

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC  
OF LIBERIA, SITTING IN ITS OCTOBER 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 QUIQUI GBEISAY, SR..... ASSOCIATE JUSTICE

Amos Klah of the City of Monrovia, Liberia.....Appellant )  
 )  
Versus )  
 ) APPEAL  
The Intestate of Tahiru Keingo by and thru is Administratrix )  
Betty Keingo of the City of Monrovia, Liberia.....Appellee )  
 )  
GROWING OUT OF THE CASE: )  
 )  
The Intestate of Tahiru Keingo by and thru is Administratrix )  
Betty Keingo of the City of Monrovia, Liberia.....Plaintiff )  
 )  
Versus ) MOTION FOR  
 ) NEW TRIAL  
 )  
Amos Klah of the City of Monrovia, Liberia.....Defendant )  
 )  
GROWING OUT OF THE CASE: )  
 )  
Amos Klah of the City of Monrovia, Liberia.....Objector )  
 )  
Versus ) OBJECTOR'S  
 ) OBJECTION  
The Intestate of Tahiru Keingo by and thru is Administratrix )  
Betty Keingo of the City of Monrovia, Liberia....Respondent )  
 )  
GROWING OUT OF THE CASE: )  
 )  
The Intestate of Tahiru Keingo by and thru is Administratrix )  
Betty Keingo of the City of Monrovia, Liberia.....Plaintiff )  
 )  
Versus ) ACTION OF  
 ) EJECTMENT  
Amos Klah of the City of Monrovia, Liberia.....Defendant )

Heard: November 8, 2022

Decided: December 19, 2023

## MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

The Intestate Estate of Tahiru Keingo, the appellee herein, instituted an action of ejectment before the Sixth Judicial Circuit, Civil Law Court, Montserrado County, against Amos Klah, the appellant herein. After pleadings rested, a jury trial was had, following which the jury returned a unanimous verdict in favor of the appellee. Thereafter, the appellant filed a motion for new trial, which was objected to by the appellee, heard by the trial court, and subsequently denied. The trial court entered final ruling in favor of the appellee, which final ruling the appellant noted exceptions and announced an appeal to the Supreme Court, thus culminating into the present appeal.

The certified records show that the genesis of this case dates back to May 27, 2009, when the appellee instituted a five count action of ejectment against the appellant, alleging therein that in 1985, Tahiru Keingo, during his lifetime, acquired one and one-half (1.5) lots of land situated in the Township of Gardnerville from Francis S. Fahnbulleh; that sometime in 1990, due to the civil crisis in Liberia, he, Tahiru Keingo, along with his family, fled to the Republic of Sierra Leone for refuge, but left their elder son, Thomas Keingo in charge of his property as a caretaker; that in 1999, an agent of the appellant, referred to as Juah, illegally entered upon the subject property, accompanied by one Fayia Rogers who claimed to be the owner of the said property; that notwithstanding the false and misleading representation by Fayia Rogers regarding his title to the property, the appellee's caretaker informed the appellant's representative that the property was legitimately owned by the appellee; that the community Chairman, in person of Samuel Kamara, also warned the appellant that Fayia Rogers was an imposter; that notwithstanding these warnings to the appellant, he still proceeded to pursue the matter of purchasing the said parcel of land from Mr. Rogers, which led to the latter fraudulently signing the name of his late father Boikai Rogers on the deed he issued to the appellant; that when the appellant was about to commence construction on the subject property, the appellee's grantor, Francis Fahnbulleh, approached the appellant, and notified him about the appellee's ownership of the property by virtue of purchase from him, but again the appellant ignored the notice and continued with his construction; that since then the appellant has been in possession of the appellee's property to the detriment of the appellee. Hence, the appellee prayed the trial court to eject the appellant from the subject property and grant the appellee general damages to commensurate with the appellant's illegal withholding of same.

