

JESTINA GOOD-WESLEY, by and through her husband, REGINALD A. WESLEY, et al., Appellants, v. ALBERT PORTE and LILIAN PORTE-BEST, heirs of CONRAD C. PORTE, deceased, Appellees.

MOTION TO DISMISS APPEAL. (VENUE NOT INDICATED.)

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

1. When the records of the Real Estate Tax Division of the Bureau of Internal Revenues fail to disclose registration of ownership, such person, by virtue thereof, is deemed not to be a real property owner and may not serve as a surety on an appeal bond.

During the course of an appeal, a motion to dismiss the appeal was brought, on the contention that the sureties on the bond were not owners of real property according to the records of the Real Estate Tax Division of the Bureau of Internal Revenues. The *motion was granted* and the *appeal was dismissed*.

Nete Sie Brownell for appellants. *S. Raymond Horace* and *Tilman Dunbar* for appellees.

MR. JUSTICE ROBERTS delivered the opinion of the court.

Before we could hear this appeal on its merits, appellees filed a motion to dismiss the appeal. The motion embodies four counts. Count four reads:

“And also because appellees say further to the defective bond of appellants in the above-entitled cause, that said appeal ought to be dismissed with costs against appellants, in that the rule of law commands that sureties to bonds, whether appeal or otherwise, must be householders or freeholders within the Republic of Liberia. Appellees submit that from an inspection of the records certified to your Honors in

the above-entitled cause, the names of Messrs James Dobor and Thomas J. G. Pahngon are laid in the body of the bond as sureties, though they did not sign said bond, and these sureties, it has been shown, do not possess the necessary real estate qualification as may be seen from a copy of a certificate from the Real Estate Tax Division, Bureau of Internal Revenues, Republic of Liberia, duly notarized, herewith made profert and marked exhibit 'A' to form part of this motion."

Counts one through three alleged by appellees were later discovered to have been based on clerical errors and have been waived.

We find it essential to here set forth the exhibit referred to by appellees:

"Real Estate Tax Division,
Bureau of Internal Revenues,
Treasury Building,
Monrovia.

"Office of the Director

"May 8, 1968

"To whom it may concern

"This is to certify that Messrs. James Dobor and Thomas J. G. Fahngon, according to our records, have no property registered in the Real Estate Tax Division, Bureau of Internal Revenues, R.L.

"Certified by:

"[Sgd.] J. GBEDE WILLIAMS,
Chief Accountant."

Appellants filed an answering affidavit consisting of four counts. Count four thereof is an answer to count four of the motion, contradicting the tenability of appellees' contention, and says:

"And also because appellants say, that as to count four of the motion to dismiss the appeal, said count of the motion is also false and without any legal merit in that besides the fact that the sureties did sign said appeal bond, they are also freeholders in the Republic

of Liberia, for appellants would never have procured propertyless parties to sign an indemnity bond. Appellants submit that the mere nonregistration of real property in the Bureau of Revenues does not *ipso facto* prove that the surety is without any real property or a hut on which he pays taxes."

We find it very difficult to agree with the learned counsel's contention raised in this count, especially when our statute is very clear on this issue as set forth in the Civil Procedure Law, 1956 Code 6:462 (C).

"By offer of unencumbered real property on which taxes have been paid and which is held in fee by the defendant."

Counsel's contention that property need not be registered in the Bureau of Revenues to justify possession of real property is, therefore, not well taken. For how can one pay taxes on property that he has not registered? The registration of property shows the value which regulates the payment of taxes. This has a tendency to reveal that the Government has been deprived of taxes by these sureties. Because of this omission to perform a mandatory requirement, we have no alternative but to sustain the motion to dismiss the appeal, with costs against the appellants.

And the clerk of this Court is hereby instructed to send a mandate to the lower court informing said court of this judgment. And it is hereby so ordered.

Motion granted.