

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

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The Church of Jesus Christ of Latter Day Saint )  
represented by its authorized representatives, )  
also of the City of Monrovia, Montserrado County )  
Liberia..... Appellant )  
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Versus ) Appeal  
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The Intestate Estate of Joseph V. Gaye, Sr., )  
represented by ad thru its Administrators, Stanton )  
V. Gaye, Victoria D. Gaye, George Giah and )  
Sammie Peter Paul of the City of Monrovia, )  
County of Montserrado, Republic of Liberia )  
..... Appellee )

GROWING OUT OF THE CASE:

The Intestate Estate of Joseph V. Gaye, Sr., )  
represented by ad thru its Administrators, Stanton )  
V. Gaye, Victoria D. Gaye, George Giah and )  
Sammie Peter Paul of the City of Monrovia, )  
County of Montserrado, Republic of Liberia )  
.....Plaintiff )  
 )  
Versus ) Action of Ejectment  
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The Church of Jesus Christ of Latter Day Saint, )  
represented by its authorized representatives, )  
also of the City of Monrovia, Montserrado County )  
Liberia..... Defendant )

Heard: November 16, 2023

Decided: December 19, 2023

MR. JUSTICE YUSSIF D. KABA DELIVERED THE OPINION OF THE COURT.

On the 18<sup>th</sup> day of May 2020, the Intestate Estate of Joseph V. Gaye, Sr. by and thru its Administrators/Administratrix Stanton V. Gaye, Victoria D. Gaye, George Giah, and Sammie Peter Paul, appellee herein instituted an action of Ejectment against The Church of Jesus Christ of Latter-Day Saint

represented by its authorized representatives, defendant, in the Sixth Judicial Circuit, Civil Law Court for Montserrado County. The appellee withdrew and amended its complaint on June 5, 2020. The appellee alleged in its amended complaint, amongst other things, that the appellee is the rightful and bonafide owner of two and a half (2.5) acres of land situated at Oldest Congo Town, Montserrdo County which it purchased from the Republic of Liberia on October 29, 1962; that the appellant, without any color of right, and against appellee advice not to so do, entered upon, encroached and has constructed a fence and structure on the appellee's property and is claiming a portion of appellee's two and half (2.5) acres of land without regards to appellee's demand to vacate; that the appellant's illegal entry, use and occupancy of appellee's property caused the appellee extreme emotional distress and irreparable injury as well as loss of use and income, for which appellee seek an award of US\$750,000.00 for the wrongful withholding of the appellee's property. The appellee annexed to its complaint a Notice of Withdrawal as P/1, a letter of administration from the Month and Probate Court for Montserrado County as P/2, Certified Public Land Sale Deed as P/3 and a copy of a Notice to Vacate as P/4.

On June 18, 2020, the defendant withdrew and filed a thirteen count amended answer basically contending that the appellant has no knowledge regarding appellee's ownership of the property, the subject of the action of ejectment; that a careful perusal and close inspection of the certified copy of deed annexed to the appellee's complaint reveals that the said deed is defective and the property it purports to represent does not exist for want of definiteness and precision in the description of the property; that the appellant did not encroached upon and is not in possession of a parcel of land owned by and belonging to the appellee; that the appellant is the legal and lawful owner of three-point zero-seven (3.07) lots of land presently occupied by it, by virtue of acquisition of same on the 21<sup>st</sup> day of December 2015, from the Intestate Estate of Wills D. Knuckles represented by its administratrixes, Hawa Evelyn Knuckles and Hawa Ellen Knuckles; that defendant has a clear and cogent chain of title to the subject property; that prior to the purchase of the property, survey notices were placed in local newspapers informing the public about an impending survey of the property

and that the appellee did not lay claim to the property and the appellant is at a verge of completing its construction thereon; that there is a pending action of ejectment filed by one Sylvester Grisby against the appellant for the same property; that there is a collusion between Mr. Sylvester Grisby and the appellee to deprive the appellant of its property; and that the appellee cannot sue the appellant for the same property it already conveyed to Sylvester Grisby and assume a position antagonistic to Sylvester Grisby; that as to the appellee claim of specific damages of US\$750,000.00, the appellee did not proffer any scintilla of evidence to show how the amount claimed was derived. The appellant, therefore, prays the court to dismiss the appellee's amended complaint.

