CASES ADJUDGED

IN THE

SUPREME COURT OF THE Appellants REPUBLIC OF LIBERIA

AT THE MARCH TERM, 2001

THE HEIRS OF THE INTESTATE ESTATE OF THE LATE S. B. NAGBE, JR., represented by EDDIE NAGBE, et al., /Respondents, v. THE INTESTATE ESTATE OF THE LATE S.B. NAGBE, SR., represented by SARAH NAGBE et al., Administratrixes, Appellees/Petitioners.

APPEAL FROM THE RULING OF THE CHAMBERS JUSTICE GRANTING THE PETITION FOR A WRIT OF CERTIORARI.

Heard: April 4, 2001. Decided: July 5, 2001.

1. Under our system of jurisprudence a person must be heard before he is condemned, and he must be given a fair hearing before he suffers a penalty.

2. Due process of law means that there must be (a) a tribunal competent to pass on the subject matter; (b) notice, actual or constructive: (c) an opportunity to appear and produce evidence; (d) an opportunity to be heard in person or by counsel, or both; and (e) having to be duly served with process or having otherwise submitted to the jurisdiction of the tribunal.

3. The due process right of a person extends to every governmental proceeding which may interfere with personal or property rights.

4. A trial judge commits error when, in passing on the law issues in a probate proceeding, he sua sponte orders that the letters of administration of the administrator be suspended pending the final determination of the suit.

5. In order for a probate judge to legally suspend the letters of administration of the administrators of an estate, there must have been filed a complaint of misconduct or mismanagement of the estate or of the affairs thereof, an opportunity accorded to the administrators to defend against the charges, and evidence to establish or disprove the charges.

6. The administrator of an estate may only be removed for cause after he has been confronted with evidence establishing his misconduct in office.

7. The curator for a county can only perform the duties of an administrator where there is not an eligible administrator or where the one who is eligible declines to serve.

8. The probate court should exercise extreme care and diligence to follow the prescribed procedures in supervising the administrator of estates.

9. A judge must first dispose of the law issues in a case before proceeding to dispose of the issues of fact, and the failure of the judge to so act constitutes a reversible error.

10. Issues not raised during the trial of a case will not be heard on appeal, and the Supreme Court will not review issues where no exceptions were taken in the lower court, or consider an issue not included in the bill of exceptions.

11. Letters of administration are granted to persons who are distributees of an intestate estate and who are eligible and qualified in the following order: (a) the surviving spouse; (b) the children; (c) the grandchildren; (d) the father or mother; (e) the brother or sister; and (1) any other persons who are distributees, preference, however, being given to the person entitled to the largest share in the estate.

12. Where the son of a decedent does not challenge the paternity of his sisters and their right to inherit of their father's property, but recognizes them as his sisters, his children lack the capacity to raise such challenge.

13. A probate court judge cannot remove a child of a decedent from administration of his estate and replace such administrator with a grandchild, as such act violates the order of preference under the Decedents Estates Law, and especially where no notice is given or opportunity provided before the removal is effected by the court.

The appellants appealed from the ruling of the Justice in Chambers granting the appellees' petition for a writ of certiorari and reversing the decision of the Monthly and Probate Court for Montserrado County. The Monthly and Probate Court had suspended the appellees from administering the estate of their late father and appointed the grandchild, one of the appellants, along with the curator of Montserrado County, in their stead to administer the estate. In his ruling the Justice in Chambers ordered the reinstatement of the appellees as administratrixes of the mentioned estate. The action of the Monthly and Probate Court grew out of a petition filed in that court by the appellants for proper accounting by the appellees, alleging that they were unaware of the lessees and tenants of the estate and that they had not been given their one-third share of the said estate. The probate judge, while acknowledging that there were law issues in the case which had to be disposed of, did not dispose of the said issues but instead proceeded to order the suspension of the appellees from

administration of the estate and to then appoint their nephew, along with the curator for Montserrado County, to administer the estate pending the final disposition of the case.

