

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

Rule IV, Part 12 of the Revised Rules of the Supreme Court prescribes the office of bill information as follows:

“(a). A bill of information will lie to prevent a Judge or any Judicial Officer who attempts to execute the mandate of the Supreme Court in an improper manner from doing so with the Judgment and/or Mandate of the Supreme Court.

(b). A Bill of Information will also lie to prevent any one whomsoever from interfering with the Judgment and/or Mandate of the Supreme Court.

(c). Any Counsellor who files a Bill of Information before this Court assigning reasons therefor other than the reasons expressly prescribed by these Rules shall be penalized by the imposition of a fine, suspension or disbarment.”

The Supreme Court has held in a long chain of Opinions that for a bill of information to be granted, the matter forming the basis of the information must have been pending before the Supreme Court or decided by it; that there must be an act tending to usurp the province of the Supreme Court; that there must exist some irregularities or obstruction in the execution of the Supreme Court's mandate; or that there must have been a refusal to carry out the Supreme Court's mandate. *Ahmadu v. Sirleaf, III and Bartu Dorley, v. Yessim EI-Bim, et al.*, Supreme Court Opinion, March Term 2013; *Liberia Aggregate Corporation v. Taylor et al.*, 35 LLR 3, 8 (1988); *Massaquoi-Fahnbulleh v. Urey and Massaquoi*, 25 LLR, 432, 435-436, (1977); *Barbour-Tarpeh v. Dennis*, 25 LLR 468, 470(1977); *Kromah v. Badio and Hill*, 34 LLR 85, 86 (1986); *Butler-Abdullah v. Pearson et al.* 36 LLR 592, 597-598 (1989); *Jawhary v. Jones*, 38 LLR 584, 593-594 (1998). Furthermore, a bill of information may be filed before the Full Bench of the Supreme Court against the mandate or decision of a Justice in Chambers where a party was not accorded its due process right, or where the mandate or decision of the Justice in Chambers deprives the Supreme Court of its authority as the final arbiter of Justice in the land. *Bassam H. Jawalry, Executor of the Testate Estate of the late Milad R. Hage v. His Honor Kabineh M. Ja'neh et al.*, Supreme Court Opinion, March Term, 2012; *Messrs. Varney Lartey and Adama Shannon v. His Honor James E. Jones*, Supreme Court Opinion, March Term, 2020; *Salumba Sheriff v. Intestate Estate of Randall P. Gbadyu*, Supreme Court Opinion, October Term, 2022.

The instant bill of information is premised on the alleged improper execution of two Mandates of the Supreme Court issued on December 17, 1999 and August 9, 2007. The informants, J.D. Wesley, Othello Sherman, Joseph Brewer, Aimee Wemtt, Catherine M. Momolu, William G. Akoi, Jenny G. Freeman and David Q. Yloe, substantially allege that the Co-respondent Judges, His Honor Yamie Quiqui Gbeissay and His Honor Shaepolar Dunbar are improperly executing the Mandates of the Supreme Court by ordering the informants eviction from their respective properties. In their fourteen-count bill of information, the informants state that they are bona fide owners and title holders of the properties which they occupy; that they have been occupying their respective properties for more than fifty (50) unbroken years; that without being summoned or cited to appear in court, the Co-respondent Judge, His Honor Yamie Quiqui Gbeissay, ordered their eviction from their respective properties allegedly based on the Mandates of the Supreme Court issued on December 17, 1999 and August 9, 2007; that the conduct of Judge Gbeissay is contrary to the specific Mandates of the Supreme Court as the informants were not party to the cases out of which the Mandates emanated, and evicting them from their properties without due process of law amounts to a violation of their constitutional right to property. The informants pray this Court to grant their information and reverse the allegedly unlawful conduct of the Co-respondent Judges.

His Honor Francis S. Korkpor, Sr., the retired Chief Justice of the Supreme Court, issued the alternative writ of information, commanding the named respondents to file returns to the bill of information on the date specified therein.

In obedience thereto, the 3rd Respondent, Amos Goah, alias Amos Geah-Doe filed resistance to the bill of information contending that the informants' allegation that they were not cited by the respondent Judges prior to the issuance of the writ of execution is false, and that the informants participated in the matter in the court below; that the informants or their predecessors-in-interest were parties to the case in the court below, and that the informants suffer waiver in challenging the writ of execution issued against them. Co-respondent Amos Goah therefore prays this Court to deny and dismiss the informants' bill of information.

The question presented for our determination is whether a bill of information will lie under the facts and circumstances of this case?