On June 8, 2009, the appellant filed his answer refuting therein all the allegations contained in the appellee's complaint, but counter alleged that he, the appellant, is the bona fide owner of the subject property through a valid purchase, on November 25, 1999, from his grantor, Boikai D. Rogers; that at no time did he receive warnings, either directly or indirectly from the purported caretaker with respect to the purchase of said property; that it was subsequent to his construction of a building on the subject property that the appellee's representative informed him that the property was for her late husband, Tahiru Keingo; that had he been notified directly or indirectly, and had it been established that the appellee was the proper owner of the property, he would have abandoned his quest to purchase the property and would not have commenced construction thereon; that the appellee waited until the appellant had completed the construction before asserting ownership of the property, with the intent of unjustly depriving the appellant of his resources invested in the subject property.

On June 18, 2009, the appellee filed its reply and therein denied the appellant's answer in its entirety. The appellee further asserted that the public land sale deed annexed to the appellant's answer described metes and bounds dissimilar to those described in the appellee's deed; that the alleged date of execution and transfer of the title deed to the appellant by his purported grantor, that is on November 25, 1999, is false because his purported grantor, was out of the bailiwick of Liberia, and seriously ill, and from which illness he subsequently died, when he was said to have signed the appellant's deed. Hence, he could not have signed the appellant's deed in 1999 as claimed by the appellant; that moreover, Boikai D. Rogers, the appellant's purported grantor was the surveyor who surveyed the appellee's land and that his signature as appeared on the appellee's deed is far different from the one he purportedly signed on the appellant's deed.

Pleadings having rested, and prior to the commencement of trial, the appellee filed a motion for the conduct of an investigative survey, and with no objection interposed by the appellant, same was granted by the trial court with instructions that the parties submit the names of their respective technical representatives.

The records show that the trial court notified both the appellee and the appellant to nominate technical persons to represent their respective interest during the conduct of the investigative survey; also, the court requested the then Ministry of Lands, Mines, and Energy, now the Ministry of Mines and Energy to submit the name of a registered licensed surveyor to serve as chairperson of the investigative survey, and in compliance thereto, the Ministry submitted the name of licensed surveyor Lanson S. Massaquoi.

Similarly, the appellee nominated its technical representative, in person of Eastman K. Quaqua. Although the appellant delayed in the submission of the name of his technical representative, he later submitted the name of James Wilson as his representative to the investigative survey.

On February 16, 2012, the Chairperson of the investigative survey, Lanson Massaquoi, filed his report with the trial court. We quote a portion of the said report which we deem pertinent to this Opinion, to wit:

“...Based on the documents presented to the survey team by both parties and taking the technical analysis into consideration, Amos Klah encroached upon Tahiru Keingo’s land by one (1) lot out of the one and half (1-1/2) lots. The surveyor who surveyed for Tahiru Keingo in 1985, is the same surveyor (Boikai Rogers) who sold the same land to Amos Klah in 1999, as alleged. The signature of Boikai Rogers on Tahiru Keingo and his wife, Betty Keingo’s deeds is different from Amos K. Klah’s deed. If the land was owned by Boikai Rogers, why did he survey the same land for (in favour of) Tahiru Keingo and Betty Keingo? For this reason, Boikai had no land when he sold to Amos Klah...

Conclusion/Recommendation: That from all technical indications, the deed presented by Betty Keingo shows the rightful ownership of the land in dispute. Amos K. Klah attached Boikai D. Rogers deed of 35 acres, but not where he sold to Amos Klah. Count 6 indicated that Boikai D. Rogers sold land to Francis S. Fahnbulleh’s which he surveyed for Tahiru Keingo and Betty Keingo in 1985. Let the court look at count 6 carefully and come out with a judgment. This is the conclusion and recommendation from members of the board of arbitration”.

On August 13, 2012, subsequent to the reading of the investigative survey report, the appellant filed formal objections thereto, alleging *inter alia* that the investigative survey was conducted contrary to the dictates of section 64.5(f) of the Civil Procedure Law because the appellant’s technical representative was excluded from the preparation of the report; that the controlling statute requires that all arbitrators in an arbitration proceeding should participate in the hearing and thereafter the determination of an award.