In its decision, the Supreme Court held that the probate court had erred in several respects. Firstly, it said that the trial court had erred in suspending the appellees from administration of their father's estate without providing them notice or information as to the charges levied against them before it effected the suspension; and that in not according the appellees the opportunity to be heard and to defend against the charges, it (the trial court) had denied the appellees of their fundamental right to due process of law. The Court noted that an administrator of an estate may only be removed for cause after he or she has been confronted with the evidence establishing misconduct in office or mismanagement of the estate. Moreover, the Court observed, no request had been made by the appellants in their petition for the removal or suspension of the appellees from the administration of the estate. The Court concluded that these were good reasons to warrant the reversal of the lower court's decision.

Secondly, the Court held that the judge had erred in passing on the factual issues in the case before disposing of the law issues, which the Court noted was still pending up to the hearing of the petition for certiorari. The Court restated its long standing position that under the law the judge had a duty to first dispose of the issues of law before resorting to dispose of the issues of fact.

Lastly, on the issue of the appellees not being the legitimate children of the decedent, the Court ruled that as the issue had not been raised in the trial court, the appellants were precluded from raising it for the first time before the Supreme Court, noting that the Supreme Court cannot hear or dispose of issues not raised in and disposed of by the lower court, excepted to, and included in the bill of exceptions. Notwithstanding, the Court proceeded to delve into the merits of the issue, holding that the appellants were without the capacity to raise the issues since their father, who was the proper person to raise such issue, had not raised the issue but had instead accepted the appellees as his sisters. The ruling of the lower court was therefore declared null and void, the appellees ordered reinstated, and the case was remanded for a new hearing, beginning with the disposition of the law issues.

Flaawgaa R. McFarland of the Flaawgaa R. McFarland Legal Services appeared for the appellants. N. Oswald Tweh of Pierre, Tweh and Associates Law Firm, and M. Kron Yangbe, appeared for the appellees.

MR. JUSTICE WRIGHT delivered the opinion of the Court.

The full bench of the Supreme Court is sitting to review the ruling of the Chambers Justice, wherein he granted a petition for a writ of certiorari, reversed the ruling of the judge of the Monthly and Probate Court for Montserrado County, and remanded the case for hearing of the main suit, commencing with the disposition of law issues. The appellants, being dissatisfied, excepted to the Chambers Justice's ruling and appealed therefrom to this Court of last resort for review, praying the Court to reverse the aforesaid ruling of the Chambers Justice and to reinstate the ruling of the trial judge. The appellees, for their part, have prayed the Court to affirm the ruling of the Chambers Justice.

This case presents another family feud, wherein the late S. B. Nagbe, Sr., decedent, is the patriarch, and the appellees are children of the said decedent, the late S. B. Nagbe, Sr., and aunts of the appellants. The appellants, on the other hand, are children of the elder brother of the appellees, the late S. B. Nagbe, Jr., and grandchildren of the decedent, S. B. Nagbe, Sr.

On May 28, 1973, S. B. Nagbe, Sr., of Monrovia, died intestate, being seized, at the time of his death, of divers and sundry real and personal properties, and leaving three children, namely, S. B. Nagbe, Jr., Sarah Nagbe, and Christiana Nagbe. Just over two weeks after his death, on June 14, 1973, his son, S. B. Nagbe, Jr., filed in the Monthly and Probate Court for Montserrado County a petition for letters of administration to administer the intestate estate of his late father, S. B. Nagbe, Sr. The petition was heard and granted by the court, and letters of administration were issued him.

On December 4, 1974 the aforementioned probate court, at the time presided over by Judge G. C. N. Tequah, declared the estate of the Late S. B. Nagbe, Sr. closed. But two years later, on November 22, 1976, Christiana Nagbe filed a petition to reopen the estate of her late father, S. B. Nagbe Sr., to have her brother, S. B. Nagbe, Jr., the administrator, give a proper accounting of the administration of the estate, and to have the court join her as an administratrix of the said estate, since she was the only other child of S. B. Nagbe, Sr. still living in Monrovia, her sister, Sarah Nagbe, having returned to Germany to continue her education immediately after the burial of their father.

