CASES ADJUDGED

IN THE

SUPREME COURT OF THE REPUBLIC OF LIBERIA

AT

OCTOBER TERM, 1952.

RILLIS BROWN, CHESTERFIELD EDWARDS and G. C. N. TECQUAH, Appellants, *v.* SARAH C. E. SIMPSON, ROSE J. R. ABASSIE, CORA CLARKE, and MARY CAPEHART, Appellees.

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

Argued October 23, 1952. Decided December 12, 1952.

One not a party to an injunction may be held guilty of contempt for violating it if he has had actual notice thereof.

Appellees Simpson, Abassie, and Clarke instituted an action of ejectment against appellants, Brown and Edwards. While this action was pending appellants Brown and Edwards instituted summary ejectment proceedings against Mary Capehart, an appelle herein and a tenant of appellees Simpson, Abassie, and Clarke, before appellant Tecquah, who as a Justice of the Peace for Montserrado County, decided in favor of appellants Brown and Edwards. Appellants Brown, Edwards, and a police officer, subsequently evicted Mary Capehart and destroyed her house by fire. On a complaint by appellees the court below granted an order to show cause, and after a hearing, adjudged appellants in contempt of court. On appeal to this Court, *judgment affirmed.*

T. Gyibli Collins for appellants. *R. A. Henries* for appellees.

MR. JUSTICE DAVIS delivered the opinion of the Court.

Appellees Simpson, Abassie and Clarke claimed ownership of and title to three-fourths of town lot number 43, situated in the city of Monrovia. Because of continued disputes over the said property, appellants instituted an action of ejectment against appellees in the Sixth Judicial Circuit, Montserrado County. As an ancillary suit they also instituted an injunction proceeding against Brown and Edwards, enjoining and restraining them from carrying on any operations on the said piece of property or in any way disturbing appellees' tenant, Mary Capehart, who was then living on a portion of the said property at appellees' instance. A writ of injunction was duly served upon appellants. While the proceeding was pending, appellants instituted an action of summary ejectment before appellant, J. C. N. Tecquah, a Justice of the Peace for Montserrado County, seeking to evict appellees' tenant, Mary Capehart, from the property in a summary manner, despite the pendency of both the action of ejectment and the injunction proceeding regarding the same property. Appellees' counsel then addressed the following written communication to appellant Tecquah.

> "We are informed that one Mr. Chesterfield Edwards has brought suit against Mary Capehart, and before you, in an effort to have her leave the premises where she now resides.
>
> "We would like to inform you that there are pending before the Sixth Judicial Circuit Court, Montserrado County, two cases—injunction and ejectment—which we instituted against Mr. Edwards, questioning his right to operate and remain on the same piece of land. It would seem that these cases are undecided in a su-

perior court, and until judgment has been rendered in them, no justice of the peace would be acting legally to interfere.

"We bring this information to your attention because Miss Capehart lives on our clients' property, and not on any land owned by Mr. Edwards; until the cases now pending in the Circuit Court have been decided, we would advise that matters remain as they are."

Although appellant Tecquah received this communication he ignored the suggestion and notice therein and proceeded to try the action of summary ejectment against Mary Capehart, appellees' tenant. Final judgment against the said Mary Capehart was rendered, and a writ of possession issued in favor of Rillis Brown. Subsequently Rillis F. Brown and Chesterfield Edwards, accompanied by police officer Joseph F. Cooper of appellant Tecquah's court, entered upon the premises in question, then occupied by appellees' tenant, Mary Capehart, put her out of the house, pulled down the house, set fire to it, and burned it to cinders.