In its resistance to the appellant's objection, the appellee argued that the objector's surveyor was present during the conduct of the survey, but did not file any formal objection with the trial court as to any irregularities during the conduct of the investigative survey; that the objector was misleading the court by misinterpreting Section 64.5(f) of the Civil Procedure Law, Rev. Code because the survey were conducted by all the surveyors and a majority of the surveyors affixed their signatures to the report; that the objector's technical representative did not raise any objection to the selection of Mr. Lanson Massaquoi, Chairman of the Board, to serve as lead surveyor or the manner in which he the investigative survey was conducted; and that even though the objector failed to make payment of his share of the cost of the investigative survey, he nonetheless was allowed to participate in the process; hence, his failure to contribute to the process does not amount to prevention from taking part in the process and their respective representatives to cross-examine.

On February 14, 2013, following hearing on the objection to the survey report, the trial court ruled denying the objection, noting that none of the parties objected to the conduct of the investigative survey; that unlike arbitration proceedings, wherein all parties participate in the preparation of the final report, the report from an investigative survey is prepared by the government nominated surveyor who heads the investigative team. This Court has opined that an investigative survey "is one requested or directed by the trial court as a means of helping the court in settling certain technical aspects of a case which will aid the court in determining an issue in a matter before it...the report of an investigative survey ordered by the court is to be used as evidentiary tool and is not in the nature of an award. It is used by the court to determine a particular technical nature or controversy of a matter before it. Where an investigative survey is required, the court must first dispose of issues of law raised by the parties' pleadings." *Hannah Saba Gardner v Esther Pyne*, Supreme Court Opinion, March Term, 2015; *Mananaai v. Momo*, Supreme Court Opinion, March Term 2012; *Kamara et al v. Heir of Essel*, Supreme Court Opinion, March Term 2012.

In consonance with the above quoted principle of law, and pursuant to its May 21, 2014, ruling that the pleadings contained mixed issues of law and facts, the case be ruled to trial by a jury, and having received the investigative survey report on January 6, 2016, the trial court then proceeded with the trial of the action of ejectment. Following arguments *pro et con*, and the production of evidence by both parties, the case was

submitted to the trial jury, which on January 12, 2016, returned a liable verdict against the appellant for the illegal occupancy and withholding of the appellee's real property. Predicated on the jury's verdict, the appellant filed a motion for new trial on the basis that the verdict was contrary to the weight of the evidence adduced by the appellee. The motion was heard and denied by the trial court. Thereafter, the trial court rendered its final ruling, excerpt of which we quote below, to wit:

“Given the (defendant's) conflicting evidence presented at trial, coupled with the jury's authority as the sole judge of the facts and the additional fact that the plaintiff's proved its case by a preponderance of the evidence, this court holds and rules that the jury's verdict of liable is not contrary to the weight of the evidence adduced at trial; hence, confirms and affirms the jury's verdict.

The defendant is hereby adjudged liable to the plaintiff for his illegal occupation and wrongful detention of the plaintiff's land; that the defendant is forthwith evicted, ejected and ousted from the plaintiff's land and the plaintiff is hereby put in possession of said land, including the two buildings constructed on the plaintiff's land by the defendant.

The clerk of this court is hereby ordered to issue a writ of possession directed to the Sheriff of this court, describing the plaintiff's land as contained in the transferred deed from Frances S. Fahnbulleh to Tahiru Keingo and dated the 24<sup>th</sup> day of December A.D. 1985, commanding the sheriff to remove all persons on said land, including the defendant, and to put the plaintiff into full possession thereof. Further, the clerk shall, in the writ of possession, command the sheriff of this court to, in executing his mandate as ordered by this judgment, seek the assistance of the Emergency Response Unit of the Liberia National Police. AND IT IS HEREBY SO ORDERED”.

