

National Africa First Pentecostal Church now known as the National Pentecostal Bible Way Church of our Lord Jesus Christ thru the Executive Board to include Elder Davies Wesseh, Jerome J. Jlakron et.al of the City of Monrovia, Liberia APPELLANT VERSUS Suspended **Mathias T. W. Davies**, Pastor, Guiding Star Temple Headquarters, National Pentecostal Bible Way Church of our Lord Jesus Christ, Worldwide Inc. also of the City of Monrovia, Liberia APPELLEE

APPEAL

Heard: March 31, 2009 Decided: July 23, 2009

MRS. JUSTICE JOHNSON DELIVERED THE OPINION OF THE COURT

The National Africa First Pentecostal Church, renamed the National Pentecostal Bible Way Church of our Lord Jesus Christ Worldwide, Inc. has a branch located in New Kru Town, Bushrod Island, Liberia. It is called the Guiding Star Temple Church which is built on an acre of land. Other structures on said land are a high school and a Bishop's residence. This institution is currently in disarray growing out of a dispute over the ownership to the one acre of land. The dispute evolved following the death

in 2004 of Bishop Andrew T. W. Davies, presiding Bishop since 1963. The two sides to this dispute are the leadership of the church, and Mathias Davies, son of the deceased Bishop. The leadership of the church claims that the one acre of land on which the facilities are built belongs to the Church acquired through a legal purchase during the bishopric of their first Bishop Samuel Doe who died in 1963 and was succeeded by Bishop Andrew T. W. Davies and that the structures were erected during the administration of the said Bishop Davies. The son on the other hand claims that the one acre of land belonged to his mother, wife of Bishop Davies, who predeceased her husband.

According to the records under review, in the year 1995, Mathias Davies, son of Bishop Davies, was deported from the United States where he had gone to pursue higher education, on drug related charges. Upon his return, the Bishop appealed to the leadership of the church to find a place in the establishment to help rehabilitate his son. In deference to him as their Bishop and leader, they appointed the son pastor of the Guiding Star Temple Church. Pastor Mathias

Davies lived in the residence with the Bishop until the Bishop died. After the Bishop's death in 2004 a new Bishop was ordained and a demand was made on Pastor Mathias Davies by the leadership of the church to make the Bishop's residence available for occupancy by the new Bishop. Pastor Mathias Davies refused to oblige. Tension between him and the church leaders developed to the point that the church leadership had to refer the matter to higher authorities, the Christian Alliance, for their intervention and while this disharmony was brewing, the new Bishop Weagbah died. His assistant, Bishop David Wesseh ascended to the position of Bishop. Pastor Mathias Davies still refused to vacate the Bishop's residence. In the interim, in 2006 Pastor Davies, through his legal counsel, processed articles of incorporation and had same registered at the Ministry of Foreign Affairs, incorporating the Garden Star Temple Church, designating himself as the registered agent and one of the incorporators. He was also declared Bishop of the Guiding Star Temple Church by resolution. He changed the administration of the school, shut off the church to prevent the ordination of the late Bishop Weagbah in said Church.

News of the developing anarchy soon reached the foreign board. A committee was dispatched to Liberia to investigate and settle the problem. During the investigation which was attended by both sides to the dispute and the hierarchy of the Bible Way Church in Liberia, several questions were posed to all concerned and according to the record herein, Pastor Mathias in answering some questions did admit that the Bible Way Church and the Guiding Star Temple were one and the same entity; that he did not own the church; that the Bishop was head of the church; and that the residence was the property of the church. Notwithstanding the foregoing admissions and acknowledgement, and the investigators' conclusion that he should turn over all properties in his possession that belong to the church, and that he should vacate the Bishop's residence, Pastor Mathias Davies refused and failed to yield. The church board then suspended him indefinitely from the position of pastor. Below is the letter of indefinite suspension.

"NATIONAL PENTECOSTAL BIBLEWAY CHURCH OF OUR LORD JESUS CHRST WORLD
WIDE, INC
POST OFFICE BOX 332
NEW KRU TOWN

MONROVIA,
LIBERIA
OFFICE OF THE ACTING CHAIRMAN
October 26, 2006

District Elder Mathias T. W. Davies
Pastor Guiding Star Temple
Headquarter, National Pentecostal
Bible Way Church of Our Lord Jesus
World-Wide, Incorporated

Dear District Elder Davies:

Having observed on numerous occasions your constant disrespect and intimidation toward the church authority and congregation; and refusal to amalgamate efforts in disseminating the Gospel of Jesus Christ through the above mentioned Denomination, we the Executive Board with the consent of the members do hereby suspend you for time indefinite as Head Pastor of the Headquarters Church. The indefinite suspension takes immediate effect upon receipt of this letter.

Please see other major reasons that led to your indefinite suspension.

1. Disgracefully carrying the church and its Bishop David B Weagba, Sr. (the late) to Justice Ministry on February 4, 2006;
2. The closing of the Headquarters Church (Guiding Star Temple) in the presence of the Foreign Board thus stopping the ordination program of the later Bishop at that church on February 12, 2006;
3. Taking major decisions without the approbation of the Executive Board and even the local church standing committee, and disgracing the other Pastor for personal reasons;
4. Refusing to turn over to the Executive Board all properties (Land Deed) and other documents belonging to the Church. The church, being a place for public worship and a place to address the spiritual needs of the people, it has to remain

open. Therefore, the Executive Board has appointed the Headquarters Church Assistant pastor, Elder Aloysius N. Nimely as the Acting Pastor until otherwise necessary.

We prayerfully do anticipate your cooperation in this direction; remember that the Lord whom we served is not the author of confusion but of peace.

Kind regards.

Yours very truly,

Deacon Alfred W. Kun

Executive Secretary

Approved:

District Elder David W. Wesseh

District Elder General/Acting Chairman."

Despite this letter of indefinite suspension, Mathias Davies maintained his position of noncompliance. As a last resort, the leadership instituted this action of ejectment on December 2, 2006 to evict the defendant from occupancy and possession of its properties. Along with the ejectment complaint, plaintiff annexed a certified copy of a warranty deed to substantiate its title to the land. The following is said warranty deed:

PLAINTIFF'S DEED

"REPUBLIC OF LIBERIA

KNOW ALL MEN BY THESE PRESENTS, That we Jacob Fay, Sombo Gbee, Jassah Bundu, Jessie Capehart, Tarlon Kai, Henry V. Logan of the Bushrod Island of Monrovia in the Count of Montserrado and Republic of Liberia for an in consideration of the sum of \$200.00 (two hundred dollars) paid to us by National Africa First Pentecostal Church in the City of Monrovia in the County of Montserrado the Republic of Liberia (the receipt whereof is hereby acknowledged) do hereby give, grant, bargain, sell and convey unto the said N. A. Pentecostal Church her heirs and assigns, a certain lot or parcel of land with the building thereon and all privileges and appurtenances to the same belonging situated in the authentic records of the said Bushrod Island of Monrovia County of

Montserrado and Republic of Liberia and bearing in the authentic records of the said Bushrod Island the Block No. two (2) and bounded and described as follows:

Commencing at the South East corner of Theodore Chea Railey's adjoining Northern Block and running parallel with it North 65° West 4 chains, thence running South 65° East 2 1/2 chains thence running North 25 °East 4 chains parallel with the Western side of King Peter's Avenue to the place of beginning and containing one (1) acre of land and more.

