IN THE HONOURABLE SUPREME COURT OF REPUBLIC OF LIB ERIA
SITTING IN ITS OCTOBER TERM, A. D. 2016

BEFORE HIS HONOR : FRANCIS S. KORKPOR, SR……CHIEF JUSTICE
BEFORE HIS HONOR : KABINEH M. JA'NEH…….……ASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLLIE…….ASSOCIATE JUSTICE
BEFORE HIS HONOR : PHILIP A. Z. BANKS, III……..ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH……..ASSOCIATE JUSTICE

Fatu Daramy Mensah……Appellant)
)
Versus) **APPEAL**
)
Marie Daramy……Appellee)
)
GROWING OUT OF THE CASE:)
)
IN RE: THE PETITION OF MARIE S. DARAMY, ONE OF)
THE HEIRS OF THE LATE A. B. DAMARY, FOR)
CLOSURE OF THE INTESTATE ESTATE OF THE)
LATE A. B. DARAMY)

Heard: April 23, 2013 **Decided: February 17, 2017.**

MR. JUSTICE BANKS delivered the Opinion of the Court.

The Supreme Court of Liberia, gravely concerned about how the estates of decedents, testate and intestate, were being managed and the problems being encountered in the administration or maladministration of those estates, attributed to the trustees, administrators, the probate courts, and counsel pursuing matters for the estates, has in a number of recent opinions tried to fashion out some course to address those issues. In those Opinions, this Court has focused substantially on core factors which the Court has identified as being primarily responsible for the problems confronting the decedent estates, including the abuse of the trust and mandates given to executors and administrators under letters of administration issued by the probate courts for the administration of testate and intestate estates and disregard by the courts themselves for the laws governing such estates. *WATAMAL et al. and The Heirs and Beneficiaries of the late James Francis Cooper v. Kieta et al*., Supreme Court Opinion, October Term 2012, decided January 4, 2013; *St Thomas Episcopal Church v. Gbedze*, Supreme Court Opinion 2013, decided August 2, 2013; *Louise Clarke-Tarr v. Daniel K. Wright,* Supreme Court Opinion, March Term, 2015;

***Mustapha Fadallah v. Priscilla Gibson-Flomo*, Supreme Court Opinion, March Term, 2015.**

In many of those opinions, some of which we have cited above, this Court not only attributed in large part the saturation of the dockets of our courts with multiple and enormous litigations because of the manner in which the probate courts and the administrators have conducted the affairs, including financial unaccountability, of estates entrusted to their care, but how in the process they had abused the constitutional and statutory rights of the beneficiaries of said estates. In many of those cases, the Court noted its continued concern at (1) high level of disregard, disrespect, disobedience and indifference shown, and negligence demonstrated by executors and administrators, not only for the law and the rule of law, but also towards the letters of administration issued to them to administer estates, the duties and obligations imposed upon them, and the directives given to them by those instruments of authority relative to their conduct of the affairs of estates; and (2) the awkward, and sometimes illegal and arbitrary manner in which the Monthly and Probate Courts, especially the Monthly and Probate Court for Montserrado County, had dealt with the issues confronting or presented by the parties to the disputes and/or the negligence displayed by the judge(s) in failing to meticulously enforce or demand adherence by party litigants to the laws governing estates and the directives contained in the instruments issued to them to administer testate and intestate estates. See *Jahwary et al v. Sirleaf-Hage et al*., Supreme Court Opinion, October term, A. D. 2013; *Holder v. The Testate Estate of the late Sarah King-Howard*, Supreme Court Opinion, March Term, 2014; *Clarke-Tarr v. Wright*, Supreme court Opinion, March Term, 2015.

In some of those cases also, this Court had to resort to some of the most severe penalties actions allowed by law, including the suspension of judges, in order to restore dignity to the judicial process and trust in the administration of estates which the decedents strived so intensely through their hard labor to secure. See *In re: Emery Paye*, Supreme Court Opinion, October term, 2012; *Fadallah v. Gibson-Flomo*, Supreme Court Opinion, March Term, 2015.

The instant case presents yet another example of the conduct we have noted above, both by those charged with administering the decedent's estate and by the Monthly and Probate Court for Montserrado County in dealing with

the dispute, particularly regarding the failure or refusal to enforce or have the parties adhere to the standards laid down in the Decedents Estates Law. In the records, we have found acts of fraud and deceit, perpetrated not just by the administrators but also by the judicial officers and officials of the Monthly and Probate Court for Montserrado County. The following narration of the facts, culled from the records, forms justification for the conclusions reached herein.

Our scrupulous and thorough examination of the records reveals that Alhaji B. Daramy, at the time a residence of Monrovia, died on February 22, 1974, being survived by several wives and a number of children begotten by him unto those wives. We note that although the records reveal that the contending parties differ as to the number of wives which the decedent had and the number of children begotten by them for the decedent, as well as the number that survived him, the records do show however that the evidence produced at the trial established that there were three wives and nine children recognized by the decedent prior to his death and by his family subsequent to his death.

We have also seen in the records, and none of the parties have disputed the evidence revealed therein, that during his lifetime, the decedent, Alhaji B. Daramy, acquired three parcels of land, the first located on Center Street, the second located on 24th Street, Sinkor, and a third located on the Old Road, Sinkor, all in the City of Monrovia. And while scanty allegations were made as to a fourth parcel of land, none of the persons who testified at the trial alluded to the existence of such fourth parcel of land. Hence, no attention will be paid to the said allegations in the disposition of this case.

We note additionally that the evidence produced by the parties revealed, and which was not a subject of dispute, that the decedent, Alhaji B. Daramy, prior to his death, conveyed the parcel of land located on Center Street, said to contain thereon a structure with twelve apartments, to seven of his children, namely: Fatu Daramy, Sheku Daramy, Mohammed Daramy, Marie Daramy, Fanta Daramy, Aminata Daramy, and Sarah Daramy. However, with regard to the property located on 24th Street, in Sinkor, the records showed that the parties disagreed as to whether said property was conveyed by the decedent to his children or whether it remained a part of his estate at his death. The appellee, on the one hand, contended that the properties located on 24th Street and the Old Road were never deeded to any person or persons by the decedent

prior to his death, and that, hence, the said properties were and continued to form part of the intestate estate since he had died without leaving a Will. The appellant, on the other hand, contended that while it was true that the decedent did not deed the Old Road property to anyone, and thus, the said property was indeed a part of the intestate estate of the decedent, he however, did in fact deed the 24th Street property to certain of his children, being the same children to whom he had conveyed the Center Street property. Consequently, the appellant asserted, the 24th Street property could not be and did not form part of his intestate estate.

However, notwithstanding the appellee's assertion that the 24th Street property was never deeded to any of the children, a contention which the Judge of the Monthly and Probate Court for Montserrado County endorsed in his ruling, we have found in the records a letter addressed to the Judge of the Monthly and Probate Court, His Honour J. Vinton Holder, from C. Morris Kollie, Deputy Director of Archives, Ministry of Foreign Affairs, bearing date July 20, 2010, indicating that the late Alhaji B. Daramy did convey two separate parcels of land during his lifetime to certain of his children. Both deeds carry the same recording volume number, i.e. 86-B, with the recordings being only one page apart from each other, i.e. pages 656 and 657.

The letter from the Deputy Director of the Archives, referenced above, was in response to one sent earlier, on April 28, 2010, under the signatures of the Clerk of the Monthly and Probate Court for Montserrado County, approved by the Judge of the said Monthly and Probate Court, requesting that record keeping agency of the government to furnish the Probate Court with any records of deeds executed in favor of the children, whose names were stated in the letter. We should add moreover that the letter referred to herein was only one of several letters addressed to the Monthly and Probate Court for Montserrado County, on the request from the said court. Indeed, numerous communications were exchanged between the court and the Deputy Director of Archives.

A further observation is that the records do not indicate how the estate was administered or who administered the estate between the period of the death of the late Alhaji B. Daramy on February 22, 1974 and August 1, 2005, when the first letters of administration was issued by the Monthly and Probate

Court for Montserrado County in favor of Papa Daramy, one of the sons of the decedent, upon petition made by him to the court. What we do find in the records is a copy of a lease agreement entered into and executed on January 1, 2002 by and between Papa Daramy, as lessor, and Joseph Adagho Eurotor, as lessee, for the lease of a store located on the Center Street property, for a period of fifteen years, but which property had prior to the death of Alhaji B. Daramy been conveyed to certain of his children, and hence no longer a part of his estate. One is led to wonder, firstly, how Papa Daramy could have entered into a lease agreement for the property without authorization of the other persons, his siblings, to whom the property was conveyed, or that even assuming he believed that the property was part of his late father's estate, how could he enter such lease agreement without having secured letters of administration from the probate court. Indeed, to compound the problem, the agreement was entered into in his personal name rather than the name of the estate or on behalf of the other grantees. Moreover, the records indicate that it was not until three years following the execution of the lease agreement that Papa Daramy petitioned the Monthly and Probate Court for Montserrado County, and secured from the Court letters of administration to administer the Intestate Estate of his late father, Alhaji B. Daramy. For the purpose of this opinion, we quote the petition filed by Papa Daramy for letters of administration to administer his late father's intestate estate:

> **"NOW COMES Papa Daramy, petitioner in the above entitled cause of action, who begs to request Your Honour for letters of administration for the following factual and legal reasons, to wit:**
>
> **1. That the petitioner is a Liberian citizen and son of the late A. B. Daramy, who was also a Liberian citizen.**
>
> **2 That the deceased died seized of certain real and personal properties located in Montserrado County and elsewhere in the Republic of Liberia.**
>
> **3. That the deceased is survived by nine (9) children, all of whom are in the United States of America, except the petitioner, Papa Daramy, who is now petitioning this Honourable Court to grant his petition and get letters of administration to enter and manage his late father's properties [to prevent same] from waste and misuse.**
>
> **4. That since the demised of his late father, A. B. Daramy, the petitioner has made diligent search as to whether or not the deceased left a Last Will and Testament, but [has] found none.**

> **WHEREFORE and in view of the foregoing, petitioner respectfully prays this Honourable Court to grant his petition and grant unto petitioner letters of administration to enter the Intestate Estate of his late father, A. B. Daramy, and manage same for the benefit of all the children; and grant unto petitioner any and all relief Your Honour deems legal, just and equitable."**

We believe that it was important to quote Papa Daramy's petition for a number of reasons, including highlighting how the Probate Court dealt with the petition and generated much of the problems which subsequently followed regarding the administration of the estate. Firstly, we note that although the petition, in its caption, stated that the late A. B. Daramy had died on February 22, 1974, it failed in the body to give any indication as to the status of the estate since the death of the decedent; or who had managed the estate; or what had become of proceeds that should have accrued to the estates over the thirty-one year period since the death of the decedent, even in the face of allegation made in count two (2) of the petition that at the time of the decedent's death he was "seized of certain real and personal properties located in Montserrado County and elsewhere in the Republic of Liberia"; or whether the petitioner had conferred with or consulted the other legal beneficiaries whom he said were in the United States of America and for whose benefit he wanted to manage the intestate estate; or how the property which he said he now sought to protect had been misused and caused to lie to waste, as alleged by him.

Secondly, there is no evidence in the records of any approval or designation by the other legal beneficiaries of Papa Daramy to serve as administrator of the estate or that they were even notified of the petition; and thirdly, the petition did not explain how or why it took a search of more than thirty-one (31) years to ascertain whether the decedent left a Last Will and Testament, as alleged in the petition. The records show only that on August 2, 2005, one day after the filing of the petition, a perfunctory hearing was conducted, seemingly as a matter of mere protocol. The only witness produced at the hearing was the petitioner and he was questioned only by one of his counsel who asked him only four questions. We believe that it is beneficial to this Opinion to quote the questions asked by counsel, which we herewith do:

"Q. Mr. Witness, what is your name and where do you live?

A. My name is Papa Daramy and I live in the City of Monrovia, Liberia.

Q. Mr. Witness, are you the petitioner in these proceedings?

A. Yes.

Q. Mr. Witness, do you know one A. B. Daramy, if so, what relationship do you bear to him and where is he now?

A. Yes, he was my father and he is dead.

Q. Mr. Witness, you have a petition before this honourable court for letters of administration to administer the Intestate Estate of the late A. B. Daramy. Do you confirm and affirm to all of the averments as are contained in the petition?

