

William E. Dennis, Sr. Realty Trust represented by its Trustees, Hilary A. Dennis, Lessor of the City of Monrovia, Liberia INFORMANT VERSUS His Honor, **Yusif D. Kaba** Assigned Judge, Sixth Judicial Circuit for Montserrado County 1ST RESPONDENT **K. and H. Construction Company**, represented by its authorized representatives, Abdel Kamand, Lessee of the City of Monrovia, Liberia 2ND RESPONDENT **National Elections Commission** 3RD RESPONDENT **General Services Agency** 4TH RESPONDENT **Ministry of Finance** 5TH RESPONDENT.

LRSC 34

BILL OF INFORMATION. APPEAL FROM THE CIVIL LAW COURT, SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY, REPUBLIC OF LIBERIA.

Heard: April 27, 2010. Decided: August 30, 2010.

MR. JUSTICE JA'NEH DELIVERED THE OPINION OF THE COURT.

We have determined that the following two issues are dispositive of the information proceedings now before this Court:

(1) Whether given the facts and circumstances herein recited, the judge's letter of November 19, 2008, and the order therein contained, constituted improper execution of the Supreme Court's mandate for which information will lie?

(2) May a party who has discharged obligations under the direction of a court of law be held liable for the same said obligations in the instance the appellate jurisdiction determines the discharged court's order to be erroneous?

We shall discuss the issues herein in serial sequence.

To aid this Court address the first question, it is appropriate for the purpose of clarity to consider foremost what a bill of information is as well as its province in our jurisdiction.

Bill of information is not a statutory creation in our jurisdiction. Nonetheless, information proceeding has long been a settled part of our jurisprudence. It is a matter whose historical evolution has been, satisfactorily considered in a number of opinions of the Supreme Court of Liberia.

Speaking to this issue in the case *Richards vs. Pupo and The Liberia Bank for Development and Investment (LBDI)*, 31 LLR, 127, 131-2 (1983), this Court observed:

"The statute as well as the rule of the courts which regulate the procedures before the courts in this country has no provisions known as bill of information. However, what ushered this non-statutory practice known as bill of information in our court system cannot be traced and it should not override the statute. Notwithstanding, it is obvious that a court, including the Supreme Court, which renders a decision retains jurisdiction until its judgment is fully satisfied and any party aggrieved during the enforcement of the judgment has remedy by resorting to that court for the appropriate relief, which maybe by way of motion and or bill of information and the latter tantamount to a motion." Ibid.131-2. [Emphasis Ours].

Also in *Raymond International (Liberia) LTD vs. Dennis*, 25 LLR 131, 140 (1976), the Supreme Court simply rejected the employment and use of remedial writs when a matter reaches the point of execution of its mandate; the Supreme Court has directed that the remedy available to an aggrieved party who has felt wronged at the point of execution is to bring the action of the wrong doer to the attention of the Supreme Court en bane, *by bill of information*.

Further, the holding of this Court in *Barbour-Tarpeh vs. Dennis*, 25 LLR 468, 470 (1977), was concurrent. Speaking for this Court, Mr. Justice Henries upheld the same principle stating that where a judge of the lower court has attempted in a wrong way to execute the mandate of the Supreme Court, *"the proper way to bring [this wrong] to this Court's attention is by information."*

From this survey of the laws applying, it appears abundantly clear that information will lie and same shall be granted by this Court if, as claimed by informant in these proceedings, the mandate of this Court was being improperly or wrongly executed. So whether to grant information or not is consequent on a defining question; whether the allegation of improper execution is supported by the records in the proceedings.

To provide answers to the two issues before us, this Court deems it appropriate to take judicial notice of our own records in order to orderly and justly dispose of this matter.

Informant in these proceedings, William E. Dennis, Sr. Realty Trust represented by its Trustee, Hilary A. Dennis perfected an appeal from a final decree entered by His Honor, Emery S. Paye, on February 15, 2007. Said final judgment was consequent upon hearing of a petition for declaratory judgment filed on December 4, 2006 at the Sixth Judicial Circuit Court by second respondents, K. & H. Construction Company.

The Supreme Court heard and dismissed informant's appeal during its March 2008 Term. In said opinion, the Supreme Court held as follows:-

"(1) The final judgment rendered by the trial court declaring the two agreements of lease of 1983 and 1985 along with their respective optional clauses, valid and enforceable, is hereby affirmed;

"(2) The time period of appellant's illegal re-entry and repossession of the demised property, commencing April 2002 to the date of rendition of this opinion, said period being six (6) years, is hereby ordered restored and to be exercised by the appellee on each of the two agreements of lease executed between the parties;

"(3) Also, an additional one (1) year is ordered added to each six (6) year as imposed penalty to offset for interest on the rentals unlawfully collected during the period of appellant's illegal re-entry and repossession of the demised premises."

