Mrs. Joko Mawolo of the City of Monrovia, Republic Of Liberia APPELLANT VERSUS **Mrs. Letitia Reeves** also of the City of Monrovia, Republic of Liberia APPELLEE

APPEAL FROM THE CIVIL LAW COURT, SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY, REPUBLIC OF LIBERIA.

LRSC 15

Heard: October 28, 2009. Decided: January 14, 2010.

MR. JUSTICE JA'NEH DELIVERED THE OPINION OF THE COURT.

Long running disputes over ownership of real property, as the subject of these appeal proceedings, are disturbingly common feature of post conflict Liberia. At every level of our courts, an array of disputes over land shows that both summary proceedings to recover possession of real property, intended to be truly *"summary"* -as the name suggests- as well as those of ejectment causes, drag on for years.

The instant title controversy, similar to many, not only dates back to the year 2002; it is also travelling for the second time on appeal to this Court of last resort.

The facts culled from the certified records indicate that about six years ago, precisely on April 20, A.D. 2004, Appellee, Mrs. Letitia Reeves, as plaintiff in the court below, instituted an action of ejectment at the Sixth Judicial Circuit for Montserrado County. The action sought to oust Appellant/Defendant Joko Mawolo from what the appellee claimed to be her land containing two (2) lots of land, lying and situated in Sinkor, Monrovia. In the complaint, appellee alleged that notwithstanding her legal ownership to the said property and over her (appellee's) numerous protests and objections, Appellant Joko Marwolo illegally and wrongfully encroached upon her property.

Further, appellee informed the court that when appellant attempted to commence construction on appellee's deeded property, appellee secured a "Stop Order" from the Ministry of Justice for the purpose of restraining the appellant from erecting on said property. But appellant, averred the complaint, refused to heed any such warning and infact continued with construction. Appellee attached copy of a November 28, 2002 letter from the Ministry of Justice over the signature of Deputy Minister for Legal Affairs, Counselor Theophilus Gould, showing the issuance by the Ministry of Justice of such a warning.

Appellee also told the court that series of conferences were convened between the

parties to secure an out of court settlement; that Counselor Lavela Koboi Johnson attended those meetings and represented appellant's legal interest; that having examined appellee's instrument of title and being satisfied with same, Counselor Johnson acknowledged appellee's title to the disputed property; that thereupon and in consultation with appellant, Counselor Johnson wrote a letter offering to pay the amount of USD9,000 (nine thousand United States dollars) for the property; that appellee then counter offered and agreed to accept an out of court settlement if the amount were raised to USD15,000 (fifteen thousand United States dollars). Copy of Counselor Johnson's letter making such offer, dated October 28, 2002, was attached forming part of the complaint.

Concluding, appellee prayed court to evict and oust appellant and award her the amount of USD10,000 (ten thousand United States dollars) for wrongful withholding of her property.

Appellant Joko Mawolo appeared and filed a twenty count amended answer substantially denying the averments contained in the complaint. Appellant infact maintained that she is indeed the lawful owner of the parcel of land, containing 0.50 lot of land situated in Lakpazee, Sinkor, Monrovia. She proffered an administrator's deed in favor of Henry Mawolo, believed to be her natural son, executed on October 17, 1985 by Edwin Kiadii, Musa Kiazolu and Isaac Kinley, who were said to be administrators of the estate of the Late Chief Bai Bai. Appellant categorically denied ever being contacted and warned about the subject property prior to her encounter on March 30, 2002 with Mrs. Taylor-Saye, at which time construction on the land was already completed.

Appellant however admitted that following Mrs. Taylor-Saye's visit, she (appellant) did receive a communication dated April 2, 2002 signed by Counselor Francis Saye Korkpor, then legal counsel for appellee, citing appellant to a meeting to discuss issues relating to the subject property. Terming service by appellee of any prior warning on her as a fabrication, appellant denied ever receiving a letter from the Ministry of Justice for the purpose of restraining her from construction on the disputed land.

On the issue of Counselor Lavela Koiboi Johnson being her legal counsel and the counsel's apparent concession to the legitimacy of appellee's claim, appellant vehemently denied any such professional relations with Counselor Johnson. Appellant claimed that at no time was Counselor Johnson ever authorized to negotiate a settlement on her behalf. Appellant however admitted that when she was invited to a conference at the Law offices of Tiala Law Associates Incorporated, and being a lay

person with no legal knowledge, she simply asked counselor Johnson to escort her to said meeting. According to appellant, this was a mere request as both she and Counselor Johnson at the time worked at the Ministry of Foreign Affairs, where the Counselor served as legal counsel. Appellant further claimed that the scheduled meeting ended with "no meeting of the minds" and almost resulted in a fist fight between appellant's grantors and Appellee Reeves.

Later on in this Opinion, we shall accord some attention to the issue of legal representation made by Counselor Johnson considering the allegation made by appellant that Counselor Johnson was never her lawyer.

Pleadings having rested, regular trial of the cause did not commence until February 14, 2007, notwithstanding the suit being filed in April 2004. And it was not until March 13, 2007, almost three years as of time the case was filed His Honor Emery S. Paye, presiding by assignment, entered final judgment.

