court and proceeding improperly.

M. Fabnbulleh Jones and *S. Raymond Horace* appeared for informants. *Joseph P. H. Findley* appeared for respondents.

MR. JUSTICE BARNES delivered the opinion of the Court.

LIBERIAN LAW REPORTS

On May 6, 1975, this Court decided the case *Harmon v. Republic*, 24 LLR 176 (1975), which was a bill in equity for the cancellation of public land sale deed and relief against fraud. This Court affirmed and confirmed the judgment of the lower court canceling appellant's deed. Since that time the case has become a perennial legal controversy before the Supreme Court.

In 1976, information proceedings were brought before this Court alleging that co-respondent Dawoda Harmon was attempt-ing to obstruct the enforcement of the Court's mandate by sending a telegram to the President of Liberia stating that this Court had "deprived him of his legitimate right and title to land purchased from the Government of Liberia." An investigation was conducted by the Ministry of Justice upon the directive of the President of Liberia and the allegation was found to be incorrect. After hearing arguments on both sides of the case, this Court held that: "It is clear that the respondent has not told the whole truth about the telegram and this leads us to wonder whether the rest of his returns can be accepted as true and whether the maxim *falsus in uno falsus in omnibus*", is applicable to him. The Court further held that: "In any event it has been established that the respondents instituted proceedings in another branch of government which had the effect of stopping this Court's mandate, thus delaying and impeding the administration of justice. In *Richard v. Republic*, 10 LLR 13 (1948), this Court held that acts which tend to belittle, degrade, obstruct, interrupt, prevent or embarrass the Court in the administration of justice is contemptuous." The respondent was adjudged guilty of contempt and fined the sum of five hundred (\$500.00) dollars.

Predicated upon the decision of this Court affirming the final decree of the trial court, the Clerk was directed to send a mandate to the lower court for the enforcement of its judgment. There was dissatisfaction with the manner in which the judge assigned to the 1976 September Term of the Civil Law Court, Montserrado County, executed the mandate, that is, instead of only ordering the public land sale deed of Dawoda Harmon canceled, he also ordered a writ of possession issued to the informants in the information proceedings. The issuance of the writ of possession affected the property rights and interest of other citizens and residents of Fanima Town, Bushrod Island, Monrovia, Liberia. In consequence thereof, John T. Pratt, Vice Governor et al., representing the Grebo and Kru citizens residing in the area, filed a bill of information against Boymah Kroma et al., representing the Vais of the same area growing out of the case *Republic of Liberia v. Harmon*, bill in equity for the cancellation of public land sale deed and relief against fraud.

LIBERIAN LAW REPORTS

On the 29th day of April, 1977, this Court handed down an opinion dismissing the information on jurisdictional grounds. *See Pratt et al. v. Kroma et al.*, 26 LLR 64 (1977). The informants complied with the decision of the Court. Subsequently, on the 18th day of May, 1977, the same informants filed another bill of information against the same respondents, including His Honour Frank W. Smith, who was presiding by assignment in the Civil Law Court, Sixth Judicial Circuit, Montserrado County, when the Court's mandate was sent down for execution. *See Pratt et al. v. Smith et al.*, 26 LLR 160 (1977).

The second bill of information growing out of the case of bill in equity for cancellation of public land sale deed and relief against fraud was heard on June 2, 1977, and decided July 8, 1977. In deciding the issues raised in the bill of information, this Court held that: "It was error to have ousted and evicted the persons residing in Fanima Town in the manner it was done, if what has been alleged in the bill of information is true." The Court further held that: "When the public land sale deed of Dawoda Harmon for fifteen (15) acres of land in Fanima Town was canceled and the reason it was canceled was because of misrepresentation and fraud, the matter of ownership resorted to *status qua ante*; that is to say, the title and ownership vested in the descendants of Hawa Gabi Bassie and the inhabitants of Fanima at the time the 25.8 acres of land was granted them by President H. R. W. Johnson in 1888. All other persons living on the 25.8 acres of land except by permission of the owners are intruders and it is the right of the owners to evict such trespassers by due process of law."

In traversing the issue that in equity proceedings complete remedy should be given in order to avoid a multiplicity of suits, the Court held that whilst it is in agreement with this principle, when the Court decreed the cancellation of Dawoda Harmon's Deed, it was as far as it could go in cancellation proceedings because it placed title and ownership clearly in the legal ownership of the 25.8 acres of land on the strength of the Native Township Grant Deed.

The Court also said in that Opinion that because the judge erred in ordering the issuance of a writ of possession in cancellation proceedings, his ruling in executing the mandate of the Supreme Court was thereby revoked. The Court finally said: "In order to put a finality to this matter, the judge presiding over the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, at its June 1977 Term, should proceed at once to complete the execution of the mandate of the Supreme Court in the *Harmon v. Republic* case, decided May 6, 1975, and immediately make returns as to how this has been done.

