

MANNY GOFAH and **YANTEE M'LANH**, Appellants, vs. **PETER**, alias
DEBBOOH WREH, Appellee.

[January Term, A. D. 1905.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado
County.

Native Custom. Damages.

This case was entered in the Monthly and Probate Court of Montserrado County, at its August term, A. D. 1904, before His Honor Judge R. J. Clark. After hearing the petition and evidence in the case, his honor the judge was pleased to give a judgment in favor of Peter, *alias* Debbooh Wreh, defendant, now appellee, to the effect that Manny Gofah and Yantee M'lanh shall produce the body of Tete in one month from date (24th day of August, 1904), and that they each give a bond of one hundred dollars for the safe production of the said Tete; in failure thereof, they to pay to petitioner his dowry money of £28; and the costs to be paid by defendant. Whereupon, the defendants, now appellants, Manny Gofah and Yantee M'lanh, excepted to the judgment of the judge, and prayed for an appeal to this the Supreme Court, seeking substantial justice. The case, therefore, comes up to this court on a bill of exceptions.

From a review of the record in the case the court has been informed of its history, as follows: Peter, *alias* Debbooh Wreh, plaintiff, now appellee, "pryed," that is, abducted (the word is Kroo) one Tete, the wife of Blackwill Sherman's son, which occasioned much dissatisfaction and trouble, to the extent that the town's people were two days deciding the matter, which they finally succeeded in doing by the plaintiff, now appellee, agreeing to pay the dowry money to Blackwill Sherman's son, according to the native or Kroo custom when a man "pries" another man's wife, which according to evidence he did. The woman Tete then became the wife of appellee. A short time subsequently, Yantee M'lanh desired to go to the coast to see her mother, who was reported to be very sick; but appellee would not allow her to go at that time, so the question rested. A short time after, his wife Tete left him and

went to Manny Gofah. Appellee then agreed that his wife go to the coast to see her mother if Manny Gofah and Debbey would become security for her return to him in one month and fifteen days' time. They, Manny Gofah and Debbey, bound themselves by a written instrument to appellee for the safe return of Tete within the stipulated time. Being thus secured, appellee allowed his wife Tete to go. But it appears that Tete did not return at the stipulated time, but was away for six months. Before she returned, however, appellee himself went to the coast, and after his return home the bondsmen produced and delivered his wife Tete to him and he received her; but in a day or two his wife told him that she was not his wife, and she did not wish to stay with him, for she had another husband.

The bond and security given for her return from the coast in one month and fifteen days was kept by appellee for the reason, as we gather from the evidence that he feared she would abscond, as it was reported that her family would send her away. She subsequently did abscond, left her husband, and went away on a steamer. The appellee then held Manny Gofah and Yantee M'lanh, aunt and sister of Tete, for the delivery of his said wife Tete, he still holding the bond given by Manny Gofah and Debbey. He held Yantee M'lanh because she was the sister of Tete his wife, and because Tete would often stay with her sister and kept her clothes at her house. This is a short but true history of the case. Now this court will review the evidence in the case and see how far the appellants are responsible for the detention and non-delivery of Tete, and whether the judgment of the court is in keeping with the evidence.

Peter, *alias* Debbooh, petitioner and now appellee, states that Tete is his wife; that he "pryed" her from her former husband and paid the dowry money, according to the custom of his tribe ; that he consented to her going to the coast to see her mother, under bond and security given by Debbey and Manny Gofah, for her return at the time set; but after the expiration of six months she returned to him and that he received her, retaining the bond of Debbey and Manny Gofah; that subsequently his wife refused to take him as her husband, and said she had another husband, and finally absconded from him. Manny Gofah states, in answer to the question of Attorney C. B. Dunbar, that she did not have appellee's wife. In answer to the questions by the court, she states that she does not know where Tete is ; that she hears that she ran

away on Sunday; that Tete did not tell her that she was going away; that Tete did not stop in her house when she returned from the coast, but that she stopped with Debbey, who brought her home ; that she does not know how many days Tete stopped with her husband. Yantee M'lanh stated, in answer to the questions of Attorney Dunbar, that last week Sunday Peter (appellee) came to her and asked her for Tete, his wife, and says that she told him that she did not have her and that she did not know where she was at; that she saw her last week Sunday; that she went to her place and had a bath early in the morning; that her box was not at her place because they were relatives, and that they kept their clothes together because they were sisters. Much of the evidence is the repetition of the same given by other witnesses, hence we will quote only such evidence as may or may not have a tendency to support the judgment of the judge below.

Mr. Anderson, Governor of Kroo Town, states that Tete was with her husband in his house, and that she ran away from her husband's house; that she said that she did not want Peter, appellee, as her husband; that their custom respecting a man "prying" another man's wife or a woman leaving her husband is that the man to whom the woman goes, or who "prys" her, pays the dowry money, and if she run away and go to her family, her family is responsible, and they must return the money; but if she run away of her own accord, no one is responsible; that the woman Tete ran off from Peter her husband on Sunday morning; that he, Peter, lives next door to him, witness; that she went off before day; that Peter came and made complaint to him, saying that his wife Tete had run off from him; that he heard her people were going to make her run; that he did not know if Manny Gofah sent Tete away.

Now, then, after a careful review of the case and the evidence adduced, this court is of opinion, based on the law and the custom of the natives (meaning aborigines), that Peter, *alias* Debbooh Wreh, appellee, is estopped from holding security against Manny Gofah and Debbey, for the ostensible reason that notwithstanding the said Manny Gofah and Debbey gave him, the said appellee, security for the return of his wife Tete in one month and fifteen days from the time she left home to go to the coast, and notwithstanding the time stipulated in the bond was not observed, he, the appellee, according to evidence, received her on her return, she being delivered to him by Debbey, one of the bondsmen. Appellee should have refused reception of his wife

Tetee, since the sureties did not keep the stipulation, and should have held them responsible, and have the bond cancelled by law, even if he was disposed to take his wife afterwards; for he could have legally taken her according to native custom. Since the bond had nothing to do with the dowry money unless the sureties paid to him the dowry money, and again, since Tetee, appellee's wife, said she would not stay with him again as his wife, because another man had "pryed" her, he, the appellee, should have compelled this new "pryer" to return to him his dowry money. And the court is further of the opinion that no evidence has been adduced in the case to prove that Manny Gofah and Yantee M'lanh were parties to the absconding of Tetee, the appellee's wife. Tetee keeping her clothes and bathing at Yantee's house, which evidence in the case shows is the custom of the Kroos, is no proof that Yantee M'lanh was a party to Tetee's absconding.

This court fails to see the congruity of the judgment of the judge below, if the evidence in the case, both as to facts and Kroo customs respecting marriage, is to be considered. The judgment of the judge appears to be based on his personal knowledge of the Kroo customs, while the evidence in the case shows the contrary.

This court, therefore, is compelled to reverse the judgment of the judge below, and rule appellee to pay costs. The clerk of the Supreme Court is hereby ordered to issue a mandate to His Honor Judge R. J. Clark of the Monthly and Probate Court, Montserrado County, to the effect of this judgment.