A. Yes, I do."

Counsel for the petitioner then noted on the records the following: "At this stage, counsel for petitioner rest with the witness on the stand with the usual reservation. And submit." After which, the court made the following notations: "Court waives questions and the witness ordered discharged with the thanks of court. And so ordered." This notation by the court was then followed by petitioner's counsel announcement to the court that he was resting evidence and praying the court to grant the petition. This is what counsel said: "At this stage, counsel for petitioner gives notice that he rest with the production of evidence, rest evidence in toto, and therefore prays Your Honour to grant petitioner's petition for letters of administration to administer the Intestate Estate of his late father; and further grant unto petitioner all and any relief that the law may deem fit, legal and equitable in the premises. And so prays." Here is how the court responded to the prayer:

> **"<u>COURT'S RULING</u>:**
>
> **Petitioner's petition being sound and regular in law is hereby granted. The clerk of this court is hereby ordered to enter court's decree and issue letters of administration in favour of petitioner to administer the Intestate Estate of his late father, thereby declaring him the administrator of said estate. Cost in the proceedings to be borne by the petitioner. AND IT IS HEREBY SO ORDERED. MATTER SUSPENDED."**

We wonder how, with notice from the petitioner in the petition that the decedent, A. B. Daramy, had died more than thirty-one (31) years prior to the filing of the petition, that neither counsel for the petitioner nor the court deemed it fit to enquire from the petitioner, if for no other reason than clarity of the records, it has taken such a long time for him to petition the court for

letters of administration? We wonder also, how with the allegation made in the petition that the decedent's property was going to waste and being misused, neither the counsel for petitioner nor the court saw it befitting to enquire from the petitioner as to how the property had been administered or managed since the death of the decedent, who managed the said estate prior to the filing of the petition, and whether there had been any proceeds accruing to the estate since the death of the decedent? We wonder further, how in the wake of the allegations made in the petition that the decedent died leaving nine children and that all of them except the petitioner were residing in the United states of America, no questions were asked by counsel or the judge as to whether the petitioner had consulted with his siblings and if they had authorized him to seek letters of administration and to secure their interest under the said letters of administration, or to even enquire specifically on the allegations made in that respect, especially in the absence of any death certificate verifying the death of the decedent or birth certificate authenticating the birth of the petitioner as the son of the decedent. We wonder additionally, how could the judge have been certain that the allegations made were true, that Alhaji B. Daramy was really dead, or that a period of thirty days has lapsed since his death, or that he had nine children, or that except for the petitioner, all of them lived in the United States of America, or that any of the allegations set out in the petition was true, given that the judge had not asked a single question of the petitioner as regards any of the allegations contained in the petition, such that he could draw the conclusion that petition was "sound and regular in law" and to thereby form the basis for granting the petition and ordering the issuance of letters of administration in favour of the petitioner?

More than that, given what Papa Daramy had done in regard to the property, we are prompted to enquire as to the motive behind the belated petition for letters of administration. But regardless of what the motive may have been, our astonishment is that the probate court judge did not even deem it befitting to inquire into any of the allegations made in the petition. This is of particular concern because it goes to the core of the untruthfulness of the allegations made in the petition, not just from what it stated but more from what it did not state as would have informed the court on whether to grant or deny the petition. For example, the petition did not state that it was filed by the

same Papa Daramy who had three years earlier leased the Center Street property, presumably believing the property to be a part of the Alhaji B. Daramy Intestate Estate, without any reference to his siblings who actually were legally co-owners with him, or without any letters of administration at the time. Yet, nowhere in the petition did he make reference to the fact that the Center Street property existed, that he had leased (and therefore encumbered) a part of the said property for fifteen (15) years, and that he had done so in his own name and personal capacity as opposed to the estate. And although the judge could not have seen the untruthfulness in the petition, he did not see the need to inquire into the petition or the allegations made therein before granting same.

Even more disturbing, and to compound the negligence by the judge, the records reveal that even though a hearing was conducted by the Probate Court Judge prior to the granting of the petition, the entering of a decree to the effect and the issuance of the letters of administration in favor of Papa Daramy, the hearing was nothing more than a matter of perfunctory protocol and the court made absolutely no effort to ascertain the truthfulness of the allegations set forth in the petition. The Probate Court Judge, His Honour J. Vinton Holder, in granting the petition, did not consider or believe that he was under a legal duty to ascertain the truthfulness of the allegations made in the petition by enquiring of the petitioner matters as to which there were serious issues that needed compulsorily to be explained or clarified; for had he believed that such duty was imposed upon him by law, he would have honoured that legal obligation, and not only might he have learned, as a result of his enquiries, that the petitioner had leased the Center Street Property, but the answer also would have necessitated probing into whether that property was a part of the Estate or not. By such enquiries, the judge would have availed himself of the opportunity to probe into why it had taken more than thirty-one (31) years after the death of the decedent for the petitioner to apply for letters of administration and who had in fact administered the decedent's estate prior to the filing of the petition.

Additionally, had the judge made those enquiries of the petitioner, as mandated by law, he would have been able to verify whether the allegations made by the petitioner that he was the only child of the decedent living in Liberia was true; he would have known how many widows were left by the decedent and how many were still alive as at the date of the filing of the

petition; and the opportunity would have been provided to all of the children to not only know of the petition but to determine whether to file objections to the petition. Yet, the Probate Court Judge, not only in contravention of the law, but it would seem in utter defiance of the law, particularly in regard to the required legal procedures, proceeded to issue letters of administration to Papa Daramy.

The probate judge, having failed to make the requisite enquiries and conducted the necessary investigations, from the allegations made in the petition, before granting the said petition and issuing the letters of administration in favor of Papa Daramy, the latter seemed to have been emboldened to again enter into a lease agreement for the property of the A. B. Daramy Intestate Estate, this time for the property located on 24th Street, in Sinkor. Like the first lease, Papa Daramy concluded this new lease agreement in his own name rather than in the name of the Intestate Estate or, if he assumed that the property was encumbered by a conveyance prior to the death of the decedent, without the legal authorization (such as a power of attorney) of the title holders of the property.

Moreover, as a consequence of the mishap of the probate court judge, in not making the necessary enquiries of petitioner Papa Daramy allegations and his actions in respect of the Estate before granting the petition and ordering the issuance of letters of administration in his favour, the court was on January 4, 2007, faced with a petition, filed by the eldest of the beneficiaries, Fatu Daramy Mensah, for the revocation of the letters of administration issued in favour of Papa Daramy, the principal grounds for which were that (a) Papa Daramy had not obtained the consent of the beneficiaries (heirs), (b) that he had clandestinely misled the court into granting him letters of administration, and (c) that the best interest of the estate would be served by the revocation of the letters of administration issued to him by the probate court.

The records do not show whether a hearing was had on the petition for the revocation of the letters of administration granted to Papa Daramy. However, the records do show that while the petition for revocation of Papa Daramy's letters of administration was still pending, Fatu Daramy Mensah filed, on January 15, 2007, another petition, this one seeking letters of administration to administer the same estate of the late Alhaji B. Daramy. This is how the petition read:

"And now comes petitioner of the above entitled cause of action and most respectfully prays as follows, to wit:

1. **That the petitioner is a Liberian and daughter of the late Alhaji B. Daramy who died on February 22, 1974.**
2. **That the surviving children of the deceased are: Fatu Daramy Mensah, Papa Mohamed Daramy, Leon Daramy, Phanta Daramy, Marie Siray Daramy, Saran Daramy, Kaddie Daramy, Mariam Daramy, Abu Daramy and Lamin Daramy.**
3. **That the petitioner's late father, Alhaji B. Daramy, acquired real and personal properties during his life.**
4. **That if petitioner's petition is not granted, the property/estate will go into waste as it needs to be administered.**

Honour will order the clerk of court to issue the decree of LETTERS OF ADMINISTRATION in favour of the petitioner to administer said estate and to grant unto the petitioner any and all other relief that Your Honour may deem just, legal and right."

Like the petition filed by Papa Daramy, the petition for letters of administration filed by Fatu Daramy Mensah was lacking in many respects, especially the fact that the very petitioner, Fatu Daramy Mensah, had only twelve days earlier filed a petition for the revocation of the letters of administration issued to Papa Daramy, using as one of the grounds that he had not consulted with or secured the consent or approval of his siblings before filing the petition for letters of administration. Moreover, given the circumstances surrounding how Papa Daramy had secured the letters of administration and the manner in which he had managed the estate, the probate court judge should have felt an even greater legal duty to enquire into the allegations made by Fatu Daramy Mensah in her petition. Like the Papa Daramy petition, the Fatu Daramy Mensah petition noted that Alhaji B. Daramy had died as far back as February 22, 1974 but provided no information as to why it had taken her thirty-three years to file for letters of administration; like the Papa Daramy Petition, the Fatu Daramy Mensah petition failed to state what the status of the estate was over the thirty-three year period, who had managed the estate, what resources the estate had, who was responsible for accounting for the estate property, etc.; like the Papa Daramy petition, the Fatu Daramy Mensah petition gave the impression as if the decedent had died only thirty days before the filing of the petition for letters of administration; and like the Papa Daramy petition which gave the impression that he had the consent

and approval of his siblings in seeking the letters of administration, but without attaching any instrument verifying such consent or approval, the Fatu Daramy Mensah petition alleged more pointedly that the petitioner had the approval of her siblings in seeking letters of administration, but without attaching any instrument showing that the allegation was in fact true. Yet, neither the petitioner nor the probate court judge felt that there was a need for such information or evidence even though it was a matter of recorded information called to the attention of the court and of which it was aware that allegations were made only twelve days earlier by petitioner Fatu Daramy Mensah against Papa Daramy in respect of the very same kind of situation regarding his petition for letters of administration.

It is further interesting to note that the same lawyer that had filed the petition for the revocation of the letters of administration issued in favour of Papa Daramy only on January 3, 2007, with full knowledge that the petition was still awaiting a hearing by the court, was also the same lawyer that filed, on January 15, 2007, twelve (12) days after the filing of the petition for revocation, the further petition for letters of administration to be issued in favour of the very petitioner that was seeking the revocation of the letters of administration of Papa Daramy, using the very same assertions that Papa Daramy used in seeking his letters of administration from the court. Yet, nothing was said in the petition that prior letters of administration for the same property had been issued to Papa Daramy; that under the said letters of administration Papa Daramy was administering the Intestate Estate of the late Alhaji B. Daramy; that the petitioner had filed a petition for the revocation of the said letter; and that the matter was still pending disposition by the court. Instead, the petition gave the impression that the estate was not being administered; that the property of the estate was going to waste as a result of a lack of administration; and that it was the first time that a request was being made for the estate to be administered. All of this was false and the records were in the probate court attesting to the falsity of the impression which the petition conveyed.

What is more disturbing is that the probate judge knew or should have known of the existence of those records in his court, given that the petition for revocation was filed only twelve days prior to the filing of the petition for letters of administration. In fact, the records of the probate court indicate that the

judge was aware of the existence of the petition for revocation of the letters of administration issued in favour of Papa Daramy, for it was only twenty-four (24) hours after the filing of the petition by Fatu Daramy Mensah for letter of administration to administer the identical estate of her late father that the probate judge ordered the suspension of the letters of administration issued to Papa Daramy. Here is how the Probate Court's Order of Suspension, dated January 16, 2007, issued by the Clerk of said court, and addressed to the Sheriff for the Monthly and Probate Court for Montserrado County and Papa Daramy, read:

> **"Upon the receipt of this Court's Order, you are hereby commanded to proceed on the premises of the above named Estate and notify Mr. Papa Daramy to stop from the exercises of his Power of Authority in line with Section 107.10 of the Decedents Estates Law: SUSPENSION, MODIFICATION OR REVOCATION FOR DISQUALIFICATION OR MISCONDUCT, until otherwise ordered.**
> **And for so doing, this shall constitute your legal and sufficient authority.**
> **HENCE, HAVE YOU THERE THIS COURT'S ORDER."**

The instrument quoted above evidenced that the probate court judge was fully aware at the time of filing by Fatu Daramy Mensah of the petition for letters of administration to administer the Daramy Intestate Estate of the late Alhaji B. Daramy that she had filed a petition for the revocation of the letters of administrations granted to her sibling, Papa Daramy, and hence, of the reasons stated in the petition for her seeking revocation of the letters of administration issued to Papa Daramy. Yet the judge, on the same day the petition for letters of administration was filed by Fatu Daramy Mensah, and without first attending to the petition for the revocation of the letters of administration issued to Papa Daramy, directed that the Fatu Daramy Mensah petition for letters of administration be assigned for hearing on January 17, 2007. It was only after the issuance of the assignment for hearing of the Fatu Daramy Mensah petition for letters of administration that the judge, one day before the scheduled hearing of the petition, ordered the suspension of the letters of administration issued to Papa Daramy, doing so without according Papa Daramy the benefit of a hearing.

While there may not have been anything legally wrong with how the court was proceeding, the process most certainly did not give the air of transparency warranted in the matter. Indeed, the process then takes on an

added twist when the hearing on the petition of Fatu Daramy Mensah for letters of administration was convened. Let us examine the records of the hearing and the decision of the judge, and compare it with the hearing conducted by the judge on the Papa Daramy petition for letters of administration. Here is the transcript of the hearing:

"Q. Madam Witness, what is your name and where do you live?

A. My name is Fatu Daramy Mensah and I live at Bassa Town, New Georgia.

Q. Madam Witness, are you the petitioner in these proceedings?

A. Yes.

Q. Mr. Witness, do you know or are you acquainted with one A. B. Daramy, if so, what relationship do you bear to him and where is he now?

