SANDO BEI, *et al.*, Appellants, *v.* MOSES GINGER, *et al.*, Appellees.

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

Argued April 25, 1967. Decided June 16, 1967.

1. All parties to an action are entitled to the fair and impartial deliberations of the jury deciding the issues.
2. The verdict of a jury has been prejudicially influenced when the trial judge orders it to retire for further deliberation after having announced its verdict in favor of one of the parties.

After the jury had returned to court with its verdict, which was handed to the trial judge, it was ordered back to further deliberate. Moreover, it was evident that erasures had been made in the place reserved on the slip of paper for the prevailing party. The plaintiff appealed from the judgment of the court. *Judgment reversed,* case remanded.

MacDonald Krakue for appellants. *MacDonald M. Perry* for appelles.

MR. JUSTICE WARDSWORTH delivered the opinion of the Court.

At the institution of these ejectment proceedings in the Sixth Judicial Circuit Court for Montserrado County, plaintiffs, now appellants, in their complaint averred that they were owners of a certain tract of land situated, lying and being on the motor road in the Settlement of Caldwell, Montserrado County, Republic of Liberia, in the authentic records of Settlement Seven (portion), which contained 30 acres of land and no more. Based upon the aforesaid complaint and their written direction, a writ of summons was issued and served upon the defen-

dant-appellees, whereupon the said appellees filed their formal appearance according to law within statutory time and filed their answer denying the allegations as contained in plaintiff's complaint. Countering defendant's answer, plaintiffs filed their reply, and with this reply the pleadings rested on April 19, 1966. Hon. G. W. Azango, presiding by assignment, handed down his ruling on the law issues involved in the pleadings and thereafter ordered the said case to trial on the issues as contained in plaintiffs' complaint and reply, indicating counts 1, 2, 3, and 4 of the answer and counts 3, 5, and 6 of the reply, respectively, as the issues to be determined. During the same term of the Circuit Court, Sixth Judicial Circuit, Montserrado County, that is to say the March 1955 Term of the above-mentioned court, the case was taken up, heard, and determined; the verdict of the jury in this case was rendered in favor of the defendants on May 4, 1966, to which the plaintiffs took exceptions, filing a motion for a new trial, which was denied; whereupon the trial judge rendered final judgment in the said case on May 31, 1966, to which plaintiffs excepted and prayed an appeal to the Court of last resort for review and final determination. Appellants, having conformed to the statutory provisions controlling the jurisdictional steps to be taken in perfecting appeals to this Court, have come forward with said appeal based upon an approved bill of exceptions containing three counts. We deemed count one of said bill of exceptions worthy of consideration, which we quote hereunder, word for word, as follows:

> "1. Because plaintiffs say, that the empaneled jury having arrived in open court with their verdict, the clerk of court was ordered to read said verdict, the aforesaid clerk paused after reading 'in favor of the plaintiffs,' remaining silent when plaintiffs' counsel asked him to read what he had. The court, observing the clerk's attitude, said, 'Let me see what you have,'

> which conduct of the court was performed in the presence of the jury itself, and the foreman of the jury was then and there ordered by the court to return to their room of deliberation for the second time. Arriving in court the verdict read, 'In favor of the defendants,' to which plaintiffs then and there excepted."

We observe that this count was not approved by the trial judge, and we find nothing in the record in this case supporting the allegation as contained in the said count one of the bill of exceptions under review; reverting, however, to the original verdict of the jury, it is discovered that there were several erasures apparent on the face of said original verdict of the jury in this case, especially where the word "plaintiffs" was obliterated and the word "defendants" inserted immediately thereunder. It is a clear proof that the original verdict of the jury was tampered with.

In *Potter* v. *Stevenson,* 1 L.L.R. 53 (1871), this Court held, *inter alia,* that:

> "First, this court therefore decides that it was an error in the court below in sending the jury back, in the case William Stevenson, administrator of the estate of W. H. Hill *v.* E. A. Potter, to reconsider their verdict to lessen the damages by them awarded. If the judge thought the damages too great or too little, he should have granted a new trial."

We hereby deprecate the act of the trial judge in sending back the jury to their room of deliberation to make changes in their verdict, thereby causing, or influencing, their said verdict in favor of the defendants. The position of the judge in all matters should be cold neutrality and he should not discharge his duty in such a way as to prejudice either party, each of whom is entitled to the benefits of an impartial trial.

Therefore, in view of the foregoing, the final judgment in these proceedings is hereby reversed, and the case remanded to be heard on its merits at the next ensuing term

of the Circuit Court, Sixth Judicial Circuit, Montserrado County, costs to abide final determination. And it is hereby so ordered.

Reversed and remanded.