Subsequently, the judge presiding at the Sixth Judicial Circuit Court was commanded to give effect to this mandate. The court resumed jurisdiction and proceeded, it would appear, to enforce the Supreme's mandate.

But on May 27, 2009, Informant William E. Dennis, Sr. Realty Trust filed an eleven count bill of information before this Court, urging its attention to the Court's opinion of June 27, 2008, referenced supra. As earlier indicated, the Supreme Court in said June 27, 2008 opinion confirmed the lower court's judgment holding informant liable. In the same said opinion, the Court awarded Second Respondent K. & H. Construction Company, six year extension to the lease agreement executed between the parties.

This Court takes judicial notice of the fact that controversy over the lease agreement subsequently extended by this Court was the pivot of contention heretofore triggering the filing of the petition for declaratory judgment on December 4, 2006.

But in the information proceedings now venued before us, informant has contended that the *raison d'etre* for extending the life of the lease hold title by six years in' favor of second respondent was to restore the years informant was adjudged to be wrongfully in possession of the demised premises; that the Supreme Court also awarded one additional year to second respondent in lieu of reasonable expectation of interest which might have accrued to second respondent had it been in possession of the premises.

The facts herein recited notwithstanding, informant notified this Court that one of the tenants on the demised premises, Third Respondent National Elections Commission was delinquent in rent payment for period *prior* to rendition of the Supreme Court's opinion of June 27, 2008. The arrears and the periods for which they accrued were listed as follows:

"1. October 1, 2006	September 30, 2007	US\$70,000.00
"2. October 1, 2007	June 27, 2008	US\$51,972.00
		Total US\$121,972.00

This amount, US\$121,972.00 (one hundred twenty-one thousand, nine hundred and seventy-two United States dollars), also represents rental arrears accrued during the period informant was in possession of the demised property and for which they have been sufficiently penalized, by the additional six years to the years certain of the lease agreement plus an additional one year in consideration of expected interest on the rental income.

In the light of the June 27, 2008 opinion delivered by the Supreme Court, informant has vehemently argued that all arrears payable on the premises prior to June 27, 2008, including the US\$121,972.00, owed by Third Respondent National Elections Commission, properly belong to informant.

However, informant complains that notwithstanding the facts detailed herein, Co-respondent Judge, His Honor, Yussif D. Kaba, erroneously issued an order dated November 19, 2008, which was not served on informant until very recently, ordering all rentals for the leased properties to be paid to second respondent, K. & H. Construction Company; that the judge failed to state in the said order that rental payments to second respondent commences immediately from June 27, 2008 and not prior thereto; that as a result of said order which informant termed as illegal, both co-respondent General Services Agency and Ministry of Finance are proceeding to making illegal payment to second respondent of rental arrears due on the demised premises precedent to the rendition of the June 27, 2008 Supreme Court opinion, much to the detriment and prejudice of the informant; that the illegal order issued by Judge Kaba does amount not only to unjust enrichment on the part of second respondent, but said order equally violates the clear mandate of the Supreme Court of Liberia.

Informant has therefore prayed this Court to direct the following:

"1. Order the co-respondents to halt all actions and proceedings on the basis of the said erroneous and

illegal court order,

"2. Declare the said Court order dated November 19, 2008 and signed by the co-respondent judge as null and void ab initio and of no legal effect whatsoever;

"3. Instruct the clerk of this Honorable [Supreme] Court to instruct the court below that the intent of this Honorable [Supreme] Court's mandate shall become effective June 27, 2008 and that all arrears prior to June 27, belong to informant;

"4. That the spirit and intent of June 27, 2008 decision of this Honorable [Supreme] Court is not to effect double penalty on informant, and

"5. Grant unto informant all that is legal and just."

His Honor, Johnnie N. Lewis, Chief Justice, Supreme Court of Liberia, on June 15, 2009, ordered the alternative writ issued. In obedience to the orders contained therein, second and third respondents filed their respective returns.