In his final ruling of March 13, 2007, Judge Paye affirmed the petty jury's unanimous verdict of "liable" against the appellant, and ordered her ejected and ousted from the property.

Appellant Joko Mawolo appealed the March 13, 2007 final ruling predicated upon an eight (8) count- bill of exceptions. In the bill of exceptions, Appellant Mawolo assigned several errors to the trial judge's final ruling and prayed this Court for reversal thereof.

For reasons deemed satisfactory, the Supreme Court disposed of appellant's appeal to the March 13, 2007 ruling of the trial court, essentially confining itself to count two (2) in her eight (8) - count bill of exceptions. In the wisdom of the Court, count two raised a pertinent and necessary contention to be passed upon for the fair and just determination of said appeal.

Count two (2) in reference states: *"That Your Honor erred and made a reversible error when Your Honor failed to charge the jury to the effect that the property sued for by the plaintiff is different and distinct from the property of the defendant with different quantity of land and different and separate metes and bounds."*

The Supreme Court addressed on this lone issue in its opinion dated December 21, 2007, delivered by our distinguished colleague, Madam Justice Wolokolie, observing as follows:

"Appellant in her bill of exceptions and argued by her Counsel before this Court stated that "the court below erred in that the Appellee's property as exhibited by her deed was distinct from that of the appellant's with different quantity of land and different metes and bounds and therefore the court could not render judgment for the Appellee where no survey was carried out to ascertain whether the Appellant's 0.5 lot was part and parcel of Appellees' two lots.

"The Appellee being crossed examined by Appellant's Counsel, in the court below, was asked:

Q. Madam Witness, the deed that you have presented to this court and trial jury contains two lots allegedly owned by you to be the property in dispute. The deed submitted by the defendant in these proceedings calls for half lot. My question is, the two lots that you are claiming and the half lot claimed by the defendant are not the same, am I correct?

A. The defendant built on the two lots that I am claiming.

Q. Madam Witness, by that answer, I take it that before you instituted this action, you conducted a survey of your two lots and that of the half lot of the defendant in these proceeding, am I correct?"

OBJECTION: GROUNDS: 1. entrapping, 2. not the best evidence, the deeds from both sides are before court.

The Court: The question preceding this question was put to the Witness and in her answer, she testified that the defendant is occupying portion of her two (2) lots. Perhaps the Witness may tell this Court and the trial Jury as to how she got to know that *Defendant is occupying portion of two (2) lots. Hence let the Witness answer the question.* AND SO ORDERED.

A. The property in question had been surveyed with cornerstones and growing trees marking the area.

Q. Madam Witness, by that answer, you mean the survey that was conducted in the year 1978, 29 years ago, am I correct?"

A. Yes.

Q. Madam Witness, I therefore take it that the four (4) cornerstones are still visible (and] you can see [them], am I correct?"

A. They are not visible because Madam Mawolo or whoever removed the cornerstones and put *a fence there.*

Q. Madam Witness, the fact that you told the court and the trial jury that your cornerstones are no longer there means that for you or anybody to know today where your property actually begins and where it ends [will require] the conduct of a survey by a licensed surveyor, am I correct?

"OBJECTION: GROUNDS 1. Entrapping 2. vague and indistinct as to the question of today; 3. irrelevant and immaterial.

"THE COURT: Question put *to the Witness falls straightly within the province of the court and the trial Jury, hence, objection sustained.* AND SO ORDERED.

"To which ruling defendant excepts. (43rd Day's Jury Sitting, December Term, A.D. 2006, Wednesday, February 14, 2007, SHEETS 7 & 8)."

In the light of these questions and the answers provided thereto, as well as the objection sustained by the trial court to the pertinent question of the exact location and size of the land, the Supreme Court, in the December 21, 2007 Opinion further indicated that:

"…it [finds it] difficult to understand why the judge in one instance would overrule an objection to a request of whether a survey was carried out to ascertain Appellant's occupancy of Appellee's two *lots and [order] the Appellee to answer the question and tell the court and trial jury as to how she got to know that the Appellant is occupying her property, and [yet] in another instance to a similar question* put, *uphold the objection, stating that the question put to the Witness falls straightly within the province of the court and the trial jury. Now our question is, how could the court and jury have been able to ascertain this fact if a survey was not carried out by a competent surveyor and testified to? Did the court and trial jury have the expertise to ascertain this fact by merely looking at the two deeds presented by the parties?"*

Sustaining Appellant Marwolo's major contention quoted herein above, the Supreme Court noted:

"This issue raised by the Appellant is salient to the final determination of this case. This Court has held that: "In an ejectment action where the description in the plaintiff's deed differ from that of the defendant's deed, and moreover, where both parties derive their properties from different sources, it is incumbent on the court to request that a survey be conducted by a board of arbitrators so as to ascertain the exact place and location of the property in dispute" This is necessary to determine the main issue argued before this Court, with respect to which of the parties has a better title to the disputed property. Aidoo Vs. Jackson, 24LLR 306, text at 312-313 (1975); Freeman VS Webster 14LLR 493, text at 506-507 (1961). It was incumbent on the court below to ensure that a survey was carried out in order to determine whether the disputed property is part and parcel of plaintiff's two lots."