In the petition, Christiana Nagbe alleged that their father's estate was brought to court for administration by their brother, S. B. Nagbe, Jr., and that the said estate was later closed without the knowledge of the two sisters and without any distribution of the assets of the said estate. She further alleged that her sister and she were ignorant of the properties that constituted their father's estate because their brother had failed to provide them with a report on the status of the said estate.

Following a hearing on the petition, the probate court, on June 15, 1977, reopened the estate, noting as the ground that the estate had been irregularly closed. Later, on May 27, 1980, the probate court, presided over by Judge Gladys K. Johnson, granted Christiana Nagbe letters of administration to operate as co-administratrix along with her brother, S. B. Nagbe, Jr. In her ruling of May 27, 1980, aforementioned, Judge Gladys K. Johnson held that all "properties of S. B. Nagbe, Sr. belong to the three heirs of his body, S. B. Nagbe, Jr., Sarah, and Christiana and that the said property should be shared alike among them."

Eight (8) years thereafter, on May 31, 1988, S. B. Nagbe, Jr. died, and on October 27, 1995, seven (7) years later, two of his children, Eddie T. Nagbe and George T. Nagbe, were granted letters of administration by the probate court to administer his intestate estate. Then two years later, on October 29, 1997, the letters of administration granted to Christiana Nagbe to jointly administer the intestate estate of the late S. B. Nagbe, Sr., along with her brother, S. B. Nagbe, Jr., was cancelled due to the death of her brother, S. B. Nagbe, Jr., and new letters of administration were issued to Sarah Nagbe (now Wilson) and Christiana Nagbe (now Jallah), appointing them as administratrixes de bonis non of the estate of S. B. Nagbe, Sr.

About seven (7) months thereafter, on May 19,1998, the children of S. B. Nagbe, Jr., namely Eddie T. Nagbe, George T. Nagbe, Anna W. Nagbe, Josephine G. Nagbe, Louise J. Nagbe, Lanoel G. Nagbe, Cleopatra D. Nagbe, Samuel B. Nagbe, Precious T. Nagbe, and Henry T. Nagbe, filed a petition for proper accounting praying the Monthly and Probate Court for Montserrado County to have their aunts, the administratrixes of the Intestate Estate of the late S. B. Nagbe, Sr., Sarah Nagbe Wilson, and Christiana Nagbe Jallah, give a proper accounting of their handling and administration of the affairs of the aforementioned estate of the late S. B. Nagbe, Sr. The petitioners therein complained that the administratrixes had failed to survey the estate, in keeping with the orders of the probate court, and further, that they, the said administratrixes, had not informed them as to who the lessees and tenants of the estate were, how much each of them was paying, and how the funds were being disbursed. Finally, the petitioners therein alleged that they had not benefitted from their fair and equitable share of their grandfather's estate, being one-third interest in the said intestate estate of the late S. B. Nagbe, Sr., by virtue of their father, the late S. B. Nagbe, Jr., being one of his three children.

The administratrixes filed returns to the petition for proper accounting on June 7, 1998, denying the averments and allegations contained in the petition. The petitioners therein did not file a reply, and thus the pleadings rested only with the petition and the returns.

On July 15, 1998, when the case was called for disposition of law issues, counsel for the petitioners therein submitted that there were no law issues and that the trial should therefore

be proceeded with. However, counsel for the respondents therein resisted the submission, contending that there were law issues in the returns and the court should therefore first dispose of the issues of law before going into the factual aspects of the case. The court reserved its ruling to another date.