Second Respondent H. & K. Construction Company in a fourteen count resistance denied both the illegality of the judge's order of November 19, 2008 as well as the non service of copy thereof on the informant. Co-respondent is infact contending that bill of information was not the proper remedy available to the informant; that informant should have filed a motion for re-argument within three days after rendition of the Supreme Court's opinion of June 27, 2008. According to second respondent, informant having suffered from waiver and lashes by its failure to file a motion for re-argument consistent with law, and bill of information not being the proper remedy, same must be dismissed by this Court, citing as reliance, the case: Harris v. Layweah, 39 LLR 571, 574(1999).

It is also strenuously argued by Second Respondent that bill of information will lie only in the instance where a party improperly enforces the mandate of the Supreme Court; but that in the instant case, informant woefully failed to show how respondents were proceeding contrary to the Supreme Court's mandate. Corespondent has strongly maintained that the Supreme Court's opinion of June 27, 2008 intended to penalize informant as a matter of law, for penalty is defined as

"punishment, corporal or pecuniary for wrong done....a punishment for default..." Along this line, maintains second respondent, the US\$121,972.00 rental arrears payable by co-respondent National Elections Commission, can only belong to second respondent.

Further recourse to the records indicates that on June 26, 2009, Second Respondent H. & K. Construction Company filed a two count motion praying this Court to dismiss informant's bill of information. The basic contention raised in the motion was that the informant was requesting the Supreme Court to interpret or clarify its opinion/mandate; that it is motion for re-argument that is available to a party seeking interpretation of the Supreme Court's mandate, not bill of information; that informant having filed the wrong form of action, the Supreme Court could not exercise jurisdiction over the case.

But informant/respondent filed a five count returns to the motion to dismiss. In the resistance, informant insisted that contrary to what second respondent launched as contention, informant's bill of information specifically sought to inform the Supreme Court of the illegal order issued by co-respondent judge purportedly in execution of the highest court's mandate growing out of its June 27, 2008 opinion. This being a proper subject for which a bill of information would lie, informant has therefore requested this Court to dismiss for all intents and purposes, second respondent's motion to dismiss.

Consistent with the authority granted to a court under section 6.3, 1 LCL Revised, title I, Civil Procedure Law, (1973), the motion to dismiss and the bill of information were consolidated. The referenced section provides:

"When actions involving a common question of law or fact are pending before a court of record, the court, upon motion by any party or sua sponte, may order a joint trial of any or all the matters in issue or the consolidation of the actions; and it may make other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

When the matter was called for hearing, informant contended both in their brief and during argument before this bench that the trial court judge's order of November 19, 2008, directing that *"all rentals due on the premises"*, included and covered rentals for the period of six years already restored to second respondent.

Said order therefore contravenes the mandate of the Honorable Supreme Court. For said improper execution, according to informant, bill of information as filed before the Supreme Court was the only proper legal remedy available to the aggrieved party.

On the other hand, respondents arguing before us have taken the position that the bill of information filed by informant essentially requested the Supreme Court to provide

clarification on its ruling of June 27, 2008. By informant making such a request, respondents argued, one can only conclude that the Supreme Court omitted some important issues of law that the Court needed to address. This being the case, respondents further maintained, the only remedy informant should have availed itself of was filing a motion for re-argument. Respondents in support of their position cited [section] IX of the Revised Rules of the Supreme Court (1999) captioned: "*RE-ARGUMENT.*" Parts I and II thereunder read:-

"Permission for — For good cause shown to the Court by petition, a reargument of a cause may be allowed only once when some palpable substantial mistake is made by inadvertently overlooking some fact, or point of law."

"Time for — A petition of re-hearing shall be presented within three (3) days after the filing of the opinion, unless in cases of special leave granted by the Court en banc upon application."

Respondents therefore contended that the bill of information having been filed roughly nine months after the Supreme Court rendered its June 27, 2008 opinion, informants has suffered waiver and lashes as it was without statutory time, if at this stage they elected to file a motion for re-argument.

As to the section of the Revised Rules of the Supreme Court (1999) on "*RE-ARGUMENT*", was cited by counsel for respondents with the contention that this should control the disposition of this matter. If there were facts or evidence in the records to bring the case at bar within the orbit of the cited section and rules of the Supreme Court, then they have escaped our careful analysis and scrutiny. Considering the laws applicable, this Court just cannot see the congruity of the respondents' position.

