

THE UNITED METHODIST CHURCH (INTERVENOR), by and thru its Real Estate Coordinator, MR. ERIC JOHNSON, and CONSOLIDATED AFRICAN TRADING CORPORATION, Plaintiffs-In-Error, v. HIS HONOUR VARNIE D. COOPER, SR., Assigned Judge, Sixth Judicial Circuit, Montserrado County, COUNSELLOR FRANCIS GARLAWOLO, and FLORENCE ANDERSON DAYRELL, Administratrix of the Intestate Estate of the late BENJAMIN J. K. ANDERSON, Defendants-In-Error.

PETITION FOR A WRIT OF ERROR AGAINST THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Heard: May 9, 2001. Decided: July 6, 2001.

1. The establishment of a priority of a claim to title is a material element in an action of ejectment. Hence, a plaintiff in an ejectment action is required to furnish clear and convincing proof of title.
2. In this jurisdiction, both parties to an ejectment suit are required to establish their claim of title to the disputed property, especially since the primary object of an ejectment suit is to test the strength of the titles of the parties and to award possession of the property to the party whose claim of title is so strong as to effectively negate his adversary's right to recover.
3. Nothing tends greater to disturb tranquility, and to hinder industry and improvements in communities than the insecurity of property, personal or real, to prevent which courts of justice are established.
4. A person cannot be deprived of his property unless by a judgment of his peers.
5. The granting of an application for summary judgment is unnecessary when both parties claim title to the same property in litigation since there is a factor or issue that warrants a trial by jury to establish true ownership of the property.
6. A circuit court judge is precluded from granting summary judgment in a case which has already been ruled to trial by jury by his predecessor circuit court judge of concurrent jurisdiction.
7. A judge of concurrent jurisdiction is without the legal authority and therefore cannot review, modify, or interfere with the judgment or judicial acts of his colleague, who is his peer, except for the Supreme Court.

8. A party against whom judgment has been taken, who has for good reason failed to make a timely announcement of an appeal from such judgment may, within six months after its rendition, file with the Clerk of the Supreme Court an application for leave for a review by the Supreme Court by writ of error.
9. Due process of law is that law which hears before it condemns; which proceeds upon inquiry and renders judgment only after trial.
10. Ejectment is amongst the peculiar trials wherein the court may not only assist but may direct the jury in coming to the conclusions warranted by law and the facts in the case.
11. Ejectment proceedings involve mixed questions of law and fact and are to be tried by a jury under the direction of the court.
12. Only a jury can decide the issues joined by the parties to an ejectment suit, and anything done contrary to this constitutes error on the part of the judge.
13. A judge has no authority to render judgment immediately after the reading of a mandate of the Supreme Court; he must instead resume jurisdiction over the case, and thereafter proceed in keeping with law.
14. When a judge receives a mandate from the Supreme Court, he has a legal duty to order the issuance of a notice of assignment to be served on the parties for the reading of the mandate, after which he assumes jurisdiction over the case. He must then issue a new assignment for any further action, and he commits error in proceeding to render judgment immediately following the reading of the Supreme Court's mandate.
15. The Supreme Court may pass on only those issues it deems meritorious, worthy of notice, and germane to the legal determination of the case; it need not pass on every issue raised in the bill of exceptions or in the briefs filed.

The co-plaintiff-in-error, Consolidated African Trading Corporation sued out an action of ejectment against the co-defendant-in-error, Adelaide Florence Anderson-Dayrell, administratrix of the Intestate Estate of the late Benjamin K. Anderson, to evict and eject the estate from premises claimed by the said co-plaintiff-in-error by virtue of a lease from Co-plaintiff-in-error United Methodist Church. Co-plaintiff-in-error United Methodist Church, as lessor of Consolidated African Trading Corporation and asserting ownership to the property in question, filed a motion to intervene, which was granted, giving it permission to intervene and defend the claim of Consolidated African Trading Corporation.

