

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2023

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA... ..ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUI QUI GBEISAY.....ASSOCIATE JUSTICE

Solomon Ngekia, Hawa Fahnbulleh, Ansumana)	
Sheriff, Beatrice Johnson <i>et al.</i> of the City of)	
Monrovia, Liberia)	Appellants
)	
Versus)	
)	
James Z. Momoh by and thru his Attorney-in-Fact)	
George Lansana Fallah, also of the City of)	
Monrovia, Liberia)	Appellee
)	
<u>GROWING OUT OF THE CASE:</u>)	
)	
James Z. Momoh by and thru his Attorney-in-Fact)	
George Lansana Fallah, of the City of Monrovia)	
Liberia.....)	Plaintiff
)	
Versus)	
)	
Solomon Ngekia, Hawa Fahnbulleh, Ansumana)	
Sheriff, Beatrice Johnson <i>et al.</i> of the City of)	
Monrovia, Liberia)	Defendants

Heard: May 3, 2023

Decided: July 5, 2023

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This is an appeal from a final ruling rendered in an action of ejectment filed by the appellee James Z. Momoh by and thru his Attorney-in-Fact George Lansana Fallah against the appellants Solomon Ngekia, Hawa Fahnbulleh, Ansumana Sheriff, Beatrice Johnson *et al.*, in Sixth Judicial Circuit Court, Montserrado County. The appellee alleged that the appellants are withholding his property and have refused to vacate the said property despite several requests for them to do so. After several interlocutory challenges by the appellants, the Civil Law Court rendered final judgment against the appellants, adjudging them liable in ejectment and ordering that they be ousted and evicted from the subject property. The appellants now ask this Court to reverse the adverse judgment entered by the Civil Law Court against them.

The records reveal that the appellee filed the action of ejectment on April 27, 2010, before the Civil Law Court, Montserrado County; that based on the

complaint, the court issued out the writ of summons along with the complaint for service on the appellants. The returns of the sheriff indicated that the Co-appellant Ansumana Sheriff received the court's precepts but refused to sign the copy of the writ of summons, while the rest of the appellants refused to receive the precepts and sign for their copies of the writ of summons. The appellants failed to file answer to the appellee's complaint and also failed to honor the assignments issued by the court for the hearing of the case. When the case was called for hearing, after the issuance of numerous assignments all of which were refused by the appellants, the appellee's counsel prayed the court for default judgment, and the court granted the prayer, ordering the appellee to make perfect the imperfect judgment. Thereafter, the appellee's witnesses testified in support of the appellee's case, and on September 3, 2010, the court rendered final judgment in favor of the appellee, ordering that the appellee be placed in possession of the disputed property.

On November 20, 2010, the Intestate Estate of Benson T. Ngekia represented by its administrator, Solomon L.C. Ngekia, filed a petition for the writ of prohibition alleging that the estate of Benson T. Ngekia was never cited by the Civil Law Court for the disposition of the action of ejectment filed by the appellee. Solomon L.C. Ngekia stated in the petition that in 2007, he appeared before the Paynesville Magisterial Court as attorney-in-fact for his father, Benson T. Ngekia, to defend an action of summary proceedings to recover possession of real property filed by George Lansana Fallah, attorney-in-fact for the appellee; that during the hearing of that case, George Lansana Fallah informed the court that Solomon L.C. Ngekia was a tenant of the appellee and Solomon denied this assertion, claiming that Benson T. Ngekia was in fact the bona fide owner of the disputed property, and presented a certified copy of a deed from one Anthony Barclay, Sr.; that the Magisterial Court then suspended the hearing and requested the appellee to present evidence that Solomon L. C. Ngekia was in fact a tenant of the appellee as alleged; that since this hearing was suspended in 2007, the petitioner never heard about the matter again nor did he receive any assignment from any court for disposition of the case until to his utter surprise, embarrassment and dismay he was presented with a writ of possession and a bill of costs by the Sheriff of the 6th Judicial Circuit Montserrado County growing out of an ejectment action filed by the appellee.