On June 29, 2020, the appellee filed a nineteen counts reply and incorporated its amended complaint and further traversed the appellant's amended answer that the appellant failed to trace its title deed to the Republic of Liberia as was done by the appellee, and at such, the appellant falls short of the doctrine of superior title; that the appellee has no knowledge of the ejectment suit filed by Sylvester Grisby against the appellant relying on title documents from the appellee, that the appellant has a remedy under the law assuming there is a conspiracy or attempted collusion between appellee and Sylvester Grisby. Appellee, therefore, prays the trial court to confirm its amended complaint against the appellant.

On August 20, 2020, the trial court under the gavel of His Honor Scheaphlor R. Dunbar, in deposing of the law issues, identified one issue to be dispositive of the matter *viz*: whether the plaintiff herein lacks the legal capacity to sue because it has previously conveyed the same property to a third party? Based on the above, the trial judge ruled the case to trial on the issue of whether the property the defendant is occupying is the same property that was conveyed previously to Sylvester Grisby and whether the defendant's 1.0 acre of land even falls within the plaintiff's 2.5 acres that it is claiming. The trial judge also held that depending on the resolution of the issue previously identified above, a surveyor's aid may be employed at a later stage of the proceeding.

On August 17, 2022, the case commenced with the empaneling of the trial jury. During the trial, the appellee presented three (3) witnesses in the persons of Sammie Peter Paul, Victoria D. Gaye, and Stanton V. Gaye, and one subpoenaed witness in the person of Ebenezer Borbor. The appellee's witnesses duly testified on both direct and cross-examination. When the appellee rested with the production of evidence, the appellant filed a motion for judgment during trial on two grounds as follows: 1) that in the absence of an investigative survey, the appellee has not established that the parcel of land called for by the appellee's deed is the same parcel of land owned and in possession; 2) that the appellee has also failed to establish that the deed relied upon by the appellee, in this case, was issued to them by the government of Liberia as alleged. In resisting the application, the appellee averred that an investigative survey was not conducted because none of the parties applied to the court for the same as is required. That the report from an investigative survey is only intended to aid the court in determining the metes and bounds of the party's respective titles. In denying the motion, the trial judge held, among other things, that "an investigative survey is not and has never been a mandatory requirement for all ejectment actions. Moreover, neither the appellee nor the appellant prayed to the court for an investigative survey during the exchange of pleadings, and the court itself did not see the need for an investigative survey. The trial judge opined that if the appellee wins the case, the court has the authority to place the appellee in possession of its property employing the aid of a licensed surveyor based upon the deed submitted to this Court. If the appellee fails to prove its case, the appellant shall remain in possession of the property based on the meters and bounds of its deed".

The appellant excepted to the trial judge's ruling and proceeded to take the witness stand and paraded three regular witnesses in the persons of Presley S. Tenwah, Isaac Mensah, Carbetah Mattey Timothy Wowoe, Jr., and four subpoenaed witnesses in persons of Mr. Willie Knuckles, Mr. Eastman K. Quaqua, Mr. Simeon Freeman who testified both on the direct and cross-examination before the trial jury. Upon the close of evidence, the trial judge duly charged the trial jury; the trial jury retired to their room of deliberation and returned with a unanimous verdict of liable against the appellant. The appellant filed a motion for a new trial, which the appellee

resisted, and the court thereafter heard and denied the motion. The trial judge thereafter entered a final ruling adjudging the appellant liable in ejectment and awarding the appellee general damages of US\$750,000.00. This final ruling been the subject of the appeal, and for the benefit of this Opinion, we quote relevant excerpt therefrom:

“...the single issue determinative of this matter is whether or not the plaintiff proves that he has superior title to the disputed property.

In a property contest of Ejectment, which presupposes that there exist title deeds on both sides, the duty imposed on the court is to determine which party has a superior and clean deed. In the instant case, it is very simple for the court to determine. The Plaintiff herein, the Intestate Estate of the late Joseph N. Gaye filed an action of ejectment against the Church of Jesus Christ of Latter Day Saint alleging that the Church is occupying its property and has refused to vacate. The plaintiff attached certified copy of a Public land sale deed dated October 29, 1962 and signed by the then President William V.S. Tubman for 2.5 acres of land lying and situated on Old Road adjacent the SOS Clinic. The Plaintiff also exhibited a certificate of authentication of the certified copy from the National Achieve and other supporting documents such as Letters of Administration from the Monthly and Probate Court of Montserrado County.