The Supreme Court therefore held and mandated as follows:

"In view of the forgoing, it is the candid opinion of this Court that the case be remanded with instructions to the court below that a Board of Arbitrators be set up to carry out an impartial survey starting first at the same point and following the same course as the original survey in Appellee's deeds which is older; and afterwards following the same procedure with respect to the description in Appellant's deed. And that the court below limits its judgment to the issue of the Arbitrators' Award."

The mandate emanating from the December 21, 2007 Opinion was transmitted to the trial court. Certified records indicate that consistent therewith, the trial court constituted a board of arbitration to carry out an impartial survey. A report was filed with the trial court on May 27, 2008, following the conduct of said survey. Two of the three registered land surveyors to include the Chairman of the arbitration board, Estman K. Quaqua and Edward K. Brown, signed this report. Third Surveyor Edwin Boakai, Sr., who represented appellant, however filed a minority report rejecting the majority report.

In their majority report, the two surveyors therein narrated as follows:

"We the Members of the Board of Arbitration in the above captioned case do hereby submit this investigative report. This report contains information of documents (deeds) received during the survey exercise, survey methodology, technical analysis, findings/observation, recommendation and conclusion.

"The survey was conducted on March 31, 2008, beginning at the hour of 11:00 a.m. in the presence of the contending parties. All parties were asked to identify their property corners on the ground which they did without hesitation and following the identification of the property corners, the survey commenced.

"SURVEY METHODOLOGY

"Taken the dispute into consideration, the Board run a loop traverse around the main disputed area, and extended the traverse to the surrounding properties so as to show a clear picture of the terrain. Our main focus was on the properties in dispute.

"All points identified by each of the parties were located as well as other feature like road and concrete fence.

"Having gone through the aforementioned exercise we are pleased to submit these technical analyses:

TECHNICAL ANALYSIS

"The first point of our Technical Analysis has to do with the scrutanization of deeds. In this light, four (4) deeds were received from the parties; two came from Letitia Reeves, one for the area in dispute and the mother deed for the thirty (30) acres, one from Joko Mawolo and her grantors presented their mother deed too, that contained 209.55 acres of land.

"During the scrutinization period of the deeds, the Board recognized the various dates on which the deeds presented were registered and probated.

"In this regard, the following are the names of the property owners, date and probation.

"a. Letitia Reeves 2 lots warranty deed: probated November 1, 1978, registered in vol. 301-78, page 172; and October 25, 1978 vol. 303-78, page 901-902, and a public land sale deed of 30 acres, probated and registered in vol. 3 page 188 and re-registered in vol. 12-14, page 129-130, from the Republic of Liberia to Edmund Chavers as Mother deed."

"b. Joko Mawolo 0.50 lot administrator deed; probated on the 21 st of October 1999 and registered in vol. 82-99 page 221-222, Mother deed: Aborigines Grant, registered in vol. 102-74 page 67-68 probated February 1908.

"In view of the foregoing analysis, the below constitutes our observation:

OBSERVATION AND FINDING

Taken the technical analysis into consideration, the following constitutes our observations:

"1. That both parties show the same place and the same points as their property corners;

"2. That the deed presented by Joko Mawolo contains 0.5 lot but occupied one lot space and the other 0.5 according to her deed is owned by Baibai;

"3. That there is a difference in the layout and the metes and bounds are different;

"4.That her grantor's deed is Aborigines grant to Chief Baibai and inhabitants of Matadi Gboro Town;

"5.That the deed presented by Mrs. Reeves contains 2 lots of land and is calling for the same parcel that Madam Mawolo is claiming;

"6.Madam Reeves presented a ruling from the Supreme Court that was decided on January 3, 1970. This case was not between her family and the Baibai family;

"7.Mandated Mawolo grantors presented a ruling from the Honorable Civil Law Court granting them the right of ownership over the 209.55 acres of land. This case was between National Housing Authority and the Bahbai family but not the Reeves family."

"8.Mrs. Reeves presented a map of the 30 acres of land that shows the place in question. This map shows the clear picture of the whole property they [both parties] are claiming."

"9.According to the ground location, the ground condition corresponds with the map presented by Mrs. Reeves and it tends to authenticate her claim to said parcel of land in dispute."

"10. According to the deed presented by Mrs. Reeves, the deed is older (1978) then Mrs. Mawolo deed (1999).

"11. Based on the documents presented by Mrs. Reeves and the grantor of Mrs. Mawolo (Baibai family). We recommend that this Honorable Court look at these two documents carefully and come out with a judgment."

As stated earlier, Registered Land Surveyor Edwin Boakai, Sr., acting for Appellant Joko Marwolo, on May 26, 2008, also filed a separate report. In his minority report, he disagreed and rejected the majority report.

In substance, the minority report reads as follows:

"May it please Your Honor to express my view of refusing to sign the report of the investigative survey as member and representative of Madam Joko. Your Honor in the report under the conclusion, article # 9 and 10 has stopped *me from signing for reasons below:*

1. The Chairman and Mrs. Reeves surveyor stated in the report that the area in question is owned by Mrs. Reeves according to them the ground location and map shown to them. Now, it seem as if something going or went wrong, by this I mean, according to the deed presented by Mrs. Reeves, covering 2 lots, this deed is not correct according to our finding on the ground, only 1 lot is correct according to ground location, you cannot present 2 lots deed and then get one lot and the deed itself is not correct and my colleagues gave the land to her under that un-questionable deed.