Appellees, contending that appellants had disobeyed the writ of injunction, promptly brought the foregoing facts to the knowledge of Circuit Judge Dossen Richards in a formal manner by written complaint. Thereupon the circuit judge ordered process issued against appellants to show cause why they should not be held in contempt for disobeying the injunction. They appeared and filed returns embodying fourteen counts. In these returns, besides pleading considerable irrelevant and extraneous matter, appellants endeavored to justify the position taken by appellant Tecquah, setting up as a defense that he, as a justice of the peace, was not a party to the injunction suit; and therefore, although notice was given to him of the pendency of same, he was not compelled to obey said injunction. After hearing the matter the court below held appellants guilty of contempt of court and fined each

of them, except appellant Chesterfield Edwards, one hundred dollars. From this judgment appellants now seek relief.

On the record below, we were inclined to believe that appellant Tecquah had been misled to try the ejectment case regardless of the pendency of the injunction. But, as the arguments progressed, appellant Tecquah, who by special permission of this Court had been granted a seat at the counsel table, indicated a desire to address this Court during the argument of his counsel T. Gyibli Collins. We promptly afforded him an opportunity to speak. At this time we learned that appellant Tecquah had acted under the erroneous assumption that, by trying the summary ejectment case in face of the injunction, giving a writ of possession in face of both injunction and ejectment proceedings, and sending to the premises an officer who joined appellants Rillis Brown and Chesterfield Edwards in pulling down appellees' tenant's house, and burning it to cinders, he had participated in legal acts which could be justified because he was not a party to the injunction suit.

The barons and people of England in arms wrung from King John on June 19, 1215 the Magna Charta because of their desire to oppose and subdue tyranny, oppression, and unfair treatment. On July 4, 1776 the early American colonists, because of what they considered oppression by their mother country, adopted an immortal document which they styled their Constitution, and on this date declared to the world their sovereignty and independence. Some seventy-one years later, on July 26, 1847, our own sires with an eye single to the causes which motivated their flight across the ocean to this asylum from grinding oppression and tyranny, published to the world that imperishable document known as the Constitution of Liberia. With its adoption came the birth of our courts and the appointment of judges to administer justice to their fellow men. It was never intended that our judiciary should be

tyrants or despots, for the very Constitution which created and brought them into being was designed to abolish such evils. One charged with the sacred trust of judging his fellow man should be calm, sober, and open to reason; slow to reach conclusions and dispassionate in all matters.

Upon the issue of whether one can be held in contempt for disobeying an injunction to which he is not a party, this Court held as follows in *Porte* v. *Dennis,* 9 L.L.R. 213, 216, 217 (1947):

> "Whenever an injunction is issued, it is a contempt of court not only for any party who is summoned as a defendant in the cause to disregard it, but also it is as much a contempt of court for any party to disobey who was informed of the issuance of the writ without having actually been served with a copy thereof. As Bouvier puts it, 'To render a person amenable to an injunction, it is neither necessary that he be a party to the suit or served with a copy of it, as long as he appears to have actual notice. . . .' 2 Bouvier, Law Dictionary 1569, 1578 (Rawle's 3d rev. 1914); In re *Lennon,* 166 U.S. 548, 554, 41 L. Ed. 1110 (1897)."

In *Ruling Case Law* the same principle is stated as follows:

> "Under some circumstances, at least, a party to an injunction suit may be chargeable with notice of the issuing of the injunction so that his violation thereof will render him guilty of contempt, even though he has no actual notice; but it is otherwise as to one not a party. . . . It is well settled that actual notice of the injunction is sufficient to render even one who was not a party guilty of contempt in violating it, and that it is not necessary, if he had actual notice, that he should have been served with a copy of the injunction or the writ." 6 R.C.L. 594, *Contempt,* § 16.

We therefore hold that, since appellant Tecquah violated the injunction when, after having received notice of same, he proceeded to try and determine the case of sum-

mary ejectment, he is guilty of contempt. The court below did not err in imposing a fine upon him. Rillis Brown, who was a party to the injunction suit, also violated said injunction and was properly fined. We affirm the judgment of the court below. Costs are to be paid by appellants; and it is so ordered.

Affirmed.