NATHANIEL R. RICHARDSON, Petitioner, *v.* EDWIN J. GABBIDON, by his Attorney in Fact, SAMUEL B. GABBIDON, Respondent.

APPLICATION FOR INTERPRETATION AND CONSTRUCTION OF JUDGMENT.

Argued November 26, 1964. Decided January 15, 1965.

An application to the Supreme Court for interpretation and construction of one of its judgments is not authorized by the Constitution or laws of Liberia or by the rules of the Supreme Court and such an application will be denied.

Petitioner filed an "application for an interpretation and construction" of a judgment previously rendered by the Supreme Court in *Richardson* v. *Gabbidon,* 15 L.L.R. 434 (1963). The Supreme Court refused to entertain the application and ordered it *denied.*

Richard A. Diggs, Momolu S. Cooper and *A. Gargar Richardson* for petitioner. *Henries Law Firm* (*Joseph A. Dennis of counsel*) for respondent.

MR. JUSTICE MITCHELL delivered the opinion of the Court.

On the 21st day of October, 1959, Edwin J. Gabbidon by his attorney in fact, Samuel B. Gabbidon, filed a petition for cancellation of false administrator's deeds and relief against fraud against Nathaniel R. Richardson, respondent, in the Equity Division of the Circuit Court of the Sixth Judicial Circuit, Montserrado County.

Pleadings in the case rested and His Honor, Joseph P. Findley, presiding by assignment over the September, 1960 term of the Civil Law Court, heard the law issues and on the 6th day of September, 1960, gave a ruling on the pleadings determining the issues to be proved at the trial.

Later, His Honor, John A. Dennis, presiding over the October 1961 term of the aforesaid Civil Law Court, called the case, heard the facts and rendered a decree thereon on the 8th day of February, 1961. From this final decree in which petitioner's bill of complaint was sustained, respondent Richardson appealed his cause before the Supreme Court for further adjudication and thus the case travelled to this forum for a review.

This Court, sitting in its March term, 1963, assigned for hearing, called and heard the case and on the 10th day of May, 1963, delivered a majority opinion from the bench, affirming the final decree of the lower court in *Richardson* v. *Gabbidon,* 15 L.L.R. 434 (1963). The judgment on this majority opinion was with mandate dispatched accordingly for enforcement by the lower court and was in time obeyed according to returns made.

Quite six calendar months thereafter, Nathaniel R. Richardson petitioner, petitioned this Court on an application entitled: "Application to Court for an Interpretation and Construction of Its Judgment of May 10, 1963, Growing out of the case: *Nathaniel R. Richardson,* appellant, versus *Edwin J. Gabbidon,* by and through his attorney in fact, Samuel B. Gabbidon, Appellee. Bill in equity for cancellation of false administrator's deeds and relief against fraud."

Herein, we quote said application in its body, word for word:

> "And now comes Nathaniel R. Richardson, appellant in the above-entitled cause in which final judgment was rendered by this Honorable Court on the 10th day of May, 1963 at the March term of Court and respectfully prays Your Honors for a construction and interpretation of the aforesaid judgment and assigns the following reasons for said request, to wit:
> "1. That on the first day of May, 1947, the executors of Toussaint L. Richardson, grandfather of appellee, Edwin J. Gabbidon, in consideration of the sum of

seven hundred and fifty dollars ($750.00) then due your petitioner, that is to say, the amount of two hundred and fifty-dollars ($250.00) which testator owed him during his lifetime, and the amount of five hundred dollars ($500.00), to which appellant as one of the aforesaid executors was entitled to, as his 5% commission as such executor, the estate at the time not having liquid cash to pay unto appellant in satisfaction of said claims against the estate, conveyed unto appellant twenty-five (25) acres of land of the following description:

1st Division:

"Commencing from the southwest corner of the adjoining lot Number 1 in division of the aforesaid estate and owned by David Dean; thence bearing south 37 degrees, west 10 chains; thence bearing south 54 degrees, east 23.50 chains; thence bearing north 36 degrees, east 10 chains. Thence bearing north 36 degrees, west 23.60 chains, to the place of commencement and containing an area of 23.50 acres of land.