2. According to them, Mrs. Reeves grantor and someone went to court for the area which she claimed portion and their grantor won and the area turned over to them by legal authority of Liberia, since

1972 at the time of so say one so say all. This same parcel of land was given to Chief Bai Bai as aboriginal deed and the heirs of late Bah Bai went to court with the Housing Authority for portion of land within the land in question and the Bah Bai heirs won the case and their 209.3 acres was turned over to them by the legal authority of Liberia and the Court even gave them the authority to conduct a resurvey of their entire 209.3 acres which the Ministry of Lands and Mines through some surveyors started the survey and no one contested. In this case, Madam Joko's grantors has legal rights to this land and also Mrs. Reeves according to 1972 ruling has right to this land, now is it true that the Liberian Government issued deed to two persons over this one parcel of land or may be something going on wrong which the court has to pay great attention to find out among these two grantors deed signed by the Liberian Government the authentic and legitimacy of these two deeds or else neither Mrs. Reeves or Madam Joko has right over any portion. So in conclusion of my letter, I am sorry to say that the report sent by my colleagues to Court is misleading by saying the property in question belongs to Mrs. Reeves.

3. They also mentioned of the duration of the deeds, in this case, it is not also right to base on the time of Mrs. Reeves deed and say the property for her because she bought from someone different and Joko bought from someone else, supposing the person she bought from doesn't have legal document or Madam Joko's grantors don't have legal documents. So in order to give a clear and sound verdict over this matter, the two grantors deed from the Liberian Government has to be keenly scrutinized and know the rest of these deeds."

Having received both reports, His Honor Judge Yussif D. Kaba, on July 23, 2008, entered final ruling. Judge Kaba affirmed the majority report and awarded the disputed property to Appellee Reeves.

It is from this final ruling appellant has again appealed. This second appeal before the Supreme Court is predicated upon a four count bill of exceptions. Deemed by this Court as germane to the final outcome of this case, Counts two (2) and four (4), have been quoted as hereunder indicated to wit:

"2. That Your Honor erred and made a reversible error when Your Honor failed to submit the disputed Arbitration report to the Minister of Lands, Mines & Energy for further technical analysis and review.

"4. That, Your Honor made a reversible error when Your Honor denied the Appellant's submission to the effect that the disputed Arbitration report should be submitted to the Chief Surveyor of the Lands, Mines and Energy Ministry, ... for an opinion and advise before Your Honor's ruling."

Summed up, appellant's contention presents one principle issue:

Whether appellant's contention is supported by law that absent a unanimous arbitration award, a court is required to seek advice or decision from the Ministry of Land, Mines and Energy as a basis to enter a valid judgment?

Or put differently, whether the ruling of the court entered on majority arbitrators' report, was erroneous both in terms of the laws controlling and the facts and circumstances of this case?

To treat this question orderly, we must keep in mind the December 21, 2007 opinion and the mandate emanating therefrom. The mandate was specific. The trial court, as per said mandate, was restricted to the conduct of a survey and to render final judgment on the finding/award therefrom.

Both in the brief and during argument before this Court, appellant has forcefully maintained that an arbitration conclusion or findings ought to be unanimous. Along this line, appellant has insisted that where a board of arbitration report has been objected to by a member of the board, as in the instant case, the trial tribunal must exercise all reasonable standard to ensure that the bases for the objection are dealt with through some form of hearing. Appellant has further contended that the entry of a judgment by the trial court without addressing the objector's objection in the form of a review of the report by the chief of surveyor from the Ministry of Lands, Mines and Energy, constitutes a reversible error. According to Appellant also, the purpose of the arbitration exercise will be defeated without a technical review of the findings of the surveyors before the entry of a final judgment. In support of this argument, appellant has cited and relied on the principle enunciated by this Court in the case: *"Koon v. Jleh"* found in 39 LLR 329, (1999) text at page 343.

But countering this argument, appellee submits that the conduct of the survey exercise was predicated on the Supreme Court's mandate, ordering the trial court to set up a board of arbitration, limit its conduct to the finding or award made by the arbitrating surveyors and enter court's final judgment thereon. That it was in consonance with said mandate that qualified licensed surveyors were nominated by the contending parties and chaired by a neutral disinterested party nominated by the Ministry of Lands, Mines and Energy and placed under oath. This entire arbitration exercise, appellee maintains, was undertaken for the sole purpose of giving effect to the mandate of the Supreme Court. Said exercise had to strictly conform to the dictate of the Supreme Court's mandate, as the trial judge did in the case at bar. Hence no error was committed.

We cannot uphold the position advanced by appellee it is void of any legal merits. The

original ejectment action was regularly tried heretofore. From the final judgment entered at that trial, Appellant Mawolo appealed to the Supreme Court. In disposing of appellant's appeal at the time, the Supreme Court passed on all issues germane to the controversy including title and, in its wisdom, referred the matter to the trial court on a specific and limited mandate. The mandate was an instruction to the trial court to determine the exact metes and bounds of the disputed property, aided by registered land surveyors and that final judgment be entered on their (surveyors') findings/award.