Madam Justice Jamesetta Howard Wolokolie before whom the petition for prohibition was filed, cited the parties to a conference and thereafter send an order to the Civil Court, mandating the judge presiding over the court to conduct an investigation regarding the petitioner's allegation that he and other defendants were never served with precepts from the Civil Law Court in the ejectment suit filed by the appellee.

The Civil Law Court resumed jurisdiction over the case as mandated by the Justice in Chambers, and issued an assignment for the conduct of the investigation into whether the appellants were served with precepts in the ejectment case filed by the appellee. The intestate estate of Benson T. Ngekia, petitioner before the Chambers Justice, failed to appear for the investigation in keeping with the notice of assignment. The court, however, proceeded with the investigation and it was established from the court's records and testimony of the appellee's attorney-in-fact that all the appellants, including the petitioner's estate, were served with the court precepts in the ejectment action. Based on the outcome of the investigation, the court held that the default judgment entered in the case was proper as the appellants were served with the summons and notices of assignment in the case, but they refused to file answer or appear for the hearing of the case. The court confirmed the judgment of liable previously entered by it and ordered that the appellants be ousted, evicted and ejected from the subject property. The court issued a writ of possession and placed same in the hands of the Sheriff for execution of the judgment against the appellants.

When the writ of possession was about to be executed, the intestate estate of Benson T. Ngekia again fled to the Justice in Chambers on another petition for the writ of prohibition contending that the mandate issued by Justice Jamesetta Howard Wolokolie was not carried out by the Civil Law Court. The Chambers Justice, His Honor Francis S. Korkpor, Sr. issued a stay order on the eviction, and after a conference with the parties, lifted the stay order and ordered the Civil Law Court to proceed with the matter in keeping with law.

When the Civil Law Court attempted to enforce the judgment rendered in the action of ejectment following Justice Korkpor's order, the intestate estate of Benson T. Ngekia filed a motion for relief from judgment before His Honor Peter W. Gbeneweleh who had succeeded Judge Yussif D. Kaba in presiding over the Civil Law Court. In the motion for relief from judgment, the estate contended that the court's judgment entered on September 3, 2010, should

have derived from a jury verdict since the case was an action of ejectment; that the court's records show no evidence that a panel of jurors was ever appointed or selected to try the case; that predicated on this error, the court should grant the estate's motion for relief from judgment and order a new trial so that the appellants can have the opportunity to be heard.

The appellee filed his resistance to the motion for relief from judgment asserting that the matter had been tried by a previous judge of concurrent jurisdiction who delivered judgment in the case; that the judgment which the estate urge Judge Gbeneweleh to reverse was made by his predecessor and Judge Gbeneweleh had no authority to review or set aside said judgement; that the appellant had filed two petitions for prohibitions before the Justices in Chambers and had raised no such issue.

Judge Gbeneweleh heard the motion and ruled that a motion to rescind a judgment differs from a motion for relief from judgment in that in a motion to rescind only the trial judge who heard and ruled on a matter can rescind his judgment, while in the case of a motion for relief from judgment as provided for under Chapter 41, section 41.7 of the Civil Procedure Law, the court may relieve a party or his legal representative from a final judgment for voidness of the judgment. Judge Gbeneweleh held that although the matter was an ejectment action, the records of the case file were devoid of any evidence that the case was decided by a jury as mandated in a long line of Opinions of the Supreme Court, stating that in all ejectment cases, trial by jury is mandatory. He therefore ruled that the judgment of the court was indeed void because it was rendered in the absence of a jury verdict.