It is settled law in this jurisdiction, according to Mr. Justice Yangbe speaking for this Court in *Richards v. Pupo*, 31 LLR, 127, 132 (1983), that every court entering a decree "*retains jurisdiction until its judgment is fully satisfied*"; that whoever is therefore aggrieved in the course of execution of said decree "*has remedy by way of motion and or bill of information...*"

Recourse to the records discloses that His Honor, Yussif D. Kaba, on November 19, 2008, addressed a letter to all the tenants of the William E. Dennis, Sr. Realty Trust Estate. For the benefit of this opinion, we quote verbatim the referenced communication as follows:-

"November 19, 2008.

TO: ALL TENANTS OCCUPYING THE PREMISES OF THE LATE WILLIAM E. DENNIS ESATE LOCATED AT PAYNES AND WARNER AVENUES, THE CORNER OF 16TH & 17TH STREETS, SINKOR, MONROVIA, LIBERIA SPECIFICALLY THE FOLLOWING PERSONS AND OR/INSTITUTIONS:

- A. The National Elections Commissions (NEC)
- B. Libyan Arab Jamahiriya
- C. Mr. Emery Dennis
- D. Hilary Dennis

You are hereby ordered to pay all rentals due on the premises you occupy to the Management of K & H Construction Company by and thru its General Manager Adel Kamad. This, our order is in keeping with the mandate of the Honorable Supreme Court of the Republic of Liberia growing out of the case:

K. and H. Construction Company PETITIONER VERSUS William E. Dennis, Sr. Realty Trust et al...RESPONDENTS. PETITION FOR DECLARATORY JUDGMENT

Thanks and kind regards,

[signature]

Yussif D. Kaba

Assigned Circuit Judge

6th Judicial Circuit Court

Montserrado County/R. L.

Informant has strenuously argued that the order contained in the letter aforementioned, directing all rents payable to second respondent, failed materially to state the precise date and time when rental payment should commence to accrue to said second respondent; that contrary to the clear mandate issued by this Court on June 27, 2008, the court's order as issued, has resulted to tenants paying rents to second respondent for periods including those predating June 27, 2008; that as part of this error, co-respondent National Elections Commission has paid US\$121,972.00 to second respondent. Informant has therefore impressed upon this Court that the judge's order contained in the letter of November 19, 2008, directing that all rentals be paid to second respondent, constitutes improper execution of the Supreme Court's mandate; for this manifest error, information will lie.

This Court is in full agreement and sustain informant's contention that the arrears on

the premises precedent to June 27, 2008, the date our opinion was delivered as well as the mandate emanating therefrom, was never intended to be paid to second respondent, K. & H. Construction company as second respondent has been adequately restored for time lost, by extension of six (6) year period to the lease agreement. We are also in full agreement with informant that it will amount to unjust enrichment if this Court of justice and equity were to authorize payments of any rents to second respondent prior to June 27, 2008, the same lost time for which informant has been penalized.

Therefore, the lower court's communication appears on its face to have authorized all rental payments to second respondent, which included rents due prior to June 27, 2008, constitutes improper execution of this Court's mandate of June 27, 2008. And where improper execution has occurred, Mr. Justice Sackor, speaking for this Court in *Nymah and Freeman v. Kontoe and Payne*, 40 LLR14, 18 (2000), has pointed to information as *"the proper remedy"*.

Certified records also support the conclusion that the US\$121,972.00 accrued to the William E. Dennis, Sr. Realty Trust during the period of informant's occupancy of the demised premises, a fact not denied by second respondent. There is also no denial that the USD\$121,972.00 was due for payment prior to rendition of the June 27, 2008 opinion. Under these circumstances, this Court has not been able to follow the logic that will authorize payment of these arrears to second respondent, K. & H. Construction Company. We hold therefore that all arrears accruing and owed to the William E. Dennis Realty Trust during informant's forcible re-entry until June 27, 2008, the date of rendition of our opinion, a period which has been duly restored by extension of the agreement of lease, are properly payable to informant.

A bill of information will therefore lie in the instant case the judge having issued an order commanding tenants that *"all rentals due on the premises you occupy (be paid] to the Management of K & H Construction Company"* and at the same seeking to justify that his order was *"in keeping with the mandate of the Honorable Supreme Court of the Republic of Liberia"*.

The second question is whether a *party who has relied and discharged obligations under a court's direction may be held liable for the same said obligations where the appellate court subsequently determines the said court's order to be erroneous*. Again we travel to the records in this case guided by the laws applicable thereto.

