

M. E. WHITE, AARON PAGE, MOSES N. WILLIAMS, Appellants, v.
WARREN STEEL and **LUCINDA STEEL**, his wife, formerly Lucinda Sevier,
George Lewis and **Pauline Lewis**, his wife, formerly Pauline Sevier, **Foster Smith**
and **Mary Smith**, his wife, formerly Mary Sevier, **Francis Gould** and **Grace Smith**,
formerly Francis and Grace Sevier, Appellees.

1. Oral evidence can in no case be received as equivalent to, or as substitute for written instrument.

2. Whatever character of defendant's title plaintiff in ejectment must show some title.

Ejectment. On appeal from the Court of Quarter Sessions for Montserrado County.

This action was traversed before the Court of Quarter Sessions and Common Pleas for Montserrado County at its March term, A.D. 1908, and is brought before this court on a bill of exceptions for review.

The action was brought by appellees to recover possession of lot No. 33, situated in the Town of Marshall, Montserrado County, the appellees claim title to the premises referred to on account of heirship, and introduced as written evidence a deed from the administrator of E. W. Wright's Estate to Hannah J. White, dated October 29th, 1875.

This court discovers from the records that on the 28th day of November, A.D. 1892, Hannah J. White, for the consideration of a sum of money conveyed the property of Julius C. White on the 10th day of December, A.D. 1892, as will appear by the copy of conveyance in the records.

The appellees in the examination of oral testimony at the trial, endeavored to establish the existence of a will. It is the opinion of this court that oral evidence can in no case be received as equivalent to, or as a substitute for, a written instrument, for by so doing oral testimony would be admitted to usurp the place of evidence decidedly superior in degree.

This court is at a loss to know why it is that this action to recover the possession of realty was not backed up by strong proof as the title right. In ejectment parties claiming title to property whether by descent, purchase or otherwise, must show title, and that same has lawfully come to them, no matter how weak the defendant's title may appear. This has been remarked by this court in previous cases of ejectment. It is

clear that appellees produced nothing in the court below to show title to the premises in question, but set up a plea in reference to the inability of Thomas J. White to contract, being a minor, (as they alleged) but according to the records that fact was not sustained. One witness saying he was under age and another that he was 22 years old. Upon the whole this court fails to see upon what grounds the court and jury below predicated their conclusion.

The court therefore reverses the judgment of the lower court and rules appellees to cost. The clerk of this court is commended to issue a mandate to the court below to the effect of this reversal judgment.

Given under our hands this 10th day of February, A.D. 1909.

By the Court.