As this Court is in full agreement with the ruling rendered by His Honor, Judge Kaba in this respect, we quote him verbatim as follows:

"This matter is before this Court based upon an Opinion rendered by the Honorable the Supreme Court of the Republic of Liberia, based (on] an appeal announced to a final judgment entered by this Court (in favor] of the Plaintiff in the main suit. The Supreme Court in its Opinion adjudged as follows:

`That the case be remanded with instruction to the court below that a Board of Arbitration be set-up to carry out an impartial survey starting first at the same point and following the said course as the original survey in appellee's deed which is older and afterward following the same procedure with respect to the description in an appellant's deed. And that the court below limits its Judgment to the issue of the Arbitrator award.'

"Pursuant to this, clear and unambiguous mandate of the Honorable Supreme Court, this court proceeded to constitute the Board of Arbitration as provided for by our Civil Procedure Code. The Board was qualified and thereafter instructed. The Board presented to this court a report signed by majority of its members, the substance of which is that from their investigative survey, the property in dispute is owned by the appellee/plaintiff in that the ground description conformed with the title of the appellee/plaintiff and that the appellee/plaintiff holds the older title to the property. One member of the Board, who refused to affix his signature to the report, communicated what he referred to as an objection to the report to this court.

"In his objection, [counsel for appellant] attacked the legality of the plaintiff/appellee's title and therefore prayed that the court to set aside the [majority] arbitrators' report.

"When the [majority] report [as well as the] Objection [thereto] was read in this court, counsel for the appellee/defendant prayed this court to submit the said report to the Ministry of Lands, Mines and Energy for their technical opinion. Counsel for the plaintiff/appellee resisted this application on the ground that the board [of arbitrators] consisted of technically competent experts and therefore it will be repetition for this court to have this report again submitted to another set of experts.

"To resolve the issue raised by the objection and the application of the appellee/defendant, this court takes recourse to the Supreme Court's Opinion that brought this matter before this court and the applicable statutory provision on arbitration.

"The Supreme Court in its Opinion did satisfactorily pass on every issue with respect to the examination of the legality of the title of the party/ies. That issue [of title] was addressed by the Opinion of the Supreme Court which limits the duty/ies of the arbitration to identifying the ground location of the property of the [respective] parties.

"In the said Opinion, the Supreme Court specifically instructed that the title instrument of the plaintiff be, first utilized to identify the ground location of the plaintiff's property in the disputed area. By this, the Supreme Court decided the issue of the validity of the title; neither this court nor the board of arbitration is clothed with the authority to review the determination of the Supreme Court.

"On the issue of the report of the arbitration, it is the law in this jurisdiction as provided for by our Civil Procedure Code that the opinion of majority of board of arbitration should hold. In the instant case, not only is there a majority opinion favorable [to] the appellee/plaintiff therein and supportive of the Supreme Court Opinion and the earlier final Judgment entered by this court, [but] of equal importance is that the objection grossly violates the spirit and intents of the Supreme Court Opinion.

"WHEREFORE AND IN VIEW OF THE FOREGOING, it is the considered ruling of this court, that, the arbitrators' report, be and same is hereby upheld and that, this court hereby orders FINAL Judgment to be entered in favor of the appellee/plaintiff thereby holding the appellant/defendant liable.

"The Clerk of this court is hereby ordered to issue a Writ of Possession in favor of the appellee/plaintiff to have the appellant/defendant ousted, evicted and ejected from the premises of the appellee/plaintiff, and that the appellee/plaintiff be placed unrestricted and in complete possession of the disputed property. Costs of these proceedings are ruled against the appellant/defendant. AND IT IS HERE SO ORDERED."

In the face of the clear mandate of the Supreme Court, appellant's contention on referral of arbitration finding and subjecting same to other review is too extravagant a position to insist upon as it is totally baseless in law in this jurisdiction.

In many respects, appellant's contention vis-à-vis strict execution of the mandate of the Supreme Court is analogous to an application made in the case: *Dennis et al. v. Tarpeh et al* reported in 35 LLR 310 decided by this Court on July 29, 1988.

In the *Dennis* case, Mr. Justice Frederick K. Tulay, presiding in Chambers, had ordered the trial court "...that no further board of arbitration be set up and that the deeds be made to reflect the recommendation made in the report and the parties be placed in possession of their respective properties."

Contrary to this clear and unambiguous mandate, and upon application from counsel for respondent in information proceedings, the trial court replaced the surveyors heretofore constituted and based on whose recommendations the case was earlier decided and writ of possession ordered issued.

In replacing the previous surveyors, the trial court appeared to have been persuaded by one of counsels' argument that the original surveyors had become bias to the interest of the party respondents as evidenced in their request to be paid an extra $1,500.00 each in advance and as a condition for proceeding to the disputed cite to execute their assignment.

But the Supreme Court passing on whether its mandate [emanating from the Chambers Justice] was thereby violated by the trial court's replacement of the surveyors, held:

"The records show that Chambers Justice Tulay's ruling specifically pointed out that no new surveyors should be appointed and that the original surveyors, upon whose report and recommendations the action of ejectment was decided, should continue with the final implementation of the mandate. Contrary to this mandate, Judge Thorpe elected to replace the original surveyors." Our Emphasis.

