

JAMES T. MANNING, Appellant, v. NEW YORK
KARPEH, Appellee.

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

Argued December 23, 1937. Decided January 14, 1938.

1. Judgments may be either final or interlocutory.
2. A final judgment is one which disposes of the case either by dismissing it before a hearing is had upon its merits, or after trial, by rendering judgment either in favor of plaintiff or defendant.
3. An interlocutory judgment is one which determines some preliminary or subordinate point or plea, but does not adjudicate the ultimate rights of the parties.

Appellant, plaintiff in the court below, instituted an action of damages for personal injuries in the Circuit Court of the First Judicial Circuit against appellee, defendant in the court below. Judgment was rendered for the defendant, and plaintiff appealed to this Court. A motion by appellee to dismiss the appeal was overruled, and on consideration of the case on its merits, the *judgment* of the lower court was *reversed*.

Anthony Barclay for appellant. *C. H. Taylor* for appellee.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

This case comes up to this Court of last resort from the Circuit Court of the First Judicial Circuit, Montserrado County, Republic of Liberia, upon a bill of exceptions containing two counts.

At the August term of said court, 1936, appellant, plaintiff in the court below, instituted an action of damages for personal injuries against appellee, defendant in the court below. The trial was only upon the issues

of law raised in the pleadings, and resulted in favor of appellee, defendant below. The appellant not being satisfied with the said rulings, opinions and final judgment of the trial court, excepted and appealed to this Court upon a bill of exceptions containing two counts which read as follows:

- "1. Because on the 31st day of December A.D. 1936 Your Honour sustained counts 1, 3, and 7 of defendant's answer in your ruling on the law pleadings to which plaintiff excepts.
- "2. And also because on the said 31st day of December A.D. 1936, Your Honour further in ruling on the law pleadings in said case, overruled counts 2 and 4 of plaintiff's complaint in error and dismissed the action with costs against plaintiff to which plaintiff excepts."

Before the said cause was called for hearing in this Court, appellee filed a motion to dismiss the appeal for the following legal reasons, to wit:

- "1. Because this case has not been tried, and no final judgment rendered thereon; as the said appeal was based on the rulings of the law pleadings; wherefore appellee submits that appellant cannot be successful in his Honourable Court.
- "2. And also because appellee says that the said appeal being based on the court's ruling on the law pleadings it is an interlocutory judgment upon which no appeal can lie, as the appellate court cannot hear causes piecemeal."

On the 23rd of December, 1937, said cause came on for hearing before this Court, when it was decided to hear both the motion and the appeal so as to dispose of all the points in one opinion, Counsellor Anthony Barclay, appearing for appellant, in his argument strongly contended that the trial judge committed gross irregularities and errors, which he himself admitted by afterwards approving the bill of exceptions in which appellant had

complained specifically of said errors, and that the said judgment should be reversed. Whereupon Counsellor C. H. Taylor for appellee in support of his motion proceeded with his arguments; during which time the Court put several questions to him, in replying to which he admitted that the trial judge did err in his ruling on the law pleadings, but nevertheless maintained that appellant had no right of appeal from said judgment, and submitted.

We have very carefully considered the points raised by the appellee in his motion to dismiss the appeal of appellant and applied the law governing same, but we fail to see that the law, statute or common, supports his contention, for by recourse to *Cyc.*, vol. 23, p. 672 under "Finality of Determination," we find that the relevant portion reads:

"Judgments may be either final or interlocutory. A final judgment is one which disposes of the case, either by dismissing it before a hearing is had upon its merits, or after trial, by rendering judgment either in favor of plaintiff or defendant. An interlocutory judgment is one which determines some preliminary or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties."

The Court found that the motion of appellee is not supported by law and therefore should not receive the favorable consideration of the Court; it therefore proceeded to hear the appeal upon its merits.

The Clerk was thereupon ordered to read the records in the case. This having been done, the Court found that the issues raised in the case are identically those raised in a former case decided by this Court during its April term, 1936, in which New York Karpeh, Governor of Krootown, Monrovia, was appellant and James T. Manning was appellee, habeas corpus proceedings, 5

L.L.R. 62. We would here again reiterate what is said in an opinion of this Court, handed down on the 22nd day of January, 1937, in the case *Barnes v. Republic*, 5 L.L.R. 395, 4 New Ann. Ser., a trial of an offense against the election laws by destroying a ballot box. The relevant portion reads thus:

“Trial judges should pay strict attention to the opinions given by this Court from time to time, and endeavor to understand and follow them both in the spirit as well as in the letter.

“For, that is one of the most potent means of stabilizing and unifying the practice, and this Court will therefore view with grave concern any willful attempt on the part of a trial judge to ignore or evade the principles we lay down for their guidance from time to time.”

Finding as we do from a very close study and comparison of the issues raised in this suit with those set forth and contained in the case *Karpeh v. Manning*, decided by this Court April 14, 1936, we do not deem it necessary to go very exhaustively into the points and issues herein raised as they are identical with those raised in the case mentioned *supra*, hence we have no hesitancy in saying that they are the same in principle and fact, and this Court having handed down an opinion that arrest and imprisonment of appellant was illegal, that issue is no longer open for the consideration of the court below.

It is therefore the opinion of this Court that the judgment of the court below should be reversed and the case remanded with instructions to the judge of the lower court to resume jurisdiction and to proceed with the other issues of law and fact. Costs of the appeal to be paid by appellee, and the other costs to abide final determination of the case; and it is hereby so ordered.

Reversed.