TEETEE BORBOR, Appellant, *v.* G. WALTON TAY, Agent for G. H. TAY, for himself and his tenants in occupancy, Appellees.

APPEAL FROM THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Argued April 13, 1972. Decided May 18, 1972.

1. Once a proceeding has been decided by the Supreme Court, regardless of the nature of the action, the decision is *res judicata* in all courts of the Republic of Liberia if the same parties thereafter sue the same persons over the same matter for the same thing.

Appellant instituted an action of ejectment and appellees interposed the defense of *res judicata,* the plea in bar being based on prior decisions of the Supreme Court involving the same subject matter and the same parties. The lower court dismissed the action, and the appeal was taken from the judgment by the plaintiff. Judgment *affirmed.*

MacDonald Perry for appellant. *J. Dossen Richards* for appellees.

MR. JUSTICE HENRIES delivered the opinion of the Court.

The appellant instituted an action of ejectment against appellee in the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, sitting in its September 1971 Term. The appellees raised the plea of *res judicata* in their answer, which was sustained by the trial judge, since elevated to this Court, Mr. Justice Robert G. W. Azango, and the case was dismissed. The appellant excepted to this ruling, and appealed to this Court, raising several points in his bill of exceptions.

The appellees have submitted an argument sustaining the trial court's judgment, contending their plea in bar of *res judicata* was conclusive of the cause of action.

We went back over the decisions of this Court, and we found that this case, involving the same parties and the same subject matter, was first determined during the October 1967 Term of the Supreme Court, when it was ordered that the appellees be put in possession of the property for which the action was brought. During the March 1968 Term, a bill of information was filed alleging that a bill in equity to cancel a deed for the same property in the ejectment action, decided in 1967, had been filed, along with an action of injunction to restrain the sheriff from placing the appellees in possession of the property as ordered by the Supreme Court. This Court then held in contempt the lawyer who had prepared and filed these proceedings and required him "to withdraw all actions filed against the deed of relator (G. Walton Tay) for the land in question, whether such actions are pending or on appeal." It is indeed strange that, despite these two decisions, on the same matter and between the same parties, this case should come before this Court again for review.

It is obvious that this falls under the principle of *res judicata.* In *Phelps* v. *Williams,* 3 LLR 54, 57 (1928), Mr. Chief Justice Johnson, speaking for this Court, said: "And just here we will premise that where a matter has been decided by this Court it becomes *res judicata,* if there is a concurrence of the following conditions, *viz.,* Identity in the thing sued for; identity of the cause of action; and identity of persons and of parties to the action. Such judgments are conclusive upon the parties, and no party can recover in a subsequent suit. It does not matter whether or not the judgment is pleaded." All of these conditions exist in the case at bar and hence the judgment rendered by this Court in the prior case bars the review of the instant case at bar. See also *Liberia Trading Corp.* v. *Abi-Jaoudi,* 14 LLR 43 (1960).

During the argument before us the appellant, relying on *Karnga* v. *Williams,* 10 LLR 114 (1949), asserted that the plea of *res judicata* was inapplicable in an ejectment action, because in such an action three verdicts and judgments are necessary in order for the matter to be final and conclusive. In that case Mr. Justice Shannon, speaking for the Court and relying on the law then in existence, and which he cited, at page 122.

> " 'A verdict and judgment in ejectment shall be evidence, but not conclusive evidence of title, but two verdicts in actions between the same parties or those under whom they claim, in favor of the same side, shall be conclusive, unless it is shown that there has been a verdict and judgment the other way, and even in that case, three similar verdicts and judgments shall be conclusive.' Stat. of Liberia (Old Blue Book) ch. XI, § 20, 2 Hub. 1552."

It should be pointed out that this section 20 and its genesis in the chapter which dealt with the admissibility of written evidence, and which formed a part of the Acts of the Governor and Council of Liberia, passed January 1841, before Liberia became a Republic. This section was retained in the Liberian Code of Laws of 1956 and can be found in the Civil Procedure Law, 1956 Code 6:727. However, both section 20 and section 727 referred to have been repealed by the new Civil Procedure Law, L. 1963–64, ch. III, § 2511:

> "1. Against whom admissible. Judgments shall be admissible in evidence, subject to the other provisions of this section, against all parties thereto and against those claiming under them. They shall not generally be admissible against any other persons except for the purpose of showing their own existence. When a judgment has been rendered against any party in consequence of any act or omission of another person, such judgment shall be evidence to prove its own existence and the amount of damages sustained in an action by

the original party defendant against such other person."

It is obvious that since the statute embodying the principle on which the appellant relied has been repealed, it is no longer relevant to ejectment actions of today.

Since the principle of *res judicata* is applicable in this case, and since the decisions of this Court are binding upon all other courts within this Republic, the trial judge did not err in dismissing this action and, therefore, all of the counts in the bill of exceptions are overruled. The judgment of the lower court is hereby affirmed with costs against appellants. It is so ordered.

Affirmed.