TO HAVE AND TO HOLD the above granted premises to the said N. A. First Pentecostal Church her heirs and assigns to her and their use and behoof forever. And we the said Jacob Fay, Sombo Gbee, Tarlon Kai, Jessie Capehart and Henry V. Logan, Jassah Bundu for us and our heirs executors, administrators, and assigns, do covenant with the said National Africa First Pentecostal Church her heirs, and assigns that at and until the ensealing of these presents we were lawfully sized in fee simple of the aforesaid granted premises, that they are free from all encumbrances, that we have good right to sell and convey the same to the N. A. First Pentecostal Church her heirs and assigns forever as aforesaid and that .we will and our heirs, executors and administrators and assigns shall Warrant and defend the same to the said N. A. First Pentecostal Church her heirs and assigns forever against the lawful claims and demands of all persons.

Signed, sealed, and delivered In the presence of Moses Brobruah

-Nah His X Cross

-Brown His X Cross

one \$1.00 rev. stamps

In Witness whereof we have hereunto set our hands and seal this 31 day of January in the year of our Lord A. D. 1950

Sgd. Jacob Fay His X Cross,

Sombo Gbee His X Cross,

Tralon Kai His X Cross, Jessie

Capehart His Cross, Jassah

Bundu her X Cross, Henry V. Logan.

ENDORSEMENT

WARRANTY DEED from Jacob Fay et al National Africa Pentecostal Church portion of Block No. 2 situated at Bushrod Island Montserrado County "let this be registered" J. Everett Bull Commissioner of the Monthly and Probate Court Montserrado County. Probate this 6 th day of February 1950."

The appellee/defendant filed an answer to the complaint on December 19, 2006, seven days after the statutory ten days period and annexed a certified copy of a warranty deed:

Defendant's Answer

"Defendant contesting the legal efficacy and sufficiency of Plaintiff's complaint and praying the dismissal of same, showeth reasons therefore to wit:

1. That defendant is the Administrator of the Intestacy of the late Elizabeth Hannah-Ploh Daniel-Davies, subject of this Action, as will morefully appear from photocopy of the Letters of Administration hereto annexed as exhibit "A", hereof.
2. That by virtue of an honourable purchase, defendant is the legal and lawful owner of the one acre of land which he occupies as an administrator, evidenced by the deed hereto annexed as exhibit "B" hereof.
3. That assuming without admitting that the deed which plaintiff attached to its complaint is genuine, defendant's deed attached to his answer is superior to that of Plaintiff's; in that plaintiffs deed is dated January 31, 1950, while defendant's deed is dated January 31, 1948, under the doctrine of older title.

Defendant submits that his deed having been given to plaintiff for inspection, same was fraudulently processed in plaintiffs name in an adroit attempt to divest defendant of his land.

4. That the entire complaint, including counts 1 through 10 of the complaint are false and misleading; in that, it was plaintiff not who erected the church on the subject land, but defendant and his parents who are legal and lawful owners of the land on which the church is erected.

5. That plaintiffs contention as to his purported suspension is not only false but

absolutely irrelevant and nugatory to an action of Ejectment. Defendant submits that, to the contrary, his church which he presides over as Bishop, the Guiding Star Temple, Inc. evidenced by the Articles of Incorporation hereto attached as Exhibit "C", is presently occupying and operating on the premises with permission of the Administrator and or owner thereof.

6. That defendant has never been suspended by any one; instead, defendant's congregation has reaffirmed implicit confidence in his integrity and work, evidenced by several resolutions passed in favor, hereto attached in bulk as Exhibit "D" hereof.

7. Defendant hereby denies every and singular the allegations of fact contained in the complaint and not made subject of a special traverse.

WHEREFORE, defendant prays that the complain be dismissed and the cost of these proceedings ruled against plaintiff; and to further grant unto defendant such relief justice and right may demand in the premises."

DEFENDANT'S DEED

"REPUBLIC OF LIBERIA

KNOW ALL MEN BY THESE PRESENTS, That we Jacob Fay, Sombo Gbee, Jassah Bundu, Jessie Capehart, Tarlon Kai, Henry V. Logan of the Bushrod Island of Monrovia in the County of Montserrado and Republic of Liberia for and in consideration of the sum of \$200.00 (two hundred dollars) paid to us by Elizabeth Hannah-Ploh Daniel of Bushrod Island, City of Monrovia in the County of Montserrado, the Republic of Liberia (the receipt whereof is hereby acknowledged), do hereby give, grant, bargain, sell and convey unto the said Elizabeth Hannah-Ploh Daniel her heirs and assigns a certain lot or parcel of land with the building thereon and all privileges and appurtenances to the same belonging situated in the authentic records of the said Bushrod Island of Monrovia, County of Montserrado and Republic of Liberia and bearing in the authentic records of the said Bushrod Island the Block No. two (2) and bounded and described as follows:

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running South 65o East 21/2 chains thence running North 25 °East 4 chains parallel with the Western side of King Peter's Avenue to the place of beginning and containing one (1) acre of land and no more.

TO HAVE AND TO HOLD the above granted premises to the said Elizabeth Hannah-Ploh Daniel her heirs and assigns to her and their use and behoof forever. And we the said Jacob Fay, Sombo Gbee, Tarlow Kai, Jessie Capehart and Henry V. Logan, Jassah Bundu for us and our heirs executors, administrators and assigns do covenant with the said Elizabeth Hannah-Ploh Daniel her heirs and assigns that at and until the ensealing of these presents we were lawfully seized in fee simple of the aforesaid granted premises, that they are free from all encumbrances, that we have good right to sell and convey the same to Elizabeth Hannah-Ploh Daniel her heirs and assigns forever as aforesaid and that we will and our heirs, executors and administrators and assigns shall Warrant and Defend the same to the said Elizabeth Hannah-Ploh Daniel her heirs and assigns forever against the lawful claims and demands of all persons.

Signed sealed and delivered In the presences of:

Moses B. Cunbsil

P.S. Nah His Cross

Kotee Brown His Cross

\$1.00 rev. stamps

in Witness whereof we have hereunto set our hands and seal this 31 day of January in the year of our Lord one thousand nine Hundred and forty eight A. D. 1948

Sgd. Jacob Fay His Cross,

Sombo Gbee His Cross,

Tralon Kai His Cross,

Jessie Capehart His Cross,

Jessah Bundu her Cross,

Henry V. Logan.

ENDORSEMENT

WARRANTY DEED from Jacob Fay et al National Africa Pentecostal Church portion of Block No. 2 situated at Bushrod Island Montserrado County "let this be

registered" J. Everett Bull Commissioner of the Monthly and Probate Court Montserrado County. Probated this 6th day of February," 1948

In addition to this certified copy, defendant made profert of other instruments which we do not consider relevant to a determination of this ejectment suit.

To the above answer, plaintiff filed the following reply:

"AND NOW COMES plaintiff in the above entitled cause of action and reply the defendant's answer in the following form and manner to wit:

1. That, as to count one (1) of the defendant's answer, plaintiff says that the letters of administration allegedly obtained by the defendant empowered him to only administer the intestate Estate of his mother for her own property acquired during her life time but not the property of the church, subject of this litigation. Hence count one (1) of the answer should be denied and dismissed.

2. That, as to counts two (2) and three (3) of the defendant's answer, plaintiff confirms count one of his complaint, and further says that the deed of the defendant which is annexed to his answer is fake, fraudulent and does not exist as evidenced by the research report of the Archives division of the Ministry of Foreign Affairs over the signature of Mr. Jackson K. Purser, Director of Archives and the certificate of non discovery issued by the Center for National Documents & Records. Copies of said certificate and report are hereto attached and marked as plaintiffs exhibit "R/1" to form a cogent part of this reply.