The defendant filed an answer and exhibited a chain of title from Danlette Tucker in 1975. The defendant chain of title says that Danlette Tucker first sold the property to David Franklin Neh in 1975 and David Franklin Neh later sold it to the SDA Church, and the SDA Church subsequently sold it to Consolidated Group of Company (DSTV) and the Consolidated Group of Company sold it to the late Willie D. Knuckles and the Intestate Estate of the late Willie D. Knuckles sold it to the Church of Jesus Christ of Later Day Saint in 2015.

At trial, the plaintiff and witnesses testified to its title apparently to the satisfaction of the trial jury, for which there was no challenge. The defendant also testified to its chain of titles from Danlette Tucker to the defendant without any challenge. However, the defendant failed to state when the disputed property was first purchased from the Republic of Liberia and who was the first person that purchased the property from the Republic of Liberia, the original grantor of all the land in Liberia. In other words, since the defendant's original grantor, Danlette Tucker, first sold the property in 1975, the question is, who did Tucker buy the property from, or who was the first person who purchased the property from the Republic of Liberia, and when?

In the face of the defendant's failure to trace its title to the Republic, it negatively operates in favor of the plaintiff since the plaintiff has established its ownership of the disputed property by a public land sale deed issued in 1962, which was not challenged in any manner and form.

Under the doctrine of superior title, the first buyer prevails when two grantees have the same grantor. The court, therefore, says that since the plaintiff established without challenge that it purchased the disputed property in 1962, the court held that the plaintiff has superior title.

Wherefore and in view of the foregoing, the unanimous verdict of the trial jury should be and the same is confirmed and affirmed. The defendant is hereby adjudged liable; the jury award of US\$ 750,000.00 as general damages for wrongful withholding of the plaintiff's property is hereby confirmed..."

The appellant, not being satisfied with the reasoning of and conclusion reached by the trial judge in the final ruling, filed a nine-count bill of exceptions, praying therein that this Court overturns the ruling of the trial judge because the holding in the ruling is not in confirmative with the fact adduced during the trial and the law applicable thereto. In support of this prayer, the appellant averred that the jury award of US\$750,000.00 is not consistent with the weight of the evidence adduced during the trial, that the court erred when it adjudged the appellant liable in an ejectment action without conducting an investigative survey to show whether the land occupied by the appellant is the same land that the appellee's deed is calling for; that the trial judge erred when he instructed the jury that the case should be decided exclusively on the theory of oldest deed; and that the trial judge omitted the testimony of appellant's subpoena witness, the Assistant to the Director of CNDR (The Center for National Documents and Records). Giving due consideration to the appellant's contentions as outlined herein above and after a careful review of the pleadings and the evidence adduced during the trial, the issues that beg for disposition are as follows:

1. Whether in an action of ejectment where the parties derived their respective titles from different grantors for the same parcel of land, an investigative survey is imperative to determine the ground location of the metes and bound of the parties' respective title instrument in relation to the disputed property.
2. Whether the trial judge erred when he denied the appellant's motion for a new trial and entered a final ruling confirming the verdict of the trial jury?

We shall address these issues in the order in which they are presented. Concerning the first issue, it is the appellant's position that in an action of ejectment where the parties derived their respective titles from different grantors purporting to be for the same parcel of land, an investigative survey is necessary to determine whose title calls for the land in dispute. The appellant argued that without an investigative survey, neither the court nor the jury may be in an informed position to determine whether or not the parties' titles call for the same parcel of land. The appellant went further in its argument to question how the Sheriff would place the appellee in possession of its property without an investigative survey. On the other hand, the appellee contended that during the hearing of this matter in the court below, neither the appellant nor the appellee applied for an investigative survey before the court. The appellee further contended that during the disposition of law issues, the trial judge, on his own, recognized the concern raised herein by the appellant for the conduct of an investigative survey and determined that at the close of evidence, if need be, the court will order a survey to determine the location of the appellee's property.