The first trial judge who dealt with the case set up a Board of Arbitration to survey, demarcate, and determine the property claimed by the co-plaintiff-in-error, United Methodist Church. The Board of Arbitration disagreed and therefore prepared two separate reports: a majority report and a minority report.

Thereafter, the second trial judge, who assumed jurisdiction of the court after the Board of Arbitration had been set up, and who had assigned the matter for hearing of the minority report, ruled the case to a trial by jury, including the majority and minority reports of the Board of Arbitration, as per the application made by counsel for co-defendant-in-error Adelaide Florence Anderson-Dayrell.

Thereafter, the case was assigned by the third trial judge, the co-defendant-in-error herein, for trial without a jury. A petition for a writ of prohibition, intended to prevent the trial was denied by the Justice in Chambers following a conference, the ground stated therefor being that prohibition was inappropriate and that the plaintiffs-in-error should have proceeded by error. The Chambers Justice therefore sent a mandate to the trial court to resume jurisdiction over the case and proceed with the hearing thereof. The co-defendant judge assigned the case for the reading of the mandate, but proceeded immediately following the said reading, at which the plaintiffs-in-error and their counsel were absent, to entertain a motion for summary judgment made by Co-defendant-in-error Anderson-Dayrell and to, thereupon, enter judgment declaring that the property in dispute belonged to the said co-defendant-in-error. It was from this ruling that the plaintiffs-in-error sought review by the Supreme Court, since the trial court had not allowed the court-appointed counsel to note exceptions and take an appeal from the ruling.

The Supreme Court reversed the ruling of the trial court, holding that as the case had already been ruled to trial by a prior circuit court judge of concurrent jurisdiction, the co-defendant-in-error judge could not proceed to entertain a motion for summary judgment. The Court opined that in so acting the trial judge had reviewed and reversed the previous ruling of his predecessor, which he did not have the authority to do. The Court noted that such action was vested only in the Supreme Court.

The Court held further that the trial judge was in error in proceeding with the trial of the case when in fact the case had been assigned only for reading of the Supreme Court's mandate. The Court observed that when a mandate is sent to the trial court, it has the duty, firstly, to assign the case for reading of the mandate, and that after the reading of the mandate the court should proceed only to assume jurisdiction over the case. The Court noted that in order for the trial court to proceed any further with the case, a new notice of assignment should have been issued and served on the parties. To do otherwise was a reversible error by the trial court.

Finally, the Court ruled that in actions of ejectment, which generally contain mixed issues of law and fact, a judge cannot proceed to dispose of the same without the aid of a jury, and that therefore the co-defendant-in-error judge should have submitted the case to a jury for trial. The Court observed that because property is important, a failure to have the matter tried by a jury deprives the parties of the right of due process, which is a trial by the peers of

the parties. Hence, it said, the judge committed a reversible error in granting the motion for summary judgment. Accordingly, the Court reversed the ruling of the trial judge and ordered that the case be tried anew, this time by a jury.

Joseph N. Nagbe of the Freeman Legal Consultancy, in association with Pei Edwin Gausi of the Gausi and Partners Law Chambers, appeared for the plaintiffs-in-error. Francis Y. S. Garlawolo appeared for the defendants-in-error.

MR. JUSTICE MORRIS delivered the opinion of the Court.

On the 12th day of December, A. D. 2000, the United Methodist Church, of the Liberia Annual Conference, and the Consolidated African Trading Corporation (herein referred to and called plaintiffs-in-error), filed an application for a writ of error in which they averred that the Consolidated African Trading Corporation, co-plaintiff-in-error, had filed an action of ejectment in 1985 against Adelaide Florence Anderson-Dayrell, co-defendant-in-error, and purported administratrix of the Intestate Estate of the late Benjamin K. Anderson and Varnie Weah; and further, that the United Methodist Church, co-plaintiff-in-error, had filed a motion to intervene in the action of ejectment, in its capacity as lessor of the Consolidated African Trading Corporation, herein called CATCO.