On August 4, 1998, the judge ruled sustaining the appellees/administratrixes' resistance that there were law issues and that the court would proceed to firstly dispose of those law issues before going to trial of the facts of the case. However, in the same ruling, the judge suspended the two administratrixes and placed the Intestate Estate of S. B. Nagbe, Sr. under the control and administration of the curator and sheriff of the probate court.

On August 14, 1998, the appellees/administratrixes filed a motion with the court for reconsideration, praying the judge to modify his ruling of August 4, 1998 by reinstating them as administratrixes. On February 19, 1999, the judge denied the motion and confirmed the suspension of the administratrixes, contained in the ruling of August 4, 1998. However, prior to ruling on February 19, 1999 denying the administratrixes' motion for reconsideration, the court had, on December 30, 1998, granted letters of administration to Emmanuel Nagbe, one of the sons of S. B. Nagbe, Jr., and nephew of the administratrixes, to co-administer the Intestate Estate of the late S. B. Nagbe, Sr., along with the curator of the probate court, replacing the sheriff. This action was taken by the judge while the original petition for proper accounting, which was the main suit, was still pending and the law issues had not then been disposed of. Indeed, up to today's date, the law issues raised in the pleadings have still not been argued and disposed of and, thus, the main suit is itself still pending undetermined.

The administratrixes, being dissatisfied with the conduct of the probate court judge in the three instances, namely, (a) the August 4, 1998 ruling suspending the administratrixes from office without cause, (b) the February 19, 1999 ruling denying the motion for reconsideration of the August 4, 1998 ruling, and (c) the December 30, 1998 appointment of Emmanuel Nagbe as administrator, along with the curator, without notice to the suspended administratrixes, they proceeded to the Chambers of the Supreme Court where they filed a petition for a writ of certiorari, praying this Court to review and reverse the three above stated rulings of the probate judge, and to set aside and declare null and void the appointment of Emmanuel Nagbe and the curator of the probate court as administrators of the Intestate Estate of the late S. B. Nagbe, Sr.

The Chambers Justice ruled on October 4, 2000 granting the petition for the writ of certiorari filed by the two suspended administratrixes and setting aside all of the rulings and actions of the probate court judge complained of in the petition for certiorari. The petitioners in the court below, who are the respondents in these certiorari proceedings, have

come to this Court en banc aggrieved by the ruling of the Chambers Justice and praying its reversal.

There is no dispute that the petition for proper accounting was the proper course of conduct for the appellants to pursue. However, the administratrixes have complained of the following acts committed by the probate court judge: (a) that they were suspended from office without any notice to them, without any cause being stated, and hearing being conducted, and while the main suit for proper accounting was still pending, all contrary to the due process of law; (b) that they raised these issues in their motion for reconsideration, which motion was denied by the court; and (c) that the court erred in appointing Emmanuel Nagbe, a grandchild, as administrator, in preference to the children of the deceased, while the petition for proper accounting, filed by appellants, children of S. B. Nagbe, Jr., nieces and nephews of the administratrixes, and grandchildren of the deceased patriarch, S. B. Nagbe, Sr., remained undetermined.

The Chambers Justice found that the trial judge was in error on all three counts stated hereinabove. We hold that the ruling of the Chambers Justice finds complete support in the law and is in harmony with the views of the Court en banc, for which his ruling should be and is hereby accordingly affirmed and confirmed. Relevant parts of the said ruling shall be quoted later in this opinion.

Suffice to say that it is an elementary principle of law and one of the rudiments of our system of jurisprudence that one must be heard before he is condemned; he must be given a fair hearing before he suffers a penalty. Recognizing this principle, this Court held in the case Wolo v. Wolo, 5 LLR 423 (1937), that due process of law means that there must be (a) a tribunal competent to pass on the subject matter, (b) notice, actual or constructive, (c) an opportunity to appear and produce evidence, (d) the right to be heard in person or by counsel, or both, and (e) having to be duly served with process or having otherwise submitted to the jurisdiction of the tribunal. These fundamental constitutional rights extend to every governmental proceedings which may interfere with personal or real property rights. In essence, due process embraces the fundamental conception of a fair trial, with an opportunity to be heard. Ayad v. Dennis, 27 LLR 165 (1974), text at 177; LIB. CONST. (1986) Art. 20(a).