To address the question presented, we must review the Mandates of the Supreme Court issued on December 17, 1999 and August 9, 2007 and

determine whether the conduct of the Co-respondent Judges complained of by the informants is in conformance with or contrary to the wordings of the said Mandates.

The records show that on December 17, 1999, the Supreme Court disposed of an appeal which emanated from a petition for Revocation of Letters of Administration and Court's Decree of Sale filed by Messrs. Sackor Mendohdou, Edward Mendehdou, Cole Toe, James O. Yarwhere, James D. Gbay and Henry Greenfield against Amos Geah-Doe and Rev. David G. Kai, administrators of the intestate estate of Ketekpu Geah-Doe, before the Monthly and Probate Court for Montserrado County. The records in that case show that the petition for Revocation of Letters of Administration and Court's Decree of Sale was heard and granted by the Probate Court, thereby revoking the letters of administration and court decree of sale issued to Amos Geah-Doe and Rev. David G. Kai for the administration of the intestate estate of Ketekpu Geah-Doe and reversing the sale of property belonging to that estate made by these administrators. The decision of the Probate Court was appealed to the Supreme Court and after hearing the appeal, the Supreme Court delivered an Opinion in which it reversed the decision of the Probate Court, holding that Amos Geah-Doe and Rev. David G. Kai had interest in the estate of the late Ketekpu Geah-Doe and could therefore apply for letters of administration to administer said estate in keeping with the Decedents Estate Laws of Liberia, and that the petitioners did not provide any evidence that Amos Geah-Doe and Rev. David G. Kai violated their oath as administrators of the intestate estate of Ketekpu Geah-Doe. The Supreme Court instructed the Probate Court to close the estate within ninety (90) days of the delivery of the Opinion and distribute the properties belonging to the estate amongst the heirs of the estate. The Judgment issued by the Supreme Court in the case reads:

"That the Decree of the Probate Court should be, and same is hereby reversed and the cause remanded with specific instruction to the Probate Judge to close the said Estate within the period of 90 days as of the rendition of this Judgment to include all of the heirs in the distribution."

The records show further that approximately eight years after the issuance of the Supreme Court Judgment on December 17, 1999, the Supreme Court again on August 9, 2007, decided a petition for the Writ of Error filed before it by Messrs. Sackor Mendohdou, Edward Mendehdou, Cole Toe, James O. Yarwhere, James D. Gbay and Henry Greenfield against the Judge of the Monthly and Probate Court for Montserrado County, alleging that the said

Judge had denied them of their day in court while disposing of a proceeding to determine the heirs to be included in the distribution of the properties of the intestate estate of Ketekpu Geah-Doe in keeping with the Mandate of the Supreme Court issued on December 17, 1999. In the petition for the Writ of Error, the Plaintiffs-in-Error alleged that in the absence of their counsel, the Probate Court Judge entered a ruling in which he awarded half of the estate of the late Ketekpu Geah-Doe to Amos Geah-Doe and the other half to Amos Geah-Doe's alleged mother, Theresa Geah-Doe without a proper determination of whether they were true heirs to the estate, and that said ruling was contrary to the Mandate of the Supreme Court contained in the Opinion delivered on December 17, 1999. The Supreme Court heard and granted the Writ of Error, holding that the Judge of the Probate Court erred in making a ruling in the absence of the counsel of the Plaintiffs-in-Error especially given that the counsel filed an excuse with the court and the court acknowledged receipt of said excuse. The Court further held that the Judge failed to properly execute the Supreme Court Mandate of December 17, 1999 because he did not satisfactorily and convincingly inquire into whether Amos Geah-Doe was actually a biological son and heir of the late Ketekpu Geah-Doe to warrant him being a beneficiary of the intestate estate of Ketekpu Geah-Doe. The Court therefore reversed the ruling made by the Probate Court in which the estate of the late Ketekpu Geah-Doe was distributed between Amos Geah-Doe and his mother, and instructed the Probate Court to further examine the relationship between Amos Geah-Doe and the late Ketekpu Geah-Doe to determine whether Ketekpu Geah-Doe was the actual biological father of Amos Geahdoe. The Judgment issued by the Supreme Court in the case reads:

"That because of the Trial Judge's failure to allow answers to questions, and to have witnesses subpoenaed, and the several points of concern herein enumerated, we are of the opinion that the said Judge failed to execute the Mandate of the Supreme Court dated December 17, 1999. The Judgment is therefore reversed and the case remanded. The Clerk of this Court is ordered to send a Mandate to the Judge below to resume jurisdiction and institute a hearing consistent with this decision."