3. That, further to count two (2) above, Plaintiff confirms and affirms counts two (2) and three (3) of his complaint and further says that a brief history of the Church as contained in "THE VOICE OF SAMUEL DOE MEMORIAL INSTITUTE" Vol. 1, of June 1992, clearly reveals the following:

(a) That the first Bishop of the Church, Samuel Doe, established another branch of the Church in Mambo's Town in Monrovia in 1945 after he established another Church in Grand Bassa County.

(b) That the late Bishop Slewion Doe purchased the present site of the Church in

the Borough of New Kru Town in the name of the Church as evidenced by the title deed.

(c) That the late Andrew T. W. Davies was anointed in 1960 by the late Bishop Samuel Doe to replace him as Bishop due to his ill health. Two years thereafter, on October 21, 1962 the late Andrew T. W. Davies was ordained as Bishop of the Church replacing the late Bishop Samuel Slewion Doe who subsequently died in 1963.

(d) That in 1962, the late Bishop Andrew T. W. Davies commenced the construction of the new church building, the Guiding Star Temple on the one (1) acre of land purchased by the late Bishop Samuel Slewion Doe as evidenced by the plaintiffs deed. This church was completed in 1965 and consecrated in 1966. Plaintiff says that the school and the Bishop residential quarters were also constructed on the subject property of the Church during the leadership of the late Bishop Andrew T. W. Davies. A copy of "the voice of SDMI" is hereto attached and marked as plaintiffs exhibit "R/2" to form a part of this reply.

4. That, as to count three(3) of the defendant's answer alleging that the defendant has given his deed to plaintiff for inspection, which the plaintiff fraudulently processed in his name to divest defendant of his land, plaintiff denies the truthfulness of the allegation contained therein and further says and contends that it is the plaintiff who has attached his title deed to his complaint and served same on the defendant who without the fear of the Almighty God, altered and processed the Church's deed in the name of his mother to divest the Church of its legitimate property upon which the Guiding Star Temple, the school and the Bishop's residential quarters were constructed as herein mentioned supra plaintiff gives notice that he will produce the original of its certified copy of its deed during trial.

5. That, as to count (4) of defendant's answer, plaintiff confirms and affirms count three (3) of the reply and count one (1) through ten (10) of the complaint. And further contends that the fact that the Guiding Star Temple Church, the school and the Bishop residential quarters were constructed during the leadership of the late Bishop Andrew T. W. Davies of the National Pentecostal Bible Way Church of our Lord Jesus Christ on the one acre of land purchased by the late Samuel Doe,

does not in any way or manner give the defendant the legal right and title to the property of the Church.

6. That, as to count five (5) of the defendant's answer, plaintiff confirms count five (5) through ten (10) of the complaint and further says and contends that the Guiding Star Temple, headquarter of the National Pentecostal Bible Way Church of our Lord Jesus Christ is not the legitimate property of the defendant and his congregation as per the Articles of Incorporation, but it is the legal property of the plaintiff. Plaintiff says and contends that the defendant and his congregation are at liberty to vacate the premises of the National Bible Way Church and acquire their own property for the operation of their own new church, but not on the premises of the plaintiffs which is also a legal entity in Liberia.

7. That, as to count (6) of the answer, plaintiff confirms count six (6) of the reply and count nine (9) of his complaint.

8. That all other averments of law and fact, which were not specifically traversed in this reply, plaintiff denies.

WHEREFORE AND IN VIEW OF THE FORGOING, plaintiff prays Your Honour and this Honourable Court to deny and dismiss defendant's answer in its entirety and grant unto the plaintiff any other relief your Honour may deem just, legal and equitable.

RESPECTFULLY SUBMITTED, PLAINTIFF BY AND THRU ITS LEGAL COUNSEL, THE HENRIES LAW FIRM, 31 BENSON STREET, MONROVIA, LIBERIA
COUNSELLORS AND ATTORNEYS-AT-LAW"

The parties having rested pleadings, the Judge in disposing of the law issues also granted the plaintiff's Motion to Dismiss defendant's answer and rule him to bare denial of the facts for his late filing of the answer. The case was ruled to trial by jury. The plaintiff's first witness was David W. Wesseh, the current Bishop. He testified and said in essence that the National Africa First Pentecostal Church was established in 1933 in Old Kru Town under the leadership of its first Bishop Samuel Doe. At that time the witness was only six years old, he said. He said further that in 1945 the government of Liberia demolished Old Kru Town to make

way for the construction of the current Liberia Electricity Corporation building. In the process, the National First Africa Pentecostal Church was also demolished. Bishop Samuel Doe and the church members moved to Mombo Town, and conducted their services on a rented property. Then they bought land in New Keu Town from the grantors named in the deed. When the government of Liberia, through the assistance of S. T. A. Roberts, paid compensation for the demolished church in Old Kru Town, they began construction of their church in 1962.

He said also that the defendant's mother Elizabeth Davies was a ward of Bishop Samuel Doe and while living in the Bishop's house, she fell in love with Andrew T. Davies, a Sierra Leonean who also became a member of the church. Bishop Samuel Doe, because of old age and ailing health, needed someone to take over the affairs of the church. He recommended the young man Andrew Davies, his ward's boyfriend to succeed him. The members recommended that the young Andrew T. Davies should marry the young lady before taking on the position of Bishop, thus they got married, all in the presence of the said witness. The witness said that the defendant was "born in his hands" meaning he knew the defendant from birth. He said that it was during the administration of the defendant's father that the church, school, and residence, were constructed but that the properties belong to the church and not to the defendant and his parents.

In answering a question on the cross examination as to whether he has ever contacted the persons who attested to plaintiff's deed, the witness answered: "Since we bought this place in 1950, nobody has come to us to claim this land. So we have no reason to contact them." Asked what was the relationship between the founder of the church and the defendant Mathias Davies, the witness answered: "the founder raised the defendant's mother." A Juror posed the following question to the witness: "Mr. witness please tell the court and the trial jury as to whether when Mr. Davies, Sr. (meaning the late Bishop) was alive you people had made an agreement that this property in question belonged to him personally?" The witness answered and said, "The late Bishop Davies met the property there and we made him Bishop. He was a local preacher in Freetown. At that time he was called Andrew Davies. But he had connection with the woman who was raised by Bishop Samuel Doe when the Bishop appointed him to lead the church that was the time we made him Bishop in 1962.

Plaintiffs second witness was Adolphus W. Nimely, assistant pastor. He joined the church in 1977 and held several positions: starting as a service conductor of the church to the national President of the youth, [illegible], a district elder conference committee head responsible for the ordination of pastors in the church, now a member of the executive board of the church and its [illegible]. He said that according to the records of the church, the church was founded by one Samuel Doe who became its first Bishop. During his administration the church bought one acre of land in New Kru Town in the name of the church. According to this witness Bishop Davies was a hard working man. During his tenure, the Bible Way Church spread throughout the length and breadth of the country. The witness was the Pastor in 1995 but when the defendant was deported from the USA and finally brought to Liberia via the Ivory Coast, where he had been in jail, he became pastor, thereby removing, the witness, and making him the assistant to Mathias Davies. He corroborated the testimony of the first witness saying that the defendant refused to allow succeeding Bishops to occupy the residence. He also said that Mathias Davies took a complaint to the Justice Ministry accusing Bishop Weagbah of hiring some people to kill him but could not produce any proof when called upon to do so during the investigation at the Ministry of Justice. Subsequently Bishop Weagbah died under mysterious circumstances. Mathias Davies' refusal to cooperate with the leadership of the church led to a split in the organization. Friction led to physical fights some times. Mathias Davies has refused to turn over documents and other properties that were in his father's possession belonging to the church. He has refused to cooperate with the leadership in anyway, the witness said.