The appellant noted exceptions to the trial court's final ruling, announced an appeal therefrom to the Honorable Supreme Court sitting in its March Term, A.D. 2016, and thereafter filed a six (6) count bill of exceptions on February 1, 2016. Our careful review of the said bill of exceptions show that each count makes reference to questions posed to witnesses by either the appellant's or appellee's counsels which the appellant term as errors by the trial judge to warrant a reversal of the ruling of the trial court. This court however observed that the appellant failed to state how these questions which were either

denied or overruled proved that the appellee did not prove its title to the disputed property. This Court has opined that “a bill of exceptions must state distinctly the grounds upon which the exception is taken; and that it is improper to place upon the appellate court the burden of searching the record in order to discover the exception and the ground therefor; an exception should be so taken upon its face as to inform the appellate court of the ground upon which it is based, and so as not to necessitate the appellate court referring to the records in order to discover the ground thereof. The Supreme Court will not consider any exception in a bill of exceptions if the ground is not distinctly set forth;” which in this case, the appellant has failed to do. *Universal Printing Press v. Blue Cross Insurance Company*, Supreme Court Opinion, March Term A.D. 2015; *Keller v. Republic*, 28 LLR, 49,61 (1979).

However, the law having placed the onus on the plaintiff in an action of ejectment to recover on the strength of his own title and not upon the weakness of the defendant's title; and the burden of proof to establish title to real property rests exclusively on the plaintiff and not on the defendant, we have determined that the sole issue for our consideration is whether the appellee, the plaintiff below proved its title to the disputed property by a preponderance of the evidence. *Neal v. Kandakai*, 17 LLR 590 (1966); *Cooper v. Gissie et al.*, 28 LLR 202 (1979); *Donzo v. Tate* 39 LLR 72 (1998); *The Tower of Faith Church v. The Intestate Estate of the Late Wheagar Blaybor*, Supreme Court Opinion, March Term A.D. 2010; *The Intestate Estate of the Late karman Dassen v. Bawo, Captan et al.*, Supreme Court Opinion, March Term, A.D. 2012.

Taking recourse to the records, we note that the appellee presented three witnesses, in defense of his title to the subject property, while the appellant produced two witnesses.

The appellee's first witness, Betty Keingo, testified *inter alia* that her deceased husband, Tahiru Keingo, purchased the subject parcel of land from Francis S. Fahnbulleh; that during the peak of the civil war in Liberia, she and her family, along with one Boakai Rogers, fled to Sierra Leone; that upon her return in 2004, she realized that Mr. Amos Klah had built on the property; that she informed Mr. Klah that the property upon which he had constructed his houses is for her late husband, but he that the appellant asserted that he was the owner and if she felt otherwise she was at liberty to institute court proceedings against him.

The appellee's second witness, Jefferson Blayon, testified that he was appointed as the caretaker of the subject property by his sister, Betty Keingo and her late husband Tahiru Keingo prior to their departure for Sierra Leone; that when the appellant appeared on the subject land to purchase same, he notified him that the land was owned by the late Tahiru Keingo; that even though the appellant ignored him, he also informed the community chairman about the situation; that notwithstanding all the notices to the appellant, he proceeded to carry on construction on the property.

The appellee's third witness in person of Francis Fahnbulleh testified that he sold the subject property to Tahiru Keingo in 1985; that he had acquired same from the Republic of Liberia in 1968, evidenced by a public land deed signed by President William V. S. Tubman, Sr.; that the property was surveyed by Boakai Rogers; that at the time the appellant began construction on the property, he visited the site and informed the appellant's son, who was then on the site overseeing the construction while, that the property belonged to the appellee, and that he had sold the said property to the latter; and that the property was surveyed by Boakai Rogers.