Dissatisfied with Judge Gbeneweleh's ruling, the appellee fled to the Supreme Court on a petition for the writ of certiorari praying the Chambers Justice to issue the peremptory writ of certiorari against the allegedly erroneous ruling. The Chambers Justice cited the parties to a conference, and based on a settlement reached by the parties at the conference, it was agreed that the trial court proceed to conduct the trial *de novo*, in order to allow the appellants to participate in the hearing since representatives of the Intestate Estate of Benson T. Ngekia insisted that the property was bought by the late Benson T. Ngekia and had been substantially developed by him. The Justice sent down a mandate to the Civil Law Court ordering the court to conduct a new trial in the case.

In keeping with the mandate from the Chambers Justice, the trial court proceeded to hear the case anew, placing the appellants on bare denial based on the outcome of the court's investigation which established that the

appellants had deliberately refused to file their answers to the appellee's complaint.

On May 16, 2017, Mr. Jesse Kai Fallah, Administrator of the intestate estate of George Lansana Fallah, filed a motion for substitution of party praying the court to allow him to substitute the late George Lansana Fallah in the case. The motion for substitution of party was granted by the court. Thereafter, the appellants filed a number of motions to include a motion to dismiss the appellee's case, a motion to rescind the judge's ruling on the motion for substitution of party, all of which were heard and denied by the court.

Following the disposition of the motions filed by the appellants, hearing on the merits of the case commenced. The appellee presented two witnesses to testify on his behalf.

The appellee's first witness, Jesse Kai Fallah, testified that the appellee, James Z. Momoh, issued a power-of-attorney to his brother, George L. Fallah, authorizing him to take care of his (appellee's) property, and ensure that those living on the property are removed therefrom; that when George L. Fallah attempted to have the appellants leave the property, the appellants refused to vacate the premises, and by this, the appellee James Z. Momoh sent a power-of-attorney to George L. Fallah instructing him to file an action of ejectment to oust and evict those on the property; that while the matter was pending, George L. Fallah died and the witness, son of George L. Fallah, based on a motion filed to the court was substituted to pursue the ejectment matter.

The plaintiff's second witness, Henry F. Nyumah, a retired soldier and a businessman, testified that in 1987, he got in contact with one Augustine S. Gbollie, Sr. and the late Benson Ngekia, and they invited him to Paynesville to a campus called Martin Luther King Elementary and Junior High School; that he was asked to be one of the instructors at the school which was occupying a single building at the time. The witness said that he inquired from Augustine S. Gbollie, Sr. and Benson Ngekia on who owned the building in which the school was operated, and they responded that the building was owned by the appellee James Z. Momoh who is in the United States; that he subsequently questioned them about the arrangement they had with the appellee since they were operating a school; that Benson Ngeika told him that the appellee had empowered him (Benson Ngekia) to take care of the building until the appellee's family returned from Lofa, as the building was the appellee's family building. Not satisfied with the idea of using the building as a school without an agreement, the witness said that he asked

Augustine S. Gbollie, Sr. and Benson Ngekia to have him speak with the appellee in the United States; that they called the appellee and the appellee confirmed that when he was leaving for the United States of America, he told Benson Ngekia to leave West Point and move in the building to take care of it until his (appellee) family returned from Lofa. The witness said that it was after the telephone conversation with the appellee that he accepted the invitation to teach at the school.

The witness further testified that initially when the appellants were taken to the Paynesville Magisterial Court to be evicted from the property, the late Benson Ngekia admitted to his own lawyer, Attorney Barclay S. Willie, that the property was for the appellee and he (Benson Ngekia) was not going to contest the case; that based on Benson Ngekia's admission, Attorney Willie said that he would not go to court again and further advised Benson Ngekia to compromise with the family or find another lawyer. However, the witness testified that Solomon L.C. Ngekia, the son of Benson Ngekia, stated that he was not satisfied with the way Attorney Willie was handling the case, and that he preferred that they proceed to court; that when the case went to the Civil Law court, Mr. Augustine Gbollie told Benson Ngekia that he knew that the property was temporarily given to them so he did not know why Benson wanted to challenge the appellee for his property, but Ngekia stated "this is Liberia, and there are so many ways you can pursue the [matter]", and that was how Benson Ngekia began to pursue the matter in court.