On the cross examination he said that everything he testified to that occurred prior to his joining the church in 1977 was what he had read in the church's history as recorded in the Voice of SMDI part of the records in this case. But that since he joined the church in 1977 he has been fully engaged in the life of the church.

The witness further said that the late Bishop Davies was the custodian of all land deeds and other documents for the National Pentecostal Bible Way Churches in Liberia including articles of incorporation for the Church and that defendant refused to give up these documents to the succeeding Bishop Weagbah who has since died, and now to the current Bishop David Wisseh. He said further that the

defendant's 1948 deed for the one acre of land is false and falsified. He relied on two pieces of documentary evidence to support his allegation (1)

A Certificate of Non-discovery from the Center of Documentations and Records, Ministry of Foreign Affairs that indicated that Matthias Davies' deed in the name of Elizabeth Ploh Daniels does not exist at the National Archives (2) A Search Report from the Director of the National Archives stating that the particular deed was not found in the records. The only deed found was that of the National First Africa Pentecostal Church. He said further that the Director of the National Archives came in the very court and testified to the Search Report during the first trial of the case. He testified to a lot more but for purposes of this action of ejectment we have restricted the testimony to those things that are germane to establishing plaintiffs claim of ownership to the land.

Plaintiff rested, after offering into evidence the several pieces of documentary evidence in support of his case.

The defendant had his witnesses qualified to testify and substantiate his claim that the one acre of land on which the Guiding Star Church, the school and the Bishop's residence were constructed is the bonafide property of his late mother Elizabeth Hannah-Ploh Daniel.

The first witness, Nicholas Koffa, is a resident of New Kru Town, former treasurer and minister of the Guiding Star Church. This witness testified to the events that led to the suspension of the Assistant Pastor by Pastor Mathias Davies; that the Assistant Pastor had misappropriated some funds that were entrusted to his care, etc., but because his entire testimony in chief was about money matters, there is no need to delve into it, same being irrelevant to the action of ejectment. At the conclusion of said testimony in chief counsel for defendant waived directing the witness further and then rested. On the cross examination, counsel for plaintiff posed the following query to the witness:

Q. Mr. Witness, you were qualified as a witness to testify for the defendant in these proceedings in a matter surrounding the ownership of the property, to be exact, one acre of land which belongs to the church. We listened to your testimony, my question is, to the best of your knowledge all that you have

explained are all of the things that you know about the matter for which you are in court?

A. Yes.

Counsel for plaintiff rested with the witness. Counsel for defendant waived redirecting his witness.

The defendant's second witness, mother Jannie Chea took the stand and testified in essence as follows: Hannah Elizabeth Ploh Daniel owned the land. Her grandmother Hannah Twegbe was the prayer mother. First they started as a prayer band. it was not a church. A crazy woman called Teetee was brought to the prayer mother for healing. The prayer mother healed the crazy woman and her very happy family gave the prayer mother the land that is in dispute, in 1948, When the prayer band became a church they were in Mombo Town. The attesting witnesses to the deed were koti Brown who was also sick and in the prayer band, and Peter Nah. The grantors are family members of Teetee who gave the land to the prayer mother. The deed was also witnessed by Mr. Logan the then governor. The people of Mombo Town put them off their land. They appealed to the prayer mother and she showed them the place. The first person to build on the land was Koti Brown. He built himself a church. Other members of the prayer band began to build houses instead of a church. The prayer mother was upset and so she built a congo, (mud house) herself then she built a house for worship. Then she brought her son Samuel to be in charge. Samuel subsequently aging and ailing needed help. So the spirit came to one woman called Joko while taking her bath, (after they had all concluded a 7 days fast), and directed her to Andrew Davies, the late Bishop Davies, who was at the time coming from Freetown and she said to him, "You are not going back to Freetown. You will serve as Bishop." She then led Andrew Davies to Samuel and told him this is the man the spirit led me to bring to you as Bishop. Andrew Davies married Elizabeth Daniel. Samuel died and was succeeded by.. Andrew Davies as Bishop. But before Samuel died he asked Andrew. Davies to build the current Church. The Church was at foundation level when Samuel died and Bishop Davies had the remains taken to the foundation and Bishop Davies spoke to the remains: "This is the Church you said I should build." She concluded by saying that the property was owned by Elizabeth Daniels.

On the cross examination, among several questions, the following was put to the witness:

Q. Madam witness since you have been a member of this Church for many years, do you recall at any time when the Church paid rent to Elizabeth Hannah-Ploh Daniels for the land on which the Church is located?

A. No.

The Court posed this question to the witness:

Q. Madam witness, according to Mr. David W. Wesseh, Plaintiff's first witness, it was through the instrumentality of one S. T. Roberts, the father of Dr. Togba Nah Tipoteh,¹ that the government of the Republic of Liberia made available to the Plaintiffs Church the amount of US \$50,000.00 as compensation for the Church property demolished in Old Kru Town. Mr. Wesseh said that this amount was used to construct the present Church building. According to you the present Church building was constructed by the father of the defendant based upon promises made to Bishop Samuel Slewion Doe, while on his death bed. My question to you is, is it true that the money used to build this Church building was money paid to the Church by the government of Liberia as compensation for the Church property in Old Kru Town?

A. I do not know.

Defendant's third witness Anthony Jack Mac-Daniels took the stand and testified by corroborating in part the testimony of the preceding witness. He indicated also that the prayer mother was his grandmother who healed crazy Teetee and was given the land as a reward for healing Teetee. The land was not bought. His grandmother put her daughter Elizabeth's name on the deed and this happened in 1948 and the deed was immediately probated February 6, 1948 Volume Number 63, 1948. The witness said further that Samuel Slewion Doe was sick and he came to his grandmother for healing. While there, the witness grandfather said that Samuel Doe was the witness' uncle. So he became secretary to his grandmother when she had her prayer band. So when Old Kru Town was broken

down, they all moved to New Kru Town and established a Church in Mombo Town. Samuel Doe became the first Pastor and later became Bishop. The Church asked the family in Mombo Town for land to build their Church but the family refused. So they asked his grandmother for her land in New Kru Town. The witness said he knew Bishop Davies in Freetown during his school days. He was his play father in the 60's. When Andrew Davies arrived in Monrovia the witness was then in the coast guard. He gave Andrew Davies a ride to his uncle's residence. Later on his sister and Andrew Davies got together. He concluded by saying that the deed in question, their deed, was registered at the archives on February 6, 1948 Vol.63 NN2003. "Ladies and gentlemen, which of the deed is fraudulent, theirs or ours?" The witness asked.

The defendant waived any further direct examination and counsel for plaintiff cross examined the witness thus:

Q. Mr. Witness you started in your testimony by telling this Court how this land was acquired in the year 1948, about 60 years ago. From your explanation one can conclude that you were personally present during the negotiation that you made reference to, am I correct that you were present in 1948?