When the Court's mandate was sent down to the Civil Law Court for the Sixth Judicial Circuit, His Honour Frederick K. Tulay, now Associate Justice, presiding by assignment

during the June Term, A. D. 1977, properly executed the said mandate to the satisfaction of all the parties.

Subsequently, during the March Term, A. D. 1977, of the Civil Law Court, Sixth Judicial Circuit, Montserrado County, respondents in these information proceedings in a motion filed before His Honour Judge Brathewaite, who was at the time presiding by assignment, moved the lower court to order the clerk to issue a writ of possession in favour of respondents in the light of the court's ruling of August 31, 1977, over the signature of His Honour Frederick K. Tulay, now Associate Justice of the Supreme Court of Liberia. Judge Brathewaite heard the motion and entered a ruling which placed the parties in the same position as if no motion had been filed. Therefore, after the motion was heard there was no need for either party to have taken exceptions to his ruling.

During the June Term, A. D. 1978, of the Civil Law Court for the Sixth Judicial Circuit, respondents again filed another motion before Judge E. S. Koroma, who was presiding by assignment over that court. In essence, the motion of respondents herein brought to the attention of the Court that the mandate of the Supreme Court in the *Pratt et al. v. Smith et al.* case had not been enforced and requested the court below to have it enforced.

We fail to comprehend how counsel for respondents could have presented to the court for consideration false and misleading information. The ruling of Judge Tulay, now Associate Justice of the Supreme Court of Liberia, fully complied with the mandate of this Court. Therefore counsel for respondents did not act in an ethical and professional manner. We would like for counsel to take note and govern himself accordingly.

Without taking judicial cognizance of the ruling of Judge Tulay, now Associate Justice, which ruling formed a part of the records, Judge Koroma entered a ruling ordering the issuance of a writ of possession to the respondents to be immediately executed and returns made to him by the sheriff, placing respondents in possession of property within the metes and bounds of the 25.8 acres of land described in the Native Township Grant deed from the Republic of Liberia to Hawa Gbai Bassie and the inhabitants of Fanima Town. The deed was signed by President H. R. W. Johnson in the year 1888.

We do not know the source of the judge's authority to order the issuance of a writ of possession to respondents in these proceedings. For in the first place, the public land sale deed of respondent Dawoda Harmon had been canceled and rendered null and void, growing out of a final decree of the lower court, confirmed and affirmed by the Supreme Court during its March Term, A. D. 1976. In addition, there was the ruling of Judge Tulay on the enforcement of the Court's mandate. Yet, Judge Koroma elected to have grossly

ignored the applicable law relating to the enforcement of this Court's mandate.

A recourse to the records in these proceedings showed that the writ of possession that was ordered issued by Judge Koroma contained the same metes and bounds described in the public land sale deed from the Republic of Liberia to Dawoda Harmon which had been canceled by decree of the lower court. Where did the judge get the deed upon which a description could be made? No wonder why counsel for informants, when presenting his argument said that: "Justice had fled the court room and men had lost their reasons." We think that the action of the co-respondent judge constitutes disobedience to this Court's mandate and he should be held in contempt.

In his argument respondents' counsel conceded the error of the co-respondent judge for ordering the issuance of a writ of possession in favour of the respondents because the same was in violation and disobedience to the mandate of the Supreme Court. In deciding this case we uphold the ruling of His Honour Judge Frederick K. Tulay, now Associate Justice, in executing the mandate of this Court. For the benefit of this opinion we quote the pertinent part of the ruling:

" . . . this court does not see it fit to send another directive to the Director of Archives, Ministry of Foreign Affairs, but to now go on records once and for all, that the public land sale deed which was issued by the Republic of Liberia over the signature of William V. S. Tubman, President of Liberia, in favour of Dawoda Harmon, be and the same is hereby canceled, made null and void as if no such deed had ever been issued to him by the Republic of Liberia. The parties to the original suit are hereby placed in *status quo*; that is to say, they are in the same position in which they were before the canceled deed was ever issued in favour of Dawoda Harmon."

Therefore, the ruling of the co-respondent judge ordering the issuance of the writ of possession in favour of respondent Dawoda Harmon, placing him in possession of fifteen (15) acres of land, the deed issued to him by the Republic of Liberia having been canceled, and which land falls within the 25.8 acres of the Native Township Grant Deed issued from the Republic of Liberia to Hawa Gbai Bassie and the inhabitants of Fanima Town, Bushrod Island, Monrovia, Liberia, is hereby revoked, canceled and made null and void. And it is the right of the owners of the property to evict any trespassers by the due process of law.

It is our considered opinion that because of Judge Koroma's disobedience and disregard to the mandate of the Supreme Court, he is adjudged in contempt and fined the sum of two hundred (\$200.00) dollars to be paid within fifteen days from the date of this Judgment. The information is hereby granted. The Clerk of this Court is instructed to send a mandate to the lower court commanding the judge presiding therein to take judicial cognizance of this opinion. And it is hereby so ordered.

Information granted.