

TROPICAL PRODUCE LIMITED, by and thru its General Manager, and LARRY JOHNSON, Operations Manager, Plaintiff-In-Error, v. HIS HONOUR YUSSIF KABA, Assigned Circuit Judge, HIS HONOUR EMMANUEL KOLLIE, Assigned Circuit Judge, August Term, A. D. 2000, the Clerk of Court, and the Sheriff, Ninth Judicial Circuit Court, Bong County, and WILLIE GOLL, Defendants-In-Error.

PETITION FOR A WRIT OF ERROR AGAINST THE CIRCUIT COURT FOR THE NINTH JUDICIAL CIRCUIT, BONG COUNTY.

Heard: December 3, 2001. Decided: December 20, 2001.

1. A writ of error is designed to call up for review the judgment of a lower court from which no appeal has been taken for good cause.
2. A writ of error will be granted when an inferior tribunal has denied a litigant his day in court.
3. The office of the writ of error is to review errors and irregularities committed by inferior courts; the writ is therefore granted only when a trial court has denied a party litigant his day in court.
4. The Supreme Court or an Associate Justice presiding in Chambers shall grant or deny an application for a writ of error for review of a judgment of an inferior court.
5. The Supreme Court, by statute, has the authority to review the ruling of an assigned Chambers Justice only upon an appeal to the Court en banc and not upon a remedial writ issued by the Supreme Court against the Justice assigned in Chambers.
6. The Justice of the Supreme Court presiding in Chambers exercises sole power and authority in all judicial matters during the recess of the Court and until it meets en banc. In such instance he exercises this sole power and authority until relieved by assignment of another justice at the close of the succeeding term of the Court.
7. The exercise by the Justice in Chambers of authority and power over judicial matters can only be reviewed or reversed by the decision of a majority of the Court, and then only on matters which have been appealed from his ruling to the Full Bench.

The plaintiff-in-error, Tropical Produce Limited, filed a petition for a writ of prohibition against the Ninth Judicial Circuit Court to prevent the sheriff of the said court from attempting to serve a writ of execution on it, emanating from an action of damages in which the plaintiff-in-error, Tropical Produce Limited, was not only not a named party but in which judgment was rendered against one Jim Ge Chea, Manager of Africa Rubber Trading Corporation. The prohibition having been granted, the trial court proceeded to serve the writ of execution against Jim Ge Chea and to effect his arrest thereunder. The defendant was, however, released to the custody of Tropical Produce Limited, plaintiff-in-error, after its manager had intervened and obligated the plaintiff-in-error to pay the amount of the judgment if the defendant did not make such payment. When the defendant failed to make the payment the trial court summoned the plaintiff-in-error and ordered its manager incarcerated until the judgment was satisfied. To prevent the order being carried out, the plaintiff-in-error herein filed prohibition against the lower court.

The Justice in Chambers denied the petition for the writ of prohibition. The plaintiff-in-error did not appeal the denial of the petition, but instead proceeded to file a bill of information, and later a petition for a writ of error.

The Supreme Court denied the petition, holding that the province of the writ of error was the review of a judgment of a lower court from which, for good cause, an appeal was not taken, and not to review the ruling of a Chambers Justice, from which no appeal was taken. The Court noted also that although the petition named the judges of the lower courts as defendants-in-error, the complaints averred in the petition were basically against the Justice in Chambers. Moreover, the Court opined that the Chambers Justice had the power and authority to pass on remedial processes while the Court was in recess and to determine whether to grant or deny the same, and that error would not lie to review rulings made by the Justice. The only remedy available to the plaintiff-in-error, the Court said, was a review of the Justice's ruling on appeal taken therefrom. The Court observed that not only had the plaintiff-in-error failed to except to or appeal from the ruling of the Chambers Justice, but that under the circumstances any review of the Justice's ruling would be tantamount to the Court issuing process against itself. Hence, the Court denied the petition.

Benedict F. Sannoh and George S. B. Tulay appeared for the plaintiff-in-error. Richard Flomo, Sr. appeared for the defendants-in-error.

MR. JUSTICE JANGABA delivered the opinion of the Court.

Section 16.21(4) of the Civil Procedure Law, Revised Code 1, I LCLR, at page 146, provides:

“A. Writ of error. A writ of error is a writ by which the Supreme Court calls up for review a judgment of an inferior court from which an appeal was not announced on rendition of judgment.”

The pertinent question this Court has been called upon to resolve is whether or not a writ of error may be granted to review the ruling of a Chambers Justice of this Court?

The records in this case indicate that Mr. Justice Wright, presiding in Chambers during the March Term, A. D. 2000, of this Court heard, denied and dismissed the plaintiff-in-error's petition for a writ of prohibition growing out of an action of damages for wrong instituted by Willie Goll in the Ninth Judicial Circuit Court for Bong County, during its August Term, A. D. 1998, against Jim Ge Chea, Manager of Africa Rubber Trading Corporation. Although final judgment was rendered against Jim Ge Chea, the sheriff attempted to serve the writ of execution on the Tropical Produce Limited. This Court granted a writ of prohibition on the 15th day of June, A. D. 1999, to the effect that as the trial court had acquired jurisdiction over Jim Ge Chea it should have enforced its judgment against him. Mr. Chea was later remanded to prison pending his satisfaction of the judgment.