Apparently, in interpreting this position adopted during the disposition of law issue, the trial court, in disposing of the motion for judgment during trial interposed by the appellant in which the appellant highlighted the need for an investigative survey, held as follows: "an investigative survey is not and has never been a mandatory requirement for all ejectment actions. Moreover, neither the appellee nor the appellant prayed this court for an investigative survey during the exchange of pleadings. And this court itself has not seen the need for an investigative survey. If the appellee wins this case, this court has the authority to place the appellee in possession by the aid of a licensed surveyor based upon the deed submitted to this Court. If the appellee fails to prove its case, the appellant shall remain in possession of the property based on the metes and bounds of its own deed". In his

final ruling, the trial judge determined, as the trial jury did, that the appellant was liable in ejectment and that the appellee be placed in possession of the disputed property by the metes and bound provided for in the title deed pleaded.

From a careful review of the pleadings in this matter and the evidence adduced during the trial, there is no doubt that the parties derived their title from different sources. However, while the appellee could trace its title to the Republic, there is a break in the chain of title of the appellant. The appellant also alleged that when he commenced his activities on the subject property, he was approached and sued by one Sylvester Grisby, who claimed that he was the owner of the property occupied by the appellant by a purchase from the appellee. In the face of these contentions and considering that the metes and bounds in the respective deeds of the parties do not clearly show that they are referring to the same property, can a trial jury, in the absence of the aid of a surveyor, determine whether the property referred to by the two deeds are the same and whether the appellee deed is calling for the property occupied by the appellant? A similar issue confronted this court in the case *Paye et al. v Fahnbulleh* LRSC 28 (19 December 2008). This Court opined in resolving that issue as follows: "...Examining the metes and bounds detailed in the respective title instruments submitted by the parties, clearly one must wonder how a conclusive finding could be reached on such technical issues, as the exact location and actual size of the land, in the absence of an investigative survey. In our Opinion, the judgment under review (that is to say, a judgment based on a jury verdict in an ejectment suit where the issue of contention is the metes and bounds of the parties' property as per their deed in relation to the ground location of the disputed property) leaves uncertainty about these critical questions..."

Relative to the appellee's contention that conducting an investigative survey in a case before the court is not automatic and that a party must apply for the same before the court may order it, we disagree with this assertion. An investigative survey will not be necessary for actions involving a contest of title to real property where the issues in dispute include allegations of fraud and no disagreement concerning the property's location. But where, as in the instant case, the issue of the location of the disputed property relative to the parties' respective title instruments is raised, we see no alternative mechanism to resolve such controversy but the conduct of an investigative survey. This Court defines the objective of an investigative survey in the case *Jarba v. Fangas-Freeman, 2013*, as follows: "...an investigative survey is to assist the court

by providing the court the technical assistance necessary to reaching a legally fair and equitable disposition of a matter before the court. This is done, as in the case of a land dispute, when the technicians, under the direction of the court, conduct a survey identifying the metes and bounds and exact location of a parcel of land that may be a subject of controversy...". The Court went further to hold that "... submission of this kind of technical and legal issue as metes and bounds to a petty jury with little if any insight into such a complex matter, as done in the case at bar, is not only un-insightful but also inconsistent with the precedent set by this Court." The conduct of an investigative survey in cases such as the one under review, where the appellant alleged that its land is separate and distinct from that of the appellee's land, is, therefore, logical and necessary to aid the trial jury in establishing the position of the disputed land and to determine whether the appellee title covers the same.

We also disagree with the contention that for a court to order an investigative survey, the parties must apply to the court for the same. The conduct of an investigative survey in a case is determined by the averments in the parties' pleading. If, by the averments, it is clearly shown that the issue in controversy cannot be resolved without an investigative survey, the court, sua sponte, is duty-bound to order such survey in that case during the disposition of law issues, even in the absence of the parties requesting for the same. A search of the records shows that the appellant raised the challenge of the appellee deed not calling for the property occupied by the appellant; the trial judge recognized this and intimated that the court might order an investigative survey at some future stage of the proceedings. The appellant also raised the issue in his motion for judgment

during the trial. The trial court had sufficient indication that an investigative survey was necessary in this case. While we agreed that the law leaves it to the discretion of the trial judge in instances as outlined herein to determine whether to order an investigative survey, however, where it is glaring that without such exercise, substantial justice will not be done, it is an abuse of discretion not to do so. Therefore, the party's request is not a necessary pre-condition for conducting an investigative survey in a proper case.