The appellee's counsel rested with oral evidence after the second witness, and admitted into evidence the following documentary instruments: the Power-of-Attorney from James Z. Momoh to George L. Fallah and a certified copy of a warranty deed from Anthony Barclay to James Z. Momoh for the property in dispute.

After the appellee rested with presentation of evidence, the appellants proceeded to present their side of the case. The appellants' first witness, Solomon L. C. Ngekia, testified that his father, Benson T. Ngekia, who had died during the course of the dispute, bought the subject property in 1974 and constructed a house thereon in 1975, and that same year the family moved on the property; that after two years, the family build another house. In 1985, the witness said, his father decided to open a school using portion of the house and later he built other buildings and improved the school from elementary to high school; that his father later leased portion of the land to other individuals to build stores. The witness stated that his father had acquired the property over thirty-seven (37) years and lived quietly thereon,

building structures on the property in the presence of the late George L. Fallah who his father introduced as a friend; that Mr. George L. Fallah visited his father often and his mother at times would gave him some food to sustain himself since he was not well. The witness denied that he knows Mr. Henry Nyumah, the appellee's second witness, and that Mr. Nyumah never taught him at the school.

The appellants' second witness, Ebenezer A. Borbor, confirmed the testimony of the appellants' first witness, stating that the late Mr. Benson T. Ngekia was his step father; he confirmed the testimony that his step father acquired the property in 1974 and constructed the first house on the property and later in 1985, established a school named Martin Luther King Jr. Memorial school. He stated also that he does not know Mr. Henry Nyumah but admitted that Mr. Augustine S. Gbollie served as principal of the school but got ill and was undergoing medical treatment.

When the parties rested with the production of evidence and presented their final arguments, His Honor J. Boima Kontoe entered final judgment, adjudging the appellants liable in ejectment. Judge Kontoe held that the appellee evidence was sufficient to support his claim of title to the property, and that adverse possession, as alternatively contended by the appellants, would not lie because the appellee had been out of the bailiwicks of the Republic of Liberia since 1975. Judge Kontoe also held that the testimonial evidence adduced at trial established that prior to the departure of the appellee for the United States of America in 1985, he placed Mr. Benson T. Ngekia in the property subject of the case.

Not satisfied with the judgment entered by Judge Kontoe, the appellants excepted thereto, announced and perfected their appeal to this Court of last resort, filing a thirteen-count bill of exceptions for review. The overriding contentions of the bill of exceptions are that the lower court erred in granting the motion for substitution of party filed by the appellee, allowing Jessie K. Fallah to substitute the appellee's attorney-in-fact, George L. Fallah, who died during the pendency of the case, and that the appellee's deed is fraudulent.

In their brief and during argument before this Court, the appellants also argue that the statute of limitations will lie to bar the appellee's claim to the property because the appellants have openly and peaceably occupied the subject property for a period spanning more than twenty (20) years, that is, from 1975 up to the commencement of the instant case in 2010.

We will consider each of the contentions raised by the appellants, beginning with the appellants' assignment of error against the trial court's granting of the motion for substitution of party filed by Jesse Kai Fallah.

The appellants assert that the notice of assignment for the hearing of the motion for substitution of party was served on Attorney Tarlo N. Wehyee of the Henries Law Firm who was not counsel for the appellants in the case; that Jessi Kai Fallah should have obtained a power-of-attorney from the appellee James Z. Momoh in order to represent the appellee and that the trial judge should have rescinded the ruling made on the appellants' motion to dismiss the motion for substitution of party filed by Jesse Kai Fallah.

