

**OOST AFRIKAANSCH COMPAGNIE**, a Dutch Firm Transacting Mercantile Business in the Republic of Liberia, by its Agent, JAN C. GOUDSWAARD, Appellant, v. **THOMAS J. MENSAH** and **TEAH DAVIS**, Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, GRAND BASSA COUNTY.

Argued May 20, 1957. Decided June 14, 1957.

1. Irregularity in the form of an injunction duly granted by a court of competent jurisdiction is no excuse for violation of the injunction.
2. When an injunction has been violated, an order holding the violator in contempt of court will be affirmed.

On appeal from an order of the Circuit Court, holding the appellant guilty of contempt for violation of an injunction issued by that court, *order affirmed*.

*Edwin A. Morgan* for appellant. Na, appearance for appellee.

MR. CHIEF JUSTICE SHANNON delivered the opinion of the Court.

An action of injunction was commenced in the Circuit Court of the Second Judicial Circuit, Grand Bassa County, by Thomas J. Mensah and Teah Davis against Jan C. Goudswaard, agent for Oost Afrikaansche Compagnie. Subsequently a complaint was made to the Circuit Judge, alleging that the said Jan C. Goudswaard had disobeyed an injunction which had been issued in the said action. To delineate the issues involved in the contempt proceedings, we deem it necessary to quote excerpts from the record.

From the complaint we quote the following :

"Wherefore plaintiffs pray that the said J. C. Goudswaard, agent as aforesaid, may be enjoined to abstain and desist from all further use and operation on said premises, and not to pay any further rents to any person or persons until said action of ejectment has been disposed of by this Court, upon which this action of injunction is predicated."

From the Circuit Judge's order to the clerk for the issuance of the writ of injunction, we quote the following:

"Upon filing of plaintiffs' complaint and approved bond in the above entitled case, and the payment of the necessary fees, you are instructed to issue a writ of injunction directed to Jan C. Goudswaard, agent of Messrs. O. A. Cie., Grand Bassa County, the defendant in this action, commanding him to abstain from the use and occupancy of the property described in said complaint, which property is the subject of an action of ejectment commenced by the above named plaintiffs against the above named defendant in the Law Division of the Circuit Court of the Second Judicial Circuit, Grand Bassa County, and to notify the said defendant to appear before this court on the 29th day of June, 1953, which is the day for his formal appearance, to show cause, if he so desires, why the said injunction should be dissolved."

In face of the above-quoted complaint and order, the clerk of the court issued a writ of injunction phrased as follows :

*"Republic of Liberia:* To Jan C. Goudswaard, agent for the Oost Afrikaansche Compagnie, foreign merchants of. Holland, transacting mercantile business in the County of Grand Bassa, Republic of Liberia, defendant, Greeting:

"You and your agents, and all persons whatsoever acting directly or indirectly under you, are hereby restrained, prohibited and enjoined under the penalty by law prescribed, until this court shall have made further orders hereupon, from leading, joining, or assisting in any mob having for its object violence or opposition against one Lot Number 32 containing a large warehouse situated in Lower Buchanan, Grand Bassa County, of Thomas J. Mensah and Teah Davis, the above named plaintiffs, or in any way interfering with or molesting the said Lot Number 32 containing one large warehouse situated in Lower Buchanan, Grand Bassa County."

Upon submission of the contempt charge, the Circuit Judge immediately ordered a citation issued on the said Goudswaard to appear in court on a day named to show cause why he should not be held in contempt of court for violation of the injunction. Along with the citation, a copy of the submission wherein he was charged with violation of the injunction was furnished him. He appeared and joined issue in denial of the charge, substantially sub-mitting that he had performed no act contrary to the inhibitions of the said injunction writ.

A trial ensued, during which the relators submitted and testified that defendant Goudswaard flagrantly and wantonly disregarded the injunction by continuing to operate on said Lot Number 32 after the service of the writ of injunction against and

on him.