Accordingly, we hold that the probate judge committed an error in suspending the appellees as administratrixes of the intestate estate of their father while ruling on whether or not there were law issues in the pleadings, which upon making the said determination he would then be required to first dispose of before proceeding further. The judge correctly ruled that there were law issues in the pleadings and that he would have to dispose of those issues first. But his error came when he immediately moved on and sua sponte ordered that the letters of

administration issued to the two administratrixes be suspended pending a final determination of the main suit.

We note, however, that the issue of suspending the letters of administration issued to the appellees was not raised by any of the parties at anytime, and certainly not by the appellants in their petition for proper accounting. The appellants only complained that the estate had not been surveyed or closed as ordered by the court, and that they did not know who were the lessees and tenants of the estate, how much rental each was paying, and what was being done with the money. Finally, they complained that they had not benefitted from their fair one-third (1/3) share of the property which should have accrued to their father. These were issues of fact to be established during the hearing of the petition for proper accounting filed by appellants, for which they gave notice they would prove during the trial. These therefore should not have been the basis for the suspension of the letters of administration of the appellees prior to a hearing of the factual issues. The word "suspension" was mentioned for the first time by the judge in his ruling. We believe that for the probate judge to have legally suspended the letters of administration of the appellees, there should have been a complaint alleging misconduct or mismanagement of the estate, or its affairs, an opportunity accorded the appellees to defend themselves against the charges, and evidence to establish and/or disprove the charges before the court could effect the suspension of the letters of administration of the appellees under section 107. 10 of the Decedents Estates Law. Clearly, the act of the judge was illegal, baseless, prejudicial and, as ruled by the Chamber Justice is hereby declared null and void and set aside.

This Court has held that "an administrator of an estate may only be removed for cause after he has been confronted with the evidence establishing his misconduct in office." Cole-Larson et al v. Thompson,

20 LLR 339 (1971), Syl 4, text at 341; Dennis v. Weeks, 11 LLR317 (1952), Syl. 1, text at 3l9.

The law also provides that a curator for a county can only perform the duties of an administrator where there is not an eligible administrator or where the one who is eligible declines to serve. Decedents Estate Law, Rev. Code, § 112.2, 111.1(3); also, Lloyd et al. v. Roland et al., 23 LLR 421 (1974), Syl. 2, text at 423. The trial judge therefore erroneously appointed the Curator for Montserrado County to administer the affairs of the estate in litigation when the administratrixes, duly and regularly appointed by said court, were eligible, available, willing to serve, and are in fact serving.

In Woodson v. Houston. 12 LLR 133 (1954), text at 134, this Court held that "probate courts should exercise extreme care and diligence to follow prescribed procedures in supervising the administrator of estates." In the instant case, the main suit, the petition for proper accounting, was and is still pending, the very law issues still not yet disposed of, and as such, the charges levied against the administratrixes still to be established by the production of evidence during a hearing or trial. We note further the fact that the said petition for proper accounting was devoid of any mention of, or call for, the revocation or suspension of the letters of administration issued to the administratrixes being one of the desired reliefs sought by the petitioners therein. It was bad enough that the issue was raised and action thereon taken sua sponte by the court; but it was even worse that the court effected its suspension of the administratrixes without prior information to them or affording them the opportunity to be heard.

As we did in the Woodson case, supra, we hereby reverse the suspension of the letters of administration of the appellees/ administratrixes and order that they remain in office and continue to perform and function as the legal administratrixes of the estate of their late father until they are formally and properly charged in keeping with law, in a separate action other than the instant petition for proper accounting, which does not raise the issue, and regarding which the appellees were not given a fair hearing and ruling thereon.