In sum, the Mandate issued by the Supreme Court on December 17, 1999 instructed the Probate Court to close the estate of Ketekpu Geah-Doe within 90 days of the rendition of the Judgment and include all the heirs of Ketekpu Geah-Doe in the distribution of the estate; while the Mandate issued on

August 9, 2007, instructed the Probate Court to institute hearing into whether Ketekpu Geah-Doe is the biological father of Co-respondent Amos Geah-Doe so as to entitle Amos Geah-Doe to benefit from the distribution of Ketekpu Geah-Doe's estate.

The records are devoid of any showing that a determination into whether the Co-respondent Amos Geah-Doe is the biological son of Ketekpu Geah-Doe was made by the Probate Court. The records however show that on July 28, 2016, the Probate Court issued a writ of execution against Messrs. Sackor Mandehdou, Edward Mandehdou, Cole Joe, James G. Yarwhere, James D. Gbay and Henry Greenfield of Barnersville, Liberia, commanding the Sheriff of the court to seize and expose for sale the land, goods and chattels of the named individuals to satisfy the bill of cost emanating from the judgment rendered by the court in the petition for revocation of letters of administration which had travelled to the Supreme Court and out of which the Mandates subject of this bill of information were issued. On June 26, 2017, the Probate Court issued a Court's Order, commanding the Sheriff of the court to enforce the writ of execution issued on July 28, 2016 against the individuals named in the writ.

On February 24, 2020, the Clerk of the Probate Court, on authority of the Judge of the court, forwarded the case to the Civil Law Court to "enforce the execution of the Supreme Court Judgment" because the Probate Court is without judicial power to evict and/or enforce its judgment regarding the eviction of occupants of the properties belonging to the estate. On May 3, 2020, Co-respondent Amos Geah-Doe filed inventory before the Probate Court for the intestate estates of Ketekpu Geah-Doe, Gargare Yanee Geah-Doe and Blahmo Jubeh; thereafter, he petitioned the court to close the referenced estates. On June 17, 2020, the Probate Court granted the Co-respondent's petition and issued a decree closing the intestate estates of Ketekpu Geah-Doe, Gargare Yanee Geah-Doe and Blahmo Jubeh.

Subsequently, on July 29, 2022, the Civil Law Court, based on the transfer of the case to it to evict the individuals named in the writ of execution issued by the Probate Court, issued a writ of possession and placed same in the hands of the Sheriff to oust and evict the individuals named therein and place the Co-respondent Amos Geah-Doe in possession of the premises described in the writ. We quote below the said writ of possession:

"You are hereby ordered to put the Respondent [Amos Geah-Doe] in complete and unrestricted possession of the premises described as follow:

Commencing at the northeastern corner of 140.80 acres owned by Garegar Yanee Geahdoe and running on magnetic bearing as follows:

Thence running north 51 degrees east 22.71 chains, to a point, thence running south 39 degrees east 57.4 chains to a point; thence running south 51 degrees west 22.7 chains to a point; thence running north 39 degrees west 57.4 chains to the point of commencement and containing 133.31 acres of land and no more.

Respondent in the above captioned cause of action is entitled to the above mentioned/described property by virtue of Supreme Court's Rulings of 1999 and 2007, under the signatures of the Full Bench of the Honorable Supreme Court, sitting its March Term A.D. 2007, and re-echoed by Her Honor Associate Justice Sie-A-Nyene G. Yuoh, in the year 2020.

You are further commanded to oust, evict and eject the Petitioners [Messrs. Sackor Mandehdou, Edward Mandehdou, Cole Joe, James G. Yarwhere, James D. Gray and Henry Greenfield] in the above named/described property/premises and return this Writ of Possession to my office on/or before the Next Term, June, A.D. 2022, ordered on the back of the Original Copy of the Writ of Possession your official Returns as to the manner and form of its service and placing Respondent in complete, full and unrestricted possession of the premises/property described supra."

It is the execution of the above quoted writ of possession issued under the signature of the Co-respondent Judge Yamie QuiQui Gbeisay, Sr., that triggered the filing of the instant bill of information. The crux of the bill of information is that the Co-respondent Judge, His Honor Yamie Quiqui Gbeissay, Sr., is improperly executing the Mandates of the Supreme Court by issuing out eviction orders to oust and evict the informants from their respective properties. Informants argue that because they were not party to the cases out of which the Supreme Court Mandates emanated, they cannot be affected by the execution thereof as they are not bound by the decisions issued by the Court in these cases.