2nd Division:

"Commencing from the southwest corner of the adjoining Lot Number 4, owned by Mr. I. K. Essel in the subdivision of the aforesaid estate, thence bearing south 54 degrees, east 2½ chains; thence bearing north 36 degrees, east 6 chains; thence bearing north 54 degrees, west 2½ chains to the place of commencement, containing an area of 1.50 acres of land, making a grand total of 25 acres of land and no more.

"And will more fully appear from said executor's deed, copy whereof is herewith filed as Exhibit A and forms a cogent part of this submission.

"2. That although the opinion and judgment of this Honorable Court handed down on the aforesaid tenth day of May, 1963, in no way relates to and includes the above property, nevertheless appellee Gabbidon has been from the date of the rendition of the afore-

said judgment and is still harassing and molesting appellant's grantees, from some of whom he has already succeeded in obtaining large sums of money as repurchase price of the portions of said land which appellant sold them, by means of summary ejectment and otherwise, under the pretext that, by virtue of the aforesaid judgment of this Honorable Court hereinabove referred to, the appellee is also entitled to the possession of the 25 acres of land conveyed to the appellant by the executors of T. L. Richardson aforesaid since 1947, long before the execution of the administrator's deeds (the subject matters of the cancellation suit) in settlement of petitioner's claims against the estate of the testator, Toussaint L. Richardson, although the said opinion and judgment only expressly referred to:

"1. Administrator's deed from James L. Richardson, administrator of the intestate estate of John T. Richardson, to Nathaniel R. Richardson, dated May 10, 1956, for 100 acres of land situated in Sinkor, Monrovia, on the Mesurado River;

"2. Administrator's deed from James L. Richardson to Nathaniel R. Richardson from the estate of John T. Richardson, dated May 10, 1956, for 50 acres of land situated on the Mesurado River;

"3. Administrator's deed from James L. Richardson to Nathaniel R. Richardson from the estate of John T. Richardson dated May 10, 1956, for 15 acres of land situated on the Mesurado River;

"4. Administrator's deed from James L. Richardson to Nathaniel R. Richardson from the estate of John T. Richardson dated May 10, 1956, for 30 acres of land situated on the Mesurado River;

"5. Administrator's deed from James L. Richardson to Nathaniel R. Richardson from the estate of John T. Richardson dated May 10, 1956, for 5 acres of land; and

"6. The parcel of land involved in the ejectment case of *J. N. Togba, M. V. Privilegi and Nathaniel R. Richardson,* appellants *versus Joshua Edwin Gabbidon,* Appellee, filed in this Court on appeal during the October term, 1960, which case, the opinion states, related to and includes a portion of the identical property for the deeds ordered cancelled by this opinion and judgment.

"(For reliance see copy of executor's deed from Samuel B. Gabbidon and Nathaniel R. Richardson, probated May 8, 1947, and registered in Volume 59, page 283; and pages 6–12 of said judgment.)

"In view of the above-stated facts and with a view to removing all doubts and misunderstandings as to the effects and intended meaning of the opinion and judgment handed down by this Honorable Court on the 10th day of May, 1963, your humble petitioner has deemed it proper to pray your Honors for an interpretation and construction of the aforesaid judgment and for such other and further relief in the premises as unto this Honorable Court shall seem proper, just and equitable."

The respondent through his counsel filed a very extensive and elaborate resistance; but out of sound judgment it does not appear necessary to make the same a part of this opinion.

At the hearing on the foregoing application, this Court expressed a particular desire to have counsel representing the petitioner justify their motives and intentions in reference to some authority of law, whether statutory or constitutional, which gives precedence to so strange, peculiar, oblique and clandestine an attempt to introduce such an unfounded procedure into our practice; and the

more the Court sought to have them justify same under some principle of law, the more they evaded a responsive answer. In all of our search of legal textbooks, embracing theories as well as practice and procedure, our minds have been left with no other conclusion except that this attempt to introduce such an unprincipled procedure into our aged practice is from no other motive than to bring the dignity of this Honorable Court into public criticism and disrepute.