Another issue passed upon by the Chambers Justice, and in which he ruled that an error was committed by the trial judge, relates to the claim that the judge failed to first dispose of the issues of law raised in the pleadings before taking further action in the case. It is an elementary principle of law and part of the practice and procedure in this jurisdiction that a judge must first dispose of law issues before the issues of fact. Cooper v. Davis, 27 LLR 310 (1978) Syl.5; Thompson v. Faraj, 25 LLR 34 (1976), Syl. 1; Gallina Blanca v. Nestle Products, 25 LLR 16 (1974) Syl. 4. We do not need to go any further on this issue; we hold simply, as the Chambers Justice did, that the act of the trial judge constituted reversible error, for which the case is hereby remanded to be commenced anew, starting from the disposition of the law issues.

There is one final issue we wish to address in this opinion, an issue raised for the first time in the appellants' brief and argued before this Court en banc. That issue relates to the claim of the appellants that the appellees are not legal heirs of the late S. B. Nagbe, Sr., but rather are children of his widow, begotten unto her first husband, Dr. Karpeh, and that prior to the death of S. B. Nagbe, Sr., Christiana Nagbe-Jallah was formerly called and known as Christiana Karpeh-Jallah, but that she changed her name after the death of the decedent in order to qualify as an heir and be appointed as one of the administratrixes of the estate.

Two contentions were advanced in respect of the foregoing issue. Firstly, the appellees contended that the issue was improperly raised before this Court since it was not raised in the court below or before the Chambers Justice to be passed upon and to thereafter form a part of the exceptions to be brought up for review by this Court.

This Court has been consistent and vehement in its stance that issues not raised during the trial will not be heard on appeal, Benson v. Johnson, 23 LLR 290 (1974), and that the Supreme Court will not review issues where no exceptions were taken in the lower court, or consider an issue not included in the bill of exceptions. Cooper v. Davis, supra, Syl. 2. Accordingly, that issue is overruled and dismissed.

But having said that and thus ruled, we wish to further comment on the issue. We note that appellants, who were petitioners in the petition for proper accounting, are the grandchildren of the decedent, S. B. Nagbe, Sr., and nieces and nephews of the appellees. We note also that upon the death of the decedent patriarch of the family on May 28, 1973, his intestate estate was brought to court for administration by his eldest child and only son, S. B. Nagbe, Jr., who was appointed sole administrator after his petition, filed June 14, 1973, was heard and granted by the probate court. After the estate was closed on December 4, 1974, it was reopened on June 15, 1977, on petition of the one sister who was here in Liberia, and who told the court that they had no knowledge of the petition filed by their brother nor of his appointment as administrator, and that he had not informed them of the assets of the estate or of the closure of the said estate. In a ruling dated May 27, 1980, the probate court appointed Christiana Nagbe as co-administratrix, along with her brother, S. B. Nagbe Jr., and also ordered that as all the properties of their father, S. B. Nagbe, Sr., belonged to the three heirs of his body, namely, S. B. Nagbe, Jr., Sarah, and Christiana, the said properties should be shared alike among them. Accordingly, S. B. Nagbe Jr., and his sister, Christiana Nagbe (now Jallah) jointly administered their father's estate until the death of S. B. Nagbe, Jr., on May 31, 1988, a period of eight (8) years following the probate court's order.

The records do not reveal any issue ever being raised by S. B. Nagbe, Jr., that Christiana and Sarah were not his sisters or that they are not children of his father, or that as such they were not entitled to inherit from S. B. Nagbe, Sr. or that they did not qualify to be administratrixes of the estate. Thus, if S. B. Nagbe, Jr., the known son and legal heir of S. B. Nagbe, Sr., did not challenge the legitimacy of Sarah and Christiana as children of S. B. Nagbe Sr., and hence not his sisters, we wonder what is the basis upon which the appellants, who are children of S. B. Nagbe, Jr., nephews and nieces of Christiana and Sarah Nagbe, and grandchildren of S. B. Nagbe, Sr., have made the assertion that Sarah and Christiana are not children of S. B. Nagbe, Sr. This Court asks, as between the appellants and their father, S. B. Nagbe, Jr., who was in a better position to challenge the paternity of Sarah and Christiana?