Similarly, the Supreme Court has held in a plethora of opinions as in "Thomas et al v. Dayrell et al" 17 LLR 284 (1965), that

"subordinate courts must execute the Supreme Court's mandate and make returns.", as in Richards v. McGill-Hilton, 6 LLR 81 (1937), that: *"trial °judges should follow strictly both in the spirit as well as in the letter all opinions given by this Court, as one of the most potent means of unifying the practice."*

It is therefore no surprise that the Highest Court of this land termed in *Dennis,* as *"contumacious"* an inferior court's disregard of the Supreme Court's mandate.

Clearly in the instant case, the objector - appellant has acted outside the mandate of the Supreme Court. As the trial judge correctly observed in his final judgment, the Supreme Court had passed on all other issues raised in the previous trial with one

notable exception: exact location. The Supreme Court remanded the case only for the specificity of the metes and bounds and instructing the trial court to enter its final judgment on finding/award made by the surveyors. Appellant's conduct was therefore, for all intents and purposes, calculated to baffle and frustrate the mandate of this Court.

Further arguing before this Court, appellant contended that arbitration findings/award ought to be unanimous to make it valid and enforceable. We disagree. Said contention seeks to undermine the very purpose of arbitration basic intent and principle.

Incorporating common law definition of "arbitration" in the case: Chicri Brothers, Inc. v. Isuzu Motors Overseas Distribution Corporation, 40 LLR 128, 135 (2000), this Court alluded to the purpose of arbitration exercise.

"The object of arbitration" this Court opined, "is the final disposition of differences between parties in, a faster, less expensive, more expeditious and perhaps less formal manner than is available in ordinary court proceedings".

Along this line, we sustain appellee's argument and her reliance in general application on section 64.4, 1 LCL Rev., title I (Civil Procedure Law) found at page 273, stipulating that: *"The powers of the arbitrator may be exercised by a majority unless otherwise provided by the arbitration agreement."*

As earlier indicated, appellant has cited and relied on the *"Koon v. Jleh"* (39 LLR 329, (1999)) case. We are stunned by this; because the principle enunciated in said case not only is totally inapplicable, but the principle therein lends no support to appellant's argument.

In the Koon case, the appellant Samuel Koon appealed to the Supreme Court arguing a violation of the statute when the court, amongst others, submitted the arbitration award to the lawyers for their study and review in order for the court to pass on same.

Nowhere in the *Koon* case did the Supreme Court require, even by fleeting reference, that an arbitration report be forwarded to the Ministry of Lands, Mines and Energy as a basis for its validity or a ground for entering thereon a court's final judgment, as is being proposed by appellant.

We will now proceed to give some attention to the issue of Counselor Lavela Koiboi Johnson representing appellant's legal interest as counsel. This was a contention raised during regular trial as appellant vehemently denied any professional relations with

Counselor Johnson. She has insisted that at no time was Counselor Johnson ever authorized to negotiate a settlement on her behalf. Appellant however admitted that when she was invited to a conference at the Law offices of Tiala Law Associates Incorporated, and being a lay person with no legal knowledge, she simply asked counselor Johnson to escort her to said meeting.

According to appellant, this was a mere request as both she and Counselor Johnson at the time worked at the Ministry of Foreign Affairs, where the Counselor served as legal counsel. Appellant indicated that the said meeting ended with "no meeting of the minds" and resulted almost in a fist fight between appellant's grantors and Appellee Reeves.

Counts fifteen through nineteen of appellant's answer being more to the point, we quote same as follows:-

"15. Further to count fourteen (14) above, Defendant says she has no knowledge of Counselor Lavela Johnson letter of October 28, 2002 to Plaintiff's Counsel. Defendant says further that Counselor Johnson's action was unauthorized, dishonorable, tainted with fraud, and is one that serves to bring disrepute to the legal profession."

"16.Further to count fifteen (15) above, Defendant says that it is common knowledge that Cllr. Lavela Koboi Johnson bears relation to Thelma Taylor-Saye through the relationship he holds with her sister. And as the Plaintiff herein bears a relationship to Thelma Taylor-Saye, it can be clearly seen that Cllr. Koboi Johnson could stop at nothing to protect his relationship with the family; hence this fraudulent misrepresentation."

Further supporting her claim, and upon appellee's application, Counselor Levala Koboi Johnson was subpoenaed. The subpoenaed witness testified during trial in the following words:-