A. No. I was told.

Juror's question:

Q. Mr. Witness, what I would like to know is, did the Church pay any money to Hannah Twegbe for the use of her land?

A. No.

The defendant's next witness was Jackson K. Purser, Director of Archives, Ministry of Foreign Affairs. He was subpoenaed by the defendant to testify to two pieces of documents, a report dated June 2, 2007 and a letter dated October 29, 2007. The witness said that in September 2007 the law firm of Kemp and Associates requested the Bureau of Archives to conduct a diligent and comprehensive search for a title deed purportedly issued to Elizabeth Hannah-Ploh Daniels by Jacob Fay et al in 1948. He said that a certified copy of a warranty deed issued by the

Foreign Ministry in 1974 was attached to the defendant's letter. The witness testified and said that he assigned three of the best researchers to conduct the research. At the conclusion of their search they said that the defendant's deed could not be found in the records of the archives but that they discovered a deed issued to the plaintiff. He said however that the two deeds were very similar: same grantors, same metes and bounds, same quantity of land (one acre) same location, and same witnesses. The difference was the years of execution. Defendant's purported deed was issued on January 31, 1948, while the plaintiff's deed was issued January 31, 1950. The witness said that two weeks after he had testified in the trial court, Counsel for the defendant approached him and said that a deed index card had been found by one of the three men who had researched for the deed, seemingly insinuating that the Archives Director was hiding something or trying to destroy evidence. It was because of that he wrote the letter dated October 29, 2007 stating that they conducted a search and did not see a piece of paper relating to the deed for Elizabeth PLOH Daniels.

Research report

"This is to inform you that on June 26, 2007, Counselor Theophilus Gould of the Kemp .& Associates Law Chambers did apply at the Bureau of Archives, Ministry of Foreign Affairs for the authentication or verification of the photocopy of a warranty deed reportedly issued to Elizabeth Hannah-Plop Daniels by Jacob Fay et al in 1948.

The deed is said to contain one acre of land situated on Bushrod Island, registered in volume 63 on page 78.

Diligent search of the Archives, and further to the Research Report issued to Attorney Idris Sheriff of the Henries. Law Firm, which report has been submitted to court and marked "R/1", our records show the following:

1. That volume 63 in which the said deed was reportedly recorded is in a deplorable state of mutilation and page 78 of said volume is not apparent;
2. That the said deed has the same metes and bounds, grantors, witnesses, location and acreage of a warranty deed issued to the National Africa First Pentecostal Church;

3. That a certified copy of the said deed which was reportedly issued by the Ministry of Foreign Affairs on June 22, 1974, could not be traced in the recorder for certified copies of deeds due to the mutilation of the said recorder; and that the recordings from June 2223, 1974 were not found.

It is our hope that the information provided above will satisfy your inquiries.

GIVEN UNDER MY HAND AND SEAL OF THE MINISTRY OF FOREIGN AFFAIRS THIS
3RD DAY OF JULY, A. D. 2007.

Jackson K. Purser
DIRECTOR OF ARCHIVES"

The letter

His Honor Kaba:

I have the honor to present my compliments and to refer to my testimony in the case involving the National African Pentecostal Church located in the Borough of New Town, Bushrod Island, which case was heard in the early part of September 2007.

I wish to inform Your Honor that, about two weeks after my appearance in your Honorable Court to testify in the aforementioned case, a deed index card was found by one of my researchers, Mr. Wilfred Barkon (now retired or pensioned), suggesting prior recording of a Warranty deed from Jacob Fay et-al to Elizabeth Hannah-Ploh Daniels reportedly executed on February 6, 1949; photocopy of said deed index card is hereto attached.

Interestingly, when the deed index card was found by Mr. Barkon, it was not shown to me, as Director, but was disclosed to counsel for defendants, after I had given my testimony in Court. I maintain, however, that Volume 63 in which said deed was reportedly recorded is mutilated and that page 78 is not apparent. I also maintain that the said deed has the same metes and bounds, acreage, grantors and witnesses as those of the deed in favor of the National African Pentecostal Church registered in Volume 63, page 548.

I am requesting Your Honourble Court to take note of this new development in the determination of the case.

Sincerely yours

Jackson K. Purser

DIRECTOR OF ARCHIVES

His Honor Jusuf D. Kaba

Assigned Circuit Court Judge

Six Judicial Circuit Court

Montserrado County

Republic of Liberia"

"The fact that the index card purportedly found was taken to defendant's counsel by an employee at the archives instead of to the Director of the archives was very strange," said the witness.

The defendant rested evidence in toto. Subsequently the Judge summarized the evidence, charged the jury, and the jury retired into their room of deliberation bringing a verdict of not liable, in favor of the defendant. Counsel for plaintiff noted exceptions and filed a motion for new trial which was heard and denied. The Judge then confirmed the verdict of not liable in favor of the defendant. The plaintiff/appellant noted exception and announced an appeal to this Court on a 6 count bill of exceptions:

In count 1 of the bill of exceptions, appellant assigned error to the Judge for failure to set the verdict aside because not supported by the evidence adduced during the trial. The practice in this jurisdiction is that when the verdict is not supported by the evidence, the court must set it aside and award a new trial. There are numerous cases in which the Supreme Court has so held. Our Civil Procedure Statute, 1 LCLR Section 26.4 states:

"After a trial by jury of a claim or issue, upon the motion of any party, the court may set aside a verdict and order a new trial of a claim or separable issue where the verdict is contrary to the weight of the evidence or in the interest of justice. A motion under this section shall be made within four days after verdict. No

extension of time shall be granted for making a motion under this section."

In count 2 of the bill of exceptions, appellant noted exception to the ruling in which the Judge said that the plaintiff and defendant exhibited title when in fact no deed was testified to and admitted into evidence by the defendant. The records reveal that in the first place, defendant's answer was filed after the statutory time and because of that default, his answer was dismissed and he was ruled to a bare denial of the facts raised in the complaint. That being the case, the Judge should not have asserted in his ruling that both the plaintiff and the defendant exhibited title to the land. When a party in a controversy is ruled to a bare denial he may produce evidence in support of his denial but not allowed to introduce an affirmative matter 1LCLRSection 9.1 (2), *Roberts v. Enaimba Business and Consulting Firm*, 28 LLR 272, 275 (1979). Since the deed and the answer were dismissed, it would mean that the deed was not testified to, identified, marked, and confirmed in order to be properly admitted into evidence for the jury's deliberation. *Mulbah Sikelev v. The Management of Bao*, 36 LLR 404, 427, (1989).

In count 3 of the bill of exceptions error was assigned because both the jury and the Judge failed to take into consideration the fact that the Church has been in existence since its founding in 1933, the land in New Kru Town had been acquired since 1950 and since that time no one has claimed title to said property for over 58 years. The plaintiffs church having occupied this land since 1950 without any claims against it by the defendant or his parents, is the verdict of not liable not against the weight of this evidence? We think it is. In this jurisdiction when a party occupies and remains in notorious possession of real estate property for 20 years without molestation or notice that the property belongs to another, the one [illegible] occupying and believing that he owns the property, has the benefit of [illegible]. The plaintiff herein has not been a mere intruder or a stranger [illegible]. If that was the case, then, the defendant's claim supported by [illegible] valid paper title would prevail against the plaintiff as a trespasser. We know from the records herein that the National Bible Way Church that has been in open, notorious occupancy of this land from 1950 when it acquired the land through legal purchase, up to 2004 when defendant's father died after serving as Bishop for 42 years, is not a mere intruder. When the plaintiff/appellant purchased the land in 1950, the appellee/defendant's alleged deed was two years old. We wonder why there was no objection to the probate of the plaintiffs deed and no

dispute involving this property over the years, even though the parties were members of the same church, and seemingly had some family connection. There is no record that Elizabeth Hannah-Ploh Daniels or her representative after her death at any time claimed title to this land. After the defendant's father had died and the appellee/defendant was asked to vacate the Bishop's residence then and only then did the appellee/defendant all of a sudden claim ownership to the one acre of land and the buildings, even the Church. This Court of final resort for any man's quest for justice will not lend aid to any attempt by anyone to pervert its judicial integrity, not by any, means whatsoever. The jury should have weighed the circumstances herein enumerated and brought a verdict commensurate with said evidence.

