



islature of Liberia. As time elapsed, and the Society acquired property, it purchased a parcel of land containing ten acres, situated in the area of Monrovia known as "Bassa Community." It was the policy of this organization to give to each of its members a portion of this land on which to build a house. According to the records in this case, both appellant and appellee were each accorded this grant which carried a common boundary.

During the March 1966 Term of the Sixth Judicial Circuit Court, appellant filed an action for an injunction against appellee. In the complaint, appellant alleges that he commenced the construction of a concrete building on his portion of land given him by the Society; that appellee had not only encroached on his land but had also broken down the concrete pillars erected by him and commenced construction of a building on a portion of his property, without any justifiable cause; that he had advised appellee to desist from his illegal trespass and encroachment but to no avail; that appellee's act of encroachment and destruction of the pillars was a deliberate act tending to deprive him of the opportunity of erecting his house; that appellee is an irresponsible person without any means of compensating appellant for damages which renders him the victim of irreparable loss.

To this complaint, appellees filed a seven-count answer, which we feel quite necessary to quote exactly as it appears in the records:

"1. Because defendants submit that the writ of injunction was served on them on Friday, the 27th day of May, 1966, and their appearance should have been within four days, but instead the court ordered them to appear on the 30th day of May, 1966, to show cause why the injunction should not be perpetuated, failing which the injunction would be perpetuated. The defendants consider the foregoing in contravention of the statutes and a breach of the Civil Procedure Law.

"2. And also because defendants say and submit that



ing thereon a substantial concrete building, this act of the defendants is not irreparable and plaintiff has a remedy to recover that portion of the land which he allegedly owns and upon which defendants are alleged to be constructing a building, by the institution of an action of ejectment through which he will recover a brand new building. Defendants submit that their act of constructing the building is not irreparable, nor is it injurious, but rather is to the benefit of defendants and plaintiff, and injunction, therefore, will not lie. To restrain any citizen from making improvements which will not only be for his benefit but for the benefit of all citizens and the public in general is in contravention of law and public policy.

"7. And also because defendants say that it is a legal maxim of law and equity that he who goes to equity must go with clean hands. Defendants submit that plaintiff does not have any title or any legal right from the Bassa Brotherhood Benefit Society, nor is he clothed with authority to institute action for and on behalf of said Society; plaintiff is, therefore, without authority to institute this action, and same should therefore be dissolved.

"WHEREFORE, and in view of the foregoing, defendants pray this Court to dismiss the complaint, with costs against plaintiff, without prejudice.

"Respectfully submitted,  
PHILIP MOORE and JOE TORTINEH, *defendants*,  
by and through their counsel.

"[Sgd.] A. GARGA RICHARDSON,  
*Attorney and Counsellor at Law.*"

Subsequently, appellees filed a motion to dismiss the complaint, based on the points raised in the answer. Contending that the answer and the motion of appellees are without merit, appellant states that:

“His Honor, Frederick K. Tular, called the case for hearing of the motion on the 31st day of October, 1966, and after hearing argument reserved his ruling until the 9th day of November, 1966, when he entered a ruling dismissing plaintiff’s case on an issue strictly of fact, which, although raised in the complaint, was never denied nor traversed in the answer nor the motion for Dissolution and, therefore, was not argued at the hearing.”

But the trial judge based his ruling strictly on count six, the last count of the complaint, which reads:

“And plaintiff, further complaining says, that defendant intends to misuse said premises and deprive plaintiff of the opportunity of constructing his house by breaking down his concrete pillars, encroaching on plaintiff’s property and molesting plaintiff’s rights, the said defendant being an irresponsible person without means of indemnifying plaintiff, and plaintiff, having no remedy at law, will suffer irreparable loss unless defendant is enjoined from further use and destruction of the aforesaid premises.”

And count two of the answer, which reads:

“And also because defendants say and submit that the bill of complaint as a whole shows lack of equitable averment, in that, if defendants at all broke down the pillars of plaintiff he has a legal remedy at law and, therefore, injunction will not lie.”

As regards the other issues raised, the judge in his ruling, says:

“The other matters and/or issues raised in the plaintiff’s complaint, as well as defendant’s motion to dissolve the injunction, are extraneous to the subject of injunction and the motion for the dissolution of the injunction and are hereby not considered.”

The Court goes on to say:

“If the defendants are breaking down plaintiff’s con-

crete pillars, the remedy for that is at law; plaintiff could, through the Republic of Liberia, institute a malicious mischief suit against them."

Appellant tried to be very exhaustive in his eleven-count brief filed with us, and both appellant and appellee strenuously and ably presented their contentions during their arguments before this Court. After recourse to the complaint, answer, and the motion to dissolve, we find pertinent issues both as to law and fact which the judge neglected to pass on, especially so where appellant had raised demurrers to appellees' answer and the motion to dissolve, which presented issues of law, incumbent on the judge to resolve. Also, the appellant contended that the answer of appellee was uncertain, vague, hypothetical, evasive and argumentative, which rendered it insufficient, and, further, that appellee admitted that both he and his adversary were given a parcel of land by the Bassa Brotherhood Benefit Society, but that no boundary was defined between them. We wonder how an issue of fact like the latter could be disposed of without hearing evidence. A very interesting and important issue raised in the answer is that appellant, not being the President of the Society, nor a member of the Board of Trustees, is not legally clothed with authority to sue or be sued. All of these points raised by both sides seemed trifles to the judge, but to us present worthy and interesting issues necessary to be passed upon. This Court has held that it is always necessary that a judge in passing upon pleadings in a case, make his ruling so comprehensive that it embraces every material issue involved. There are numerous opinions of this Court which state that all issues of law must be disposed of before a cause is tried.

Therefore, it is our considered opinion that the ruling therein entered by the trial judge dissolving the injunction be and the same is hereby reversed, and the case ordered remanded to the lower court to be tried regularly.

Costs in these proceedings are to abide final determination of the case.

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

*Reversed and remanded.*