"Sometime in 2002, I was approached by Mrs. Lydia Sandemani and Joko Mawolo, both of whom worked at the Ministry of Foreign Affairs, where I served as Legal Counsel for the Ministry, to the effect that they had a problem; that Mrs. Joko Mawolo has constructed a dwelling and allowed Mrs. Lydia Sandemani to live therein, at that time one Arthur Saye and His Honor, Francis S. Korkpor were the ones representing the owner of the property that was allegedly purchased by Mrs. Mawolo and upon which she had constructed a house now being occupied by Mrs. Lydia Sandemani. We then had several meetings with Counselor Francis S. Korkpor and ourselves and Joko whom we represented in the matter. The lawyer on the other side brought their deed and said the property was theirs. After several discussions, my client Mrs. Joko Mawolo said that Counselor Luvenia Ash-Thompson knew

about the land and that she would be able to ascertain her title. After several fruitless attempts, it was clear that Counselor Thompson was not forthcoming; so we concluded after consultation with all the parties that this being the case, it would be proper to re-purchase the property from the right owner whose deed and title were available. If my memory serves me right, we had negotiated a purchase price from the tune of US$15,000.00 to a final agreed price of US$9,,000.00. I was then authorized by my client to communicate this to Counselor Francis S. Korkpor so that payment plan would be made for the agreed amount. In October of 2002, I then wrote Counselor Korkpor informing him that we were in agreement with the payment and requested for us to conclude a payment plan.

That letter was sent. But it did not take too long I left the employ of the Ministry of Foreign Affairs to the Ministry of Justice and Counselor Korkpor's assignment also changed. This is what lies within my knowledge about this matter."

On the cross, the subpoenaed witness, Counselor Johnson, was asked the following questions:

"Ques. Mr. Witness, in your testimony in chief, you made mention of a meeting held with the different parties in this case and concluded that the defendant in these proceedings repurchased the subject property and in the sum of US$9,000.00 (nine thousand United States dollars). For the benefit of the Court and trial jury, please explain how you arrived at that conclusion?"

"Ans. I told you that when the claim of the property was made by Mr. Arthur Saye, representing the plaintiff in this case, through their legal counsel, Counselor Francis S. Korkpor, they did attached a copy of their title deed in support of their claim. But when I asked my client where was our title deed that is when she said that Counselor Luvenia Ash-Thompson would be able to show how she (defendant) owns the property. At that junction, we asked her to get to Counselor Luvenia Ash-Thompson to give us the document so that we would be able to make an informed representation. But after attempts *failed and she could not get the document, she herself informed me that the proper way would be to re-purchase from Mr. Arthur Saye, who was then representing the plaintiff in this case. It was through these discussions that all of the parties arrived at the US$9,000 (nine thousand United States dollars) purchase price."*

But when Appellant Joko Mawolo took the stand and testified, she said the following in respect to Counselor Johnson and her relation with the lawyer:

"…I told her [appellee] well, I bought this property and I told her [from] whom I bought the property. She asked for my name, and I told her my name and she wrote it *down. The next day, I went to work and I was very disturbed. So I told my immediate boss, Mrs. Lydia Sandemani who was the Passport Director at the time at the Ministry of Foreign Affairs. She then said to me, you and I don't have*

any legal knowledge, so I will talk to Judge Luvenia Ash-Thompson and Counselor Koboi Johnson. Counselor Johnson was the legal counsel at the Ministry of Foreign Affairs at the time. She talked to Counselor Johnson and he said that he would get in touch with Mrs. Reeves and her lawyer.

"He [Counselor Johnson] said to me I will talk to her because I am in the family. At that time, Counselor Johnson had a relationship with Thelma, another sister of former President Charles Taylor. After few days, Counselor Johnson came back and told me that he had spoken with Mrs. Reeves and her lawyer. He did tell me that *"well you have to re-buy the property". So I said okay, fine. But I want the trial Jury to know that I did not agree to re-buy because Mrs. Reeves was right. Rather, I was afraid....;for the same land, I had been through court and also, I have just gone through a divorce. So I was just sick and tired and I didn't have the strength to come to court again. This is the reason I wanted to re-buy the property.*

"When Counselor Johnson came back to me and said that he has already met with Mrs. Reeves and her lawyer, Counselor Francis S. Korkpor, Sr., he told me that they had a meeting, to which I was not invited. He Counselor Johnson said that Mrs. Reeves and Counselor Korkpor had agreed that I buy the property (half lot) for the amount US$15,000.00 (fifteen thousand United States dollars). I said to him, "Counselor, you know that I don't have that kind of money; if I had such an amount, it would not have taken me four years to build this house. The Counselor said to me, Mrs. Reeves says that if you don't pay the amount of U$15,000.00 (fifteen thousand United States dollars) cash down, she is going to take you to court. So I said fine. Let her take me to court.

"Then the lawyer said to me if you do not have the amount, go to your Uncle Jenkins Dunbar, who was the Minister of Lands, Mines and Energy at the time. I told him that I would not do it.

"At that point, he [Counselor Johnson] said to me, "the lady will take you to court and I take my hand out of the matter." So I said fine. Let us go to court....."

A juror posed the following question to appellant Joko Mawolo:

"Q. Madam witness, you were placed on the stand the other day to produce the original copy of certain document; and you were asked whether Counselor Koboi Johnson was your lawyer; you said no. But today while on the stand, you said all of the conferences were attended by Counselor Koboi Johnson and Counselor Francis S. Korkpor Sr. together and Counselor Johnson told you. My *question is, how was Counselor Koboi Johnson considered to be by you?*

"A. No, I do not classify him as my counselor. Because as I said in my testimony, my boss asked him to intervene on my behalf and to find out what the problem was. So he went to few meetings after which he told me to re-buy the property. I agreed to re-buy as I said in my testimony. While I agree to re-buy

the property, I did not ask him to arrange a meeting for me in my absence to agree to an amount of US$15,000.00 (fifteen thousand United States dollars) as he was never retained as my legal counsel."