In count 4 the appellant assigned error when during an out of court hearing the defendant in answering a question said that the property belonged to the Church. That admission is contained in a document that was entered into evidence by the plaintiff. That evidence was not refuted especially so since the defendant did not take the stand in his own defense against any of the allegations made against him. His failure to refute allegation made against him was an admission which should have operated against him. In the face of that admission, we wonder on what ground was the verdict awarded in his favor?

In count 5 of the bill of exceptions appellant assigned error to the Judge's statement that one of the deeds must have been a false document when according to the evidence adduced, the research report from the Archives, stated that defendant's purported deed was not apparent on the records of the Archives. We fail to see error when the Judge ruled that one of the deeds could be a false instrument instead of saying which deed was false. The Judge could not have said that the defendant's deed was fake for to do so would be usurping the function of the fact finders, the jury. We are however in agreement with the appellant that the Judge, in spite of his own ruling when passing on a pretrial motion, ruled the defendant to a bare denial and as a result, defendant's answer along with his exhibits was dismissed and the said deed therefore not admitted into evidence, nevertheless all of that fact on the records, the Judge conducted the trial as though there were two deeds before the jury to determine which was authentic or superior to the other. The defendant's deed which was never testified to or admitted into evidence, though in the records, should not have been submitted to

the jury for deliberation. See *Mulbah and Sikeley v. The Management of Bao*, *Supra*.

In count 6 of the bill of exceptions appellant assigned error when the Judge failed to take into consideration the inconsistency and variances in the testimonies of the defendant's witnesses, denied the motion for new trial, and confirmed the Verdict even though contrary to the evidence. To elaborate, appellant, in sub-count (a) pointed out the testimony of witness Nicholas Koffa which testimony centered around the generosity of the defendant and void of any reference to the merit of the case which was, ownership to the property. In several opinions of this Court, it has often been said that it is the province of the jury after listening to a testimony to determine what weight should be given to it. If a witness who is called to state all facts within his certain knowledge pertaining to a case, decides not to so testify but testifies to matters not germane to the main issue at bar, the trial jury ought to proceed without such testimony as though not offered at all except if such witness has been brought as a character witness only. This was not the case herein, this case is not about the defendant's good nature and generosity or popularity, it is about real property ownership. That testimony should not have influenced the verdict. But it must have.

(b) That the second witness, Mother Chea's testimony was vague and contradicted the testimony of the third witness with respect to how the defendant's father became a member of the National First Africa Pentecostal Church. Variances and contradictions in the testimonies of witnesses on the same side of a case are detrimental to a party's proof of allegations in his pleading. The finders of fact should have taken such variances, and contradictions into consideration when determining the weight to be given to the testimonies presented. The jury in this case ignored the variances in the testimonies of the appellee/defendant's witnesses and brought a verdict in his favor anyway and the Judge confirmed it. Variances, inconsistencies and contradictions in testimonies of a party's witnesses are inimical and detrimental to the production of clear and convincing evidence. When a party's witnesses contradict one another, though the truth may lie somewhere, finding it becomes a problem.

(c) It was error when the jury gave credence, and the Judge confirmed the verdict, to a hearsay evidence given by the witness, the witness said that all his testimony

relating to the deed in the name of Elizabeth Hannah-Ploh. Daniels were information given to him, not from his certain knowledge. Under our Civil Procedure statute hearsay evidence is inadmissible, subject to some exceptions. The exceptions to the hearsay rule under our statute are:

- a. Family history: marriages, births, deaths, and pedigree may be received in evidence
- b. Business entries
- c. Proof of fact that statement was made
- d. General reputation

In the case at bar, the testimony of the witness does not fall under any of the above listed exceptions to the hearsay evidence rule as found under 1 LCLR Section 25.7. His testimony, based on information he received, and not of his certain knowledge with respect to the acquisition of the land in dispute was hearsay. The best evidence the case would admit of would be the testimony of the person(s) who provided the information, the person who has the information within his certain knowledge, and by making that first hand information available, the witness would be subject to cross examination. In this case the witness could not be further cross examined on matters he said were not of his certain knowledge.

Our Civil Procedure statute does not define the term hearsay or hearsay evidence. We must therefore rely on the legal definition provided in Black's Law Dictionary, Eighth Edition page 739 which states that hearsay is

"Traditionally, testimony that is given by a witness who relates not what he or she knows personally, but what others have said, and that is therefore dependent on the credibility of someone other than the witness."

The said evidence which was based on hearsay testimony, should not have been admitted.

(d) That although defendant's fourth witness, Jackson Pursar, Director of the Archives, testified and said that the plaintiff had a deed dated 1950, recorded and registered in the archives V01.63, page 548 but that there was no deed found in

said archives in the name of Elizabeth Ploh Daniels, yet the jury brought a verdict which the Judge confirmed. Appellant assigned error when the jury entered a verdict unsupported by the facts and the Judge, instead of setting same aside and awarding a new trial confirmed a verdict in favor of the defendant. The question here is, on what pieces of evidence did the jury award the verdict to the defendant? Could it be (a) the defendant's generosity and resulting popularity as testified to by the first witness? (b) Or the accounts given by the other two witnesses as to how the land was acquired? (c) Or was the verdict based on the older title doctrine even though defendant's deed was not pleaded and could not be found in the archives? (d) Or was it that the jury did not find the plaintiff's title strong enough to support his claim? In our practice when the verdict is unsupported by the evidence, the Court has a judicious responsibility, on motion, to set same aside and award a new trial. The Judge's failure to set the verdict aside and grant the plaintiff's motion for new trial was an error because clearly the evidence produced at the trial pointed more to a verdict for the plaintiff than for the defendant. We shall elaborate further elsewhere in this opinion.

We have no way of knowing how and why the jury found for the defendant in this case. What we do know, however, is that the evidence presented in this case does not support the verdict. We shall determine this case on two issues. (1) Whether the evidence presented by the plaintiff carries the weight necessary to support his ejectment action on the strength of his own title as is required in ejectment actions and not on the weakness of his adversary's title. (2) Whether the older title doctrine is applicable in this particular case.

We shall begin with issue number one, which is, whether the evidence that was produced by the plaintiff carries the weight necessary to support his ejectment action on the strength of his own title and not on the weakness of the defendant's title. In order to address this issue we must summarize the salient facts stated in the records in support of the plaintiff's case: Samuel Slewion Doe established the National Africa First Pentecostal Church in Old Kru Town, Monrovia in 1933 after he broke away from the Church in Grand Bassa County. The government of Liberia demolished the area where the Church was established to erect the Liberia Electricity Corporation (LEC) building. In 1950 the Church bought an acre of land in New Kru Town, Bushrod Island. The deed was probated and registered and recorded in vol. 63 at page 548 at the archives. The

government compensated the Church in the amount of \$50,000.00 dollars. In 1954, Samuel Slewion Doe, became the first Bishop. By 1960, he was ailing. He needed a successor. Young Andrew Davies, a Sierra Leonean who was a Pastor in Sierra Leone, came to Liberia and was approached by Bishop Doe to succeed him as Bishop. Andrew Davies was made Bishop in 1962 and Bishop Doe died in 1963. Bishop Davies married Elizabeth Ploh Daniels a ward of Bishop Doe's household and they begot the defendant herein in 1963. Under the leadership of Bishop Davies the one acre land was developed into a school, a bishop's residential quarters, and the Church. The church, called The Guiding Star Temple, became the headquarters of the National Africa First Pentecostal Church later named the National Pentecostal Bible Way Church of Our Lord Jesus Christ Worldwide, Inc. The defendant herein was born in 1963 and lived with his parents on this compound until he left for further studies abroad. He returned in 1995 and was made Pastor of the Guiding Star Temple Church while his father was still the Bishop and they lived in the Bishop's residence until his father, the Bishop, died in 2004. The Bishop was the custodian of all Pentecostal Bible Way documents including deeds.