Considering the contentions of the parties in this case, We hold that the trial judge erred when he failed to order the conduct of an investigative survey.

In addressing the second issue, we must examine the evidence to determine whether the jury verdict is in harmony with the weight of the evidence adduced during the trial. It is also worth noting here that the primary objective of an action of ejectment is to test the title of the parties and to award the possession of the property in dispute to that party whose chain of title is so strong as to negate the adversary's right of recovery *effectively*. *Tula v. Salvation Army* 41 LLR 262 (2002). This Court has also held that the jurors are the judges of the fact. *Forley et al. v RL*, 42 LLR (2004) Where the plaintiff in an ejectment suit has shown a valid and legal title property, they are rightly entitled to recover the said property in dispute upon the strength of that title. *Tulay v. Salvation Army*, 41 LLR 262, (2002); *United Methodist Church v. Cooper et al.* 40 LLR 449 (2001). In *Jackie v. Siaffa* 42 LLR 3 (2004), the Supreme Court held that the burden of proof rests with the party who alleges a fact, and the party with the burden of proof must establish his allegations by the preponderance of the evidence. The preponderance of the evidence is evidence of greater weight or more convincing than the evidence offered in opposition.

The appellee's first witness, Sammie Peter Paul, testified that the property, the subject of the dispute, which is two point-five (2.5) acres of land, was bought by their late father, Joseph V. Gaye, Sr. from the Republic of Liberia in 1962. The Late President William V.S. Tubman signed the deed, and the appellee had it registered according to law. The witness testified that after

the death of Mr. Joseph V. Gaye, Sr., and because most of their documents went missing, his senior brother Stanton V. Gaye obtained a certified copy of the said Public Land Sale Deed and an authentication certificate from the Ministry of Foreign Affairs. He further testified that they engaged the appellant, that the property occupied by the appellant belongs to them, and that they wrote through their lawyers requesting the appellant to vacate from their property. Still, the appellant refused to do so and asserted a claim to the property. The witness further prayed that the court make the appellant pay damages to the appellee of not less than US\$750,000.00

The appellee's second and third witnesses, Victoria D. Gaye and Stanton V. Gaye corroborated the testimonies of witness Sammie Peter Paul to the effect that the late Joseph V. Gaye, Sr. purchased two point-five (2.5) acres of land from the Republic of Liberia on October 29, 1962 and that it is the property that the appellant is wrongfully occupying; the witnesses testified to a Certified Public Land Sale deed, extended letters of administrations, certificate of authentication of deed and notice to vacate. With the testimonies of the appellee's witnesses, the appellee rested with the production of evidence.

The appellant took the witness stand and paraded three regular witnesses and five subpoena witnesses. The first witness, Presley S. Tenwah, testified that the appellant hired his company, Arena Inc., a real property firm, to acquire a piece of property in the Congo Town belt. The witness said that he contacted Willie Knuckles and conducted an assessment on the property for a couple of months. The witness maintained that as per his investigation, the community dwellers said that the SDA Church and SDA Church previously owned the property and sold it to Simeon Freeman, CEO of DSTV, and Freeman, in turn, sold it to Knuckles. He testified that the land was a swamp during his investigation. The witness said the appellant hired a geotechnical engineer to assess the land, and after that, they negotiated for the land, purchased it, and backfilled it with dirt even though it cost a lot of money.

The second witness, Isaac K. Mensah, testified that he is the appellant's real estate manager and lives in Ghana. He told the court that the appellant sent him to Liberia in 2015 to inspect the site that its agent had found in Congo Town. He inspected the site and recommended that the appellant proceed with the purchase. The third witness, Carbetah Wowoe, testified that he is the Construction Project Manager for the appellant. He testified that as Project Manager, he is responsible for purchasing, leasing, and constructing space for members to worship God. He confirmed that the appellant hired Arena Inc., which found the subject property for them. He said that they purchased the property from Willie Knuckles. The witness also said they hired Sherman and Sherman to do the property title search diligence. The witness said they published notices in the Inquirer Newspaper twice, but on

the day of the survey, they did not encounter any person making claims to the property. He said the land was swamp land. The witness testified that during the construction period, they received a writ of criminal trespass from one Grisby, who claimed that he was the property's legitimate owner. He further told the court that both parties presented their respective titles at the magisterial court, and the magistrate dismissed the case. The witness further admitted that the appellee communicated with the appellant concerning the appellee's ownership of the property.