A diligent search of the court's records reveal that His Honor Judge Yussif Kaba, who presided over the Civil Law Court, issued notice of assignment on May 16, 2017, for the hearing of the appellee's motion for substitution of party on May 22, 2017. On May 20, 2017, Counsellor Cooper W. Kruah who was the counsel for the appellants, addressed a letter to the appellants withdrawing his representation on their behalf. Counsellor Kruah's letter reads:

"Please note that due to my present engagement in the electoral process in District #9, Tappita Statutory District, I will not be able to handle your matter.

You will recall that we handled your matter on a pro bono basis and we cannot therefore leave your file as a case for the Law Firm.

In view of the above, I have asked Atty. Tarlo N. Wehyee to assist you with this matter. In the event that you do not desire Atty. Wehyee to handle your matter, you may find another lawyer to work along with him for the purpose of introducing that person to the Court.

Please find attached hereto, copy of the motion filed by the plaintiff for substitution of party and the resistance thereto. Also please find attached, copy of an assignment for the hearing of the motion for substitution of party.

Kind regards.

*Very truly yours,
Cooper W. Kruah, Sr.
COUNSELLOR-AT-LAW"*

On May 23, 2017, Solomon Ngekia, acting on behalf of the appellants, wrote to the clerk of the Civil Law Court the following letter:

"MAY IT PLEASE YOUR HONOR:

We are defendant party in the above captioned case and write to refer you to communications (see copies attached) filed by Cllr. Cooper W. Kruah regarding his inability to continue representing our legal interest due to his current political engagement and further recommended Atty. Tarlo N. Wehyee for our consideration.

As a consequence of this, we write to inform you that we are reviewing his recommendation and have asked Atty. Tarlo N. Wehyee NOT to immediately make representation on our behalf until we confirm hiring his services.

Hence, we will not be able to attend hearing today and further request this Court to grant us continuance as we seek counsels that will adequately represent our interest in these proceedings as this cause of action involves Real Estate.

Sincerely yours,

Solomon Ngekia

One of the Defendants

CC: Atty. Tarlo Wehyee"

The records show however that the motion for substitution of party was called for hearing on May 23, 2017, instead of May 22, 2023, as indicated on the notice of assignment served on the parties. The minutes of the hearing had on May 23, 2017, is quoted as follows:

"REPRESENTATION: The movant is represented by Counselor Nyantie Tuan, present in Court.

While the respondent is by the recommended counsel, Atty. Tarlo Wehyee, who says that he has a submission to spread on the minutes of court. And respectfully submits.

THE COURT: Representations noted, counsel for the respondent may now proceed to make his submission. AND SO ORDERED.

Counsel says barely two hours ago, he received a communication from the defendants' party that he should not make immediate representation on behalf of the defendants as they are reviewing the recommendation made by their previous lawyer.

In view of the foregoing, counsel prays your Honor that it considers the instrument proper; defendants' counsel therefore submits.

Whilst counsel for movant knows that it is the right of the party to hire many lawyers, he does object to same. However, the request and/or documentation submitted to the Court is an open request which does not give time frame

In view of the foregoing circumstances, counsel prays court to grant the request of the respondent with the proviso that a time frame will be given in which the defendants would name or confirm their lawyer within three weeks beginning Tuesday, May 23, 2017. AND IT IS HEREBY SO ORDERED.

THE COURT: The submission just made and the resistance thereto is noted. A review of the case file shows that this matter has been logging on the court docket for a protracted period.

In view of the foregoing, the respondents/defendants are given three weeks as of this day, May 23, 2017 of this ruling to nominate, constitute and appoint a qualified and competent lawyer to protect their legal interest and/or confirm the recommended lawyer. AND SO ORDERED.”

As the minutes reveal, Judge Yussif D. Kaba granted the appellants’ request for continuance, giving them three weeks to hire a new lawyer. On June 13, 2017, exactly three weeks thereafter, the appellants filed the following notice of additional counsel with the clerk of the Civil Law Court:

“DEFENDANTS’ NOTICE OF ADDITIONAL COUNSEL.