Bishop Davies' death in 2004 ushered in Bishop Weeagbah. According to unrefuted testimonies, Pastor Davies refused to recognize Weeagbah as the New Bishop. Serious problems developed between Pastor Davies and the leadership of the Church. Bishop Weeagbah died in the midst of the problem. A new successor, Elder David Wesseh, was temporarily appointed as acting Bishop. Pastor Davies refused to recognize and cooperate with him also. Pastor Davies took over the Church, and the school and refused to let the new Bishop occupy the residence. He declared that the acre of land on which the structures were built belonged to his late mother. Pastor Davies did not go to court to gain possession of the premises even though he had been appointed administrator of his mother estate since 2001, he took possession by forcible entry, reincorporated the Church, changed the management of the school, had himself declared Bishop of the Pentecostal Bible Way Church-Guiding Star Temple Church, leaving the acting Bishop, Elder David Wesseh, Bishop on paper only; that plaintiff has been on the premises in open, notorious and peaceful possession since it was purchased in 1950, was never denied or refuted.

From the foregoing we hold that plaintiff's title to the one acre of land has been

well established by the facts presented and the circumstances of the case. The plaintiff's title is good on its own strength and not on the weakness of defendant's title. *Kissell v. Diago*, 22 LLR 329, 333 (1973). We find no weakness in plaintiff's title to defeat his claim. We hold further that even if the said plaintiff had presented no deed to substantiate its claim to ownership of the land, the fact that the said plaintiff has occupied, made development on the land and possessed the property adversely from 1962 when construction of the Church commenced till 1966 when it was consecrated, and during all those activities, Elizabeth Hanna-Ploh Daniels filed no caveat or injunction against the plaintiff, up to her death and up to 2004, when Bishop Davies died, quite some 42 years, and then two years later, 2006, when the defendant decided to oust the plaintiff from the premises (all together 44 years), the law with respect to adverse possession would operate in favor of the plaintiff. The defendant having failed to assert his claim to the land all these years when he could have done so, and allowed the plaintiff to occupy his alleged property notoriously for 20 years and more, is forever barred from establishing a belated claim thereto, regardless of the validity and the age of his title deed. In *King v. Simpson*, 17 LLR 226,229 (1965) when quoting from *Minor v. Pearson* 2 LLR, 82 (1912) this Court said that a naked possession of land by an intruder cannot prevail against a paper title. This position we also support. In this case however, the possession that the plaintiff is -relying on is neither naked nor intrusive. The plaintiff by having a deed executed, probated and *registered since* 1950 and having possessed and operated on said land from 1950 to 2006 without notice that said land belonged to the defendant, who himself was fully aware of the plaintiff's possession and occupancy of said premises because both parties have lived and worshipped, together and educated children on same premises, but that said defendant and his parents failed to act in any shape or form to give the plaintiff notice of their ownership to the property, plaintiff's claim to the property is good against the defendant now and others to come in the future. The statute must operate in favor of the plaintiff. In *Dasusea and Karqou v. Coleman*, 36 LLR 102,131 (1989). The Supreme Court said:

"To bar a plaintiff in ejectment, who has title, by possession in the defendant, strict proof is necessary not only that possession was taken under a claim hostile to that of the real owner, but that it continued for the period of limitation provided by the statute." That period in this jurisdiction is 20 years.

The defendant in this case cannot bar the plaintiff herein because his claim though hostile, his present possession is a short-term possession. Defendant took possession in 2006 by claiming title to the premises. It is the plaintiff who has had a valid deed for the premises since 1950, who built structures on said land without molestation and named the Church, the National Africa First Pentecostal Bible Way Church World Wide, Inc./Guiding Star Temple Church when defendant served as pastor up to his suspension on October 26, 2006. It is the plaintiff who has been in notorious possession beyond- the statutory period of 20 years. The defendant has no stricter proof than the facts herein stated. He is therefore barred from laying claim to the property that has become the plaintiffs, not only by operation of the statute but by virtue of a deed that was executed and probated, registered without any objections or adverse claims against its validity. The foregoing summary of facts and the prevailing circumstances leave us with no other choice but to confirm the plaintiff/appellant's contention that the verdict of not liable in favor of the defendant was absolutely against the weight of the evidence. In the opinion of this Court the plaintiff's right to possession and occupancy to the premises has been well established on the strength of his own title and by operation of statute of limitation controlling the principle of adverse possession.

The second and final issue is whether the older title doctrine should apply in this case. We say no, the older title doctrine should not apply because both parties have raised the issue of fraud. It is a principle of law that fraud vitiates all transactions. So since both parties accused each other of fraudulently copying each other's deed we must peruse the record to determine whether the allegations of fraud were substantiated or supported by proof, direct or circumstantial. And if there is proof that fraud was perpetrated at any stage, the evidence, and not the age of title, will be the determinant factor. In other words the parties must prove that fraud was perpetrated and by which party in, this ejectment controversy.

The records reveal that when the plaintiff/appellant filed his action of ejectment he annexed a certified copy of a warranty deed to the complaint and served same on the defendant. The said defendant filed an answer out of statutory time for filing an answer to a complaint and annexed a certified copy of a warranty deed. And although the defendant's deed was not admitted into evidence because his

answer was dismissed, the said deed nevertheless remained in the file and was submitted to the jury and formed part of the evidence. The judge even referred to said deed in his charge to the jury. An examination of the two deeds reveals that they are identical except that one grantee was the Pentecostal Church and defendant's grantee was Elizabeth Hannah-Ploh Daniels. The execution dates of the deeds are also different. Other than those two differences, everything else contained in these two deeds is exactly the same including even the errors. Because of these similarities in the two documents executed two years apart, we have to hold that one of the deeds was exactly copied from the other, the copier making sure to create a deed/document to support his claim.

How did this copying of the deed happen? The defendant/appellee was first to accuse the plaintiff. The defendant said in count 3 of his answer that the plaintiff's deed was a false deed. He said that when he displayed his deed it was then that the plaintiff copied his deed with intent to divest him of his property. Our question is, where, when, and how long was defendant's deed on display to have enabled the plaintiff to copy defendant's deed with such precision? The record did not say. The defendant was also quick to state in his answer that he has the superior title because his deed is dated 1948 while plaintiff's deed is dated 1950. Plaintiff in his reply to the answer said that it was he, the plaintiff, who filed first and annexed a copy of the certified copy of his deed to the complaint and served same on the defendant. It was therefore the defendant who did the fraudulent copying of his deed.

