

DECISIONS AND OPINIONS
OF THE
SUPREME COURT
OF THE
REPUBLIC OF LIBERIA.
OCTOBER TERM, A. D. 1915.

J. AZARIAH HOWARD and MATILDA A. HOWARD, his wife,
Appellants, v. WENDALL P. ROBERTS, Appellee.

SUBMITTED DECEMBER 22, 1915. DECIDED JANUARY 10, 1916.

Dossen, C. J., Johnson and Witherspoon, JJ.

1. The probate division of the Monthly and Probate Court is the proper division in which objections to the probaton of deeds should be addressed and not the law division.
2. The statute requiring all deeds, mortgages and other conveyances of real estate to be probated and registered is intended to give notice of the same so as to allow objections if any there are.
3. The judge of the Monthly and Probate Court has jurisdiction in matters of real title to the extent of finding whether objections raised before court to probaton are legally founded or not.
4. Objections filed to the probaton of a deed need not be supported by affidavit.

Mr. Justice Witherspoon delivered the opinion of the court:

Objection to Probation of a Deed—Appeal from Judgment.
This is an appeal from the proceedings and judgment of the Monthly and Probate Court of Montserrado County at its November term, A. D. 1914.

We find, after a careful review of the case as set forth in the pleadings, that one Wendall P. Roberts, of Montserrado County, the respondent, conveyed to Sidney H. Arnett by a deed in fee simple five-eighth's of lot No. 96, in the City of Monrovia that the said objectors set up claim to said lot or parcel of land, and at the time

it was offered, at the Monthly and Probate Court, objected to its probation.

We are disposed to consider such of the exceptions only as are material to the issue; and this brings us to the first objection laid in the bill of exceptions which reads as follows: "Because on the said 6th day of November, A. D. 1914, said cause being then before the Probate Court, Your Honor ruled that the written objections filed by objectors in the matter was improperly addressed to the probate division and refused on that ground to hear the objections; this ruling being contrary to express law, objectors respectfully except to same."

This exception is well taken in the opinion of this court. The ground upon which this ruling is based has no foundation. The title of the court as set forth in the objection reads as follows: "In the Monthly and Probate Court for Montserrado County in its probate division, September term, A.D. 1914."

We feel no hesitancy in saying that the objections are addressed to the proper division of the Monthly and Probate Court, and the judge below erred in ruling otherwise.

The second exception reads: "And also because on the said 6th day of November, A.D. 1914, Your Honor ruled that you could not determine a matter of title, although objectors pointed out that you could examine title so far as to determine the rightfulness or otherwise of objections before court, and refused to hear objection on that ground; to which said ruling, said objectors respectfully excepted."

The law governing this point is fully clear and emphatic. The object of the statute requiring all deeds, mortgages, or other conveyances of real estate to be probated and registered, is intended to give notice of the fact so as to allow objections to same if any there are.

Section 2 of said Act reads: "It is further enacted that in order to make a deed, mortgage, or other conveyance of real estate valid and probatable said deed, mortgage or other conveyance shall be witnessed by at least two witnesses, and the Chairman of the Probate Court shall cause the ministerial officer of the court to give notice at the door, *viva voce*, that the court is about to probate said deed, mortgage, or other conveyance; and should any person or persons object to the probation of any deed, mortgage, or other con-

veyance pending before the court, it shall be the duty of the court to inquire into the objection and if said objections are well founded the court shall refuse to probate said deed, mortgage, or other conveyance until such objections are removed.”

We affirm that while judges of the Monthly and Probate Court cannot try title to real estate, still it is clear from the law above stated that judges of the Monthly and Probate Courts are empowered to take jurisdiction in matters of objections to disputed titles to the extent of finding the legality or illegality of the grounds of objections to probate and if they appear to be well founded to suspend the probate until the question of title shall have been decided. (Act, 1861, p. 91; I Lib. L. R. 51; *Blunt v. Barbour, Id.* p. 58.)

The third objection raised the question of affidavit.

We do not concur in the ruling of the judge setting forth that the objection should have been supported by affidavit. We agree that the judge erred in this point.

The court is of opinion therefore that the judgment not being in keeping with the principle of law, should be reversed, and it is so ordered.

Arthur Barclay, for appellants.

A. Karna, for appellee.

ALFRED D. J. KING, Appellant, *v.* SHAD N. WILLIAMS,
legal guardian of Roderick A. Deputie, Appellee.

ARGUED DECEMBER 16, 1915. DECIDED JANUARY 10, 1916.

Dossen, C. J., and Johnson, J.

1. There is no legal inconsistency in joining in the same complaint distinct counts which support the idea of special and exemplary damages, provided they are separated and pleaded in conformity with the rules of pleading.
2. An action of damages is the proper action for the redress of any unlawful injury for which the law has provided no other specific remedy.
3. A copy of any document, properly the subject of public records, to be admitted as evidence, should bear a certificate to the effect that it is a true and correct copy of the original as recorded.
4. The jury, except in the cases mentioned in section fifth of the Chapter on Injuries, Liberian Statutes, can only legally award damages to the amount of the loss or “inconvenience” sustained by the plaintiff, without regard to the degree of misconduct of which the defendant is found guilty.