

MUSA KANNEH, Informant, v. E. S. KROMAH,  
Assigned Circuit Judge, Sixth Judicial Circuit,  
Montserrado County; P. EDWARD NELSON, Sheriff,  
Montserrado County; and BAZ BROTHERS,  
Respondents.

CONTEMPT PROCEEDINGS.

Undated.\*

1. A party who disposes of an article which is the subject of litigation in the course of which an appeal is pending before the Supreme Court, without waiting for final disposition of the appeal, is guilty of contempt.
2. That a party acted upon advice of counsel is no defense to a charge that his action constituted contempt of court, although it may, if the circumstances warrant, be considered in mitigation of punishment.

The information in contempt proceedings alleged that the co-respondent, Baz Brothers, while in possession of informant's motor vehicle for the purpose of repairs, disposed of the vehicle while an appeal to the Supreme Court was pending from denial of a writ of error to informant in proceedings which had commenced with an action by Baz Brothers to foreclose a chattel mortgage on the vehicle. The Supreme Court held that Baz Brothers were in contempt in disposing of the vehicle while it was the subject of litigation before the Court, and imposed on them a fine of \$300, without prejudice to the merit of the foreclosure proceedings. *Contempt adjudged.*

*S. Benoni Dunbar, Sr.*, for informant. *J. Emmanuel R. Berry* for respondents.

MR. JUSTICE HORACE delivered the opinion of the Court.

Pending before this Court is an appeal from the cham-

\* Mr. Chief Justice Pierre did not participate in this decision.

bers of Mr. Justice Wardsworth in a writ of error proceeding in which the informant in these contempt proceedings is plaintiff in error and the respondents are defendants in error.

On October 19, 1976, informant filed information that (1) on April 20, 1971, he executed a chattel mortgage with co-respondent Baz Brothers for one Mazda 616 4-door deluxe sedan valued at \$2,400, against which he paid in all \$1,160; (2) that within the period of two months the vehicle was involved in an accident and he took it to Baz Brothers for repairs and they required him to pay \$60 for a new windshield; (3) that while the vehicle was in the possession of Baz Brothers for repairs, they instituted an action of foreclosure of a chattel mortgage against informant which was determined against him in his absence by the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, during its June 1972 Term, necessitating his applying for a writ of error; (4) that the writ of error was denied by the Justice in chambers and he appealed to the full bench; (5) that while the appeal was pending co-respondent Baz Brothers have in defiance of all legal principles repaired the car and sold it to his injury and damage. Informant in view of the circumstances narrated in his information prayed this Court to cause respondents to appear and show cause why they should not be held in contempt of court.

On October 27, 1976, respondents filed returns to the information in which, in addition to demurring to what they considered the defectiveness of the information and affidavit, they denied the allegations made by informant to the effect that co-respondent Baz Brothers had repaired the vehicle in question and sold it.

During argument before us, counsel for respondents stated that the vehicle had been damaged beyond repair and that upon advice of counsel (not the present counsel

for respondents) co-respondent Baz Brothers had discarded the vehicle.

This argument of counsel for respondents raised several questions in our mind. Firstly, why if the vehicle was damaged beyond repair co-respondent Baz Brothers had requested informant to pay \$60 for a new windshield? Secondly, knowing that the matter of the vehicle in question is the subject of litigation before the courts, why had co-respondent Baz Brothers undertaken to discard the vehicle? Thirdly, why had co-respondent Baz Brothers instituted foreclosure proceedings for the said vehicle and the trial court ordered it sold and the proceeds turned over to co-respondent Baz Brothers, if as stated, the vehicle was damaged beyond repair?

We were not at all impressed with the argument of counsel for respondents with respect to the points outlined above. On the contrary, his argument rather punctuated the *ultra vires* act of co-respondent Baz Brothers in arrogating to themselves the right to dispose of an article that was the subject of litigation before this Court on appeal without waiting for the final determination of the matter.

It should be remarked here that the merits of the case on appeal are not the matter before us at present for determination. Rather the question to be resolved is whether or not co-respondents have committed an act of contempt of this Court in keeping with the information filed before us.

Touching the argument of counsel for respondents that co-respondent Baz Brothers acted upon advice of counsel when they disposed of the vehicle that was the subject of litigation, we say that this Court has held that advice of counsel is no defense in contempt proceedings but may be considered, when the circumstances warrant, in mitigation of punishment. *In re Dennis*, 9 LLR 389, 394 (1947).

"To constitute a contempt, there must be improper conduct in the presence of the court, or so near thereto as to interrupt or interfere with its proceedings; or some act must be done not necessarily in the presence of the court, which tends to adversely affect the administration of justice." *King v. Moore*, 2 LLR 35 (1911).

"Contempt of court is a disregard of, or disobedience to a court by conduct or language, in or out of the presence of the court, which tends to disturb the administration of justice, or tends to impair the respect due the court." *Watts-Johnson v. Richards*, 12 LLR 8 (1954).

"Any act which tends to belittle, degrade, obstruct, interrupt, prevent or embarrass the court in the administration of justice is contemptuous." *In re Casell*, 10 LLR 17 (1948).

In view of the foregoing, we hold that the act of co-respondent Baz Brothers in disposing of a vehicle that is the subject of litigation on appeal before this Court without waiting for final disposition of the appeal is contemptuous and the said co-respondent Baz Brothers is hereby fined the sum of \$300 for contempt of court to be paid immediately into the revenues of the Republic of Liberia and a flag receipt indicating payment exhibited to the Marshal of the Supreme Court. Our holding in these contempt proceedings is without prejudice to the merit of the foreclosure proceedings which are still pending before us. Costs against respondents. And it is so ordered.

*Contempt adjudged.*