Thereafter, the operations manager of Tropical Produce Limited, Mr. Harris Johnson, intervened on behalf of Mr. Jim Ge Chea to secure his release, and subsequently executed a statement of obligation committing the Management of Tropical Produce Limited to the payment of the money judgment in the case, failing which, the management should be held by the trial court to ensure compliance with the judgment. The defendant, Jim G. Chea, was released to the custody of Tropical Produce Limited, represented by Mr. Harris Johnson, and the sum of US\$1,100.00 was paid in partial satisfaction of the judgment. When the judgment was not fully satisfied, the trial court summoned and held Tropical Produce Limited, by and thru Mr. Harris Johnson, in contempt proceedings. The court ordered both the defendant and his surety incarcerated for misleading the court, and to remain in prison pending satisfaction of the judgment. The court further ordered the issuance of a writ of execution, to be served on the management of Tropical Produce Limited for full satisfaction of the court's final judgment.

Whereupon, the plaintiff-in-error fled to this Court praying for a writ of prohibition. Mr. Justice Morris, then presiding in Chambers, issued a citation for a conference, ordered a stay of all proceedings in the lower court, and the release of Mr. Harris Johnson. Mr. Justice Wright, who succeeded Mr. Justice Morris, held the conference and ordered the issuance of the alternative writ of prohibition. The writ was denied, as stated herein supra, and there was no appeal taken therefrom. On the 14th day of July, A. D. 2000, the plaintiff-in-error filed a

bill of information containing eight counts before this Court en banc, count 6 of which we hereunder quote for the benefit of this opinion:

“6. And that because informants cannot be brought before this Honourable Court by way of a writ of error against His Honour M. Wilkins Wright, Associate Justice and member of this Court; hence, this information.”

On the 28th day of August, A. D. 2000, while the bill of information was still pending, the plaintiff-in-error filed a seventeen count petition for a writ of error against the defendants-in-error. We observe, however, that the averments contained in the petition were complaints against the ruling of the Chambers Justice rather than the trial court. In the petition, the plaintiff-in-error effectively requested this Court to review the ruling of Mr. Justice Wright although no appeal was taken from the Justice’s ruling. The plaintiff-in-error relied on section 16.24 of the Civil Procedure Law which provides that a party against whom a judgment is rendered by a lower court and who does not take an appeal therefrom may apply to this Court within 6 months of the ruling for the review of such ruling or judgment of a trial court by way of a writ of error. Section 16.2 1(4) of the statute clearly and unequivocally provides that this Court, by a writ of error, shall call up for review the judgment of a lower court from which an appeal has not been taken for good cause.

This Court has held that “a writ of error will be granted when an inferior tribunal has denied a litigant his day in court.” *Gaiguae v. Jallah*, 20 LLR 163 (1971), Syl. 2, text at 165; *Jallah et al. v. Sheriff*, 25 LLR 226 (1976), Syl. 1, text at 227; *Teewia v. Urey*, 27 LLR 91 (1978), Syl. 2. The Court hereby reiterates that the office of the writ of error is to review errors and irregularities committed by inferior courts, and that the writ of error is granted when a trial court has denied a party litigant his day in court. Section 16.4(2) of the Civil Procedure Law, Rev. Code 1, clearly provides that this Court or an Associate Justice presiding in Chambers shall grant or deny an application for a writ of error for the review of a judgment of an inferior court. The Supreme Court, by statute, has the authority to review a ruling of an Assigned Chambers Justice only upon an appeal to the Court en banc, and not upon a remedial writ issued by this Court against a Justice assigned in Chambers. Civil Procedure Law, Rev. Code 1:16.26. Mr. Justice Pierre, speaking for this Court in the case *Montgomery v. Findley and Haddard*, 14 LLR 463 (1961), Syl. 1, observed in no uncertain term, as follows:

“The Justice of the Supreme Court presiding in Chambers exercises sole authority in all judicial matters during the recess of the Court, and until it meets en banc. In every such instance he exercises this sole power and authority until relieved by assignment of one of his colleagues at the close of the succeeding term of Court.

With this sole authority and absolute power over judicial matters whilst the Court is on vacation, he can only be reviewed or reversed by decision of the majority of his colleagues, and then only on matters which have been appealed.”

We hold that a Chambers Justice of this Court is not subject to any remedial process, for to hold so would be tantamount to the Supreme Court issuing a process against itself. Moreover, for this Court to entertain this writ of error, which is not properly before us, will be opening a floodgate for party litigants and their lawyers to bypass our law, practice and procedure.

Wherefore and in view of the foregoing, it is the holding of this Court that the petition for a writ of error is hereby denied and dismissed. The ruling of the Chambers Justice is hereby confirmed. The Clerk of this Court is ordered to send a mandate to the court below informing the judge presiding therein to resume jurisdiction over this case and enforce that court’s judgment. Costs are ruled against the plaintiff-in-error. And it is hereby so ordered.

Petition denied.