A. Yes, he was my father and he is now dead.

Q. Madam Witness, do you confirm and affirm to all of the averments as are contained in the said petition?

A. Yes."

The records, purporting to be minuets of the day's sitting, stated that the following submission was allegedly made by counsel for the petitioner: "<u>At this stage, counsel for petitioner rest with the witness on the stand with the usual reservation. And submit.</u>" This submission is then followed by a statement from the court, as follows: "<u>Court waives questions and the witness ordered discharged with the thanks of court. And so ordered</u>." This notation by the court was followed by the announcement of petitioner's counsel that he was resting evidence and that he prayed the court to grant the petition. This is what counsel said: "<u>At this stage, counsel for petitioner gives notice that he rest with the production of evidence, rest evidence in toto, and therefore prays Your Honour to grant petitioner's petition for letters of administration to administer the Intestate Estate of her late father; and further grant unto petitioner all and any relief that the law may deem fit, legal and equitable in the premises. And so pray."</u> Here is how the court responded to the prayer:

"<u>COURT'S RULING</u>:

<u>Petitioner's petition being sound and legal in law is hereby granted. The clerk of this court is hereby ordered to enter court's decree and issue letters of</u>

> **administration in favour of petitioner, thereby declaring her the administratrix of said Intestate Estate. Cost in the proceedings to be borne by the petitioner. AND IT IS HEREBY SO ORDERED. MATTER SUSPENDED."**

We have underlined the foregoing to emphasize the contents of the records said to have been made by the probate court on the day of the hearing of Fatu Daramy Mensah's petition for letters of administration. Our attention is particularly focused on the fact that the records made in the proceedings on the petition of Fatu Daramy Mensah for letters of administration to administer the Intestate Estate of Alhaji B. Daramy is a complete falsification of the exact records made in the proceedings two years earlier in the matter of the petition of Papa Daramy for letters of administration to administer the exact Intestate Estate. The wordings are identical word for word, and the only changes made were in the name of the petitioner from Papa Daramy to Fatu Mensah Daramy and in the phrase from "his" to "her". It was not possible and it could not have been possible that the exact same words, the exact same questions, the exact same sentence structure, the exact same number of words, to mention only a few, would be used by two different counsels, representing two different petitioners, at two different times, two years apart, except for the fact that the latter alleged proceedings were a falsification of the earlier proceedings.

Similarly, the ruling of the Probate Court Judge in the Fatu Daramy Mensah petition is identical to the ruling in the petition of Papa Daramy, word for word. This is absolutely preposterous, beyond even contemplating that only dummies could have utter such identical words, and we are led to wonder how the Probate Court Judge could have allowed himself and his court to become a key proponent in the perpetration of fraud upon the records of the court in the matter, and to use that fraud and that falsification to form the basis for the issuance of letters of administration. Here is what the letters of administration, growing out of the fraudulent activities mentioned herein states:

> **"REPUBLIC OF LIBERIA TO: FATU DARAMY MENSAH, GREETINGS**
> **WHEREAS, ALHAJI B. DARAMY died intestate, being at the time of his death a resident of Monrovia, Montserrado County, Republic of Liberia, and having at the time of his death, properties within the Republic of Liberia, and being desirous that said properties may be well and faithfully administered properly applied and deposed of now.**
> **UPON PETITION DULY MADE AND ALL PROCEEDINGS HAD THEREUPON, We, the Monthly and Probate Court for Montserrado County, Republic of Liberia, do hereby grant unto her, said Fatu Daramy-Mensah, full power**

> **to administer said estate, to demand and receive the debts due the aforesaid deceased at the time of his death and to pay debts which the deceased did owe at such time, and hereby require you to forthwith make a true and perfect inventory of all the properties of said deceased within sixty (60) days from the date hereof which have or may hereafter come to your knowledge and to be appraised according to law.**
> **AND WE DO FURTHER COMMAND: You the administrator named herein to obey all orders that may from time to time be made by this court touching the administration of said estate hereby committed to you.**
> **AND WE DO FURTHER HEREBY BY THESE PRESENTS deputize, constitute and appoint you, the said administratrix named herein above, of all the real and personal properties of the deceased.**
> **AND YOU ARE FURTHER COMMANDED to administer the aforesaid Intestate Estate and have the said estate closed within twelve (12) months and to file a valid administrator's bond before this Court in connection with the said estate within a given period in keeping with law.**
> **IT IS HEREBY ORDERED AND DECREED: That this LETTERS OF ADMINISTRATION DE BONIS NON be recorded in the office of the Registrar of Deeds for Montserrado County, Republic of Liberia, with five ($5.00) dollars revenue stamps affixed on the original.**
>
> **GIVEN UNDER OUR HANDS AND SEAL OF COURT THIS 17TH DAY OF JANUARY, A. D. 2OO7.**
>
> **J. VINTON HOLDER**
> **JUDGE, MONTHLY AND PROBATE COURT, MO. CO."**

Notice that the caption of the letters of administration states nothing about it being letters de bonis non, and until the last paragraph, nothing in the instrument reflects that it is such letters. Moreover, at the time the petition was filed for the letters of administration, Papa Daramy was still administrator of the estate, but the petition made no such mention of that fact or that given that fact, Petitioner Fatu Daramy Mensah sought to be added as an administratrix to administer the estate along with Papa Daramy pending the disposition of the petition for revocation of the letters of administration issued to him by the court. Instead, the petition was worded to reflect or convey that the estate was not being administered, which amounted to a deceit upon the court. And given the connivance of the court in the matter, nowhere in the letters of administration does the instrument reflect that the petitioner is being granted such letters of administration to manage the estate on account of the court's suspension of Papa Daramy as administrator of the estate, or that she was being appointed as an additional administrator of the estate. Instead, the letters of administration reads as if the estate had never been managed prior to that time, as if no administrator had ever been appointed, or that the previous

administrator had only been suspended, not removed, only one day earlier, or that the letters were only temporary to prevent the estate being without an administrator, at least until resolution of the petition for the revocation of the letters of administration issued to Papa Daramy was resolved.

The counsel, Counsellor Thompson Jarbah, who allegedly represented the petitioner in the fraud perpetrated upon the court, and the Probate Court Judge, J. Vinton Holder, who allowed himself to be a participant in the fraud perpetrated upon the records of the court, must be made to account for their gross misdeed upon the Probate Court, the Judiciary and our legal system. It is these kinds of gross and calculated misdeeds and fraud perpetrated by the parties, with the connivance of counsel and the judge, that not only have constituted grave abuses and violations of the Rules of Court and the Judicial Canons, but have also served to impugn the integrity of the Judiciary.

Equally disconcerting and rather pathetic is that the records do not show that any proceedings were ever held by the court to make a final determination of the allegations made in the petition seeking the revocation of the letters of administration issued to Papa Daramy, and to determine whether to convert the suspension into a full revocation. Or did the probate judge intend that the granting of letters of administration to Fatu Daramy Mensah, predicated upon the falsified records, was to constitute or substitute for a permanent revocation of the letters of administration granted to Papa Daramy without a formal declaration of the court effecting that act? But whatever may have been the intention of the judge, the net effect was the indefinite suspension of the letters of administration of Papa Daramy without him being accorded the benefit of a hearing into the allegations levied against him.

The laws of this jurisdiction, while not condoning the perpetration of acts of illegality or abuses against a decedent estate, as seemed apparent in the records of this case, committed by Papa Daramy, that conduct or behavior did not automatically vest in the probate court the right to effect such indefinite suspension without according the accused the benefit of due process of law. And while we acknowledge that the probate judge does have the authority to effect a suspension of an administration if the court is of the opinion that the allegations levied against the administrator seems to have magnitude, that suspension is only a temporary measure allowed by law and a full hearing must

be conducted in order that a decision is made on whether the allegations are sustained by evidence presented at the hearing. In the instant case, the records do not show that Papa Daramy was event served with precept so that he had the opportunity to respond to the several allegations made against him. Our legal system does not provide for or condone such violations of fundamental rights. To the contrary, the Liberia Constitution is quite clear that no person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions laid down in this Constitution and in accordance with due process of law." LIB. CONST., AR 20(a) (1986); *Raynes et al. v. Republic*, 36 LLR 203 (1989); *Jallah v. The Intestate Estate of the late George S. B. Tulay*, Supreme Court Opinion, March Term, A. D. 2013; *Johnson v. Gbeneweleh et al*., Supreme Court Opinion, March Term, A. D. 2016.

Moreover, a hearing was necessary to that if it were determined that Papa Daramy had acted illegally in his administration of the estate, he would be appropriately penalized for his acts and conduct and that harm suffered by the estate would be addressed and corrected. In fact, the court's handling of the matters take on an even more ridiculous posture as the records reveal that the court again, on April 5, 2010 issued another directive suspending with immediate effect Papa Daramy from the position of administrator of the same estate. There are no records in the case file evidencing that the suspension placed on Papa Daramy in regard to his administration of the Alhaji B. Daramy Intestate Estate was ever lifted or that he was ever otherwise restored to the status of administrator of the said Estate. Yet, the records indicate that three years after he was originally suspended, and three years after his sister, Fatu Daramy Mensah, was appointed administratrix of the Estate, he was again suspended, this time effective from April 5, 2010. The impression is given by this new action of the court, although there are no records to the effect, that at some point in time, Papa Daramy had either been restored or was in some manner managing the Estate or some parts of the Estate, even though the only records in the case file fail to show that the suspension was formally lifted by the court.

A further confusion is generated by the fact that the original petition for the revocation of the letters of administration granted to Papa Daramy had still

not been disposed of up to the time of the second purported suspension. Hence, there is not clarity as to whether the latter suspension was generated by the petition for revocation that had been pending for more than three years at the court, or whether it was predicated upon Fatu Daramy Mensah securing from the clerk of court, on September 14, 2009, a certificate that Papa Daramy had been leasing the property of the Estate without first petitioning the court and securing from the court permission to lease the property of the Estate. But again, this Court is puzzled that that the lower court took the action without any petition, unless the judge was purporting to act on the original petition filed three years earlier but which had seemingly already been acted on by the court, rather illegally, in effecting the first suspension, being filed with it for this new suspension action. As with the earlier suspension, there is absent any records that there was a hearing had before or after this latter suspension was effected and implemented by the court. What is revealed by the records is that the second purported suspension of Papa Daramy came barely two months after the court issued, on February 9, 2010, extended letters of administration to Fatu Daramy Mensah.

The first of these new petitions was filed before the Monthly and Probate Court for Montserrado County on February 17, 2010, by Marie Siray Daramy and Yaka D. Daramy, two of the siblings, heirs of the late Alhaji B. Daramy, seeking firstly, an inventory of the Estate of the late Alhaji B. Daramy, and secondly, at the completion of the inventory, the closure of the Estate. They set out the following as the basis for the petition:

> **"AND NOW COMES PETITIONERS in the above entitled cause of action and respectfully pray Your Honor and this Honorable Court as follows to wit:**
>
> **1. Petitioners herein are natural citizens of the Republic of Liberia and daughter and wife of the late Alhaji B. Daramy.**
>
> **2. And that the late Alhaji B. Daramy departed this world on the 22nd day of February, A. D. 1974;**
>
> **3. Petitioners further petitioning Your Honor and this Honorable Court, submit and say that surviving the late Alhaji B. Daramy are his wife Yaka D. Daramy, and his children, namely Fatu Daramy Mensah, Papa Mohammed Daramy, Leon Daramy, Phanta Daramy, Marie Siray Daramy, Saran Daramy, Kaddie Daramy, Abu Daramy, and Lamin Daramy.**

4. And that from the time of his death, the estate of the late Daramy has been administered by only two of the children, namely Fatu Daramy Mensah and Papa Mohammed Daramy, to the exclusion of his wife and the other children. These administrators have so badly managed the estate that there is now a big rift in the family in addition to the fact that the estate has considerably deteriorated during their administration.

5. Further to count four (4) hereinabove, petitioners aver and say that the relationship between the beneficiaries of the late Daramy's estate has gone so bad that the petitioner (Marie Siray Daramy) and Fatu Daramy Mensah are currently in court for one of the properties in Sinkor, formerly housing the Ellen Mills High School. And also because petitioner says that three of the houses making up the Intestate Estate of the late Alhaji B. Daramy are administered by Fatu Daramy Mensah to the exclusion of the other children and his wife. A photocopy of the said instrument from the court is hereto attached as D/1 to form a part of this petition.

6. And also because petitioners petitioning Your Honor and this honorable Court [say] that they foresee danger looming in the background emanating from the greediness of their sister Fatu Daramy Mensah who is currently the administratrix of the entire Estate.

7. And that it is a fundamental principle of law in this jurisdiction which states that the life span of a Letters of administration shall be for twelve months.

8. Further to count seven (1) hereinabove, petitioners say that to continue to administer the estate thirty years after the death of the late Alhaji B. Daramy by one person Fatu Daramy Mensah is not only dangerous but anti the law of the Republic of Liberia.

WHEREFORE AND IN VIEW OF THE foregoing facts and circumstances, Petitioners pray Your Honor and this Honorable Court to order the taking of an inventory and subsequent thereto, the closure of the estate so that all properties there constituting the late Alhaji B. Daramy's Intestate Estate be equitably divided among the beneficiaries and grant unto the Petitioners any and further relief that equity and fair play may dictate."

Here is how the respondent, on March 1, 2010, responded to the petitioner's petition seeking an inventory of the property of the Estate and the closure of the Estate thereafter:

"AND NOW COMES RESPONDENT RETURNS in the above entitled petition praying this Honorable Court to deny and dismiss petitioners' petition due to the following legal and factual reasons showeth to wit:

1. That as to counts one (1), two (2) and three (3) of the petitioner's petition respondent says that same are true except that the heirs of the late AIhaji Daramy is more than the number averred in the petitioners' petition.

2. That as to count four (4) of the petitioners' petition, respondent says that same is completely false and misleading and squarely intended to mislead Your Honor and this Honorable Court. Respondent says that at the time of their father's death in 1974, they were all too young to manage the Intestate Estate of their late Father, AIhaji B. Daramy. The entire Estate was in the hands of the Widows and they were somehow assisted by the respondent Fatu Daramy-Mensah, who happens to be the first issue of the late Alhaji B. Daramy. This assistance to the widows of the deceased was not sanctioned by the Probate Court but was only done through family arrangement.

