

JAMES W. BROWN, Sheriff of Montserrado County,
G. WALTON TAY, et al., Relators, v. AMBULAI
SESAY, Attorney in Fact for DAVID JONES,
ALFRED L. WEEKS, counsellor at law, et al.,
Respondents.

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

Argued June 13, 1968. Decided June 14, 1968.

1. A lawyer who institutes and prosecutes proceedings which he knows, or should have known, are in defiance of, or an effort to circumvent, a judgment of the Supreme Court, is guilty of contempt of court.
2. Contempt of court is a despising of the authority, justice, or dignity of the court, and he is guilty of contempt whose conduct is such as tends to bring the authority and administration of the law into disrespect or disregard.
3. When a proceeding concerned with the defiance of a judgment of the Supreme Court is being considered, no contention can be raised that such proceeding must defer to the appeals or litigation pending in those very matters giving rise to the proceeding concerned with the defiance of the Supreme Court's judgment.

The respondents in these contempt proceedings had instituted suit for an injunction against the relators, who thereafter, during pendency of the appeal from the judgment denying the restraining injunction, sought to have plaintiffs held in contempt of court, by a bill in contempt. Relators alleged that the injunction suit was an effort to circumvent the judgment of the Supreme Court, which had decided title to the land in favor of the relators, the defendants in the suit for a restraining injunction. They also pointed to another proceeding instituted by the same persons, which, under the guise of an action to remove cloud on title, in effect sought the negation of the deed's validity, which had been upheld by the Supreme Court. In these proceedings, the Supreme Court *adjudged* the lawyer, who had prepared the legal papers in the aforementioned matters complained of, *guilty of contempt of court*, a *fine* was assessed, and he was ordered to *discon-*

tinue the suits evincing contempt of the Supreme Court's judgment.

J. Dossen Richards for relators. *Alfred L. Weeks*, *pro se* and for respondents.

MR. CHIEF JUSTICE WILSON delivered the opinion of the court.

This appeal arose out of an action of injunction filed in the March 1968 Term of the Circuit Court of the Sixth Judicial Circuit, Equity Division, by the above-named respondents, as plaintiffs, against relators, as defendants, to enjoin and restrain defendants and all other persons acting directly and indirectly, under and with them, from:

a. Unlawfully entering upon the premises in question for the purpose of exercising any right of ownership;

b. Further molestation of the peaceful possession by the plaintiffs, as well as any other tenants or possessors who may hereafter enter the said premises with the will and consent of the co-plaintiff, David Jones;

c. Attempting to evict the occupants thereof until the case of the cancellation referred to is determined, or a legal judgment is obtained in ejectment against the parties or their privies in favor of the defendants;

d. And such other and further relief as may be just and necessary.

Information was related by defendants to this Court by a bill in contempt of court, which, in substance, charged the plaintiffs in the injunction suit with stealthily trying to induce this Court to have a subordinate court review a decision and judgment of the Supreme Court in effect, by virtue of the complaint in the injunction suit, counts 5 to 8 thereof, a copy of which was proferted, and is exhibited, in the bill of information now before us.

To be more precise, the following is a summary of these relevant counts.

At the October 1967 Term of this Court, in an appeal growing out of an ejectment suit filed by one Walton Tay to evict Nagbe Seh, et al., Teetee Borbor intervening in the suit thereafter, this Court reversed the judgment of the Circuit Court and decreed the property in dispute as being that of the relators and not the respondents, whereupon a mandate to the Circuit Court directing the eviction of respondents, and placing relators in possession of the property, was executed by a writ of possession, duly served by the sheriff of the County of Montserrado, who put the relators in possession.

As alleged in the bill of information, when the sheriff first went on the premises to put Tay in possession of his land, a riot ensued, and the sheriff was obstructed in his attempt to execute the judgment of the Court.

Not having succeeded in preventing the sheriff from executing the mandate of this Court, a bill in equity was brought to cancel Tay's deed, even though Tay's deed had been passed on by the Supreme Court and declared genuine. This cancellation suit not being before us, we will now pass on to the injunction suit which, relating to the same land, seeks to restrain the sheriff this time not from placing co-relator Tay in possession of the land decreed by this Court as being his, but from evicting those who in defiance of the mandate of this Court have re-entered the premises of Mr. Tay and placed new tenants thereon, thereby rendering the judgment of this Court meaningless and ineffective, which could make all future judgments of this Court subject to disregard and their enforcement challenged with impunity.