The plaintiffs-in-error maintained that as a consequence of their application and the intervention of the United Methodist Church, the Civil Law Court appointed a Board of Arbitration of three (3) licensed surveyors, two of whom submitted a majority report which established the fact that the property in question, which was adversely claimed by the co-defendant-in-error, Adelaide Florence Anderson-Dayrell, administratrix for the Intestate Estate of the late Benjamin K. Anderson, was indeed the bonafide property of the United Methodist Church. In addition to the majority report, there was also a minority report filed by Surveyor Arah Kamara in favor of the co-defendant-in-error. The plaintiffs-in-error filed objections, which were resisted by Co-defendant-in-error Adelaide Florence Anderson-Dayrell. The objections remained pending before the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, R. L. undetermined.

The plaintiffs-in-error contended in their application that while the action of ejectment filed by the Consolidated African Trading Corporation against Adelaide Florence Anderson-Dayrell was still pending before the Civil Law Court, Sixth Judicial Circuit, Montserrado County, Adelaide Florence Anderson-Dayrell (who had substituted her late mother as party defendant), with prior and full knowledge of the pendency of the case, filed another action of ejectment against the United Methodist Church, also in the Civil Law Court. This subsequent and second action was dismissed by the court on the legal principle of *lis pendis*,

in that the action of ejectment filed by CATCO against Adelaide Florence Anderson-Dayrell in 1985 was still pending before the Civil Law Court between the same parties and for the same subject property. For reliance, see Civil procedure Law, Rev. Code 1: I 1.2(1)(d), 1 LCLR 117, 118 (1973).

The certified records of this case transmitted to us revealed the following additional facts:

1. That in 1985, His Honour Judge Jesse Banks had disposed of the law issues in this matter and ruled the case to trial by jury on the complaint, count 2 of the answer, and counts 3 and 4 of the reply;

2. That on July 12, 2000, a notice of assignment was issued for the hearing of the minority report under the gavel of His Honour Judge Emmanuel Kollie, then assigned and presiding over the Circuit Court for the Sixth Judicial Circuit, and that on July 14, 2000, co-counsel, Counselor Joseph Nagbe, who had received and signed the notice of assignment for the plaintiffs-in-error, did not appear for the hearing of the minority report due to ill health. At the call of the case, and upon application made by Counselor Francis Y. S. Garlawolo, for the co-defendant-in-error, the presiding judge, His Honour Emmanuel Kollie, ruled both the majority and minority reports to trial by jury. The counsel for plaintiffs-in-error contended that Judge Kollie committed a reversible error in ruling as he did because the notice of assignment was issued for hearing of the minority report only and not the majority report. Further, they said, the presiding judge had ignored the letter of excuse sent to him regarding the illness of Counsellor Joseph Nagbe, and proceeded to hear the case in his absence on July 14, 2001; and

3. That by implication of law, the notice of waiver of a jury trial filed by the co-defendant-in-error on June 28, A. D. 2000, had no further legal effect by virtue of the fact that the ruling of Judge Emmanuel Kollie on July 14, 2000 had directed that both the minority report and the majority report were to be submitted to a trial by jury.

Notwithstanding the various rulings referred to, supra, and the legal implication thereof, the co-defendant-in-error judge, His Honour Varnie D. Cooper, on the 3rd day of November, A. D. 2000, ordered the issuance of a notice of assignment for trial of the action of ejectment on Saturday, November 4, A. D. 2000, at 11:00 a. m. without a trial by jury, thereby setting aside the respective rulings of his predecessors of concurrent jurisdiction. The plaintiffs-in-error contended that the action of the co-defendant-in-error judge ipso facto constituted a reversible error. Upon receipt of the notice of assignment for trial of the case without a jury on November 4, 2000, one of the counsels for the plaintiffs-in-error, Counsellor Joseph N. Nagbe, wrote the co-defendant-in-error judge, His Honour Varnie D.

