

CECELIA A. CURTIS and RUTH L. DENNIS, Ap-
pellants, v. GEORGE C. P. BROWN, Appellee.

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

Decided February 17, 1932.

1. An action of injunction does not lie to try an issue involving title to real property, such being a mixed question, which by statute is triable by a jury under the direction of the court.
2. In injunctions the court must consider the issues raised and submitted by the parties to the suit and judgments in either courts of law or equity must be confined to the questions raised between them and cannot extend beyond them.
3. A Liberian woman who holds property in Liberia does not lose her right to property because of her marriage to an alien.

Petitioner, now appellee, obtained an injunction restraining respondents, now appellants, from receiving rents from a certain property in Monrovia. On appeal to this Court, *reversed*.

Barclay & Barclay for appellants. *R. Emmons Dixon* for appellee.

MR. CHIEF JUSTICE JOHNSON delivered the opinion of the Court.

This case originated in the Circuit Court of the First Judicial Circuit, Montserrado County, and was brought by George C. P. Brown, the appellee in this case, against appellants, respondents in the court below, to restrain and prohibit the said appellants from drawing any portion of the rent due on lot 321 M, in the city of Monrovia now occupied by West and Co., and requiring the said appellants to show cause why the injunction should be dissolved.

The history of the case is as follows:

Henry Dewitt Brown, late of the City of Monrovia, died in 1904, leaving a widow, Cecelia A. Brown, and

three children, Ashmun Brown, George C. P. Brown, the appellee, and Ruth L. Brown, now Dennis. Subsequently the widow married a Mr. Curtis, an American citizen who took his wife and her three children to America. Several years ago, appellee returned to Liberia and took charge of the property in Monrovia. Mrs. Curtis also returned bringing a registered power of attorney from Ruth L. Brown, now Dennis. The income of the property, variably amounting to four hundred dollars and six hundred dollars, was divided among the widow and the two surviving children. It seems that appellee consented to this arrangement and was allotted his portion of his rents, which he has been regularly receiving. The absent parties authorized Arthur Barclay to look after their interest, giving him full authority to act for them. This arrangement lasted several years down to the beginning of this action.

Appellee now seeks to dispossess the said Cecelia A. Curtis and Ruth L. Dennis of their share of the property, because he claims they having married American citizens, are denationalized and have become citizens of the United States of America, and cannot in consequence of such denationalization own property in Liberia.

Appellee brought an action in the Monthly and Probate Court of Montserrado County and subsequently entered an action of injunction in the Circuit Court of the First Judicial Circuit for Montserrado County as above stated. The case of injunction alone claims our attention.

The pleadings are voluminous, but the Judge who presided at the trial of the case, His Honor Aaron J. George, ignored the demurrers raised in the answer of appellants, and made the following decree, which is substantially as follows:

“Where we do not violate any statute or rule of court or abrogate any well settled principle of the common law or general practice or abridge or preju-

dice the rights of any opposing party, the court will take the shortest out to the merits of the case or the controversies between the parties concerned. The case in the mind of the court has one important issue involved in it, whether or not Cecelia A. Curtis and Ruth L. Dennis, both of whom are married to American citizens in the United States of America, can hold property in Liberia, Vol. 1, page 136, Sec. 12.

“It is adjudged that the petition of the petitioner is hereby granted and the injunction is perpetuated, and that Arthur Barclay representing Cecelia A. Curtis and Ruth L. Dennis, who are naturalized citizens of America by marriage, desist from drawing any portion of the rent of said premises lot 320, Monrovia, now occupied by West and Co., and also from further interference with any of the properties of the estate of the late Henry Dewitt Brown, and that said property be turned over to the petitioner. Cost in favour of petitioner.”

To this decree, respondents in the court below took exceptions and have brought the case up to this Court, on appeal, by bill of exceptions. The bill of exceptions contained two points which are stated as follows:

“(1) Because at the hearing of the case, Your Honour failed to pass upon the demurrers raised in the answer and subsequent pleadings, which by the laws of Liberia, you were required to do; to which neglect respondents except.

“(2) And also because Your Honour handed down a decree perpetuating the injunction on the grounds *inter alia* that respondents, though born in Liberia, and the property of decedent H. D. Brown had vested in them long before marriage, had by their marriage to American citizens become aliens, and had thereby lost their right to hold property in this Republic, to which respondents except.”

As to the first point in the bill of exceptions, we are of the opinion that it was error on the part of the Judge to ignore the demurrers raised in the pleadings. In *McC-Auley v. Jorgusin*, 1 L.L.R. 289 (1896), this Court ruling on a similar point, observed as follows:

“While it may be to some extent discretionary with a court to perpetuate or dissolve an injunction, yet all courts are bound to consider the issue raised and submitted by the parties to a suit, and judgments in either courts of law or equity must be confined to the question raised before them, and cannot extend beyond them. In this case it is clear that the issues were not considered by the court below, for which reason the decree is voidable.”

The court also erred in deciding the title to lot 320 and to other property of the late H. D. Brown. See *Johnson v. Cassell*, 1 L.L.R. 161 (1883) where it was held that a suit of injunction does not lie in cases where the title to real estate is involved.

The court held that courts of law and not equity have jurisdiction over cases involving title to real property. *Id.* at 162. See also *Green v. Turner*, 1 L.L.R. 276 (1895), where it was held that such being a mixed question which by statute is triable by a jury under the direction of the court, the court in equity cannot decide issues involving the validity of title.

We come now to the second point in the bill of exceptions, in which is embodied the main point, whether a Liberian woman who is married to a foreigner is thereby rendered incapable of holding property in Liberia.

This point has been decided in *Williams v. Young*, 1 L.L.R. 293 (1896), where it was held that under the Constitution of Liberia a woman does not lose her title to property which she may have acquired either before or after marriage. The Court in handing down the decision made the following observations:

“The next point to which this court’s attention is

called is as follows: That M. A. Johns, the testatrix, marrying an alien, a citizen of Holland, lost her citizenship of Liberia, under the law that the wife takes the nationality of her husband. To this the court says, this foreign law conflicts with the organic law of the Republic. The Constitution, which throws its powerful and protecting arm to uphold her, speaks in the following language:

'The property of which a woman may be in possession before or after marriage otherwise than through her husband shall not be taken for the payment of his debts whether contracted before or after marriage. Nor shall the property thus intended to be secured to the woman be alienated otherwise than by her free and voluntary consent, and such alienation may be made by her either by sale, devise or otherwise.' "

It seems then to be a well-settled principle that a Liberian woman who marries a foreigner does not lose her right to hold property in Liberia.

It results from the above reasoning and from the decision of the Supreme Court and laws above cited, that the judgment of the court below should be reversed and the estate ruled to pay all costs and it is so ordered.

Reversed.