3. Further as to count two (2) of the above, respondent says that the administration of an intestate is always sanctioned by the Monthly and Probate Court where the property is situated in Montserrado County as in the case of the Intestate estate of the late Alhaji Daramy. The respondent says that the fact speaks for itself. Let, Your Honor order for the Intestate of the late AIhaji Daramy file and same will be satisfied that the respondent has never been ordered by this Honorable Court to administer the intestate Estate of the Late AIhaji B Daramy as far back as 1974.

4. Further as to count three (3) of the above, respondent says that the Daramy Estate has not been single handedly administered by the respondent since 1974 and up to present as it is well known fact that since 1989/90 to 2008/9, the respondent Fatu Daramy-Mensah left the Republic of Liberia for fear of her life and so did many of the children of the late AIhaji B Daramy.… So almost in twenty years' time the respondent was out of the country, and could and was not administering the intestate estate of the Late Alhaji B. Daramy. Hence, count four of the petitioners' petition is an absolute lie and same should be denied and dismissed.

5. That as to count five (5) of the petitioners' petition, respondent says that same is blunt lie as none of the beneficiaries of the intestate of the late Alhaji Daramy have been at loggerheads with the respondent (Fatu Daramy-Mensah) over the administration of the aforesaid Estate, except Madam Marie Daramy who is placing herself under the pseudonymous of being the only legitimate heir of the late AIhaji Daramy and declared all the other heirs as bastards. Respondent says that on several occasions, co-petitioner Marie Daramy has continuously been profaned and using derogatory remarks against the respondent with the intent to belittle, disgrace the Respondent.

6. That further as to count five (5) of the above, respondent says that the co-petitioner Marie Daramy not satisfied with the abusive languages she constantly used against the respondent, she (co-petitioner Marie Daramy) without regard to due process of law as mandated by the organic laws of our land, instigated group of criminal gang and took them to one of the our father's estate, opposite Old Road intersection, and again without regards to rights of the caretakers/occupants, bust their apartments doors open, entered their rooms, dismantled some of the partitions/divisions inside of (the house and locked rooms with steel doors. In all of these illegal actions taken by co-petitioner Marie Daramy, the respondent continuously appealed to her to desist from such actions and advised her for them to act jointly. But the co-petitioner Marie Daramy, strongly harboring her falsely, pre-conceived and unfounded belief that she is the only legitimate issue of the late Alhaji B. Daramy, cleverly invaded the privacy of the occupants/caretakers. To which actions of the Co-petitioner Marie Daramy, the respondent did not only regard as grossly disrespectful but totally unconstitutional and against the statutory laws of the Republic of Liberia, and the respondent being a law abiding citizen, filed a formal complaint to the Charge of Quarters, Liberia National Police. On the strength of the respondent complaint, investigation was conducted and co-petition was charged with the alleged commission of the crime: "CRIMINAL MISCHIEF AND DISORDERLY CONDUCT". The respondent says that she does not harbor personal malice, grudge, or ill-will by taking co-petitioner Marie Daramy to Court, but to remind her, perhaps if she has forgotten, that there are both criminal and civil laws controlling in Liberia.

7. Further as to count three (3) of the petitioners' petition, respondent says that she is surprised for the Co-petitioner Marie Daramy to indicate in her petition that respondent Fatu Daramy-Mensah is one of the heirs of the late Alhaji B. Daramy, for Co-petitioner Marie Daramy has been overly rude to respondent to the extent that she has insulted and declared the respondent bastard. Respondent says that if she is a bastard, who else can be legitimate heir of the late Alhaji B. Daramy.

8. That as to count six (6) and seven (7) of the petitioners' petition, respondent says that same is total fabrication and misleading because it contained no iota of truth. The co-respondent is full fledge employee under Senior Executive Service, under the Civil Service Agency, and earned livable wage and that she does not depend on the so called proceed of the father's intestate estate. Respondent says that greed is never part of her and she demonstrates fairness to all of her siblings including the most insolent one, Co-petitioner Marie

Daramy. Hence the aforesaid court, being percolated with lies, same should be dismissed.

9. As to count eight (8) of the petitioners' petition, respondent says that same is un true, as the records of the Monthly and Probate Court, for Montserrado County, Republic Liberia speak for themselves. Respondent says that she has at no time administered an estate for over thirty five years. Respondent wonders why petitioners would file such a truth less and made-up story as if they do not have a human compelling conscience. But people without human conscience or without second thought can designed a lie for others to form a belief that the lies are true. People of those kinds of characterizations are the petitioners. Accordingly, the petition should not be given credence.

10. That the respondent says that she is bonafide administratrix of the intestate of the late Alhaji B. Daramy who derived her authority from the Monthly and Probate Court, Montserrado County, Republic of Liberia, and the Administratrix has done nothing in violation of the decedent estates laws of the Republic of Liberia.

11. That respondent says that she is doing her utmost best to acquire all of the properties of the intestate estate of the late Alhaji B. Daramy, and is also trying to identify those portion of the said estate that were deeded to the widows and heirs of the late Daramy. These investigations and due processes of Jaw are ongoing as the road to justice is long but short when justice is done.

WHEREFORE and in view of the aforesaid, respondent most respectfully request your Honor to deny and dismiss petitioners' petition in its entirety as her petition is totally without merit and without consciences and second thought, and further grant unto the respondent any other relief that will be fair, just, equitable and legal under these circumstances."

We note that following the filing of returns to the petition for inventory and closure of the Estate, the probate court judge ordered the issuance of a number of assignments for conferences and other actions. The records show that on March 18, 2010, a notice of assignment was issued, on the orders of the judge, for the holding of a pre-trial conference on March 19, 2010, relative to the closure of the Estate. There are no indications if the scheduled pre-conference was held or not or if held, what was the result of the conference. What does appear in the records is that seven days after the date of the scheduled March 19, 2010 pre-trial conference, the judge ordered and had the clerk of the probate court issue a writ of summons on the counsel for Fatu Daramy Mensah commanding that he submits an inventory to the court of

property owned by the Alhaji B. Daramy Intestate Estate on or before April 5, 2010. We also note our difficulty understanding how a conference for the closure of the estate was scheduled to be had before the proceedings on the inventory of the estate were attended to by the court, although the records do reveal that the parties to the earlier citation were subsequently cited for a further appearance on April 7, 2010, also in connection with the closure of the Estate, and thus giving the impression that the closure was not concluded at the earlier conference.

Our further attention is attracted by the coincidence that the suspension of Papa Daramy, under cover of a document from the clerk of the probate court, on instructions of the probate judge, was effected on the same day and date of the scheduled April 5, 2010 pre-trial conference, even though the records do not reveal that he or his counsel was cited or invited to the conference or that he or his counsel participated in the conference. If that did not occur, it is a further reason for alarm over how the probate judge handled the matter.

In any event, we are informed by the records in the file that the petition for the inventory and closure of the Daramy Intestate Estate and returns thereto, were followed by a further series of citations for conferences [May 26, 2010, June 2, 2010, etc.], some directly stating that the conferences were being called in connection with the closure of the Estate or inventory regarding properties held by the Estate, while others were ambiguous as to which aspects of the Estate matters the conferences were being called for. However, we are not informed as to any actions by the court other than the suspension of Papa Daramy even though the petition of Marie Daramy was directed against Fatu Daramy Mensah's alleged mishandling of the Estate's properties.

It seems that it was in the face of this inaction by the court that a further petition was filed on June 24, 2010 with the court by Marie Siray Daramy, this time praying for the sequestration of the rents collected from the Daramy Intestate Estate property, and setting forth the basis as the following:

> **"AND NOW COMES petitioner in the above entitled cause of action and most respectfully petitions Your Honor as follows to wit:**
>
> **1. That petitioner herein is one of the daughters of the late Alhaji B. Daramy and the movant for the closure of the said Intestate Estate which is currently pending before Your Honor.**

> **2. And also because the petitioner herein submits and says that the current administratrix having failed and neglected to cooperate with the court so as to effect the closure of the said estate, continues to rent the properties constituting the Estate and applies all the rents collected therefrom to her benefit to the exclusion of the other beneficiaries.**
>
> **WHEREFORE, and in view of the foregoing facts and circumstances, petitioner respectfully prays Your Honor and this Honorable Court to place the said Intestate Estate under the control of the Curator and order the sequestration of all rents collected therefrom and order same to be held in escrow until the Estate is finally closed."**

Again the records show that the only thing that the probate court judge did after the filing of the petition was to schedule a series of conferences, while the allegations made in the petition and in the earlier petition for an inventory and closure of the Estate remained basically unresolved. The only steps we see that the probate judge took in the matter was to effect the second suspension of Papa Daramy, who had already earlier been suspended and regarding which the records do not indicate was ever lifted although he seemingly continued to manage certain of the estate properties. Several communications were addressed to the Archives at the Ministry of Foreign Affairs in an apparent attempt to ascertain what properties Alhaji B. Daramy was seized of at the time of his death, but no further action was taken by the court to address the allegations and concerns made and expressed by Marie Siray Daramy and Yaka D. Daramy in their petition for inventory to be carried out and the closure of the Estate thereafter and in the later petition for the sequestration of the rentals from the Estate properties.

The foregoing would seem to have been a motivating factor, especially the failure of the probate court judge to formally investigate the allegations made in the two earlier petitions, that may have prompted Marie Siray Daramy to file a new petition, this time calling in no uncertain terms for the closure of her late father's Estate and advancing suggestions as to how the Estate should be apportioned amongst the persons entitled to inherit from the said Estate. The new petition presented a new set of complicated issues which, in our view, the probate judge did not understand, could not appreciate or was just plain incompetent to resolve as prescribed by law. For the purpose of resolving the

issues presented, which form the crust of the case, we quote herewith the nine (9) count petition, filed on March 4, 2011 by Marie Siray Daramy, as follows:

> **"PETITIONER'S PETITION AND NOW COMES Petitioner Marie S. Daramy praying court for the closure of the Intestate Estate of the late A. B. Daramy who died intestate in the year February 22, 1974, for reasons showeth, to wit:**
>
> **1. Because Petitioner says that she is one of the heirs of the late A. B. Daramy who died with four (4) surviving children, Fatu Daramy, Fanta Daramy, Sarah Daramy and Marie S. Daramy.**
>
> **2. Further to count one (1) of the Petitioner's Petition, Petitioner says that after the death of the late A. B. Daramy, the heirs of the late A. B. Daramy unanimously agreed for Rasidu Sheriff, Samuel B. Cole and Sullema Daramy to become the administrators of the Intestate Estate.**
>
> **3. And also because petitioner observes that the administratrix of the Intestate Estate administered the Intestate Estate for the past thirty seven (37) years without consultation and reference to the heirs of the late A. B. Daramy with mismanage-merit of the funds generated from the Intestate Estate.**
>
> **4. Further to count three (3) of the petitioner's petition, petitioner further contends that the late Daramy acquired several properties in the following categories with their locations as follows:**
>
> > **a) Two houses located on Center Street in Central Monrovia with six (6) apartments with a Title Deed carrying the names of the four (ii.) children of the late A. B. Daramy;**
> >
> > **b) One house located on 24th Street deeded in the name of the late A. B. Daramy with four (4) apartments;**
> >
> > **c) And one house located at the Old Road Junction deeded in the name of the late A. B. Daramy with three (3) apartments;**
>
> **5. Petitioner says further that this Honourable Court granted unto the Administrator of the late A. B. Daramy LETTERS OF ADMINISTRATION commanding to administer the Intestate Estate for twelve (12) calendar months, thereafter an inventory shall be taken of all of the properties of the late Daramy and thereafter a Petition shall be submitted to this Court for the closure of the Intestate Estate followed by distribution of the properties among the wife or wives of the deceased, including the children as follows:**
>
> > **1. One third (1/3) of the properties go to the widow;**
> >
> > **2. The heirs receive one half (1/2) each of the deceased's property;**
>
> **6. And also because Petitioner contends and avers that being one of the late A. B. Daramy who has interest and must benefit from her father's property under the Decedent Estate Law of Liberia, she hereby petitions this Honourable Court**

> **for the Closure of the late A. B. Daramy Intestate Estate and be distributed as follows:**
>
> **7. Because petitioner says that she has interest in the property located on Center Street deeded in the name of the Petitioner and her three (3) sisters. Fatu Daramy, Fanta Daramy, Sarah Daramy and Marie Siray Daramy with six (6) apartments, notwithstanding, the petitioner waives her interest to her three sisters herein named.**
>
> **8. Petitioner further says that the property on 24th Street deeded in the name of the late A. B. Daramy should also be given to her three (3) sisters herein named.**
>
> **9. Further above to count eight (8) of the petitioner's petition, petitioner says that the property located at the Old Road Junction should be the Matrimony Home of Mrs. Yaka Daramy and her 1/3 of her husband's property with three (3) apartments, and that the petitioner be given part of the three (3) apartments as her 1/2 according to the Decedent Estate Law.**
>
> **WHEREFORE, and in view of the foregoing, petitioner prays court for the closure of the Intestate Estate of the late A. B. Daramy and that said property be distributed as in keeping with the Inventory and petition of the petitioner.**

On the same day of the filing of the petition quoted above, the clerk of the probate court, on the orders of the probate court judge, issued a writ of summons directed to Fatu Daramy commanding her to file returns to the petition within the statutory period. The precept was served on the respondent, as directed by the court. However the records show that the respondent did not file returns within the time allowed by law. In response to a request filed on March 16, 2011 with the clerk of the probate court by counsel for the petitioner, the clerk on March 17, 2011 issued a Clerk's Certificate to the effect that the respondent, Fatu Daramy, had failed to file returns to the petition within the ten (10) day period allowed by statute for the filing of such document. However, on March 23, 2011, the respondent filed returns to the petition. The same as we did with regard to the petition for closure of the Daramy Estate, we quote the returns filed by Respondent Fatu Daramy, as follows:

> **RESPONDENT in the above entitled cause of action most respectfully requests Your Honor and this Honorable Court to ignore and dismissed petitioner's petition for the reasons showeth as follows to wit:**
>
> **1. Because as to the entire petition, respondent says that the late Daramy had deeded properties to his children. Respondent gives notice that during the hearing she shall produce copies of the deeds due to the sensitivity of title documents.**

2. Because as to the entire petition, respondent says same present a body of confusion as there is a petition for accounting filed by Counsellor Jawandoh which has not been withdrawn neither disposed of. Your Honor is respectfully requested to take judicial notice of the records in the case file.

