

JAMES W. DENNIS for his wife MARIA DENNIS,
Plaintiff-in-Error, v. GEORGE H. VANJAH DIM-
MERSON and His Honor NUGENT H. GIBSON,
Judge, Defendants-in-Error.

WRIT OF ERROR TO THE CIRCUIT COURT OF THE FIRST JUDICIAL
CIRCUIT, MONTSERRADO COUNTY.

Decided May 2, 1928.

1. The statutes defining terms of court and limiting the time within which to enter actions do not apply to a case of injunction, which may be brought at any time and should not be dismissed on the technical objection that it is entitled of the wrong term.
2. Amendments with regard to the term may be made by the court in which the case is being tried at any time.

In action to obtain injunction in Circuit Court, motion to dismiss granted. On writ of error, *reversed* and re-manded for trial.

N. H. Sie Brownell for plaintiff-in-error. *G. H. Vanjah Dimmerson* for defendant-in-error.

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

This was an action of injunction entered in the Circuit Court of the First Judicial Circuit, Montserrado County, by plaintiff-in-error, to restrain defendant-in-error from entering upon the premises or lot of land in the City of Monrovia, numbered one hundred seventy-nine and cutting the grass therefrom. The action was entered on the 3rd day of September, 1927, and was entitled in the November term, 1927. The defendant-in-error filed an answer praying the court below to dismiss the case for the following reasons: 1. Want of jurisdiction by the court, as the issue involved validity of title; 2. That the case was brought in the wrong term of court, in that the

August term had not yet expired; 3. That the affidavit to the said petition was signed by counsel for petitioner and not petitioner himself. The court below in ruling, overruled points one and three, but sustained the second point of the motion and dissolved the injunction because although the court adjourned on the 31st day of August, 1927, to meet the second Monday in November ensuing, it was necessary that ten days should elapse before the November term would begin, and that the petition for the writ of injunction filed on the 3rd day of September, was premature and should have been filed as of the record terms of this court. To this ruling plaintiff-in-error excepted and has brought the case up to this Court on a writ of error for review.

Passing by all other questions that arise in the case, we will say here, that the statute defining terms of court does not apply to cases of injunction, which may be brought at any time, and the case should not be dismissed on the technical objection that it is entitled of the wrong term. Amendments with regard to the term may be made by the court in which the case is being tried. Act of 1870, 9; *Erskine v. Smith*, 1 L.L.R. 69 (1874).

In view of the foregoing and of certain circumstances which have been brought to the notice of the Court, we will not consider the other points raised in the answer of plaintiff-in-error, but will reverse the judgment of the court below, and remand the case to said court with instruction to try the case on its merits. The defendant-in-error, who claims that he has an equitable claim to said lot, is required to establish said claim by an action of specific performance in the Circuit Court, said case to be entered before the November term of this Court; costs to abide the final result.

Reversed.