The issue of fraud raised in this case cannot be determined by direct evidence because there was no eye witness testimony in the records. This is therefore a case to be solved by circumstantial evidence. We will also rely on the reasonable man test. What will a reasonable man do under the circumstances of this case? Would a reasonable man, in the position of the plaintiff herein, copy a deed word for word, same grantors, same witnesses, same quantity and location of land, same amount (\$200.00), same month and date (January 31), same mistakes; remove the name of the opponent's grantee, substitute his, and then in the final analysis, fail, or neglect to backdate or predate his deed which act alone would have given him an advantage over his opponent? In other words, would a reasonable man in this plaintiff's position not have backdated his deed in order that he may have the older title? From the circumstances and the facts of this

case, we do not believe that the plaintiff/appellant is an unreasonable man. We believe the plaintiff has the common sense, if not the legal sense, to have known that the two important objectives for copying the deed were to change the grantee and to have the older title by changing the date in order to make his deed older. So, if the plaintiff saw defendant's deed and copied it word for word as was alleged by defendant, why did the plaintiff, after seeing the 1948 probation and registration date on the defendant's deed, decide to forward date his own deed to 1950? From the circumstances herein, we are of the considered opinion that it was the defendant who did the copying because it was he who got the advantage, the older title. He cannot benefit from that mischief, for to allow him to benefit would be an insult to the intelligence of all reasonable men and women, including the plaintiff/appellant herein, and others charged with the ethical and professional responsibility to administer justice.

We have said that it was the defendant who copied from the plaintiffs deed. It was the said defendant who changed the date after copying the details of said deed and backdated his deed 2 years prior to the probation and registration date of plaintiffs 1950 deed, "without the fear of the Almighty God" as declared by plaintiff in his reply to defendant's answer. That older title therefore, because acquired through fraud is hereby declared legally void. Our conclusion so drawn is not based on suspicion. It is based on the facts and circumstances taken singular and jointly and together have established the necessary proof.

Further to issue number two, whether the doctrine of older or superior title is applicable in this particular case, we hold no. We have however thought to address this issue because we have believe that the jury based its verdict on the doctrine of older title. In this jurisdiction when deciding ejectment cases in which both parties claim ownership to land on the basis of title deeds, especially when the grantors are the same, and the location of the land is the same, the holder of the older title usually prevails. That was the practices-.in the days when our country was different in many ways than it has now become; when the national archives was more reliable and less disorganized, that is when the playing field was level for both players. The doctrine of older or superior title was of course logical and just. Today, because of the unreliability of the archives and the predominant wave of corruption blowing and hovering over us, the doctrine of older title should be applied cautiously and on a case by case basis. The prevailing

trend in today's Liberia is for parties in controversy to buy justice, buy evidence-contrived, fabricated or otherwise, the goal of the purchaser being to win a case, and .that of the buyer to fill his pocket, regardless. Therefore in today's Liberia it behooves those who serve as jurors to weigh not only the facts alleged and testified to, but the surrounding circumstances of each case, using their thinking capabilities and sound judgment. Administering justice in today's Liberia, is a warfare that can only be won when all the factions: lawyers, judges, jurors, clerks, bailiffs and sheriffs, the personnel at the archives who are the custodian of our public records, and parties litigant, resolve to conquer corruption by dealing honestly and by so behaving, show love for country instead of for money. Presently, the level of corruption in our country renders the administration of justice a major challenge. The challenge for this court of last resort is how to determine in this arena of corrupt practices, who is entitled to justice in a given case. For us, we are resolved to render justice to whom it belongs and we shall do so by sieving through, and analyzing, the records meticulously, that is, the pleadings, conduct of trials, testimonies, verdicts, we have rulings, and all. Somewhere in the rubble, we know lies the truth and when we find it, it is only then we shall decide. This is how we have proceeded in this case brought to the judiciary for determination because peace failed to prevail in the National Africa First Pentecostal Bible Way Church in New Kru Town, Bushrod Island.

We now return to the issue at bar. From the circumstances of this case the jury should not have (if they did) allowed the defendant's deed purportedly executed in 1948 to -prevail over the Plaintiff's deed of 1950, thereby holding the said defendant not liable, and by so holding, allow him to remain in possession and occupancy of the Church's property. First of all, the defendant's deed was not admitted into evidence because defendant's answer to which the deed was annexed was dismissed for late filing. That specie of evidence should not have been submitted to the jury. But it was. But what about the fact that the defendant's own subpoenaed witness, the director of the archives testified that there was not a trace of defendant's purported deed in the archives? In the face of such a damning testimony by defendant's own witness, the defendant did not take the stand or undertake any other probe to counter the research report, such as for example, requesting that vol. 63, 1948-1950 be brought to court to verify the testimony of this material witness. Instead, counsel for defendant approached

the Director of Archives and presented a deed index card allegedly found by one of the researchers at the, archives, bearing information about Elizabeth Hannah-Ploh Daniels deed of 1948. How did that index card enter into the records when the defendant was ruled to a bare denial and after the testimony concerning that deed had been given, and the witness discharged?

If the deed the defendant was relying on when he forcibly entered the premises thereby dispossessing the plaintiff who had occupied the said premises notoriously for 56 years could not be found in the archives, how could the jury, in spite of that, unrefuted testimony, still decide that the defendant's title was older therefore, superior to the plaintiff's? The older title concept is not a blanket application concept. In order that the concept may be justly applied there must exist the following: 2 deeds executed by the same grantor to different grantees for the same location, probated within statutory time and registered in the archives. The deed with the older execution, probation and registration date is the older title, and will prevail in an ejectment suit. But where there is an allegation of fraud and proof direct or circumstantial is evident, an alleged, older title will not prevail, because fraud vitiates every transaction. It is our opinion that fraud was perpetrated because one of the deeds is obviously a copy of the other with a few convenient dissimilarities, and because of that fraud the doctrine of older title is not applicable in this case.

This matter came before us on a regular appeal. We therefore have, had to make a decision based on the entire record. After going through the exercise of analyzing the evidence, we are of the opinion that the verdict in this case is contrary to the evidence and that under other circumstances the case would be remanded for retrial but in this particular case we find sufficient evidence, direct, as well as circumstantial, and also sufficient legal justification for entering the judgment that should have been entered in the court below.

The appellant/plaintiff, the National Pentecostal Bible Way Church having proved a valid title by deed issued to it in 1950, probated and registered in the archives of Liberia in vol. 63 page 548 and the said plaintiff having conspicuously and notoriously occupied, possessed, and made substantial developments on said land, with the knowledge and participation of Elizabeth Hannah-Ploh Daniels Davies and her husband Bishop Davies for more than 20 years (1950-2004)

without any molestation or notice of their claims and any other claims against it, we hold that plaintiff's claim to the land and structures thereon is valid and good against that of the defendant despite the age of the defendant's deed.

In view of the above, the judgment is hereby reversed. The Clerk is ordered to send a mandate to the Trial Court instructing the Judge thereof to resume jurisdiction and repossess with immediacy, the National Pentecostal Bible Way Church, owner of the one acre of the land bearing the title deed executed on January 31, 1950 as is recorded in the archives of the Republic of Liberia with the buildings and all other appurtenances thereto belonging, including the school, the Guiding Star Temple, and the Bishop's residential quarters. AND IT IS HEREBY SO ORDERED.

And may the peace of Jesus Christ and the love of God which passes all human understanding prevail and abide with the parties in this case always, in the spirit of brotherly love, repentance, and forgiveness as Bishop Andrew T. W. Davies would have advised them to do, so that the work of God can continue in peace and love. AMEN!

Counsellor Kooper W. Kruah of the Henries Law Firm, represented the appellant while Counsellor Theophilus C. Gould Kemp and Associates Law Firm, represented the appellee.