The question which flows out of the bill of information is, did the Supreme Court Mandates of December 17, 1999 and August 9, 2007 order the eviction of occupants of the properties belonging to the intestate estate of Ketekpu Geah-Doe? We think not. As reproduced above in this Opinion, the Supreme Court Mandate issued on December 17, 1999 specifically commanded the Probate Court to close the intestate estate of Ketekpu Geah-Doe in 90 days of the issuance of the Mandate and include all beneficiaries of the estate in the distribution of the estate. On the other hand, the Mandate issued by the Court on August 9, 2007 commanded the Probate Court to conduct further hearing into whether the Co-respondent

Amos Geah-Doe is the biological son of Ketekpu Geah-Doe to entitle him to benefit from the estate.

In keeping with the two Mandates, the sole task of the Probate Court was to firstly conduct the hearing and make a determination as to whether Amos Geah-Doe is the biological son of the late Ketekpu Geah-Doe and thereafter, close the intestate estate of Ketekpu Geah-Doe and distribute the estate amongst the heirs of the estate. The Probate Court was not authorized or mandated to go any further to make a determination on the right of possession to the properties which formed part of the estate and which were distributed amongst the heirs of the late Ketekpu Geah-Doe. After the closure of the estate and the distribution of the properties thereof, the function of the Probate Court ceased as the Court lacks the legal prerogative to oust and evict those who are occupying the properties which were distributed. The proper legal course to pursue in ousting and evicting occupants of the distributed properties was an action of ejectment filed by the distributee (s) of the estate to take possession of their property distributed by the Probate Court.

The Civil Procedure Law, Rev. Code 1:62.1 defines the province of ejectment as follows: "any person who is rightfully entitled to the possession of real property may bring an action of ejectment against any person who wrongfully withholds possession thereof. Such an action may be brought when the title to real property as well as the right to possession thereof is disputed."

In this case, the Co-respondent Amos Geah-Doe, upon the closure of the intestate estate of Ketekpu Geah-Doe and the distribution of the properties of the estate, should have instituted the necessary action to oust and evict the informants and all those who are deemed to be illegally occupying the properties deeded to him by the Probate Court. This would have afforded the informants and others similarly situated the opportunity to interpose the necessary legal defenses in support of the possession and occupancy of the properties they occupy in line with the requirements of due process.

Property right is a fundamental and inalienable right which can only be taken away as the result of a proceeding conducted in keeping with due process of law, and cardinal to such proceeding is the competence of the court which is making the declaration on the right to possession of real property. The informants herein have alleged that they are bona fide title holders to the properties they occupy and that they have occupied their respective properties for a period of more than fifty (50) years, and that evicting them

from their properties without due process of law amounts to a violation of their constitutional right to property. We agree and hold that the Probate Court lacks the competence to enter a decree ordering the eviction of the informants from their respective properties; as such the conduct of the Co-respondent Judges clearly amounts to a deprivation of the informants' right to due process.

In sum, it is our considered Opinion that the Supreme Court Mandates of December 17, 1999 and August 9, 2007, out of which this Bill of Information emanates, having ordered the Probate Court to make a determination as to whether the Co-respondent Amos Geah-Doe is the biological son of the late Ketekpu Geah-Doe and thereafter close the deceased intestate estate and distribute the estate amongst the heirs of the deceased, the Co-respondent Judges improperly executed the Supreme Court's Mandates when they ordered the eviction of the informants without due process.

More beside, even if the Co-respondent Judges were correctly implementing the Mandates of the Supreme Court, we still do not see how the informants who were not party to the cases out of which the Mandates emanated would be subjected to implementation of the Mandates. As the records clearly show, the informants were not party to the Opinions delivered by this Court in 1999 and 2007; therefore, they do not come under the Judgments and Mandates issued out of said Opinions. The informants were not a party to the Petition for Revocation of Letters of Administration and Court's Decree of Sale, neither were they a party to the Petition for the Writ of Error, the two cases out of which the Supreme Court Mandates of 1999 and 2007 as indicated above emanated. It is the law in this jurisdiction that the rights of no one shall be concluded by a judgment rendered in a suit to which he is not a party, and a party cannot be bound by a judgment without being allowed its day in court. *Varney Lartey and Adama Shannon v. His Honor James E. Jones*, Supreme Court Opinion, March Term, 2020; *Salumba Sheriff v. The Intestate Estate of Randall P. Gbadyu*, Supreme Court Opinion, October Term, 2022.

WHEREFORE AND IN VIEW OF THE FOREGOING, the informants' bill of information is hereby granted and the writ of possession issued by the Co-respondent Judges ordered quashed. The Clerk of this Court is ordered to send Mandates to the Probate and Civil Law Courts informing them of this decision. Costs are ruled against the respondents. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING COUNSELLOR AMARA M. SHERIFF APPEARED FOR THE INFORMANTS. COUNSELLORS SAMUEL KORTIMAI AND FINLEY Y. KARNGA APPEARED FOR THE RESPONDENTS.