LIBERIAN TRADING CORPORATION, Ltd., a

Swiss Firm Doing Business in Liberia, by its Manager,

H. TRAVENA, Appellant, e. SAMUEL B. COLE, Appellee.

**APPEAL FROM TH** B **CIRC** U **IT CO URT OF TH** B **SIXTH** *5* ***ICI* AL CIRCU IT,**

M ONTSE RRADO CO U NTY.

Argued April 5, 1962. Decided June 1, 1961

Where a lessee of land is named as defendant in an ej ectment action, the title- holding lessor must be joined as codefendant.

On appeal from a judgment awarding damages in an ejectment action, on a finding that the trial court had erroneously denied motions to join necessary parties, the judgment was reversed without prejudice.

***Lawrence*** *H. Morgan* for appellants. **JoJe§** fi **F. *Den-***

*nis* for appellee.

**MR. JUSTICE** PIERRE delivered the opinion of the Court.

The record in this case shows that the late S. D. Cole- man entered into lease agreement in '9s', and again in

\*9s3. with the Liberian Trading Corporation, Ltd., and

leased to it a parcel of land which it now occupies as lessee

of the aforesaid S. D. Coleman who died two years after signing the second of the two agreements.

In a complaint filed in '9 6o, the appellee herein, as plaintiff in the court below, brought this action of eject- ment seeking to evict the firm I rom the property held under leasehold from M r. Coleman, and claimed that

part of the said property encroached upon two lots which M r. Coleman was alleged to have purchased from one Christian a Burke. The complaint also alleges that the

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appellants, well knowing this fact, withheld this part of the property unlawfully and illegally, the quantity of property involved being a half lot. He therefore prayed that judgment should be rendered placing him in posses- sion and awarding him damages for the alleged unlawful detention.

Appellant, appearing through its manager, H. Travena, filed an answer wherein appellant denied holding the plaintiff’s property unlawf ully, and claimed that the property had been leased to the firm by the late S. D. Coleman for a period of time which had not yet expired. Appellant also alleged that plaintiff had deliberately waited until the death of the lessor to bring his action for the purpose of harassment ; that he knew of the lease agreement but took no steps until after Mr. Coleman’s death ; and that Mr. Coleman’s heirs or executors should have been joined as defendants, in order to give them opportunity to defend the title of the estate. With the answer, appellant made profert the two lease agreements under which it had occupied the property leased by Mr. Coleman before his death ; and this is significant, in the light of the position taken by plaintiff that the defendants should have given the plaintiff notice by naming the per- sons who should have been joined, either as heirs of the late Mr. Coleman, or as executors of his estate ; and that, since the answer had Iailed to do this, it had deprived plaintiff of information needed to move the court to join the proper parties. What effect this position was to have on the case will be seen later in this opinion.

Because both the notice of appearance and answer of defendant were shown to have been filed out of statutory time, the judge dismissed the defendant’s pleadings, and placed the defendant on a bare denial of the Iacts in the complaint. But just prior to this ruling on the law issues, and after plaintiff had filed his reply, defendant filed a motion praying the court to join the heirs of the late S. D.

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Coleman as defendants. For the benefit of this opinion, we quote the three counts which this motion contains, and which read as follows:

“And now comes the Liberian Trading Corpora- tion, Ltd., Monrovia, represented by H. Travena, Manager, and most respectfully prays this court as follows to wit:

“i. That an action of ejectment was brought against defendant by the above-named plaintiff, seeking to eject him from certain premises which de- fendant held by lease agreement between defendant and the late S. David Coleman.

“z. That his present landlords, the heirs of the late

S. David Coleman, were not joined as defend- ants by the plaintiff, so as to enable the said heirs to defend defendant’s title as vested in him by the said S. David Coleman.

 That defendant verily fears that, unless the heirs of the said late S. David Coleman are joined as defendants in said action of ejectment to show the source of his right, defendant will suffer great injury.

“therefore defendant prays this court to order the heirs, representatives, etc., of the late S. David Cole- man joined as defendants in the said action of eject- ment, and grant unto defendant such further relief as unto Your Honor may seem just.”

The court, in passing upon the issues of law, did not pass on this motion, but left it for the trial judge to decide. Before the case came on for trial, the heirs of the late Mr. Coleman prayed the court to allow the estate to intervene ; and we quote the motion which they filed: “And now comes the estate of the late S. David Coleman, represented by S. Othello Coleman and Genevieve Garnett, by and through her husband, J. Newton Garnett, heirs of the late S. David Coleman,

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intervenors, and most respectfully moves this court to permit said estate to intervene in said cause, and here- with prays as follows, to wit:

“i. That defendant is in possession of subject prop- erty under a lease agreement entered into between the said defendant and the late S. David Coleman, the bona fide owner of said property. Therefore, intervenors submit that the estate of the late S. David Coleman should have been made a defendant, since the heirs of the late S. David Coleman have interest in and to said property, which interest would be ad- versely affected by the decree of court in this matter.

That intervenors, being the bona fide owners of said property, pray that they be joined as de- fendants so that they may have an opportunity to defend their title thereto.

“Wherefore, intervenors pray that this court will make them party defendants, and cause them to be furnished a copy of each pleading in this suit and the record made thus Iar, so that intervenors may study the same and adequately defend their title, thereby avoiding a multiplicity of suits.”

It is strange that, although the plaintiff had, in his reply, demanded to be notified as to the rightful persons connected with the estate of the late S. David Coleman, who should have been jojned as defendants, yet he op- posed both of these motions, which not only gave him the required notice, but also afforded him an opportunity to make good an omission in his complaint called to his attention in the defendant’s answer. Both the motion to intervene and the motion for joinder of defendants were denied by the judge, and the plaintiff’s case went before a jury with the defendant restricted to a bare denial. The jury returned a verdict for the plaintiff,

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and awarded him $8,ooo damages. It is this judgment which is now before us on appeal.

Several issues are raised in the pleadings ; but we will only pass upon the legality of the ruling denying the motions hereinabove mentioned.

No valid judgment which affected the rights of a party can be rendered unless such party is under the jurisdiction of the court rendering the judgment. It is clear that any judgment rendered in this case would affect rights of the heirs of the late S. David Coleman. Therefore, we find ourselves in complete agreement with the posi- tion taken in the motion for joinder of defendants, as well as that contained in the motion filed by the intervenors. How could we render any judgment to put the plaintiff- appellee in possession of the one-half lot he now claims, for which the heirs of the late S. David Coleman might hold a title deed, without affecting their property rights? On the other hand, how could we render a judgment against the plaintiff-appellee’s claim to the one-half lot without, in effect, deciding this action of ejectment in favor of the heirs of the late S. David Coleman 7 It is not hard to see, then, that any judgment herein would affect the heirs of the late Mr. Coleman, who are not parties in issue, but who should have been joined.

It is, therefore, our opinion that the pleadings filed in

the court below should be vacated without prejudice to the parties’ rights to refile ; and the plaintiff-appellee should be allowed to re-enter his action, if he so elects, in which case the heirs of the late S. David Coleman would be joined as party defendants, and would thereby be brought under the jurisdiction of the court. The judg- ment rendered and appealed from, being in error, is hereby reversed.

*R ezersed.*