

Ex Parte J. J. MASSAQUOI for his Wife, SARAH MASSAQUOI, Petitioner-Appellee, Administrators of the Estate of the Late MOMOLU MASSAQUOI, Intervenors-Appellants.

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

Argued April 7, 14, 1941. Decided May 3, 1941.

Where a petition, filed in court and intended to commence an action at law or equity, fails to be properly entitled or to give the cause and the names of the parties as plaintiffs and defendants, it will not receive the favorable consideration of the court and the petition will be denied.

Appellee filed a petition in the circuit court praying to confirm a survey of a town lot and to correct a number in a mortgage deed executed on said lot. The court sustained appellee's petition and ordered the survey confirmed and number corrected. On appeal to the Supreme Court, *petition denied*.

A. B. Ricks and *Anthony Barclay* for appellants. No appearance for appellee.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

This cause comes up to this Court for review from the Circuit Court of the First Judicial Circuit, Montserrado County, which court decided favorably upon an application filed by J. J. Massaquoi * for his minor children, heirs of Sarah Massaquoi his wife, praying that the court confirm the survey of one town lot of land Number 272 in the City of Monrovia, made by B. J. K. Anderson, Public

* Ed. NOTE: This case and the related cases are defective in that there are conflicting statements as to who instituted this proceeding in equity and in what capacity.

Land Surveyor, Montserrado County, and correct the number of said lot in a mortgage deed issued on the twenty-fifth day of February, 1930, for this same tract of land.

This Court, taking judicial notice of the records, observes that the question of the number of the property was adjudicated in the court below on the twentieth day of October, 1939. The lower court in its ruling entertained and sustained the application and ordered the survey confirmed and the number corrected in the mortgage deed which had been executed on the twenty-fifth day of February, 1930. Objectors, now appellants, administrators of the estate of the late Honorable Momolu Massaquoi, were dissatisfied with the several rulings and opinion of said court, and appealed to this Court for a review of said ruling, contending that the application failed to set forth any names of objectors (intervenors).

This Court, taking due judicial notice of the records filed, observes that said documents in this case fail to state the names of any objectors in the court below. This Court further observes that in *Ex parte Williams*, which involved an application for the restoration of sundry real estate claimed by one E. W. Williams to be his property, the Court gave the following reasons for denying the application:

“ . . . [S]aid document cannot be considered by . . . [this Court] as a legal instrument . . . in that there is no title of the cause nor anyone named as respondent.

“[A]n action . . . [is] ‘an ordinary proceeding in a court of justice by which one party prosecutes another . . . for the enforcement or protection of a right. . . . The party complaining shall be known as the plaintiff, and the adverse party as the defendant.’ 1 Rev. Stat. § 252.” *Ex parte Williams*, 4 L.L.R. 189, 190 (1934).

This Court regrets to say that the document filed by peti-

tioner contains none of these requisites and therefore cannot receive the favorable consideration of this Court.

This being in the nature of an action, and not within the embrace of the law and rule of this Court governing the filing of pleadings, we regret to say that said petition should be denied, the case dismissed, and petitioner ruled to pay all legal costs; and it is hereby so ordered.

Petition denied.