3. Further to count (2) above, respondent submits that until and unless the petition is disposed of a subsequent petition is irregular and should be ignored by this Honorable Court.

4. And also because as to counts one and two (1 & 2) of the petition, respondent says and submits that same is false and misleading and should therefore be ignored and dismissed, in that the late A. B. Daramy left to morn more than four children as evidenced by petitioner's previous petition filed by Counsellor Jawandoh which is pending before this Honorable Court although all were not mentioned along with the other wife. Your Honor is specifically requested to take judicial notice of count three of the said petition which is hereto attached and marked as EXHIBIT "RR/1 IN BULK" to form cogent part of this returns.

5. Further to count (4) above, the children of the Late A. B. Daramy are: Fatu Daramy-Mensah, Leon Daramy, Marie Siray Daramy, Fanta Daramy, Saran Daramy, Kaddie Daramy, Mariam Daramy, Abu Daramy, Lamin Daramy, Mohammed Daramy, Aminata Daramy and Sheku Daramy. Respondent submits that the last three are dead but left issues of their body who are: Camelia Daramy and Fatu Daramy-Magassouba children of the Late Mohammed Daramy, Abraham Magassouba, Mohammed Lamin Magassouba, Papie Magassouba and Kaddie Magassouba, children of the Late Aminata Daramy. Respondent submits that all of the children who are alive as well as the children of those deceased are entitled to benefit from the Intestate Estate of the Late A. B. Daramy.

6. And also because as to count two (2) of the petition, respondent says that same is false. Respondent submits that Mr. Rashidu Sheriff and Mr. Suleimana Daramy became administrators of the Intestate Estate of the late Alhaji B. Daramy. At the time of his death, the late Alhaji B. Daramy left no will, and the family was advised that the proper course was to obtain a letter of administration from the court to handle the affairs of the late Alhaji B. Daramy which included debts of over US57, 000.00 that he owed the Bank of Liberia and other individuals. According to the Muslim tradition, the males are to be put in charge of such affairs. As the oldest child Fatu Daramy-Mensah, was selected to assist the Administrators to settle the affairs of the late Alhaji B. Daramy. This matter of paying debts due is highly regarded in the Muslim culture. Your Honor is respectfully requested to take judicial notice of the Letters of Administration hereto attached and marked Exhibit "RR/2 in bulk" to form a cogent part of respondent's return.

7. And also because as to counts three and four (3 & 4) of the petition, respondent says and maintains that same is false and baseless as she has been administratrix for four years following the revocation of the Letters of Administration in favour of Papa Daramy. Your Honor is respectfully requested to take judicial notice of a copy of Papa's Letters of Administration hereto attached and marked Exhibit "RR/3 in bulk" to form a cogent part of respondent's return.

8. Further to count (7) above, respondent says that except for Marie, all of the beneficiaries of the Late A.B. Daramy have express confidence in the way a manner the property is being handled as can be more fully shown by various letters of authority hereto attached and marked Exhibit "RR/4 in bulk". Count (3) of the petition is false and should be ignored by this Honorable Court.

9. And also because as to count four (4) of the petition, respondent says and submits that the late A. B. Daramy did acquire real properties but that prior to his death, he deeded some of the properties as follows: (a) the property on center street to seven children, Fatu, Mohammed (his heirs), Siray, Fanta, Sheku, Aminata (her heirs) and Saran; (b) The building on 24th Street also to

seven children, Fatu, Mohammed ,(his heirs), Siray, Fanta, Sheku, (his heirs), Aminata and Saran and (c) The one house located at Old Road junction was also deeded to the children but the deed cannot be found and therefore it is only that parcel of land that remains the property of the Intestate Estate of the Late A. B. Daramy. Your Honor is respectfully requested to take judicial notice of a copy each of the deeds hereto attached and marked Exhibit "RR/5 in bulk".

10. Further to count (9) above, respondent says that the only property of the Intestate Estate, the one building at Old Road junction because of the disappearance of the deed, is the only property subject to the closure and should be distributed with all of the heirs including the two widows; that is to say the nine living children, the heirs of the three deceased and the two widows, Yaka Daramy and Hadja Kadi Djodj.

11. And also because as to count (5), respondent says that same is totally irrelevant and should be ignored.

12. And also because as to count (6) respondent says that not only petitioner has benefit but all the heirs are entitled to benefit for the Intestate Estate of their late father. Count (6) has no relevance and should be ignored.

13. And also because as to counts (7 & 8), respondent says that the properties were deeded to the children by their late father and so a mere averment that petitioner waives interest is not legal and does not dispossess her of her property. Respondent submits that those deeded properties are not part of the Intestate Estate and cannot be subject of this petition. Counts (7 & 8) should therefore be ignored and the entire petition dismissed.

14. And also because as to count (9) of the petition, respondent says that the property at Old Road junction is not a matrimonial home, it is the only property that is subject of this petition and therefore the widows being qualified under the Decedent Estate Law; they and the children must benefit from same. Count (9) of the petition is not supported by law and should therefore be ignored and the entire petition denied.

15. And also because as to the entire petition, respondent denies all and singular the allegations contained therein not made subject of special traverse herein.

WHEREFORE AND IN VIEW OF THE FOREGOING, respondent prays Your Honor and this Honorable Court to ignored and deny petitioner's petition and grant unto respondent any and all further relief as Your Honor in this jurisdiction may deem just, legal and equitable in accordance with law."

Before we proceed to capture how the probate judge chose to rule on the petition, let us note a few basic distinguishing features between the new petition for the closure of the Alhaji B. Daramy Estate and the one filed earlier by Marie Siray Daramy and Yaka D. Daramy. In the earlier petition for inventory to be made of the property of the Estate and for its closure, Marie Daramy and Yaka Daramy purported to represent all of the heirs of the Estate; in the latter petition, which was filed by only Marie Daramy, she represented only her interest and that of her mother. Yet, and knowing fully that any decision rendered by the judge in the matter would affect the other heirs, she did not deem it fit to have them made parties to the proceedings, especially since she filed the earlier petition in the name of and purported on the authority of all of

the heirs. That petition was still pending before the probate court unresolved when the second petition was filed.

Secondly, the latter petition for closure of the Estate sought to intermingle the property given by the decedent to his children prior to his death with the property of which he was seized at the time of his death and which was the subject of inheritance as opposed to the outright conveyance made by him prior to his death. But the judge did not see that there was a distinction and that the distinction was critical to how he would decide upon the petition.

But even more important is that the judge chose to ignore the fact and the records in the court which showed and indicated that a petition of the very nature, praying the closure of the Daramy Estate, had a year earlier been filed with the same court, involving the same petitioner and the same respondent. Yet, and in spite of the records in his court, which he was obligated to take judicial notice of, he determined to proceed and consider the second petition rather than the first, and to make a ruling as per the prayers contained in the second petition. For the fuller appreciation of the implication of the judge's action and the benefit of the analysis made in the Opinion, we quote the said ruling:

> **COURT'S FINAL RULING**
>
> **On March 4, 2011, one of the heirs of the late A. B. Daramy filed a 9 count petition for the closure of the Intestate Estate of her late Father, A. B. Daramy contending in substance that she is one of the four surviving heirs of their late father who died 37 years ago, which estate was administered by consensus by the Resident Sheriff, Samuel B. Cole and Sullema Daramy whose administration had mismanaged the funds generated therefrom. That the deceased left six apartments which deeded to his four children located on Newport Street. He died seized of two houses, one located on 24 Street, containing four apartments and another located at Old Road Junction containing four apartments.**
>
> **Petitioner further argued that the administrators have failed to close the estate and distribute the properties of the deceased in accordance with the New Decedent Estate law by giving the widow or widows their one-third share of the properties which their husband died seized of and the residue or 2/3 to all the children equally.**
>
> **Petitioner further maintained that because she has interest in the property located on Center Street by virtue of her legal rights as a grantee, as her name is stated on the Title Deed along with her other three siblings, Fatu, Fanta, Sarah Daramy, she waived her right in the interest of peace and harmony since they are unable to co-exist under a single dwelling roof especially so as two are out of the Republic and may not return in the near future and the only two that are permanently residing in Liberia cannot get along as they both have their individual real properties and need not reside in the same houses as they have their respective families and cannot live together as such.**
>
> **Petitioner further maintained that the second house owned by their late father should be given to her three other sisters and that the one house located at**

Old Road junction same being the matrimonial home of her mother and father should be given to she and her mother as her one third and petitioner share of the properties.

Her father died seized of one house containing three (3) apartments and her equal share of the properties he deeded to all his children. To which Petition Respondent filed a 15 count returns contending that there is a petition for Account filed by Cllr. Jawandoh which has not been disposed of or withdrawn. It is irregular to proceed with the petition for closure before disposing of the petition for account. Respondent further maintained that the deceased had more than four children as stated in petitioner's first petition for account. And that the late A.B. Daramy left more than four children including Fatu, Leon Marie, Fanta, Saran, Kaddie, Mariam, Abu, Lamin Mohammed, Aminata and Sekou and that of those three are dead but left issues of their bodies.

Respondent contended that her late father died seized of only one piece of property located at Old Road junction which should be distributed to the two widows and all the children (9 survivors) and the heirs of the three deceased living children as the Old Road junction is not the matrimonial home of the deceased. Law issues were disposed of and the matter ruled to trial on its merit as the petition contained mixed issues of law and facts.

During trial, petitioner produced two witnesses who told court that the late A. B. Daramy built four houses, two on Center Street, on 24th Street and Ellen Mills Scarborough, the other at Congo Town and that he had three wives. One of whom divorced him and the other re-married after his death leaving only the mother of Petitioner, Yaka Daramy as the lawful widow. And that the lawful children are, Fatu, Fanta, Mohammed, Marie, Aminata, Sekou and Saran.

When Petitioner rested in toto, Respondent took the witness stand and told court that her father was married 8 times and had 9 children, 3 of whom are dead, and that the late A. B. Daramy was not lettered, but could read and write Arabic.

Respondent further told court that in the absence of the Deeds her knowledge of the amount of property her father left is not limited to only one house but the deeds will show what all her father left and the children whom he deeded such property to. But contrary to Respondent's own testimony that her father had 9 children, respondent's cousin to the Daramy's, Madam Sannon Kamara, a business woman and also 3rd witness, told court that Mr. Daramy had 12 children whom three are dead, when asked when whether the deceased was married 8 times, she responded that he had several wives but she knew of only three wives.

Recourse to our records shows that this court conducted several pre-trial conferences aimed at finding an acceptable scheme of distribution of the property of the late A. B. Daramy to all his legitimate heirs.

In the mind of this court, the most controversial issue that arose was what properties he died seized of and the heirs who are legally eligible to inherit.

In an attempt to address these two germane issues as both parties were in complete disagreement as to how much properties their father actually left and who are those legally entitled to benefit, this court requested the Ministry of Foreign Affairs to furnish the court with all relevant information relative to title deeds registered at the Archives Division of that Ministry. In response, the Deputy Director of Archives Division C. Morris Kollie submitted a communication dated May 19, 2011 indicating that the late A.B. Daramy registered two warranty Deeds from himself to Fatu Daramy, Mohammed Daramy, Fanta Daramy, Sekou Daramy, Aminata Daramy, Siray Daramy and Sarah Daramy as recorded in Vol. 86-D P-656 in 1962, located in the City of Monrovia containing 783 sq. ft. of land; and another Warranty Deed from A.B. Daramy to Fatu Daramy, Mohammed Daramy, Fanta Daramy, Sekou Daramy, Siray Daramy and Sarah Daramy recorded in Vol. 86-B P-657 in 1962 located in the City of Monrovia containing one quarter of land.

On the 7th of April 2010, the Director of Archives again submitted additional information to this court to the effect that sustained efforts in researching for all information relative to Deeds registered with the Foreign Ministry by the late A. B. Daramy revealed that the Deputy Director also registered two additional warranty deeds one from Martha Stubblefield and from Edith Stubblefield to A.B. Daramy, recorded in Vol. 85-D page 72, probated on 16th January 1962 containing 34,980 sq. ft. or 0.803 acres of land.