This Court is, under the statute laws of Liberia, authorized to exercise appellate jurisdiction over all matters on appeal from courts of record. The Constitution, which is the framework of our laws, in positive and unambiguous terms enumerates the matters in which this Court shall have or exercise original jurisdiction. (See Constitution of Liberia, Article IV, Section 2.)

The application in point, the subject of this opinion, is neither one over which this Court is empowered to exercise original jurisdiction, nor is it a case that has come on appeal from any of the courts of award within the Republic. Notwithstanding this is glaringly known by counsel of this Honorable Court, they have presented their application and seek to have this Court render an opinion and judgment in review of a subject matter that is res judicata by interpreting the law that has already been interpreted by this Court. Such procedure is altogether vague and unfounded in law and practice.

When the cancellation suit in equity which is now res judicata was adjudicated by His Honor, John A. Dennis, then assigned judge presiding, in his final decree among other counts he said, and I quote for the benefit of this opinion:

> "Another link in the chain of evidence is that one of the blocks willed to the petitioner by the late Toussaint L. Richardson, the grandfather of the petitioner, as denied by the respondent in his answer and petitioner, was by said will made a residuary legate.
>
> "Whether or not courts of equity can afford relief

in this case has already been passed upon. Courts of equity exercise very broad and far-reaching jurisdiction in the protection of legatees in fraudulent convenances by providing cancellation proceedings.

"A resume of the evidence is that the executors of the testate estate of the late Toussaint L. Richardson, of which respondent was one, conveyed real property to themselves. It is contrary to law for administrators or executors to convey to themselves any of the real property of the estate they administered."

The final decree was the subject of the then appeal; and it was this very final decree that was reviewed by this Court at its March, 1963 term, and confirmed in the majority opinion delivered by Mr. Chief Justice Wilson in this wise:

"The judgment of the court below is hereby confirmed with the amendments stated, *supra.*" *Richardson* v. *Gabbidon,* 15 L.L.R. 434, 444 (1963).

Still, regardless of the judgment then rendered being enforced and the subject matter no longer the concern of this Court, having been disposed of for a period longer than one calendar year and more than six months before the filing of the application, counsel whom the law considers to be arms of the Court have screened themselves under pretentious veils and appeared before this bar to argue a cause that has no precedent in our judicial system, nor supported by any law, under the pretext of seeking a right and avoiding drawn-out litigation.

The rules of this Court make it permissible for any party against whom a judgment has been rendered by this Court to file a petition for reargument if it appears that some palpable mistake was made as an oversight of some important principle of law or fact; and in that case the party petitioning may benefit if the ground is conceded, but not otherwise, and we will quote the said rule hereunder:

"For good cause shown to the Court by petitioner,

a reargument of a cause may be allowed when some palpable mistake is made by inadvertently overlooking some fact or point of law."

"A petition for rehearing shall be presented within three days after the filing of the opinion, unless in cases of special leave granted by the Court."

"The petition shall contain a brief and distinct statement of the grounds upon which it is based, and shall not be heard unless a Justice concurring in the judgment shall order it." R. Sup. Ct. VIII (3), 13 L.L.R. 701–702.

If counsel for petitioner had adopted that course, their application would have precedent; but the course which they elected to pursue is one that is very strange and would make a dishonorable inroad into our judicial system which this Court enjoys no authority under the law to permit.

By this act of counsel for the petitioner, they rendered themselves reprehensible and liable to answer in contempt proceedings; however because it is the first act, the Court strikes this strong note of warning to them and all other members of the bar of this Court against recurrence thereof in any form, shape or fashion; otherwise, we shall be obliged to do that which is right and just to be done in and about the premises and according to the gravamen which the case presents. The application is therefore dishonorably denied with costs against the petitioner. And it is hereby so ordered.

Application denied.