Mr. Clerk of Court:

*Please take judicial notice and spread upon the records of this Honorable Court that the within named defendants hereby retains the legal services of Attorney Tommy N. Dougba of Weah and Associates **as additional** [emphasis ours] counsel in the above entitled cause of action.*

AND FOR SO DOING, THIS SHALL CONSTITUTE YOUR LEGAL SUFFICIENT AUTHORITY.

Done in the City of Monrovia this 13th Day of June, A.D. 2017.

Signed: Solomon Ngekia et.al. - DEFENDANTS”

The records reveal that His Honor J. Boima Kontoe who succeeded Judge Kaba in presiding over the Civil Law Court issued out notice of assignment on June 7, 2017, for hearing of the motion for substitution of party on June 15, 2017. The notice of assignment for the appellants was served on the Henries Law Firm on June 8, 2017 and signed for by one Tommy S. Vah. Upon the call of the motion for hearing on June 15, 2017, no counsel appeared for the appellants, and the appellee counsel invoked Section 10.7 of the Civil Procedure Law in urging the court to grant the motion. The court granted the motion, ordering that Jessi Kai Fallah substitute the late George Lansana Fallah as party plaintiff in the case.

We do not see how the service of the notice of assignment for the hearing of the motion for substitution of party on the Henries Law Firm amounts to a material error to warrant a reversal of the lower court’s ruling on the motion. As the records show, the appellants were represented in the case by Counsellor Cooper W. Kruah of the Henries of Law Firm and all notices of

assignment in the case were served on the Henries Law Firm. When Counsellor Kruah filed a notice of withdrawal of his representation in the case, he recommended *to the appellants Atty. Tarlo N. Wehyee to assist them with the case if they so desire*. The appellants on June 13, 2017, filed a notice of additional counsel to the court, stating that they were hiring Attorney Tommy N. Dougba as an additional counsel in the case. The appellants did not expressly terminate the services of Attorney *Tarlo Wehyee* of the Henries Law Firm; thus, the service on the Henries Law Firm where Attorney *Tarlo Wehyee* works is not wholly erroneous, and furnishes no cogent legal ground for the reversal of the ruling made on the motion.

More beside, Counsellor Cooper W. Kruah who represented the appellants had already prepared a resistance to the motion for substitution for party which was filed on May 22, 2017. A copy of the said resistance was attached to Counsellor Kruah's letter of withdrawal addressed to the appellants. We quote below the resistance:

"RESPONDENT'S RESISTANCE

AND NOW COME RESPONDENTS and most respectfully prays Your Honour and this Honorable Court to grant the movant's motion for substitution of party, and showeth as follows to writ:

- 1. Because the averments by the movant is consistent with the records of these proceedings. Respondents say that by substituting the original plaintiff as in keeping with Chapter 5, section 5.31, sub paragraphs 1 & 2, this Court will be able to conclude this matter as in keeping with law.*

WHEREFORE AND IN VIEW OF THE FOREGOING, respondents most respectfully pray your Honor and this Honorable Court to grant the movant's motion for substitution of party consistent with chapter 5, section 5.31, sub paragraphs 1&2, and to also grant unto the respondents any and all further relief that Your Honour may deem just legal and equitable.

**RESPECTFULLY SUBMITTED,
THE PLAINTIFF, BY & THRU ITS LEGAL COUNSEL:
THE HENRIES LAW FIRM**

Dated this 19th day of May, A.D. 2017"

The appellants' resistance by Counsellor Cooper Krauh, quoted above, interposes no objection to the motion for substitution of party; it states in fact that the substitution would allow the matter to be concluded. Given this

clear concession, the absence of the appellants during the hearing on the motion amounted to no prejudice against their interest in the case.