Cooper, on November 3, 2000, informing him of the absence of Counsellor Pei Edwin Gausi from the bailiwick of the Republic of Liberia, and stating that the case file was not available. Counsellor Nagbe therefore requested a continuance of the trial to a later date to enable him to produce copies of the case file from the court's records. The co-defendant-in-error judge, His Honour Varnie D. Cooper, denied the request and ruled that the entire action of ejectment be stricken from the court's docket. As a result of the co-defendant-in-error judge's ruling of November 4, A. D. 2000, the plaintiffs-in-error filed a petition for writ of prohibition to undo the alleged illegal act of Judge Cooper in striking from the court's docket the entire action of ejectment filed by the Consolidated African Trading Corporation.

Following the filing of the petition for a writ of prohibition, a conference was held in the Chambers of our distinguished colleague, Mr. Justice Karmo G. Soko Sackor Sr., who advised counsel for plaintiffs-in-error to proceed by way of an application for a writ of error to enable the Court en banc to review the case in its entirety. Accordingly, the Chambers Justice mandated the co-defendant-in-error judge to resume jurisdiction over the case and to proceed according to law. Thereafter, an assignment was duly issued and served on the parties for the reading of the mandate on the 30th day of November, A. D. 2000. However, due to the engagement of Counsellor Joseph N. Nagbe at the Supreme Court of Liberia on November 30, A. D. 2000, he could not be present at the Civil Law Court to attend the reading of the mandate. He therefore informed the co-defendant-in-error judge, His Honour Varnie D. Cooper, who accordingly assured the Counsellor that he would appoint another counsel to attend the reading of the mandate. Judge Cooper accordingly appointed Attorney Joseph Jallah to attend the reading of the mandate on behalf of the plaintiffs-in-error. Surprisingly and strangely, however, the co-defendant judge, after reading the mandate, proceeded to give a final judgment on the entire action of ejectment which had been pending before the Civil Law Court since 1985, although he had ordered said case stricken from the court's docket in a previous ruling without any trial whatsoever. In the ruling, Judge Cooper declared that the property to which the United Methodist Church had held a long-standing possessory title and had physically occupied for over seventy (70) years, now belonged to the co-defendant-in-error, the Intestate Estate of the late Benjamin J. K. Anderson, represented by its administratrix, Adelaide Florence Anderson-Dayrell. Subsequent to this erroneous and arbitrary ruling of the co-defendant-in-error judge, counsel for co-defendant-in-error, Counsellor Francis Y. S. Garlawolo, wrote to the tenants of the co-plaintiff-in-error, the United Methodist Church, informing them that the land dispute or controversy between the United Methodist Church and the Intestate Estate of the late Benjamin J. K. Anderson had been finally decided by the Civil Law Court in favor of the Intestate Estate of the late Benjamin J. K. Anderson, meaning that Adelaide Florence Anderson-Dayrell could now take possession of the property. What is even more astonishing

to this Honourable Court is that after the pronouncement of the final judgment in this case by the co-defendant-in-error judge, His Honour Varnie D. Cooper, the court appointed counsel, Attorney Joseph Jallah, attempted to except to the ruling and announce an appeal therefrom, but the same was denied by Judge Cooper, which was contrary to law. The plaintiffs-in-error contended that in addition to the errors committed by Judge Cooper, mentioned supra, he also denied the said plaintiffs-in-error the right to appeal for the reason already stated. Hence, this writ of error before the Full Bench.

After carefully reviewing the briefs filed and listening to the legal arguments made by counsel for both parties before this Honourable Court, we deem the following as the basic contentions of the plaintiffs-in-error:

a. That the co-defendant-in-error judge, His Honour Varnie D. Cooper, did not conduct any trial, whether by a jury or without a jury, in the action of ejectment; yet, he decided the case in favor of the co-defendant-in-error by confer-ring ownership of title to the realty in controversy;

b. That in 1985, His Honour Judge Jesse Banks had disposed of the law issues and ruled the case to trial by jury, yet, the co-defendant-in-error judge, His Honour Varnie D. Cooper, without any regards for the laws of the land, on Saturday, November 4, 2000, tried the action of ejectment without conducting a jury trial, as had been mandated by his predecessor, thereby setting aside the respective rulings of his predecessors of concurrent jurisdiction, contrary to law. This action by the co-defendant-in-error judge constituted a reversible error.