This Court notes with interest, evidenced by certified records, that Appellant Mawolo never denied initially contacting Counselor Johnson to represent her interest in this matter. She also does not contend that Counselor Johnson exceeded the authority to represent her interest in ensuring that the subject property ultimately remained with her. She appeared ambivalent however, desiring at one time to keep the disputed property belonging to appellee, yet disagreeable at another time, to negotiate a figure much less than US$9,000.00 (nine thousand United States dollars).

Employing such disingenuous scheme, appellant not surprisingly attempted to distance herself from the representation made on her behalf by Counselor Johnson. Asked on the cross as to her relationship with Counselor Johnson, this was appellant's response: *do not classify him as my counselor. Because as I said in my testimony, my boss asked him to intervene on my behalf and to find out what the problem was. So he went to few meetings after which he told me to re-buy the property. I agreed to re-buy as I said in my testimony. While I agree to re-buy the property, I did not ask him to arrange a meeting for me in my absence [and] to agree to an amount of US$15,000.00 (fifteen thousand United States dollars) as he was never retained as my legal counsel..."*

It would appear that appellant believes that there must be a written agreement or contract in order to conclude an attorney- client relationship.

Law writers see it differently, and this Court is persuaded by their view on this question. Accordingly, *"A plaintiff's subjective belief that an attorney - client relationship exists, standing alone, cannot create such a relationship, or a duty of care owed by the attorney to that plaintiff; instead, it is the intent and conduct of the parties that controls the question as to whether an attorney - client relationship has been created. An attorney - client relationship is created when (1) a person seeks advice or assistance from an attorney, (2) the advice or assistance sought pertains to matters within the attorney's professional competence, and (3) the attorney expressly or impliedly agrees to give or actually gives the desired advice or assistance."* 7 Am Jud 2d, sections 136, 137 (III), ATTORNEY - CLIENT RELATIONSHIP.

Also in Saleeby Brothers, Inc. v. Barclay's Export Finance Company, LTD., this court held that lawyers may represent clients without necessarily showing authority to do so, save where a request to show such authority is specifically made. This is because it is presumed, and rightly so that a lawyer will not hold himself out as a representative of a party, unless properly and legally authorized to do so. *"It is well established,"* Mr. Chief

Justice speaking for the court said, *"that the appearance of a regularly admitted attorney-at-law is presumptive evidence of his authority to represent the person for whom he appears. This rule applies whether the attorney appears for a natural person or for a corporation; in neither case it is necessary for him to show his authority in order to progress with the suit unless properly demanded."* 20 L LR 520, 522-3 (1971).

In the case at bar, Appellant Mawolo requested Counselor Johnson to attend meetings in her behalf with the appellee's counsel. That she made this initial contact and so requested, appellant has not denied. In the opinion of this Court, the purpose of said meetings was none other than to examine legal issue/s relating to the disputed land, and to provide Appellant Joko Mawolo, pertinent and competent legal advice. Further hereto, appellant was encouraged to approach Counselor Johnson based on the lawyer's competence and her abiding belief in the lawyer's ability to provide the professional service appellant so desperately needed.

To the mind of this Court, all this conduct created a professional relationship with the lawyer and he therefore became appellant's lawyer in this matter.

We cannot conclude this opinion without mentioning a matter becoming increasing grave concern to this Court. There is this popular but totally wrong and completely mistaken notion that once a person builds on a land, a land for which no legal title has been conveyed to him, said individual stands to enjoy the sympathy of a court of law; hence title to said land will ultimately be transferred to the person by virtue the construction and improvement made by the person on said land. What a monstrous mistaken notion!

In this jurisdiction, unless one holds a legitimate title to a piece of land, the quality of investment made thereon makes little or no difference whatsoever in the eye of the law. The size of one's investment on land for which you hold no title does not and could not, as a matter of law, divest the legitimate owner of his/her title or deprive him/her of the right to hold and enjoy same, nor would construction or development confer legal title to the developer. Only by proper means of conveyance shall title be transferred from one person to another. Building on a land is not one of those means recognized by law in this jurisdiction.

Having carefully reviewed the facts and circumstances of this case, and in consideration of the December 21, 2008 opinion of this Court and the mandate emanating therefrom, it is the decision of this Court that the ruling of the Court entered on the finding of the arbitration award, being in harmony with the laws and practice in this jurisdiction,

should not be disturbed; same is hereby affirmed with costs against appellant. AND IT IS SO ORDERED.

COUNSELLOR COOPER KRUAH OF THE HENRIES LAW FIRM APPEARED FOR THE APPALLANT, AND COUNSELLORS YAMIE Q. GBEISAY, SR. AND JOHN E. NENWON OF THE TIALA LAW ASSOCIATES, INC. APPEARED FOR THE APPELLEE.

Cooper Kruah of the Henries Law Firm, appeared for appellant. Yarmie Q. Gbeisay, Sr. and John E. Nenwon of the Tiala Law Offices, appeared for appellee.

*Justice Korkpor did not participate in the determination of this case.