As earlier recited, Co-respondent K. & H. Construction Company has substantially alleged that informant has always disrespected the court and regularly ignored the rule

of law; that such conduct was evidenced by informant illegal and unilateral entry on the demised premises for which it was punished by this Court. Co-respondent has also claimed that in further demonstration of flagrant disobedience to the Supreme Court's order, informant refused and neglected to vacate the premises as directed to do so by the June 27, 2008 mandate. According to co-respondent, informant and those acting under its control continued their occupancy of the premises and thereby accumulated rentals of US\$40,000.00. In support of its allegation, co-respondent annexed to their returns, copies of invoices bearing the names of Emery Dennis and Hilary Dennis, each for US\$20,000.00. Here below, we reproduce verbatim said instruments for the benefit of this opinion:

Authorized Signature

INVOICE

[Please see pdf file for invoice]

It is also co-respondent's claim that informant unjustly enriched itself when it collected three year advance rentals, totaling US\$51,000.00 from Tenant Jackson E. Doe, and US\$12,000.00 from the Libyan Embassy, summing up to US\$63,000.00. To support this allegation, one cash receipt purportedly issued by informant was attached to form part of second respondent's returns.

We must here observe that third respondent, the National Elections Commission, in its returns denied ever being delinquent in rental payment, let alone being in arrears to the tune of US\$121,972.00 (one hundred twenty-one thousand nine hundred seventy-two United States dollars). Third respondent maintained that all of its rental obligations had been settled. In support thereof, it attached copy of a payment voucher and receipt for US\$72,000.00 (seventy-two thousand United States dollars), covering rental settlement for the period July 1, 2008 through June 30, 2009. At the same time, Co-respondent NEC has contended that assuming without admitting that the judge issued a court order which turned out to be improper, Co-respondent, N.E.C. obeying said order should not be held liable for the consequences of erroneous act committed by a court of law.

Co-respondent N.E.C. has therefore prayed this Court to dismiss informant's bill of information because whatever payments it made including the US\$72,000.00 (seventy-two thousand United States dollars) to Second Respondent K. and H. Construction Company, was simply in compliance with the order of a court of law.

In summary, second respondent has accused informant of disrespect for the court;

that informant disobeyed the court's mandate to vacate the demised premises and defiantly remained thereon and accumulated rental arrears in the amount of US\$40,000.00. Also, there appears to be a receipt purportedly signed by Emery Dennis, dated December 12, 2008, showing payment made to Emery Dennis in the amount of US\$12,000.00 by the people's Bureau of the Great Socialist People's Libyan Arab Jamahiriya. The receipt acknowledging rental payment for one year lease on the demised premises, from January 1, 2008 to December 31, 2008, is reproduced hereunder as follows:

A. S. K. Realty Inc.
Payne Avenue at Sixteenth Street
Sinkor
Monrovia,
Liberia.

December 12, 2008.

Received from the People's Bureau of the Great Socialist People's Libyan Arab Jamahiriya on behalf of the William E. Dennis, Sr., Realty Trust Estate, the sum of Twelve Thousand United States Dollars (US\$12,000.00) as payment for lease on house at the corner of Warner Avenue and Sixteenth Street for a period of one (1) year from January 1, 2008 to December 31, 2008. Payment made for 2008 under the same terms and conditions as 2007.

[signature]

Emery Dennis

Second respondent has further accused informant of receiving in advance, 3 (three) year rentals from one tenant in the amount of US\$51,000.00. Having levied all these allegations against informant, second respondent wonders why informant can make a successful argument that they are entitled to the US\$121,972.00 in rental arrears.

We have observed that while second respondent strenuously argued that information will not lie in these proceedings as there was no improper execution of the Supreme Court's mandate, it has at the same time listed an array of allegations against informant.

To the mind of this Court, these allegations do not suggest compliance with the mandate of this Court by any account. By making these claims however, second respondent seems to justify thereby the judge's order of November 19, 2008 directing that all rental arrears be paid to second respondent. But will the November 19, 2008

court's order invariably not include arrears for the period prior to June 27, 2008, mandate? Ironically, by assuming this position also, is second respondent in effect not arguing that there was improper execution of, or compliance with the Supreme Court's mandate also?

Such arguments cannot be tenable. From all the arguments advanced by the parties, one thing comes out clearly: that the June 27, 2008 mandate issued by this Court was never fully and properly executed. The barrage of allegations made by second respondent notwithstanding, we have been unable to discover anything in the records before us that it took any steps to seek judicial redress by bringing such an important issue to our attention.

In the face of what is clearly trading of allegations in respecter of execution of this Court's mandate, should a third party be held to pay arrears already settled under court direction? To this question before us, we answer in the negative.