c. That on the 30th day of November, A. D. 2000, following the issuance and service of an assignment, which was served and returned served, for reading of the Supreme Court's mandate, but after reading the mandate, the co-defendant-in-error judge, His Honour Varney D. Cooper, proceeded to give final judgment in the ejectment suit without a jury, and further prevented the court-appointed counsel from taking exceptions to the said final judgment and appealing therefrom, contrary to law. They main-tained that error will lie in the instant case, considering the facts and circumstances narrated herein.

On the other hand, counsel for the defendants-in-error contended in his brief and strenuously argued before this Honourable Court as follows, to wit:

1. That the co-defendant-in-error judge, His Honour Varnie D. Cooper, did not deny the court appointed counsel the right of appeal and to take exceptions to the final ruling, but instead, that it was the counsel himself that neglected to perform his statutory duties devolved or imposed upon him by virtue of his designation by the court to take the ruling on behalf of the plaintiffs-in-error; and

2. That the affidavit annexed to the petition for the writ of error was purportedly venued before the Honourable Supreme Court of Liberia, instead of a justice of the peace court, as mandatorily required by law.

After a careful perusal of the certified records transmitted to us, we deem the below listed points to be germane and, hence, to constitute the issues for the determination of this case:

1. Whether or not the trial judge committed a reversible error when he granted the submission for summary judgment after the case had been ruled to a jury trial by his predecessors?

2. Whether or not the petition for a writ of error would lie, predicated upon the facts and circumstances in this case?

With respect to the first issue, which is whether the trial judge committed an error when he granted the submission for summary judgment after the case had been ruled to a jury trial by his predecessors, we observed from the certified records before us that on the 19th day of September, A. D. 1985, His Honour Judge Jesse Banks, disposed of the law issues in the matter, and ruled the case to a trial by jury on the complaint, count 2 of the answer, and counts 3 and 4 of the reply. Further, that on the 14th day of July, A. D. 2000, His Honour, Judge Emmanuel Kollie, then assigned and presiding over the Civil Law Court, also ruled the Board of Arbitration's majority and minority reports to a jury trial. Notwithstanding these various rulings, referred to supra, and the legal implications thereof, the co-defendant-in-error judge, His Honour Varnie D. Cooper, on the 30th day of November, A. D. 2000, ordered the issuance of a notice of assignment for trial of the action of ejectment for Saturday, November 4, 2000, at the hour of 11:00 a. m. without a jury trial, thereby setting aside the respective rulings of his predecessors of concurrent jurisdiction. This action by the co-defendant-in-error judge was not only contrary to law but, as pointed out by the plaintiffs-in-error, ipso facto constituted a reversible error.

As noted earlier, the plaintiffs-in-error claimed title to the property by virtue of a public land deed from the Republic of Liberia. On the other hand, the co-defendant-in-error also claimed title to the subject property in litigation, which claim to title was also derived from the Republic of Liberia. This Court has held that "priority of claim to title is a material element in an action of ejectment. A plaintiff in an ejectment action is required to furnish clear and convincing proof of title." See *Dunbar v. Perry*, 13 LLR 510 (1960). In this regard and the laws extant in this jurisdiction, both parties were required to establish their claim of title to the property since the primary object of an ejectment suit is to test the strength of the titles of the parties, and to award possession of the property in litigation to a party whose

claim to title is so strong as to effectively negate his adversary's right to recover. Indeed, as far back as 1895, this Court held: "Nothing tends greater to disturb tranquility, to hinder industry and improve-ments in communities than the insecurity of property, personal or real, to prevent which courts of justice are established." For reliance, see *Reeds v. Hyder*, 1 LLR 271 (1895).

