

DENNIS NGAIMA JALLAH, et al., Appellants, v.  
MAMADEE SHERIFF, Appellee.

APPEAL FROM RULING OF JUSTICE.

Argued May 25, 1976. Decided June 18, 1976.

1. A writ of error will be granted when an inferior tribunal has denied a litigant his day in court.

Plaintiff in error, defendant in the lower court, petitioned for a writ of error, contending no notice of assignment had ever been served. The Justice in chambers granted the petition, and an appeal was taken by defendant in error.

The Supreme Court found no notice of assignment had been issued and, therefore, the party was denied his day in court. *Ruling affirmed.*

*Moses K. Yangbe* for appellants. *Lewis K. Free* for appellee.

MR. JUSTICE HENRIES delivered the opinion of the Court.

These proceedings come to us on appeal from the chambers of Mr. Justice Wardsworth, who ruled in favor of the plaintiff in error, granting his petition for a writ of error.

The plaintiff in error has contended that he did not have his day in court, in that not having been served with a notice of assignment he was not present in court on March 25, 1970, when Judge Frederick Tulay, presiding over the Tenth Judicial Circuit, Voinjama, Lofa County, rendered a final judgment in the action of ejectment out of which these proceedings grew.

The plaintiff in error also alleged that the trial judge

was out of term time when he rendered the said judgment and, therefore, he had exceeded his jurisdiction; and that immediately after the rendition of the judgment, the trial judge issued a writ of possession placing the defendant in error in possession of the premises without serving the writ on the plaintiff in error.

We shall deal with the first contention of plaintiff in error, and if need be traverse the other two issues. With respect to not being served with a notice of assignment for the rendition of final judgment, the defendant in error denied the nonservice of a notice of assignment and referred us to the judge's final judgment, in which he mentioned the absence of counsel for both sides, "even though they were informed to be here today." We have been unable to discover by what means the parties were informed, since recourse to the records failed to show that a notice of assignment was issued and served or that this information was given by the judge while the parties were in court. In fact, the absence of defendant in error's counsel tends to substantiate plaintiff in error's contention, and confirm our suspicion that no notice was given to the parties. While the service of a notice of assignment is essential for a fair hearing, it was particularly necessary in the instant case because counsel for both parties reside in Monrovia, several hundred miles from the jurisdiction of the court.

That one must have his day in court is a rule as old as the law, for no one can be personally bound until he has had his day in court, that is until he has been duly cited to appear, and has been afforded an opportunity to be heard. In consonance with that rule we have continuously held that a writ of error will be granted when an inferior tribunal has denied a litigant his day in court. *Gbae v. Geeby*, 14 LLR 147 (1960).

In view of the fact that the plaintiff in error did not have his day in court, we do not find it necessary to consider the remaining issues raised in his petition. We,

therefore, affirm the ruling of our distinguished colleague granting the petition for a writ of error, reversing the judgment of the lower court and remanding the case to be tried upon its merits. The Clerk of this Court is hereby ordered to send a mandate to the lower court commanding it to resume jurisdiction over this cause of action and proceed to determine same. Costs to abide final determination. And it is hereby so ordered.

*Ruling Affirmed.*