# JAMES FAHNB U LLEH, Appellant, c. ISSAC ANTHONY and His Honor, ALFRED D. VERD I ER,

Justice of the Peace, Appellees.

APPEAI, FROM RULING I N CHAMBERS ON APPLICATION FOR WRIT OF PROHIB ITIO N.

Argued March 10, 1964. Decided May 22, 1964.

1. Justices of the peace have j urisdiction to hear and to determine summary ejectment suits, whether such suits grow out of rights based on title or rights created by lease.
2. So long as a plantiff in summary ejectment has a legal right of possession, he is thereby clothed with authority to eject any undesirable tenant.
3. Even where title is involved in a summary ejectment action, the fact that plaintiff's right to sue grows out of title to the property does not place the case beyond the trial j urisdiction of a j ustice of the peace or magistrate until the defendant has shown paper title to the same piece of property ; only in that event would strength of title on both sides have to be determined by a jury.
4. Paper title in only the plaintiff does not destroy the jurisdictional right of the j ustice of the peace or magistrate to hear and determine summary eject- ment cases.
5. Whenever a party has cause to complain against any irregular act of a magistrate or justice of the peace, redress should be sought before a judge of the circuit court. The Supreme Court assumes appellate j urisdiction otily after the circuit court has heard such matters.
6. The Supreme Court has no immediate jurisdiction over irregularities of magistrates and justices of the peace unless such irregularities have first been made the subject of investigative review before the circuit court in sum- mary proceedings.

On appeal, a ruling in Chambers denying prohibition to a justice of the peace court in summary ejectment pro- ceedings was affi rmed.

*Ham es Kandab at* for appellant. *Lawren ce A. Morgan*

## for appellee.

MR. JUSTICE PIERRE delivered the opinion of the Court.

According to the record in this case, a lease agreement for years was concluded by and between a “Mr. Fahn-

ii8

LIBERIAN LAW REPORTS 119

bulleh” as lessor, and the Lebanese merchant named Isaac Anthony as lessee for certain premises in the city of Monrovia, which said premises are now the subject of summary ejectment. Petitioner, James Fahnbulleh, a tenant at will or at sufferance, who had been occupying the premises previous to the time when said lease agree- ment was entered into by his landlord and Isaac Anthony, was allowed to continue and remain in occupation until some time later when the lessee requested him to vacate the premises. Anthony sued out a writ of summary eject- ment to evict him ; and this writ was issued by Justice of the Peace Alf red D. Verdier.

When the case was called in the justice of the peace court, petitioner, as defendant, raised the question of the court’s jurisdiction, upon several grounds which we do not think are germane to this case of prohibition. His motion to the jurisdiction was resisted and the matter was suspended to give the court time to make a ruling thereon. At this stage the defendant applied for pro- hibition to restrain the justice of the peace f rom passing on the motion which questioned his jurisdiction.

Our law gives justices of the peace jurisdiction to hear and to determine summary ejectment suits, whether such suits grow out of rights based on title or rights created by lease. So long as the plaintiff in summary ejectment had a legal right of possession, he was thereby clothed with authority to eject any undesirable tenant. Here is the statute supporting the right of the plaintiff to sue as well as the jurisdiction of the justice of the peace over the suit:

“When a person who is entitled to the possession of real property is unable to obtain same by peaceful means, he may obtain possession thereof by a summary proceeding before a justice of the peace or magis- trate.” i q 6 Code, tit. 6, § i i z3.

Even where title is involved, the fact that plaintiff’s

right to sue grows out of title to the property does not

120 LIBERIAN LAW REPORTS

place the case beyond the trial jurisdiction of a justice of the peace or magistrate. Only if the defendant had shown paper title to the same piece of property would strength of title on both sides have to be determined by a jury. Paper title in only the plaintiff does not destroy the jurisdictional right of a justice of the peace or magis- trate to hear and to determine summary ejectment cases. And when, in the hearing of such cases, demurrers are pleaded either to the jurisdiction or on other grounds, these must be decided by the presiding justice or magis- trate before the merits can be entered upon. Decisions on such demurrers, whether such decisions be legally correct or not, should never be made the subject of Su- preme Court review before they have been passed upon by the circuit court, which is the court of appellate review in all matters determined by justices of the peace and magistrates.

The statute of igoz gave the circuit court both appel- late and investigating jurisdiction over all appeals and charges of misconduct and irregularity involving magis- strates, justices of the peace and constables. Whenever a party has cause to complain against any irregular acts of a magistrate or justice of the peace, redress should be sought before a judge of the circuit court. The Supreme Court assumes appellate jurisdiction only after the cir- cuit court has heard such matters. This not only con- forms to the statute of igoz referred to above, but is also in harmony with the decision of the Supreme Court in *King* v. *Eedlo w,* 2 L.L.R. 283 ( i q i6) , in which the court held as follows at z L.L.R. z84:

“The Act of igoz providing for summary proceed- ings against justices of the peace, city magistrates and constables, is intended to give the judges of the circuit courts jurisdiction to investigate the actions of said officers and to give immediate relief to all concerned.”

This is still the practice in this jurisdiction and should

LIBERIAN LAW REPORTS 121

## not be departed from under any condition and in any circumstance unless there is a statute to authorize such departure. Failure to comply strictly with the above-

quoted statute of '9 z has not only deprived the circuit courts of some of their jurisdiction in the past but is also in direct violation of our practice and procedure. Be- sides„ to ask the Supreme Court to investigate irregulari-

ties of magistrates and justices of the peace would not only overburden the Supreme Court’s Chambers docket, but also tend to lower the f u nctions of the Supreme Court to that of the circuit courts. The Supreme Court has no immediate jurisdiction over irregularities of mag- istrates and justices of the peace until such irregularities are made the subject of investigatory review before the circuit court in summary proceedings.

The function of the writ of prohibition is to restrain proceedings beyond the jurisdiction of a tribunal and to restrain proceedings where the procedure adopted is strange to that known to the practice in such cases legally provided. But prohibition cannot restrain a justice of the peace or magistrate from hearing cases in summary ejectment or from reserving ruling on demurrers arising in such cases. We therefore hold that the petition for prohibition in this case was without legal merit and that the Justice presiding in Chambers was legally correct in denying it.

*A jflrm ed.*