The appellants further contend that the trial judge erred when he dismissed their motion to rescind the ruling substituting George L. Fallah with his son, Jessie Kai Fallah; that George Fallah was appointed by his brother James Z. Momoh as his Attorney-in-fact and upon George L. Fallah death, the power-of-attorney ceased and the Appellee James Z. Momoh should have sent an authority appointing Jessie K. Fallah to substitute for his father as the appellee's new attorney-in-fact.

We agree with the appellants that the late George L. Fallah was an agent of the appellee, James Z. Momoh, and that George Fallah's death effectively ended the agency relationship which existed between him and the appellee. However, this case presents a peculiar set of facts which compel a different conclusion. The facts show that the case was first instituted in the Paynesville Magisterial Court by the late George L. Fallah in his capacity as attorney-in-fact for the appellee in 2007, and thereafter the instant ejectment action was filed in the Civil Law Court in 2010. During the course of the dispute, the appellee executed an instrument transferring the property to the late George L. Fallah; upon the death of George L. Fallah, his son, Jessie Kai Fallah obtained letters of administration for the administration of George Fallah's estate, and based on that letters, he filed the motion for substitution of party referencing therein and attaching thereto the instrument executed by James Z. Momoh transferring the property to the late George L. Fallah. It is obvious from the facts that at the time of the death of the late George L. Fallah, he was no longer serving as an agent of James Z. Momoh since in fact the property had already been transferred to him by James Z. Momoh. Therefore, the motion for substitution of party filed by Jesse Kai Fallah in his capacity as administrator of the intestate estate of George L. Fallah was proper and tenable.

As the trial judge correctly stated, the appellants suffered no material prejudice to their right as a consequence of the granting of the motion for substitution of party and the denial of their motion to rescind that ruling. The appellants' counsel himself had emphasized in his resistance to the motion for substitution of party that by substituting the original plaintiff as in keeping with Chapter 5, section 5.31, sub paragraphs 1 & 2, of the Civil Procedure Law, the court would be able to conclude the matter in keeping with law. This case has raged on for more than a decade without a determination as to which of the parties has superior title to the property,

and would continue to linger on if the argument proffered by the appellants against the trial court's decision on the motion for substitution of party were to be accepted by this Court. We believe that one of the most important functions of the justice system which is echoed in the Civil Procedure Law and other statutes is the speedy and impartial determination of cases brought before our courts.

More beside, our Civil Procedure Law expressly empowers the courts to substitute a party to a case if the interest of justice so requires. Chapter 5.31 (1)(2) of the law provides that a motion to substitute a party may be made by any party to an action or by the successors to or representatives of a party; *or that the court may sua sponte, order substitution of a party in any case in which the interests of justice require it.*(Emphasis Ours). The trial judge's action was consistent with the law quoted herein and we do not see how said action amounted to any injustice to the appellants.

The appellants next contention is that the appellee's deed is fraudulent because the certified copy of the deed adduced by the appellee bears the name of the Clerk of the Monthly and Probate Court in 1974 as E.E. Williams instead of Susannah E. Williams and it also carries the name of B.P. Morris as Registrar of Deeds and Titles of the Center of National Documents and Records (National Archives) in 1974 instead of John B.P. Morris.

The law in this jurisdiction as espoused by this Court is that allegation of fraud must be specifically proven at trial. *Philip Glago, et al. v. Micahel N. Wisseh*, Supreme Court Opinion, March Term, 2022. In this case, the appellants produced no evidence to prove the allegation of fraud made in the bill of exceptions. At the trial in the court below, the appellants were ruled to bare denial and could not plead any affirmative matter. Nonetheless, the appellant could have presented witnesses either from the National Archives or the Probate Court to impeach the authenticity of the appellee's deed by pointing out the alleged defects therein but they did not.

