

JACOB O. PRATT, Appellant, v. JAMES T. PHILLIPS, Appellee.

MOTION TO ADVANCE CAUSE ON THE TRIAL DOCKET.

Argued February 3, 1941. Decided February 21, 1941.

1. Except as permitted by the Rules of the Supreme Court, cases will be heard in the order in which they appear on the docket.
2. The question of damages suffered by delay in the trial of an action of ejectment is a matter for redress by due process of law.

On motion by appellee in action of ejectment to advance the cause on the trial docket, *motion denied*.

*B. G. Freeman* for appellant. *A. B. Ricks* for appellee.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

James T. Phillips, the appellee in this cause, through himself and his counsel made and filed a motion before us moving us to advance his cause on the trial docket so that same might be tried other than in the order in which it has been placed on the trial docket of the present term of Court.

The appellee supports his motion with the following reasons, to wit:

“(1) That he was plaintiff in the court below in this action of Ejectment against the appellant who was defendant in the court below, and that said appellant detains ten (10) acres of land belonging to said plaintiff now appellee.

“(2) That he has been and is still being damaged by the detention of his land.”

When the said motion was called for hearing at this

bar, appellee cited as his only authority *Ross v. C.F.A.O.* [citation missing], where a similar motion was made for advancement because appellee, a foreigner, was due to go out of the country on leave and his return to Liberia was problematical. Obviously, as pointed out to him during said argument at this bar, the two cases are not parallel.

It also was pointed out to appellant's counsel that the rule of Court providing for the advancement of causes on the trial docket did not include any of the reasons assigned by him in his motion now under review. Under rule of this Court it is permissible for any counsellor living out of Montserrado County, who may be the legal representative of a party to any cause pending in this Court, to move for advancement of his cause. Rev. Rules, S. Ct., Rule III, § 3. It is obvious that the intent of the rule is to facilitate the disposition of causes docketed in this Court that may be represented by counsellors from parts of the Republic other than Montserrado County where the seat of the Court is situated, as the same rule prescribes that all causes shall be taken up and disposed of as they appear on the trial docket and are reached. In this case it has not been shown that appellee is about to leave the Republic and that his return is problematical or that his counsel is domiciled outside of Montserrado County.

The question of damages which appellee or any other party may suffer by a delay in the trial of a cause is a matter for redress by due process of law which is available to any party who may feel himself injured. Although said rule provides that cases involving certain public interests may, under some circumstances, be heard out of their proper sequence, yet it is manifestly improper for us to give any preference whatever to the causes of one pair of private suitors over any other except as the rule of this Court permits.

Moreover, the phraseology of the motion carries a subtle suggestion that appellee will have his judgment

affirmed by this Court. This Court cannot allow this implication to go unchallenged.

Because of the circumstances hereinabove explained, no legal reason having been shown by said motion why said cause should be advanced on the trial docket, we are of the opinion that the said motion should be denied, with costs thereof against the mover of said motion; and it is hereby so ordered.

*Motion denied.*