We are of the conviction that from the records, it is clear that these properties deeded out to the children of the deceased during his life time cannot be subjected of litigation and forms no part of his Intestate estate. It is only those that he died seized of. And the records from the Archives show that there are only two properties that he died seized of, the late Mills Scarborough and the other located on 24th Street, of these two the widow or widows [are] legally entitled to one/ third and that rest to the children equally.

In the mind of this court Decedent Estate must be applied in the instant case no matter the circumstances. Even though this is constrained to distribute the assets of this estate considered with the decedent estate law as it seems difficult to divide the two houses among all his children after subtracting the 1/3 for the widow which eventually will result in apportioning the houses into rooms or apartments, but we have to do as the law requires, as to parties are unable to reach an amicable resolution practically acceptable to all. Moreover, the probability of future confusion that may arise if a solution is not properly arrived at will leave the whole estate in litigation for ages that will do injustice to all and even after the children are gone.

When asked by court as to what move her scheme of distribution should be used for the distribution of the properties falling under the Estate of her father, Respondent as saying that the court used its own good judgement as the law requires.

Therefore we are incline to believe that rather than partitioning the properties into rooms and apartments or rather join the siblings together in the distribution which is not under the circumstances practically peaceable as in the mind of this court this method of distribution will only lead to more confusion as most of the heirs/children reside out of the Republic and some may never return as they have been away for many years and have established families in various part of the world. This court thinks that the best 'peaceable option is to grant petitioners request to give the widow her one third and that of her only daughter's share of the rest of her father's estate together in one component which should constitute one house located at Old Road, junction same being the building called Ellen Mills Scarborough school, and the rest of the properties be given to all of the other children including one deeded in the names of all the children and the other house located on 24 street owned by the deceased, In the mind of this court the offer by the petitioner to waive her right to her shares of the other property in the interest of peace and harmony was done in good faith and that under our law, she is a joint owner to the subject property as their father deeded the said property to his children named on the said deed. We believe that this gesture on the part of petitioner is in the interest of peace and justice which in the mind of this court will indeed prevent future confusion and unwarranted and needless expenses associated with litigation, so that she and her mother can be placed together void of any confusion.

Wherefore and in view of the foregoing facts and circumstances it is the opinion of this court that the petitioner petition being equitable and lawful same is hereby granted and the Clerk of this court is hereby order to issue court decree closing the subject estate and the Administratrix hereby ordered to issued deeds to this effect. Is hereby so ordered matter suspended.

GIVEN UNDER MY HAND AND SEAL OF COURT
THIS 11 DAY OF JUNE, A.D. 2011
JUDGE, PROBATE COURT"

It was from the ruling quoted above that the appellant, Fatu Daramy Mensah, noted exceptions and announced an appeal to this Honourable Court, which appeal was granted by the trial court. In furtherance of the appeal taken, the appellant filed a six-count bill of exceptions outlining the errors attributed to the trial judge and setting forth the issues which she deemed important for consideration and resolution by this Court. We quote the said bill of exceptions as follows:

> **"Respondent in the above entitled cause of action most respectfully excepts to Your Honor's ruling [and] for reasons showeth as follows to wit:**
> **That Your Honor committed reversible error when in Your Honor's ruling you made reference to the petition filed March 4, 2011 and not the petition filed February 17, 2010 which was never withdrawn nor consolidated. To which ruling respondent excepted.**
> **2. That Your Honor committed reversible error when in your Honor's ruling you totally ignored the fact that there are two surviving widows and therefore only granted one widow her rights thereby depriving the other widow in total disregard of the rights of surviving spouse as per section 4.1 of the Decedent Estate Law. To which ruling of Your Honor respondent excepted.**
> **3. That Your Honor erroneously ruled redistributing the property on 24th Street which the deceased had earlier deeded same to his children. To which ruling respondent excepted.**
> **4. That Your Honor also erroneously distributed the only property the deceased died seized off in total disregard to section 3.2 and 3.4 of the Decedent Estate Law relative the distribution to relatives of equal status. To which ruling respondent excepted.**
> **5. That Your Honor also erroneously ruled excluding the issues of deceased heirs from benefiting from the distribution of their late father's property. To which ruling respondent excepted.**
> **6. That respondent excepted to all the erroneous rulings of Your Honor including.**
> **WHEREFORE AND IN VIEW OF THE FOREGOING, Your Honor is respectfully requested to approve [this] bill of exceptions consistent with law."**

From the careful examination of the bill of exceptions and the arguments made before this Court by the parties, we have extracted the following four issues which we believe warrant consideration by this Court:

1. **Whether the probate court judge acted in error when he decided to entertain and rule upon the second petition for the closure of the Alhaji B. Daramy Intestate Estate when there was already a previous petition for the closure of the same Estate filed with the court but which was still pending, unattended to, and unresolved by the court?**

2. **Whether the probate court judge erred in awarding rights to only one widow of the decedent when there were two surviving widows, and if in fact the award made was consistent with law in regard to surviving spouses?**
3. **Whether the probate court judge erred in distributing the 24th Street property which the decedent had, prior to his death, conveyed to certain of his children?**
4. **Whether or not the probate court judge acted in error in awarding in fee simple the Old Road property to the petitioner, one of the children of the decedent, and her mother, one of the widows of the decedent, to the exclusion of the other children of the decedent?**

Before proceeding to dissect the issues stated above, we should note our pain and disappointment in the manner and style counsel for the appellant couched and presented the issues in the bill of exceptions, which counsel seeks to have this Court resolve. This Court has stated time and again that unless the issues which the appellant seeks to have this Court address are stated clearly, precisely, and with the unambiguous precision and intelligibility, this Court will not belabor its time, energy and intellect trying to find out or speculate as to what the issues are that the appellant would have this Court consider. *Universal Printing Press v. Blus Cross Insurance Company*, Supreme Court Opinion, March Term, 2015. This Court is not disposed to indulge in the luxury of speculating, which in any event it is by law forbidden to do, as to what precisely the appellant feels the lower court did was erroneous and which warrants a review by this Court and which the Court can easily identify in the records. *MIM Timber Corporation v. Johnson,* 31 LLR 145 (1983).

In the case *C. F. Wilhelm Jantzen*, 31 LLR 343 (1983), Mr. Justice Morris, speaking for the Court, said: "A bill of exceptions in a case on appeal must show with particularity the alleged errors committed by the trial court; otherwise, the counts making the allegations against the trial court will not be sustained." *Id*., at 345. This view was similarly expressed by the Supreme Court in the case *Insurance Company of Africa/Intrusco Corporation v. Fantastic Store*, 32 LLR 366 (1984). Here is how the Court spoke of the shortcoming by the appellant in presenting the issues which the appellant desired the Supreme Court to address:

> **"In our opinion, appellant, who claimed that the testimony of the witness was contrary to that of the appellee, should have stated with particularity and shown in the bill of exceptions, among other things, the date and sheet number on which the appellee's witness gave 'contrary' testimony and what the appellant intended to prove or disprove by this question for the information of the Court. He was not to leave the burden on the Court to search through the records for such information. This Court has held in several opinions that a bill of exceptions in a case on appeal must show with particularity the alleged error of the lower court. *Quai v. Republic*, 12 LLR 402 (1957). It is not enough to state merely in the bill of exceptions that the trial judge sustained or overruled the objection and that exceptions were noted thereto. The legal error allegedly made by the trial judge must be pointed out with particularity for appellate review. Moreover, it is our opinion that the relevancy of this particular question is too remote to perceive its materiality to the case in point, and hence we must sustain the ruling of the trial judge thereon." *Id*., 372-73.**

The fact that the appellant chose to present some of the issues as was done signifies a clear departure from the definition of a bill of exceptions, stated in Section 51.7 of the Civil Procedure Law, Title 1, Liberian Code of Laws Revised, and defined variously by the Supreme Court. The statute, referenced herein says of a bill of exceptions that it is a specification of the exceptions made to the judgment, decision, order, ruling, sentence or other matters of the trial court excepted to and relied upon for the appeal, together with a statement of the basis of the exceptions. In the case *Wiah v. Republic,* 38 LLR 385 (1997), the Supreme Court said of the bill of exceptions that "the object of a bill of exceptions is to put the controverted rulings or decisions upon the recorded for the information of the appellate court." *Id*., at 389. The Court, relied upon and endorsed the holding in an earlier case, *Johns v. Cess-Pelham and Witherspoon,* 8 LLR 296 (1944), wherein the Court said of the bill of exceptions that: "A bill of exceptions is substantially a pleading of the exceptant before the appellant court... and where the bill of exceptions is unintelligible, confused or conflicting, it will be interpreted against the appellant and in support of the judgment." *Id*. The Court added: "…it is so vague that it leaves one with the impression that counsel for the appellant merely filed the bill of exceptions to fulfill the requirements of the appeal process." The same can be said of the bill of exceptions in the instant case, with specific reference to the

averment in count six (6) which states "that respondent excepted to all the erroneous rulings of Your Honour including."

The foregoing distinctly required that the appellant should have given the particulars in the minutes (i.e. date, page, etc.) where the trial court is alleged to have made "erroneous rulings" and which the appellant excepted to rather than seek to impose on the appellate court the task of searching the records to find the rulings which the appellant says were erroneous and to ascertain if the appellant excepted to said rulings. It required further that the appellant not impose on this Court an obligation which by law is imposed on the appellant or to burden the Court with the task of searching the records to seek and speculate as to the rulings the appellant made reference to and where in the records the acts complained of by the appellants can be found. We are prompted to ask the question, how is this Court to determine which of the "erroneous rulings" the appellant has referenced? In the case *Keller v. Republic*, 28 LLR 49 (1979), this Court said: "a bill of exceptions must state distinctly the grounds upon which the exception is taken; and it is improper to place upon the appellate court the burden of searching the record in order to discover the exception taken and the ground therefor….An exception should be so taken upon its face as to inform the appellate court of the ground upon which it is based, and so as not to necessitate the appellate court referring to the records in order to discover the ground therefor. The Supreme Court will not consider any exception in a bill of exceptions if the ground is not distinctly set forth." *Id*., at 61-62.

We do not believe that the exception, as couched by the appellant in the bill of exceptions, meets the required standard to warrant this Court consideration of the contention contained in count 6 of the bill of exceptions. The count does not state any specific ruling or the date on which such ruling was made or the page of the minutes of the court on which such ruling can be found. This Court, as in prior opinions, is not prepared to indulge in the speculative adventure which the appellant would have it indulge in. See *Firestone Plantations Company v. Paye et al*., 41 LLR 12 (2002).

In the case *C. F. Wilhelm Jantzen*, 31 LLR 343 (1983), this Court, speaking through Mr. Justice Morris, said the following: "A bill of exceptions in a case on appeal must show with particularity the alleged errors committed by the trial

court; otherwise, the counts making the allegations against the trial court will not be sustained." *Id*., at 345.

It is most unfortunate that counsel for appellant chose not to heed this Court's admonition made in the long line of cases referenced and quoted above, and opted instead to display the same reckless short comings in the formulation of the issues as was done in those previous cases. We make specific reference, for example, to count six of the bill of exceptions. This is how the issue is presented in the court: "6. That respondent excepted to all the erroneous rulings of Your Honor including." The Court is left to guess or speculate as to what counsel for the appellant expects the Court to make of such an incomprehensible statement? What are the "all…erroneous rulings" to which the counsel refers? Does he expect that this Court will examine the entire file seeking what rulings of the lower court counsel considers to be erroneous? Is the Court expected to speculate that every ruling made by the trial judge, to which counsel for the appellant noted exceptions, is erroneous? What the "catch-all" statement represents for the Court is that the counsel either did not review the file meticulously or that he lacked the competence to make a rational and informed challenge to the rulings made by the trial judge so that he could separate the rulings that had merits and those which he truly believed to be in error.

Whatever may have been the reason for this display of the flaws shown in the bill of exceptions, the statement quoted from the example mentioned above is bewildering and nerve wrecking, not only because no sense can be made of it but also because it implores the Court to indulge in nonsensical speculations and guessing games, which counsel must appreciate this Court does not have the luxury of engaging in. Such display by counsel for the appellant not only seeks to lower the high standard to which this Court aspires and which it holds lawyers to, but to have the Court tolerate a posture of legal laziness. This Court is disposed, therefore, to begin a process of rejecting outright instruments which display such gross indifference, disinterest, unconcern, negligence or incompetence for how they deal with the business of their clients, and to have lawyers personally account to the Court and to their clients for such displays, including having the clients sue them for damages suffered or the dismissal of their appeals as a result of such conduct.