We hold that their father, S. B. Nagbe, Jr., was better suited to raise such an issue. After all, the property is for S. B. Nagbe, Sr., who was father of S. B. Nagbe, Jr., Sarah, and Christiana, while the appellants are grandchildren of S. B. Nagbe, Sr. The question therefore is, as between the children and the grandchildren of a decedent, which of them have preference or priority to the property?

The law provides that "letters of administration must be granted to the persons who are distributees of an intestate estate and who are eligible and qualified in the following order; (a) the surviving spouse; (b) the children; (c) the grandchildren; (d) the father or mother; (e) the brother or sister; and (f) any other persons who are distributees, preference, however, being given to the person entitled to the largest share in the estate." Decedents Estates Law, Rev. Code 8:111.1.

Therefore, S. B. Nagbe, Jr., a child of the decedent, not having challenged the paternity of his sisters, but instead recognized them as such and thus co-administered the decedent estate with them, the appellants, being grandchildren of the decedent, lack the capacity to raise such challenge. Moreover, the probate court reopened the estate on June 15, 1977, on petition of the two sisters, and thereafter appointed them on May 29, 1980 to co-administer the estate and ruled that all the properties of S. B. Nagbe, Sr. belonged to the three heirs of his body, namely S. B. Nagbe, Jr., Sarah and Christiana, and that said properties should be shared alike among them. We note that the court specifically named the two sisters, now appellees, and that the issue was therefore squarely closed.

Therefore, it was a complete travesty for the trial judge in the instant case to remove a child of the decedent as administratrix of his estate and replace her with a grandchild. That act violated the order of preference, and was clearly erroneous since it was done without any notice to her as the existing administratrix or any hearing or opportunity to defend herself. It is for these two reasons that the appointment of Emmanuel Nagbe has to be declared illegal and null and void, and warrants being set aside and reversed, and the original administratrixes reinstated.

Wherefore, and in view of the laws, facts and circum-stances hereinabove set forth, it is the ruling of this Court that the Chambers Justice, Mr. Justice Sackor, committed no error in granting the petition for the writ of certiorari and ordering the peremptory writ issued. His ruling is therefore confirmed and affirmed in toto. We also hold that the ruling and actions of the probate court judge, being irregular, arbitrary, illegal, and a prejudicial abuse of judicial discretion, the same are all hereby null and void and set aside, and the case remanded to the trial court to recommence the entire proceedings, starting from the disposition of the law

issues raised in the pleadings. In that connection, the ruling of the probate judge suspending the administratrixes, being illegal and hence reversed, the appellees are ordered reinstated immediately as the legal administratrixes of the intestate estate of their late father. We further hold that the appointment of the curator, being illegal, the same is also reversed. In addition, we direct and order that following the disposition of the petition for proper accounting, the probate court should proceed without undue delay to have the estate closed in keeping with law.

The Clerk of this Court is hereby ordered to issue the peremptory writ of certiorari setting aside all the proceedings and reversing all the rulings made in the Court below and returning the parties to status quo ante, and to send a mandate to the Monthly and Probate Court for Montserrado County commanding the judge therein presiding to resume jurisdiction over the case and proceed to hear the petition for proper accounting filed by the appellants, commencing with the disposition of law issues raised in the petition and returns thereto. Costs of these proceedings are ruled against the appellants. And it is hereby so ordered.

Petition granted.

Note: Mr. Justice Sackor, having heard this case in Chambers, recused himself from its final determination, and hence, did not sign this judgment.

Note: Mr. Justice Jangaba, having traveled abroad, did not participate in the hearing of this case; hence, did not sign this judgment.