The appellant's first subpoena witness, Willis Knuckles, testified that after his father died, the administrator of the Intestate Estate of Willie D. Knuckles sold the land to the appellant in 2015; the second subpoena witness, Eastman K. Quaqua, testified that he does not know the appellant and the appellee; the third subpoena witness C. Morris Kollie testified that all deed records as of 1848 that the Bureau of the Archive of the Ministry of Foreign Affairs had been transferred to the Center for National Documents and Records (CNDR). He said the Bureau of Archive cannot speak to the appellee's certified copy of the public land sale deed and any instrument not within its records. Appellant's fourth subpoena witness, Mr. Simeon Freeman, testified that the Consolidated Group acquired title from the SDA Church and transferred title to the land to Willie Knuckles; he testified that he peacefully held the property from 2010 to 2011 without molestation until he transferred the same to the Knuckles.

Appellant's fifth subpoena witness testified that the appellee's title is registered with the CNDR but that the page number on the deed does not correspond with the page number of the log book but claimed that it was an error. The appellant rested with the production of evidence.

The parties, having rested with the production of both oral and documentary evidence as were presented before the trial jurors, it was, therefore, the province of the juror to determine the weight and credibility to be attached to each of the evidence presented before them. The Supreme Court has held that where the jury has concluded, after considering the evidence sufficient to support the verdict, the same should not be disturbed by the Court *Morgan v. Barclay*, 42 LLR 259 (2004). This Court has held also that

an ejectment action is triable by a jury under the direction of a judge in our jurisdiction, and the title and possession of the realty can be determined by the trial jury only *Andrews et al. v Cornomia*, 39 LLR 761 (1999).

The jurors, having sat and listened to the evidence produced during trial by both the appellee and the appellant, concluded that the evidence presented was convincing to their minds. The jury having brought down a verdict of liable against the appellant based upon their consideration of the testimonies and the documentary evidence paraded before them, normally, this Court is not legally situated to disturb the verdict of the trial of fact. *Nyumah v Kemokai* 34 LLR 226 (1986). However, this Court is reluctant to affirm the verdict as returned by the trial jury, not with regard to the genuineness of the parties' titles, but on the question of whether the property, the subject of the dispute, is the same as the property covered by the metes and bounds contained in the appellee's title deed. Since we have concluded in this Opinion that an investigative survey was paramount in the determination of this case, for the reason that the parties are contesting encroachment, this case is therefore remanded to the court below to order the conduct of an investigative survey within two (2) months as of the reading of the mandate emanating from this Opinion.

Regarding the general damages of US\$750,000.00 awarded by the trial jury, this Court says that while the award of general damages is within the province of the trial jury, such damages must be proportional to the injury suffered. *A.D.C Airlines v. Sannoh* 39 LLR 431 (1999); *Konneh et al. v Carver* 36 LLR 319 (1989). Besides, the jury may award punitive damages in instances where the evidence established that the illegal entry was willful and without regard to the law *Dasusea et al. v Coleman* 36 LLR 102 (1989). This Court, having concluded that the evidence is inconclusive as to the crux of the matter in dispute, that is, whether the appellant encroached on the appellee's property and, if so, the extent of the encroachment, the issue of whether damages will lie, or if damages will be attached, the amount of the damages cannot be passed upon at this stage. The finding of the investigative survey to be conducted will inform this Court's action in this respect.

Wherefore and in view of the foregoing, the case is hereby ordered remanded for the exclusive purpose of conducting an investigative survey to determine the extent of encroachment, if any, by the appellant on the appellee's property. The Clerk of this Court is ordered to send a mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and enforce the judgment of this Opinion. Costs shall abide the final determination. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors Prince Tarnah and James Baikpeh Seekpee of the CMB Law Group appeared for the appellant, and Counsellor Jonathan T. Massaquoi of the International Law Group appeared for the appellee.