In regard to the first issue regarding whether the probate court judge acted in error when he decided to entertain and rule upon the second petition for the closure of the Alhaji B. Daramy Intestate Estate when there was already a previous petition for the closure of the same Estate filed with the court but which was still pending, unattended to, and unresolved by the court, we hold that he was clearly in error and in breach of the law. The law is clear as to what a trial judge should do faced with such a situation. Section 11.2 of the Civil Procedure Law sets out as one of the grounds for the dismissal of a claim, and indeed an action, is "*that there is another action pending between the same parties for the same cause in a court in the Republic of Liberia*." Civil Procedure Law, Rev. Code 1:11.2(d). And while the section provides that the challenge to the jurisdiction may be done by way of a motion to dismiss, the Supreme Court has also held in a number of cases that where the challenge to the jurisdiction of the court is to the authority of the court to entertain the subject matter of the case, the court has a legal duty to determine whether in fact it has such jurisdiction to entertain the case, even if the parties do not raise it as an issue and even if the parties consent to the court dealing with the matter. *The Intestate Estate of the late Chief Murphy-Vey John et al. v. The Intestate Estate of the late Bendu Kaidii and Greaves,* 41 LLR 277 (2002); *Scanship (Liberia)Inc./LMSC v. Flomo*, 41 LLR 181 (2002); *Nah v. Topor and Toby*, 39 LLR 144 (1998); *Massaquoi v. Massaquoi*, 38 LLR 3 (1995). Clearly, by the wording of the statutory provision, quoted before, the law recognizes that although the statute may grant subject matter jurisdiction to a court, that subject matter cannot be exercised under certain circumstances outlined by the statute, the existence of which circumstances serves to divest the court of the general subject matter jurisdiction conferred on it. Sub-section (d) of section 11.2 outlines one of such circumstances where another action of a similar or identical character, involving the same cause, the same issues and the same parties is pending before the court or another court.

In addition to the above, and in support of the quoted provision, the Civil Procedure Law and cases decided by the Supreme Court also provide that a court in the Liberian jurisdiction has a legal obligation to take judicial notice of its own records. *Dopoe v. City Supermarket*, 34 LLR 215 (1986). This means that the parties do not have to request the court to take judicial notice of the records

which would clearly inform the court of the existence of a certain set of facts in the court; the court can and should on its own take account of the existence of such records. This is important as it would not only avoid the court unintentionally inflicting an act of injustice upon a party but it would also avoid the court ridiculing itself and displaying a lack of knowledge of the facts and of the law. Thus, where the records of the court reveal that a prior action filed with the court remains pending, and a new action is filed involving the same cause, the same parties, the same issues, and the same circumstances, the court is without jurisdiction to entertain the latter action, even if the parties do not raise the issue; for how does a court account for the fact that if, after the latter action is determined, the prior action is called up and determined adversely to what the court has determined in the action that was subsequently filed. Is the prior determination invalid? What action does the court take if implementation has taken place as a result of the first determination of the court? Who accounts for the damages which a party may have suffered as a result of the action or error made by the court? It is in an attempt to avoid these kinds of complications that the statute very specifically states that a subsequent action filed is dismissible if there exist a prior action undetermined, involving the same cause, the same parties, the same issues, etc.

Applying the foregoing to the instant case, the records reveal that although a petition was filed previously on February 17, 2010 by Marie Siray Daramy and Yaka D. Daramy for the closure of the Intestate Estate of Alhaji B. Daramy, and several conferences where held in that regard by the Judge of the probate court, yet, and in the face of these developments, with full knowledge that the petition was still pending before the court, unresolved, and without effecting any withdrawal of the petition, Marie Siray Daramy, on March 4, 2011, one year after the filing of the previous petition, and this time acting alone, filed another petition, again for the closure of the exact same Alhaji B. Daramy Intestate Estate. We note that except for some discrepancies that exist between the two petitions, the allegations set forth in them for seeking the closure of the estate are markedly the same, especially as regards allegations that the administrators (s) were operating the Estate to the exclusion of the other heirs and that they were misusing the funds of the Estate and applying same to their own personal benefit and gain to the detriment of the Estate and the other

beneficiaries. But notwithstanding that the both petitions sought the same result, that is, the closure of the Estate, they differed as to how the property of the Estate should be divided. In the earlier petition, the petitioners prayed the court to command an inventory of the Estate and to use that as a basis to close the Estate; in the latter petition, the petitioner reasoned that as she had three sisters and that as property had been conveyed to her and the three sisters by their father, the decedent, the one piece of property located on the Old Road should be conveyed to her and her mother (whom she said was entitled to one-third of the decedent's estate) in exchange for which she waived all rights and her share of the property conveyed to her and her sisters by their late father.

There are no indications in the records that the two petitions were ever consolidated, which by law the judge had every right to do. Instead, the trial judge, who had been holding a series of conferences on the earlier petition for the closure of the Estate, seems to have discontinued the conferences or hearings and to concentrate on the latter petition which, from a legal perspective, meant that he was entertaining the two petitions simultaneously since the hearings or conferences on the earlier petition had not been formally closed or terminated. This Court wonders how the probate judge could have deemed it appropriate to delve into the petition of March 4, 2011 for the closure of the Estate, while the earlier petition for the closure of the identical Estate was still pending and unresolved, in the absence of a consolidation of the two petitions or the withdrawal of the former petition. This was wrong and utterly against the law. Accordingly, this Court holds that by the said action, the probate court judge was clearly in error. The law, as indicated before is clear on the issue. A court cannot legally exercise jurisdiction over a case, the subject of which, along with the parties and the issues, being identical in nature, are still pending before the court or another court. This Court has consistently subscribed to that principle and has ordered or affirmed the dismissal of the latter case where the subject matter, the issues and the parties are the same as an earlier case filed remained pending and undisposed of before the same court or before another court. The probate judge clearly departed from this dictate of the statute and the several Opinions of the Supreme Court. As we had also noted earlier, while in the ordinary course of exercising its statutory prerogative, the Monthly and Probate Court for Montserrado County does have

jurisdiction over petitions for the closure of estates, whether they be testate or intestate, the exercise of that jurisdiction is subject to other statutory and case law prohibitions, such as exist in the instant case where the same action, involving the same parties, the same issues and the same subject matter, is pending undisposed of before the same court. In such a case, it is proper for the court to determine that it does not have jurisdiction to entertain or pass upon the new action. *Ahmar v. Gbortoe*, 42 LLR 117 (2004).

There was therefore no way that the probate court judge could have pretended or disclaimed any knowledge of the pendency of the prior petition for closure of the Daramy Estate. Given that factor, the probate court judge should have recognized the limitation on the exercise of jurisdiction by him over the new petition, especially since the issue was squarely raised by the respondent. That error, if one could even refer to the act as an error, in and of itself, provides a sufficient basis for the reversal of the judge's decision and action, without even touching the issue of his misapplication and misinterpretation of the Decedents Estates Law, and to order a remand of the case for a new disposition.

But to do so would work further travesty of justice and be tantamount to abandonment by this Court of the constitutional mandate imposed upon this Court and which the Justices have taken an oath to uphold. Thus, given all that have transpired relative to the Daramy Estate, the inequities and abuses meted out against the Estate and the legal beneficiaries, revealed by the records and the circumstances of the case, especially the fact that this matter has been outstanding for over forty-two years since the death of decedent and the need for permanent closure, and the fear that a remand of the case could see a further undeterminable prolongation of the case, this Court, under the authority granted it by law to enter such judgment as the lower court should have entered, has determined to resolve the other issues raised and make a final determination of the case. Accordingly, we proceed to address the other issues alluded to hereinbefore.

Regarding the second issue, the question is asked whether the probate court judge erred in awarding rights to one widow of the decedent, to the exclusion of the other surviving widow. Under the circumstances of the instant case, and correlating those circumstances with the Decedents Estates Law, we

again hold that the probate judge was in error. In setting out the rationale for the conclusion reached, this Court believes it desirable to take recourse to the historical perspective of the Liberian Constitution on the rights of women to inherit from their deceased husbands. Here is what Article V, Section 11th of the 1847 Constitution said:

> **"In all cases in which estates are insolvent, the widow shall be entitled to one third of the real estate during her natural life, and to one third of the personal estate, which she shall hold in her own right subject to alienation by her, by devise or otherwise."**

Although the referenced constitutional provision, quoted above, alluded directly to situations of a widow's entitlement to portions of her deceased husband's insolvent estate, it was widely proclaimed and accepted that the intent of the framers of the original Liberian Constitution was that a widow should be entitled to one-third of her deceased husband's estate for the period of her natural life, and that such should be the case even where the estate is insolvent. Here is how Charles Henry Huberich, in his renowned and memorable work on The Political and Legislative History of Liberia articulated the expression of the intent of the framers of the Constitution: "The widow retains her common law right of dower to one-third of her husband's real estate of which he died seized as a life estate and takes absolutely one-third of his personal estate. These rights are protected by Article V, section 11 of the Constitution, even in case of insolvency." Charles Henry Huberich, "The Political and Legislative History of Liberia", Vol. II, Central Bank Company (1947), p. 1248. It was that same interpretation which the Liberia Legislature accorded Article V, section 11th of the 1847 Constitution that prompted inclusion in enactments of decedents' estates laws by the Legislature, culminating in Section 4.1 of the New Decedents Estates Law, approved May 26, 1972 and published August 15, 1972. The section not only recognizes as a constitutional conferral on a widow the right to one-third of her deceased husband's real property for all of her natural life and one-third of her deceased husband's personal property in her own right to alienate as she chooses and unambiguously states that the right is preserved, but it also accords to the widow a number of other rights, both to elect whether to take the one-third as provided for by the law or to take under the testamentary disposition by the decedent and to specifically preserve, if she

desires, the right to purchase and hold in fee simple the home wherein she lived with the decedent and which at the time of his death he was seized of. Here is how the section captures all of the features mentioned herein:

> **"§ 4.1. Rights of surviving spouse.**
> ***1. Constitutional right of election by widows.*** **The constitutional right of a widow to one-third of her deceased husband's real estate during her natural life and to hold one-third of his personal estate in her own right subject to alienation by her, by devise or otherwise, is hereby preserved. A widow has the personal right to elect to take such share in lieu of any testamentary disposition or distribution on intestacy provided for her.**
> ***2. Statutory right of election by widowers.*** **A widower shall be entitled to one-third of his deceased wife's real estate during his natural life and to one-third of her personal estate, which he shall hold in his own right subject to alienation by him by devise or otherwise. He has the personal right to elect to take such share in lieu of any testamentary disposition or distribution on intestacy provided for him.**
> ***3. Property applicable to elective share.*** **For the purposes of this section, only the real and personal estate of which the decedent died seized is applicable to the elective share of the surviving spouse.**
> ***4. Procedure for exercise of right of election.*** **An election under this section must be made within six months from the date of issuance of letters testamentary or of administration, as the case may be. Written notice of such election shall be served upon any personal representative in the manner herein provided and the original thereof shall be filed and recorded, with proof of service, in the probate court in which such letters were issued. Such notice may be served personally or, if there is regular communication by mail, by mailing a copy thereof, addressed to any personal representative at the place of residence stated in the designation required by section 107.6 of the Probate Court Procedure Code. The time limited in this paragraph for making an election is exclusive and shall not be suspended or otherwise affected by any provision of law, except that a probate judge may, in his discretion, permit an election to be made on behalf of an infant or incompetent spouse at any time up to, but not later than, the entry of the decree of the first judicial account of the permanent personal representative of the estate, made more than seven months after the issuance of letters." [Emphasis Ours]**

This Court, in its construction of Article V, Section 11th of the 1847 Constitution accorded the same interpretation to the provision as did Huberich. *Brown v. Bormor*, 16 LLR 227 (1965). Indeed, although the Constitution of 1986 did not retain the Article V, Section 11th provision of the 1847 Constitution, the Supreme Court continued to recognized a widow's right to one-third of her late husband's real property of which he died seized. The scanty available history of the National Constitution Commission, the body entrusted with the task of drafting a new Constitution for Liberia, does not show any intent to deny the

right to a widow. To the contrary, the framers of the Constitution were manifested not only an intent to ensure that the right continued to be enjoyed by a widow, but they were equally concerned about the inequality of right and the benefits associated therewith accorded to a widow of statutory marriage and a widow of customary marriage and the manner in which the courts had dealt with the issues relating to the two forms of marriages. However, given the time constraints under which the Commission was operating in producing a new Constitution for Liberia, the lack of sufficient capacity for such study, and the need to have that core inequality issue studied by persons competent enough to undertaken such study under the limited time frame under which the Commission was operating, the Commission decided that the issue could be more appropriately addressed by the Legislature. Hence, in Article 23(b) of the Constitution, the Commission specifically delegated the task to the Liberian Legislature to resolve the inequality issue between the statutory marriage and the customary marriage. Thus, Article 23(b) of the 1986 Constitution provides: "The Legislature shall enact laws to govern the devolution of estates and establish rights of inheritance and descent for spouses of both statutory and customary marriages so as to give adequate protection to surviving spouses and children of such marriages."

However, while the Legislature did not expeditiously attend to the constitutional mandate, the view continued to be held by the Supreme Court that the deletion of the Article V, Section 11th provision of the 1847 Constitution from the new Constitution (1986) did not affect the right of a widow to entitlement to one-third of her deceased husband's real property of which he died seized. The view was particularly reinforced by the restatement or insertion of the right in the Decedents Estates Law (1972) which was in existence at the time of the abrogation of the 1847 Constitution in 1980.