The records show that at trial, the appellee second witness, Henry F. Nyumah, gave the most compelling and cogent testimony regarding ownership of the property, and the substance of his testimony was not rebutted by the appellants. In his testimony, Henry F. Nyumah narrated his first interaction with Augustine S. Gbollie, Sr. and Mr. Benson T. Ngekia and how he was asked to teach in the school which was operated on the property. He stated that he was told by Benson T. Ngekia that the property belongs to the appellee and it was the appellee who placed him (Benson

Ngekia) on the property since the appellee's family was still in Lofa; that as a condition for teaching in the school, he requested to communicate with the appellee and a call was made to the appellee by Benson T. Ngekia; that the appellee confirmed that he placed Benson T. Ngekia on the property. Witness Nyumah also recounted the dispute regarding the property which began in 2007 in the Paynesville Magisterial Court, and how Benson T. Ngekia, father of the Co-appellant Solomon Ngekia, admitted to his own lawyer that the appellee is the actual owner of the property, but later decided to pursue the case because he believes that "this is Liberia, and there are so many ways you can pursue the [matter]".

It is the law that the preponderance of evidence required to establish proof does not depend on the number of witnesses produced but evidence which is more convincing to the mind. *American Life Insurance Company vs. Sandy* 32 LLR, 338, 350, ((1984). *Kollie v Kaba et al*, Supreme Court Opinion, October Term, 2009. We believe that the testimonial evidence of Henry F. Nyumah is weighty and convincing as he demonstrated firm firsthand knowledge about the property and its ownership. Also, the appellee attached a certified copy of the deed issued to James Z. Momoh by Anthony Barclay, Sr. in 1974, in substantiation of his title to the property.

The appellants' final argument is that the statute of limitations will lie to bar the appellee's claim to the property because the appellants have openly and peaceably occupied the subject property for a period spanning more than twenty (20) years, that is, from 1975 up to the commencement of the instant case in 2010 with no contest from the appellee.

Chapter 2, section 2.12.2 of the Civil Procedure Law, 1LCLR, provides that "an action to recover real property or its possession shall be barred if the defendant or his privy has held the property adversely for a period of not less than twenty (20) years." Though Chapter 4, Article 22 of the Land Rights Act (2018) reduces the statute of limitation in real property cases from twenty (20) years to fifteen (15) years, the twenty (20) years limitation period is applicable in this case because the case commenced prior to the passage of the Land Rights Act (2018). A notable exception to the application of the statute of limitation as provided under Chapter 2, section 2.70 of the Civil Procedure Law is the absence from the Republic of Liberia of the person against whom a claim arises. Section 2.70 provides that "if a claim for relief accrues against a person and he is absent from the Republic, the time within which the action must be commenced shall be computed from the time he comes into or returns to the Republic."

In this case, it is not disputed that the appellee departed the Republic of Liberia for the United States of America in 1975, a year after he acquired the property in 1974, and has since remained in the United States. This means that the statute of limitation as argued by the appellants does not apply against the appellee since he has been and remains outside of the Republic of Liberia up to the filing of this case.

More besides, James Z. Momoh, the original owner of the property as per the testimony of the appellee, did place Benson T. Ngekia, the decedent of the appellants, to occupy the property until his (James Z. Momoh) family returned from Lofa. The law is that no matter how exclusive or long endured it is, permissive possession can never ripen into title against anyone. Thus, occupation or use [of a property] by acquiescence or permission of the owner cannot ripen into title by adverse possession, no matter how long it is maintained. *Am Jur. 2d., Section 48; Effect of lengthy or exclusive possession.*

This Court having reviewed the evidence regarding the issues raised by the appellants on appeal, and applied the applicable laws thereto, it has found that the Ruling of the lower court needs not be disturbed.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the court below adjudging the appellants liable in ejectment and ordering their eviction from the subject property is affirmed. The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and give effect to its Final Ruling. AND IT IS HEREBY SO ORDERED. Costs are ruled against the appellants.

Counsellors Thompson N. Jargba and Tommy N. Dougbah appeared for the appellants. Counsellor M. Wilkins Wright appeared for the appellee.