

CASES ADJUDGED
IN THE
SUPREME COURT OF THE
REPUBLIC OF LIBERIA

AT
NOVEMBER TERM, 1932.

K. N. PYNE, Plaintiff-in-Error, *v.* JOHN BARDU
and His Honour MARTIN N. RUSSELL, Judge, First
Judicial Circuit, Defendants-in-Error.

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

Decided February 9, 1933.

1. When a party possesses an estate in fee and from either sympathy or friendship permits another to enter and take possession of the said estate and enjoy the same as long as the landlord shall so desire, such estate shall be termed an estate at will.
2. An estate at will is at the will of both parties; so that either of them may determine at his will and quit his connection with the other at his own pleasure.
3. A freehold is an estate of inheritance; or an estate not of inheritance; the former is either a fee simple or an inheritance limited, as of fee tail. A freehold not of inheritance, is an estate only for life; and an estate of freehold cannot be conveyed without livery of seizin.

Plaintiff tenant, now defendant-in-error, obtained an injunction in the Circuit Court restraining the agent of his landlord, now plaintiff-in-error, from ejecting tenant. On writ of error, this Court *reversed*.

Doughba Carmo Caranda for plaintiff-in-error. *A. B. Ricks* for defendants-in-error.

MR. JUSTICE KARNGA delivered the opinion of the Court.

This case was brought before this Court by a writ of error issued by order of Mr. Chief Justice Johnson. The history of the case is as follows:

Paul N. Revere, a citizen of Liberia, was possessed of a tract of land situated in the Borough of Krutown, in the City of Monrovia, the same being an aboriginal grant from the Republic of Liberia to the said Paul N. Revere in fee simple, dated the 13th of July, 1905.

It appears that in the year 1912 John Bardu, defendant-in-error, on account of old age and he also being a member of the church of Paul Revere, was placed on the property by the latter; a thatch hut was subsequently built on the property by the defendant-in-error and from that time he continued to live on the premises peaceably until July, 1932.

It also appears that Paul Revere left Monrovia for the United States of America sometime in the year 1929, but, before his departure, he executed a power of attorney to one K. N. Pyne, giving him full authority to look after his affairs as his agent. In May, 1932, a letter was sent to the said K. N. Pyne by Paul Revere requesting him to give thirty days' notice to the said John Bardu to quit his premises.

The records show that in the month of July, 1932, a notice to quit after thirty days was served on the defendant-in-error by the counsel of plaintiff-in-error. The defendant-in-error, however, refused to quit the premises on the grounds that he had paid to his landlord the sum of five pounds sterling and that by virtue of an oral contract entered into between himself and his landlord, he took possession of said property as tenant for life. Upon representation made by the said John Bardu to the judge of the court below in August, 1932, that plaintiff-in-error intended to violently eject him from the peaceful enjoyment of his said life estate, a temporary writ of injunction was issued against plaintiff-in-error pending investigation. On the 26th day of September, 1932, final

decree was entered by the judge of the court below that the injunction be perpetuated, with costs against the defendant in the court below. The defense excepted to the said decree and gave notice of appeal. He did not appeal but made an application to the Chief Justice for a writ of error to the following effect:

1. That Paul N. Revere, a citizen of Liberia, is possessed in fee simple of a parcel of land, one-eighth of an acre in quantity, situated in the Borough of Kru-town in the City of Monrovia, said land being an aboriginal grant from the Republic of Liberia and dated the 13th day of July, 1905.

2. That before his departure for the United States of America the said Paul N. Revere, out of sympathy, placed one John Bardu, a member of his church, on said property to live until he should order otherwise.

3. That while in Monrovia, he executed a power of attorney on January 25, 1929, in favor of K. N. Pyne, a resident of Krutown, Monrovia, giving him full authority to take care of all his interest in his absence; and in May, 1932, sent a letter to K. N. Pyne, his said agent, requesting him to give thirty days' notice to John Bardu to quit his premises, and turn the same over to a relative of his to look after.

4. That notwithstanding the service of the notice giving the said Bardu thirty days to quit the premises, he, through misrepresentation, caused the Judge of the Circuit Court of the First Judicial Circuit to issue a writ of injunction against plaintiff-in-error in August, 1932; and

5. That said Judge in his final decree perpetuating the said injunction committed an error and therefore plaintiff-in-error prays that said decree be reversed by this Appellate Court.

Upon careful reading, nowhere in the records of this case is there found any evidence that the plaintiff-in-error made any attempt to violently eject John Bardu from the

premises. On the contrary, there is evidence to show that the defendant-in-error in the court below took every necessary and peaceful method in approaching the said plaintiff on the question of his removal from the property of his principal.

With reference to the second question raised in the complaint of the plaintiff that prior to the departure of his landlord from the Republic an oral contract was entered into between himself and his landlord whereby the plaintiff was to enter and live upon the property of the latter during his natural life and that in consequence of which he, the plaintiff, paid the sum of five pounds sterling, we are of the opinion that a freehold is either an estate of inheritance or an estate not of inheritance. The former is either a fee simple, or an inheritance limited, as of fee tail, while a freehold not of inheritance is only an estate for life; and that estates of freehold cannot be conveyed without livery of seizin. Blackstone in his *Commentaries*, Book II, observes:

“Formerly, conveyances were made by parol, or word of mouth only, without writing; but this giving a handle to a variety of frauds, the statute 29 Car. II. c. 3 [the Statute of Frauds] enacts, that no lease-estate interest in lands, tenements, or hereditaments, made by livery of seizin, or by parol only (except leases, not exceeding three years from the making, and whereon the reserved rent is at least two-thirds of the real value), shall be looked upon as of greater force than a lease or estate at will; nor shall any assignment, grant, or surrender of any interest in any freehold hereditaments be valid: unless in both cases the same be put in writing, and signed by the party granting, or his agent lawfully authorized in writing.” 2 Blackstone Comm. *297 (Chitty ed. 1826).

And all other deeds ordinarily used in conveying property must now be in writing.

The defendant-in-error having admitted the title of

Paul N. Revere to the property in question, and that he also took possession of said property without livery, or any written instrument signed and delivered by the said Paul N. Revere to him, his interest in the said estate is therefore that of a mere tenant at will, and an estate at will is at the will of both parties; so that either of them may determine at his will, and quit his connection with the other at pleasure. In the circumstances the right of the tenant at will to bring an action of injunction after his landlord's lawful agent has ordered him to quit his premises cannot be upheld.

We are therefore of the opinion that the judgment of the court below should be reversed, and the injunction dissolved with costs against John Bardu, the defendant-in-error, and it is so ordered.

Reversed.