Thus, this Court does not dispute that the widow of a decedent has the right to one-third of her deceased husband's real property for her natural life. The Court also does not dispute the legality and legitimacy of the right of election accorded the widow by the Decedents Estates Law to convert her one-third right of life estate in the real property of her deceased husband where it involves the home in which she and her late husband lived, the matrimonial home, at the time of his death into to a fee simple title under the procedure and

condition stated in the Decedents Estates Law. Here is what Section 4.2 of the decedents Law says in that respect:

> **§ 4.2. Rights of surviving spouse to purchase matrimonial home.**
> ***1. Written notice within six months after letters required; no sale permitted during such period without surviving spouse consent.*** **If the estate of a decedent comprises an interest in fee simple in a dwelling house in which the surviving spouse was resident at the time of the decedent's death and which is not subject to an existing homestead exemption as provided in the Civil Procedure Law, the surviving spouse may, by notice in writing, require the personal representative to appropriate the said interest in the dwelling house toward the satisfaction of the share of any surviving husband or wife in the estate of the decedent under the will or under the provisions of section 3.2, including an election under section 4.1. Such notice shall be ineffective unless served within six months from the issuance of letters to the personal representative. During such period of six months, the personal representative shall not, without the consent of the surviving spouse, sell or otherwise dispose of the said interest in the dwelling house."**

In a more recent case of *The Testate Estate of the late William Thomas Bernard, Sr. and the Congress for Democratic Change v. The Intestate Estate of the late Martha Stubblefield Bernard,* decided by this Court at its March Term, 2016, the Court subscribed to and upheld the tenets of Section 4.2. The Court, speaking through Madam Justice Yuoh, recited verbatim sections 4.1 and 4.2 of the Decedents Estates Law, thereby recognizing its continued legitimacy, and concluded thereafter, as follows: "Pursuant to these provisions of the law cited supra, we hold that the operation thereof, the devise of a matrimonial home in a Will to other legatees is invalid and ineffective where a surviving spouse exercises the election to purchase the dwelling home as dower in lieu of shares in the decedent's estate, that is, testate estate of William Thomas Bernard, Sr." We reinforce the view stated therein and hold that any such devise, whether under a Will or as a matter of law, is subordinate to the right of election of a widow to choose the matrimonial home and to purchase the same in fee simple. See also *Whisnant v. Whisnant*, Supreme Court Opinion, October term, 2015.

However, we must emphasize that the enjoyment of the right is not automatic. There are conditions attached to the exercise of the right of election by a widow and set procedures and guidelines which must be followed in order for a widow to avail herself of the right to purchase the matrimonial estate of her late husband. The first condition is that the widow must have resided on the property at the time of death of her late husband. Secondly, the widow, being

entitled only to a one-third life estate in her late husband's real property, must, if she desires to purchase and secure in fee simple the real property which she and her husband resided at the time of his death, serve notice on the representative of the estate (the executor or administrator) of the widow's election to purchase the property in fee simple. The notice must be served on the representative within six months of date of issuance by the probate court of letters testamentary to the representative to administer the decedent's estate. If the notice is not served within six months of the date of issuance of letters testamentary to the representative by the probate court, the notice is of an election to purchase is rendered ineffective and of no legal effect, and under such circumstance, the widow cannot enjoy the right of election granted by the statute although she is still entitled to one-third of her deceased husband's real property for her natural life.

In the instant case, letters of administration was granted, firstly, to Papa Daramy on the 2nd day of August, A. D. 2005. The records do not reveal that any request was made or notice served on Papa Daramy or any other person, or on the court, by Yaka Daramy, who is stated in Marie Daramy's petition for closure of the Daramy Estate as one of the widows who survived the decedent, Alhaji B. Daramy, either within six months of his appointment as administrator of the Estate or ever, up to the point where he was first suspended until on January 16, 2005, or up to the point when he was subsequently suspended again on April 5, 2010. Secondly, the court records reveal that upon petition filed for letters of administration, Fatu Daramy Mensah was on January 17, 2007, appointed as administratrix of the Daramy Estate. Again, there are no indications in the records that Yaka Daramy ever requested or served notice on Fatu Daramy Mensah of her selection to purchase the property which Marie Daramy alleged in her petition that Yaka Daramy resided with the decedent at the time of his death. Indeed, it was not until March 4, 2011, that Marie Daramy, the daughter of Yaka Daramy, in her petition for closure of the Daramy Estate, sought to have part of the property of the Estate granted to her and her mother, Yaka Daramy, in fee simple, citing as one of the reasons that Yaka Daramy was entitled to one-third of her late husband's real estate and was willing to forfeit that right in exchange for the property which she sought to have conveyed to her in fees simple.

But in addition to the difficulties mentioned above, note is also taken of the fact that it had been more than thirty-seven (37) years following the death of the late Alhaji B. Daramy that the claim was made. The Court has difficulty comprehending the reason for allowing the passage of such time before the claim is made, and given the circumstances mentioned above, is clearly of the opinion that even if Yaka Daramy had such right originally, the right was waived by her and she cannot after such waiver and forfeiture enjoy the right to purchase the property in question. Yet the trial judge chose to ignore the circumstances presented and the law, and to proceed to award Marie Daramy and Yata Daramy in fee simple the property on the Old Road. That decision of the probate court was clearly in error and is of sufficient and substantial magnitude to warrant the reversal of the ruling.

But we also do not see how the probate court judge could have reached the decision he did given the further facts revealed by the records in the case and the applicable laws, especially the Decedents Estates Law, that existed at the time of the death of Alhaji B. Daramy. Firstly, at the time of his death in 1974, Alhaji B. Daramy is said to have had at least three wives, all of whom he had married under customary law. The law and the system that existed at the time were that the wives of decedent married under customary law were not entitled to inherit from him. The Supreme Court had concurred with that view even though the law was clearly in violation of the Constitution. It was in an attempt to address this situation that framers of the new Constitution of 1986 had imposed on the Legislature the obligation and the mandate to enact laws to ensure that rights of inheritance of women married under customary law were protected equally as the rights of women married under statutory law. Notwithstanding, because Alhaji B. Daramy died in 1974, twelve (12) years before the 1986 Constitution came into effect, had his Intestate Estate been closed as provided for by law, Yaka Daramy would have been entitled to no right of inheritance, and hence, could not have prayed the probate court, either in her own name or through her daughter, under a petition for closure of the Estate, to make the claim of entitlement to one-third of his Estate or to the selection to purchase outright in fees simple the residence where they cohabited at the time of his death.

Let us assume, however, that the new Constitution and the 2003 amendments made to the Decedents Estates Law changed that outcome, Yaka Daramy would still have waived her right to elect to purchase the real property of her late husband wherein they resided at the time of his death, by virtue of her failure to make the election and provide notification to the administrator/ administratrix within six months of the appointment of first administrator and subsequently the appointment of the administratrix of the Daramy Estate.

The problem is made even more complicated by the very Decedents Estates Law relied upon by the appellee and the probate judge in awarding to the appellee and her mother the Old Road property. The pleadings and the testimonies at the trial attested to the fact that Alhaji B. Daramy, at the time of his death had at least three wives which he married under customary law. Sections 3.1 and 3.2 of the Decedents Estates Law enacted in 2003 and included in the said law as an amendment thereto, while granting to widows under customary marriages the same right of inheritance as widows under statutory marriages also spells out how the one-third entitlement of widows under customary marriages is to operate or be shared. Here is how the laws state the right:

> **"§ 3.1. Decedents Estates Law Applicable to Customary Marriage.**
> **The provisions as contained in Title 8 of the Liberian Code of Laws Revised of 1972, known as the New Decedents Estates Law, including a Probate Court Procedure Code, are hereby incorporated as if quoted verbatim and which shall equally apply to all native customary marriages immediately after the passage of this Act.**
> **§ 3.2. Widow's Dower Rights.**
> **Upon the husband's death, the widow or multiple widows shall be entitled to only one-third (1/3) of the late husband's property; the balance two-thirds (2/3) of the decedent's property shall descent to his children, if any, or to his collateral heirs according to the Decedents Estates Law."**

From the above, it can be seen that even if one made the case that Yaka Daramy was entitled to inherit from her late husband, she would not have been entitled to one-third of his real property, given the fact that there were three wives that survived him. Each of those wives would have been entitled to only one-third of the one-third share of the real property to which the widows were entitled. Since under the Decedents Estate Law, referenced hereinabove, all of the widows would have had to be residing in the home with the decedent at the

time of his death, no one widow could elect to purchase the said home to the exclusion of the other widows. Application of the law, as far as the one-third share is concerned, could therefore be most difficult if not impossible. For example, would each one of the widows be allowed to purchase one-third of the home, assuming they all lived in the home with the decedent? We think not. But the matter gets further complicated since it is alleged that one of the widows had died and another had remarried. Do those events change the scenario that existed at the time of the death of the decedent or should the remaining widow, because of the change of events, then take or be allowed to take a greater share of the property which would be contrary to the law? Should the property held by a widow during her life time and prior to her death or upon her being remarried not thereby revert to the decedent's children where any of those events occur? Would this not, in addition to not being in compliance with the law, also work inequity and injustice? The Opinion of this Court is that a widow's entitlement to a specific share of the late husband's property, as in the instant case, one-third of the one-third to which each widow is would have been entitled to, is not automatically increased on account of any of the events mentioned herein. This is especially true since the records reveal that the decedent, in his life time, had conveyed much of his property to his children, which meant that those properties were no longer a part of his estate. Yet the probate court judge ignored all of these factors and the governing laws, and instead ordered that title be vest in and transferred to Yaka Daramy and her daughter Marie Daramy. We hold accordingly that the ruling of the probate court judge vesting fee simple title to the Old Road property in Yaka Daramy and her daughter, petitioner Marie Daramy, was in gross error, both as to the law and as to the facts, and therefore the said ruling is reversed.

We further hold that because of all of what we have said above also disposes of the fourth issue presented in the case, we shall make to further comments in respect of the said issue. Instead, the analysis stated above is deemed to apply similarly to the fourth issue presented and accordingly deemed disposed of.

This leaves one final issue, issue not 3, for disposition by this Court. That issue is whether the probate court judge erred in distributing the 24th Street property which the decedent had, prior to his death, conveyed to certain of his

children? We hold that the probate judge was in error. The law of this jurisdiction is vocal that where one transfers to another in fee simple property of which he or her was seized during their life time, the property so conveyed is no longer a part of the estate and cannot be devised either by will or otherwise and certainly does not form and cannot be treated as part of the intestate estate of the decedent. The facts in the instant case reveal that the decedent, Alhaji B. Daramy, conveyed to certain of his children in fee simple the properties held by him on Center Street and on 24th Street, both in the City of Monrovia. The only property, which of record he did not convey, was the property on the Old Road. As we stated earlier, the Old Road property therefore belonged to his children and should be enjoyed by all of them. However, because he had conveyed the Center Street and the 24th Street properties to his children, those properties were no longer part of the estate and the conveyance could not be altered by the probate court judge or the conveyance effectively revoked as if never made, such that they could be treated as part of the estate. The probate court is without any such authority. Hence, the action and ruling of the judge were in error and are reversed.

Moreover, we hold also that the basis for or premise of the ruling was flawed and invalid. A beneficiary to properties conveyed to him or her under a warranty deed (i.e. the Center Street and 24th Street properties) and who is also a beneficiary, with others, to other property (the Old Road property) which latter formed part of the intestate estate of the decedent cannot ask the probate court and the court is without the authority to swap the interest of the petitioner in the former properties in exchange for her stating that she would relinquish her share in the former properties. The law provides for no such swapping procedure. In order for the petitioner to relinquish her interest in properties conveyed to her and her siblings by their father, the appropriate transfer instruments must be executed by her to her siblings. The probate court has absolutely no role in such relinquishment and any swapping made by the court in its ruling is absolutely null and void. Hence, until and unless the appropriate legal instruments are executed by the petitioner relinquishing her interest in the property conveyed to her and others of her siblings, she continues to hold such interest and has every right to protect such interest against the misuse of such properties by any of her siblings, whether under the

guise of administrator or administratrix of the Intestate Estate of the late Alhaji B. Daramy or otherwise and any such persons acting in such capacities (administrator and administra-trix) are fully accountable and responsible to the other beneficiaries for any proceeds or use of the properties not forming part of the Estate, including action of damages for their conduct injurious to their siblings.

With respect to any property forming or constituting the intestate estate, the persons whom the probate court appointed as administrator and administratrix to manage the said properties are and must be held full accountable for all proceeds received for and on behalf of the estate and/or in regard to any properties owned by the estate. Further, persons who have indulge in transactions with the estate properties, including leases and other transactions, must provide an account of to the probate court on all such transactions. The inventory of all properties owned by the estate, prayed for in the appropriate petitions filed with the probate court and which the records do not reveal was submitted to the court, must be submitted within thirty days of the date of the reading of the mandate of this Court by the judge presiding over the probate court. The inventory must itemize all properties owned by the decedent at the time of his death. In the meantime, all proceeds due the estate from whatever source, leases or otherwise, should be immediately held in escrow and at the closing of the estate distributed forthwith to all of the heirs entitled to same, including the widow or widows qualified under the law as beneficiaries to receive such proceeds.

Additionally, given the length of time that the estate has remained opened, a period of forty-two (42) years, this Court orders that the estate be closed within six (6) months of the date of the reading of this Court's mandate and a report filed with the Clerk of this Court to the effect. Should there be any disobedience to the mandate of this Court, the probate judge and the parties involved shall be held fully accountable to this Court and to the law.

Wherefore, and in view of the above, the final ruling of the Probate Court for Montserrado County is hereby reversed. The distribution made by that court, including the fee simple conveyance of the Old Road property to the petitioner and her mother in the petition for closure of the estate, not being consistent with the facts and the law, is hereby reversed.

The Clerk of this Court is hereby ordered to send a mandate to the lower court directing the judge presiding therein to resume jurisdiction over the case and give effect to this Opinion. Costs are ruled against the appellee. AND IT IS HEREBY SO ORDERED.