Courts of justice are therefore established to prevent insecurity of property, personal or real, in a society, and as such, a person cannot be deprived of his property unless by a judgment of his peers. Hence, the granting of an application for summary judgment was not necessary since both parties had laid claim and title to the same property in litigation, and since there was a factor or issue that warranted a trial by jury to establish true ownership of the property, especially after the case had been ruled to trial by jury.

Further, this Honourable Court is taken aback by the fact that the application for summary judgment was subsequently granted by the co-defendant-in-error judge, His Honour Varnie D. Cooper, after his colleagues had ruled the case to trial by jury. It is the law, procedure, and practice hoary with age in our jurisdiction, that a judge cannot review the judicial acts of another judge, except this Honourable Court of last resort. This Court has held that "[a] judge cannot review the judicial acts of his peers; therefore, as in the case presented, a circuit court judge cannot grant a motion for summary judgment after the case has been ruled to trial by another circuit court judge." *Dennis et al. v. Phillips et al.*, 21 LLR 506 (1973).

In the *Dennis* case, Judge Kandakai had disposed of the issues of law and ruled the case to trial by jury, but Judge Koroma thereafter granted a motion for summary judgment and awarded judgment as a matter of law. This Court held then that Judge Koroma had reviewed and interfered with the ruling of his colleague; therefore his judgment was reversed and the case remanded for a new trial. The facts in the *Dennis* case and the instant case are analogous. The judgment awarded the defendants-in-error is therefore reversible, and this Honourable Court so holds.

As regards the second issue, which is whether or not the petition for a writ of error would lie, predicated upon the facts and circumstances in this case, the plaintiffs-in-error submitted that the absence of two legal counsels at the time the co-respondent judge, His Honour Varnie D. Cooper, entered final judgment on November 30, 2000, constituted a good reason or justifiable cause to seek the aid of the writ of error, the rationale being that Counsellor Nagbe was on November 30, 2000 engaged with the Supreme Court of Liberia, being the same date and time Judge Cooper had assigned the case for reading of the Supreme Court's mandate growing out of the writ of prohibition filed before Mr. Justice Sackor. Further, Counsellor Gausi, who was co-counsel for the plaintiffs-in-error in this case, was out of the bailiwick of the Republic of Liberia at the time the co-defendant-in-error judge entered his

final judgment. The plaintiffs-in-error contended that within the contemplation of section 16.24 of the Civil Procedure Law, there existed a good reason why timely announcement of the appeal was not made at the time of the rendition of the judgment by the co-defendant-in-error judge, and that since the said judgment had not yet been executed a writ of error was the proper remedy available. Section 16.24 of our Civil Procedure Law provides that:

“A party against whom judgment has been taken, who has for good reason failed to make a timely announce-ment of an appeal from such judgment may within six months after its rendition file with the Clerk of the Supreme Court an application for leave for a review by the Supreme Court by writ of error.”

The other reason why a writ of error will lie in this case is for the Supreme Court to review the erroneous act committed by the co-defendant-in-error judge in the court below. A recourse to the records showed that on November 30, 2000, the only matter before the co-defendant-in-error judge, His Honour Varnie D. Cooper, respecting this case, was to read the mandate from Mr. Justice Sackor, emanating from the writ of prohibition, as per the notice of assignment dated Novem-ber 27, 2000, notifying the parties to appear on November 30, 2000 for reading of the mandate. Notwithstanding, the defendant-in-error judge proceeded to render final judgment in the action of ejectment, after reading the mandate. The co-defendant-in-error judge specifically declared:

“The property in question in which the plaintiff and the intervenor, the United Methodist Church, are intending to oust, evict, and eject the defendant, Adelaide Florence Anderson-Dayrell and Varnie Noah from their premises, is hereby set aside and the court rules that the defendants are the owners of the aforesaid property, subject of the ejectment suit....”