Following the appellee's witnesses' testimonies, the appellant took the witness stand and testified *pro se* that he purchased the property from Mr. Boakai Rogers through the latter's caretaker, one Mr. Nyenneh, in 1999; that although he did not directly interact with his grantor, Boakai Rogers, and that the entire transaction was executed between he (the appellant) and Mr. Nyenneh, it was Mr. Rogers who signed his deed and delivered same to Mr. Nyenneh because at the time he (the appellant) was residing in Maryland County, and Mr. Nyenneh and Mr. Boakai were in constant contact; that he was convinced that it was Mr. Boakai Rogers who signed his deed because his friends who lived in the same community confirmed that Mr. Boakai Rogers had visited the community and at which time he signed his deed; that in the same year of purchase of the parcel of land, the construction work was commenced thereon. The witness also testified that his first encounter with the appellee was in 2005 when she visited his home making claims that the land on which his house was built belonged to her; that at the time of purchase and during the period of construction works on the said property, he did not receive notice from anyone purporting to be grantor or brother to the appellee; that even the appellee's brother was one of the persons that worked on the house as a contractor; and that contrary to the assertion that Mr. Boakai Rogers went to Sierra Leone in 1990, Mr. Rogers actually left Liberia for Sierra Leone in 2002 and died there in 2006.



The appellant's second witness in person of Otti Klah testimony was to the effect that his father, the appellant herein, is the legitimate owner of the subject property; that it was only in 2005 that the appellee approached them at their home claiming ownership of the very land the appellant had purchased and constructed his house thereon.

As we indicated *supra* in this Opinion, it is the law, that the plaintiff in an action of ejectment must recover on the strength of his own title and not upon the weakness of the defendant's title; that the burden of proof to establish title to real property rests exclusively on the plaintiff and not on the defendant; that a defendant need not prove or show title until a plaintiff has first established title in himself and that mere allegation does not constitute proof, but same must be supported by the evidence to warrant a court or jury accepting it as true. *Pentee v. Tulay*, 40 LLR, 207 215 (2000); *Knuckles v. TRADEVCO*, 40 LLR 511 525(2001); *Sayon et al., v. The 14th Episcopal District, A.M.E Church*, Supreme Court Opinion, March Term A.D. 2017. Moreover, the chain in a claim of title must be firmly linked and anchored to the grantor's title to make the grantee's title superior." *Duncan v. Cornormia*, 42 LLR 309, (2004); *Teahjay v. Dweh*, Supreme Court Opinion, October Term, A.D. 2013.

In substantiation of its claim to the subject property, the appellee presented its title deed for the subject property as well as the appellee's grantor's deed which is traced to the Republic of Liberia. Furthermore, the appellee's grantor testified to his deed which he relied on to sell the subject property to the appellee and to issue a deed therefor as proof of transfer of title. The appellee's grantor also testified, and we observe from a perusal of the appellee's deed, that the subject property was surveyed by Boakai Rogers, which is also the name of the appellant's grantor. Finally, we note that the appellee's deed for the subject property was executed on December 24, 1985 and probated on December 30, 1985. Although the date of registration is not shown on the said instrument, the stamp, page number, and volume number indicated thereon shows that the said deed was registered.

This Court says that from the foregoing, the appellee did satisfy the requirement of the law to claim title to the subject property. Now the burden of establishing superiority in title shifted to the appellant. In this regard, the appellant proffered his title deed to the subject property which showed that he purchased same on November 25, 1999, probated said deed almost one (1) year thereafter, which is, on December 20, 2000, and thereafter registered the said deed with the Center for National Document and Records Agency

(CNDRA), contrary to law that such an instrument must be probated and registered within four (4) months of its issuance.

The appellant also presented photo copies of his grantor's deed traceable to the Republic of Liberia and probated and registered in 1964 and asserting superior title to the appellee whose mother deed was registered in 1968. However, and strangely, we note that the appellant's mother deed was a photo copy as aforesaid, and moreover, the appellant had testified that his grantor had referred him to the Archives to obtain not only a copy of his deed but also a copy of the said mother deed, which if registered at the Archives, the latter would have issued him a certified copy and not a photo copy. Further, whether as by coincidence or fate, the appellant's grantor bears the same name as the person who surveyed the subject property for the appellee. Given that both parties conceded that the appellant's grantor and the appellee's surveyor is the same person. Both parties agree that the Boakai Rogers died in Sierra Leone albeit they are at variance as to the time of his death.