Assuming that third respondent, N.E.C. made payments to second respondent under the court's order of November 19, 2009, the principle enunciated in *Morris v. Republic*, 4 LLR 125 (1934) and elaborated in *Yah River Loqqinq Corporation v. United Logging Corporation et al.* 24 LLR 57 (1975), will generally apply. In *Morris*, this Court of *dernier resort* adopted for general application the legal maxim: "*the acts of the court shall prejudice no man.*" Ibid.128. In other words, mistake or error made by the court should be remedied by amendment or otherwise, so as to promote the ends of justice. This principle goes back to the foundation of our judicial system.

Also in *Yah River Logging Corporation*, this Court held: "...errors and omissions of officers of a court should not prejudice the rights of parties." Ibid. 61.

The utility value of application of this venerated maxim *acts of the court shall prejudice no man* is founded on the equity principle that party litigants ought to rely on the inherent authority of a court to protect them as orders from a court of law, under the normal course of events, are considered valid.

In re: Counselor C. Abavomi Cassell, 28 LLR 107, 123 (1979), Mr. Justice Henries speaking for this Court indicated observed:

"It is presumed, in support of the judgment, that the proceedings were regular, that the proceedings were in conformity with settled usage, and sufficient to support the judgment, and that every requisite, and every fact necessary to sustain the judgment, were present." According to Justice Henries,

"Indeed, the integrity and value of the judicial system as an institution for the administration of justice rest largely upon these principles."

This principle therefore applies especially where, as in the case at bar, adequate legal remedy is available to the aggrieved party.

From all that has been said, clearly the June 27, 2008 opinion and the judgment thereon entered were never meant to affect retroactive transactions. Accordingly, we hold that all rents due and payable on the demised premises PRIOR to June 27, 2008, belong and are properly payable to the informant, William E. Dennis, Sr. Realty Trust. Conversely, as of June 27, 2008, all rental obligations due and payable on the demised premises belong to Second Respondent, K & H Construction Company.

Therefore, this Court must now proceed to grant complete relief to the parties having assumed jurisdiction in this matter. This is in accordance with the principle of equity further enunciated in *Benson v. Johnson*, 23 LLR 290, 299 (1974), in which the Supreme Court directed as stated: *"the court of equity upon obtaining jurisdiction of an action [shall] administer full relief, both legal and equitable, so far as it pertains to the same transaction on the same subject matter,"*

Further, as far back as 1867, the Supreme Court of Liberia emphatically directed that it should be "the practice of every court of law or equity to bring to bear the law points and the equitable subjects of every case. This being done," the Supreme Court says, "justice will be meted out in every case, however great and extensive its proportions may be on the one hand, or however small and significant on the other." *Harris v. Republic* 1 LLR 39,40 (1867).

CONSISTENT HEREWITH, AND IN VIEW OF ALL we have narrated herein above and the legal authorities cited in support of our conclusions, the bill of information is hereby granted. Accordingly, the trial judge is directed to conduct an investigation to determine and pass on the following allegations:

- 1. That Second Respondent, H & K Construction Company received and collected rents due on the premises for period PRIOR to June 27, 2008; representing rents which were properly payable only to informant.*
- 2. That informant not only occupied and continued to remain on the demised premises long after June 27, 2008, but the informant collected rents in advance for period AFTER June 27, 2008, representing rents which were legitimately payable only to Second Respondent;*

If, as a result of the investigation, the court finds and determines that second respondent collected and received any rental payments for period precedent to the June 27, 2008 mandate, Second Respondent, H & K Construction Company shall be liable to make refund to the informant of said amounts.

On the other hand, if finding is made either to the effect that informant continued occupation and failed to vacate the premises as of June 27, 2008, or collected rents for any period after June 27, 2008, informant shall there be liable to pay back all such monies to Second Respondent.

The judge shall work out the appropriate arithmetic and ensure that the respective incomes and obligations of the parties are mutually attended to and equitably settled.

3. That the mandate as herein directed shall be executed and returns filed thereto in the office of the Clerk of this Court, THIRTY (30) DAYS as of the date of receipt of this judgment.

THE CLERK OF THIS COURT is hereby ordered to notify, in due form, the judge of the lower court as to this decision.

Clr. F. Musah Dean, Jr. of the Dean & Associates Inc., in association with Cllr. Gloria Musu-Scott appeared for the informants. Counselors Roland F. Dahn of Yonah Obey & Associates & Joseph Bliidi of the National Elections Commission (NEC), appeared for respondents.