In their return, the respondents admitted the institution of cancellation proceedings against the deed of Walton Tay, already passed upon by the Court as valid in support of his claim of ownership to the land, consisting of 1-1/2 acres, notwithstanding the decision of this Court. The

respondents have sought cancellation of this deed under the pretext of removing a cloud on title, by the proceedings instituted by them in the Sixth Judicial Circuit Court, which they are attempting to appeal to this Court because of the decision of the Circuit Court against them.

Respondents contend in said return that because of a pending appeal from the judgment of the Circuit Court, it would be in violation of their right of appeal for this Court to entertain these information proceedings which could prejudice their appeal already prayed for and granted by the Circuit Court.

They further contend that the action of ejectment recently decided by this Court in favor of Mr. Tay involving the identical property, the deed for which they have moved the Circuit Court to cancel under the pretext of removing cloud on title, did not affect them since they were not parties to the action.

At this point of argument by respondents' counsel, he was asked why he did not intervene, as did Teetee Borbor who was not made a party at the initial filing of the ejectment suit against his tenants-at-will. He held that the writ of possession which placed Mr. Tay in possession of the property having already been served by the sheriff, there was nothing before the Court to intervene in and defend against. This being so, he was asked why the sheriff was made a party in his cancellation proceedings to remove cloud on title. His reply was that the sheriff was intended only as a nominal party. This, of course, did not alter the fact that the deed sought to be canceled had in all respects been declared by this Court as genuine. Hence, any attempt to void it in any respect through a subordinate court cannot but be regarded as a defiance of the judgment and mandate of this Court.

Count seven of said return gives notice to this Court that growing out of the same injunction proceedings filed by counsellor Alfred L. Weeks for respondents, he was held in contempt and sentenced, and though the penalty

imposed has been paid by him, he has appealed from said ruling of the judgment since, as he says, he paid the fine under protest. Therefore, it should bar this Court from entering upon the merits of the bill of information now before us.

This constituting the only point of opposition to the bill of information, we consider it necessary to resolve the issues involved in these proceedings within the context of what could be the only grounds on which to decide this case, namely: whether a cause on appeal, though its subject matter arose from an effort to defy a judgment of this Court, must be given priority over a proceeding concerned with such defiance of the Court.

It is clear from all of the facts and circumstances made known to this Court by the relator and the respondents, that the injunction, and other proceedings filed by respondents in the Circuit Court to render void and ineffective the title of Mr. Tay to the property in question, which has already been declared clear and genuine by this Court, is and must be regarded as contemptuous.

In re Coleman in 11 L.L.R. 432 (1954), at p. 440, the Court said about contempt:

“For it is our opinion, point of view, and firm position that, whenever we have any occasion to penalize any person, whether lawyer or layman, for contempt, we do it not merely because we regard their conduct as offensive, but rather because the Supreme Court must always be exalted and its dignity maintained.”

Also see *In re Coleman*, 11 L.L.R. 350 (1953).

Contempt has been defined in 6 R.C.L. 488, *Contempt*,

§ 1:

“Contempt of court has been defined as a despising of the authority, justice, or the dignity of the court; and he is guilty of contempt whose conduct is such as tends to bring the authority and administration of the law into disrespect or disregard, or to interfere with or prejudice parties litigant or their witnesses during

the litigations. Contempts are classified as direct or indirect, and as criminal or civil; a direct contempt being such as is offered in the presence of the court while sitting judicially; and an indirect or, as it is sometimes called, a constructive contempt being such as tends by its operation, though not committed in court, to obstruct and embarrass or prevent the due administration of justice.”

It is clear from the related facts and the cited opinions of this Court, that counsellor Alfred L. Weeks, who prepared and filed these injunction proceedings against the enforcement of this Court's judgment, as well as the cancellation proceedings, as an officer of this Court knew, or should have known, that his actions were contemptuous, and is hereby adjudged guilty of contempt.

The penalty which counsellor Weeks is deserving of has been greatly mitigated by the sympathy which prevailed among the members of this Court. Consequently, a nominal fine of \$100.00 is hereby imposed on him, to be paid within one week from the date hereof, and he is required to withdraw all actions filed against the deed of relator to the land in question, whether such actions are pending or on appeal. And it is so ordered.

Contempt of Court adjudged.