The appellant's testimony was also to the effect that he paid money to a proxy of his grantor for a parcel of land; that the proxy later presented him a deed for the said parcel of land already signed by the grantor; that his only assurance that it was indeed his grantor who executed the deed was affirmation provided by a friend who was supposedly present when the grantor executed the deed. It is worth noting that this friend who was on the scene when the deed was executed had no knowledge of or been a witness to the deed. This Court is in agreement with the trial judge when he quoted from the Case, *Tower of Faith Church v. the Intestate Estate of Wheagar Blaybor*, Supreme Court Opinion, March Term A.D. 2010, to wit: "A deed may be as old as Metusula of Biblical days but if its metes and bounds commence from a nonexistent title at the time of its execution, such as happened in this case, said aged old deed cannot override a younger title, or even a lease agreement in an action of ejectment. When a title to property is defective, its age will not serve as a panacea to cure the defect." Accordingly, we hold that this legal precedent is applicable to the title documents proffered by the appellant.

As to the appellant's second witness, his testimony was irrelevant because it failed to establish the authenticity of the appellant's title or disprove the appellee's. It is the law that the testimony of a witness must be relevant and have the tendency to establish the truth or falsehood of the allegation or denials of the complaint. *Magna Diversified v. Mandra Forestry Liberia Limited*, Supreme Court Opinion, October term, A.D. 2018.

The records further show that an investigative survey was ordered conducted by the trial court based upon a non-contested motion filed by the appellee; the report from said investigative survey showed that based on the geographical coordinates of both the appellant and appellee's deed compared to the ground location, the appellant encroached on the appellee's one and one-half (1.5) lots of land by one (1) lot. This information, in addition to all the oral and documentary species of evidence adduced by both side in substantiation of their respective claims, was presented to the trier of facts for their determination. At the close of trial, the jury found that the appellee proved the superiority of its title to the subject property, and as such, was entitled to same.

This Court has held that "in the trial of civil cases, it is the province of the jury to consider the whole volume of testimony, observe the demeanor of the witnesses, and determine the credibility to be given to the testimonies of witnesses produced by the parties in support of their respective claims; and that where the jury as judge of the facts, weighs the evidence adduced during the trial and returns a verdict based on the weight of the evidence, the Supreme Court will not set aside said verdict. *Benson v. Sawyer*, Supreme Court Opinion, October Term A.D. 2015; *St. Stephen v. Gbedzee*, Supreme court opinion, March Term A.D. 2013; *Forleh et al. v. Republic*, 42 LLR 23 (2004); *Liberian Tractor and Equipment Company (LIBTRACO) v. Perry*, 38 LLR 119 (1995); *Momolu v. Cummings*, 38 LLR 307, 374 (1996); *Munnah and Sommah v. Republic*, 35 LLR 40 (1988); *Gbassage v. Holt*, 24 LLR 293, 296 (1975); *American Life Insurance Company, Inc. v. Holder*, 29 LLR 143 (1981).

By virtue of the fact that the appellee purchased the subject property in December, 1985 and had same duly probated and registered in accordance with law many years before the appellant purchased the same property from the selfsame surveyor who had surveyed the property on behalf of the appellee; and coupled with the report of the investigative survey which indicated that the appellee's deed matched the ground location of the subject property, we hold that the appellee's deed is superior to that of the appellant.

Hence, the appellee/plaintiff having established by preponderance of evidence, a superior title to the disputed property, the jury's verdict upon which the trial court based its final ruling shall not be disturbed.

WHEREFORE AND IN VIEW OF THE FOREGOING, the appeal is hereby denied and dismissed and the appellant ordered ousted and evicted from the appellee's property. The Clerk of this Court is ordered to send a mandate to the

trial court, commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. Costs are ruled against the appellant. AND IT IS HEREBY SO ORDERED.

*Appeal denied.*

*When this case was called for hearing, Counsellor J. Bima Lansanah of the Legacy Partners & Associates appeared for the appellant. Counsellor Peter W. Howard of the Howard and Partners appeared for the appellee.*