A further recourse to the records in this case revealed that the co-defendant-in-error judge did not conduct any trial, whether by jury or without a jury, in the action of ejectment; yet, he decided in favor of the co-defendant-in-error by conferring ownership of title to the realty in the manner he did. The records of this case are silent on any form of trial, or to any disposition of witnesses prior to the rendition of the judge’s final judgment. It is the holding of this Court that the co-defendant-in-error judge violated the fundamental principle of due process of law; that is, a law which hears before it condemns; which proceeds upon inquiry and render judgment only after trial.” For reliance, see *Wolo v. Wolo*, 5 LLR 423 (1937).

A jury trial is so vital in the procedure to determine title that this Honourable Court, in the case *Larsannah v. Passawe*, made the following remarks, speaking through Mr. Justice Harris: “The question now arises, can a court, that is, a judge alone, without the aid of the jury, try an action of ejectment when the issues raised in ejectment are mixed issues of law

and facts.” 14 LLR 599 (1961). Continuing, Mr. Justice Harris said: “As this Court said many years ago, nothing tends great-er to disturb tranquility, to hinder industry and improvement in communities than the insecurity of property, personal or real, to prevent which courts of justice are established.” Further, this Honourable Court recognized that ejectment is “among the peculiar trials wherein the court may not only assist but may direct the jury in coming to the conclusions warranted by the law and the facts in the case.” *Larsannah v. Passawe*, 14 LLR 599 (1961), text at 600. Also, this Honourable Court has held that “ejectment proceedings involve mixed questions of law and fact and are to be tried by a jury, under the direction of the court.” *Gbassage v. Holt*, 24 LLR 293 (1975). The consistency of the holdings of the Court on this issue points out clearly that only a jury can decide the issues joined by the parties to the ejectment suit and anything contrary to this, as was done in the instant case, constitutes a gross error on the part of the judge, and this Honourable Court so holds.

In keeping with the several opinions of this Honourable Court, a judge of concurrent jurisdiction is without legal authority to review, modify, or interfere with the judgment of his colleague of concurrent jurisdiction, as was erroneously done by the co-defendant-in-error judge. *Kanawaty et al. v. King*, 14 LLR 241, 242 (1960).

Another error committed by the co-defendant-in-error judge was that he rendered final judgment immediately after the reading of the mandate of the Supreme Court. He had no authority to do so, and by so doing, he violated the well known and established practice in this jurisdiction, which is, that when a subordinate court receives a mandate from the Supreme Court, it becomes the legal duty upon the court, or the judge assigned therein, to issue a notice of assignment to the parties to appear for the reading of the mandate. After the mandate is read, the court then resumes jurisdiction over the case. Any subsequent action must be done in keeping with law. It is therefore the considered holding of this Court that the co-defendant-in-error judge, His Honour Varnie D. Cooper, did not act in keeping with the law when he entered final judgment in the case immediately following the reading of the mandate of the Supreme Court. Hence, error will lie.

As to the contention that several issues were raised in this case but may not have been passed upon, it has always been the practice of this Court to pass upon only those issues it deems meritorious, worthy of notice, and germane to the legal determination of the case. It need not pass on every issue raised in the bill of exceptions or in the briefs filed. In this case, this Court has acted in keeping with practice and precedence and has addressed itself to only those issues and/or questions it considers to be germane to the determination of the controversy. See *Lamco J. V. Operating Company v. Verdier*, 26 LLR 445 (1978).

Wherefore and in view of the foregoing facts and circumstances and the laws controlling in this case, it is the considered opinion of this Court that the application for a writ of error

should be and same is hereby granted, and the peremptory writ ordered issued. The ruling of the trial judge ordering the entire action of ejectment dismissed without a jury trial is reversed. The Clerk of this Court is ordered to send a mandate to the court below ordering the judge presiding therein to resume jurisdiction over this case and commence the hearing of the ejectment action with a jury trial, which had already been ruled to a jury trial by His Honour Jesse Banks in 1985. Costs are to abide the final determination of the case. And it is hereby so ordered.

Judgment reversed.