George Totimeh, an employee of the defendant company, was apparently unwilling to testify that he knew anything of the disobedience of the orders of the court when, in answer to a question propounded to him by the relators as to whether he knew of the said Goudswaard violating the injunction "by disobeying the orders in said writ contained," he said : "I do not know anything about it." Yet he answered in the affirmative when asked by the court: "Since the institution of the above referred to injunction proceedings, and up to the present do you know that the said Goudswaard, agent for the O. A. Cie., Bassa, has been and is still operating on the said Lot Number 32?"

Frank Yancy, another employee of the defendant company, testified that he knew that the said Goudswaard was still operating on said Lot Number 32 up to the date of the hearing of the contempt proceedings. Yet, in face of this concrete testimony from four witnesses, two of whom were his employees, the said Goudswaard declined to give evidence in rebuttal, on the ground that nothing had been proven against him. Obviously he was ill advised by counsel, as was admitted during the argument before this Court.

It is proper to conclude that the real and main object of the injunction was shown in the complaint of the plaintiffs, a copy of which was served on defendant Goudswaard together with the order of the Circuit Judge directing the issuance of the writ of injunction. Consequently the defendant's contentions that no contempt was committed because the clerk incorrectly and improvidently issued the writ in wording different from the complaint, and that the defendant did nothing contrary to the prohibitions set forth in the writ, cannot but crumble in face of the cogent evidence adduced at the trial showing a violation of the prayer of the complaint and the directions given in the Circuit Judge's orders. Moreover, the very writ, although incorporating objectionable features not in harmony with the complaint and the court's orders, enjoined the defendant from "in any way interfering with or molesting one Lot Number 32 containing one large warehouse situated in Lower Buchanan, Grand Bassa County."

Relying on the contention that, because the writ of injunction restrained, prohibited and enjoined the defendant, or any and all of his agents, directly or indirectly, "from leading, joining or assisting in any mob having for its object violence or opposition against one Lot Number 32 containing a large warehouse situated in Lower Buchanan, Grand Bassa County," which was neither prayed in the complaint of the plaintiffs nor

directed in the order of the Circuit Judge for the issuance of said writ, the defendant is insisting that he is not liable for any violation of same, since he did not commit any such acts. This cannot but be regarded as a subtle attempt to sabotage the prestige, authority and dignity of the Court. We have the following on this point:

"Where the court had jurisdiction, the fact that the injunction, or restraining order, or the order for the same is merely erroneous, or was improvidently granted or irregularly obtained, is no excuse for violating it; and this rule applies with equal force to a prosecution for contempt instituted for the purpose of punishing a person for disobeying an order of the court on the ground that its authority or dignity is in question, and one which is instituted to enforce the authority of the court in the administration of justice between litigants.

"The injunction or restraining order must be obeyed until vacated or modified by the court awarding it, or until the order or decree awarding it has been reversed on appeal or error, no matter how unreasonable and unjust the injunction may be in its terms." 32 C. J. 482-84 *Injunctions* § 833.

"An injunction or restraining order which is not void must be obeyed whilst it remains in full force and effect, that is, in general, until the injunction or restraining order has been vacated or modified by the court which granted it, or until the order or decree awarding it has been reversed on appeal or error, no matter how unreasonable and unjust the injunction may be in its terms.

"Defendant cannot avoid compliance with the commands, or excuse his violation, of the injunction by simply moving to dissolve it, or by the pendency of a motion to modify it." 43 C.J.S. 1004 *Injunctions* § 258.

The jurisdiction of the trial court over the subject matter and the person of the defendant remains undisputed.

Consequently, in the light of the laws just cited, no mere irregularity could purge the defendant of any acts of violation of the spirit and intent of the injunction.

From the pleadings in the matter, the defendant had sufficient notice of what the injunction sought to restrain him from doing. The order for the issuance of the writ provided additional conclusive notice. On this we are in full agreement with the Circuit Court in affirming the order holding defendant guilty of contempt. We would

increase the fine imposed ; but we refrain from doing this because the appellant obviously acted upon the advice of counsel. We therefore affirm the judgment of the Circuit Court, with the entire costs of the proceedings ruled against the defendant; and it is hereby so ordered.

*Order affirmed.*