

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC
OF LIBERIA, SITTING IN ITS MARCH TERM, A.D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE

Faud Nyei and Siafa Fahnbulleh of the City of)
Monrovia, Republic Liberia..... Appellants)
)
Versus) APPEAL
)

The Intestate Estate of Varfee Siryon, Sr., and Lutecia)
Siryon by and through their Administrator, Varfee A. Siryon,)
Jr. of the City of Monrovia, Republic of Liberia.....Appellee)
)

GROWING OUT OF THE CASE:)
)

The Intestate Estate of Varfee Siryon, Sr., and Lutecia)
Siryon by and through their Administrator, Varfee A. Siryon,)
Jr. of the City of Monrovia, Republic of Liberia.....Plaintiff)
)

Versus) Action of Ejectment
)

Faud Nyei and Siafa Fahnbulleh of the City of)
Monrovia, Republic Liberia..... Defendants)

Heard: July 4, 2024

Decided: August 28, 2024

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

The instant appeal emanates from an ejectment action filed on July 30, 2020, before the Sixth Judicial Circuit, Civil Law Court, Montserrado County by the appellee, the Intestate Estate of Varfee Siryon, Sr. and Lutecia T. Siryon by and thru its administrators Varfee A. Siryon against the appellants Faud Nyei and Siaffa Fahnbulleh.

The allegations contained in the complaint essentially state that the Intestate Estate of Varfee Siryon, Sr. is the owner of two (2) acres of land lying and situated in Logan Town, Bushrod Island, Montserrado County, purchased in 1961 from Kay Jorh; that the appellants without any color of title illegally entered upon the said property and have constructed structures thereon despite the appellee’s notice that they, the appellants

vacate its property; and that for the illegal and wrongful withholding of the appellee's property the appellants are liable to pay damages.

On August 10, 2020, the co-appellant Faud Nyei filed a six-count answer to the appellee's complaint contending *inter alia* that contrary to the appellee's claim of ownership to the subject property, he is the legitimate owner thereof having obtained same through a honorable purchase from the Intestate Estate of Amadu Zwannah; that the mere possession of an older deed by the appellee does not automatically vest title in the appellee; that the appellee's entire complaint should be dismissed for lack of standing and capacity to sue on grounds that the Letters of Administration attached to the appellee's complaint had expired; and that he did not withhold the property of the appellee, for which damages should lie.

On August 17, 2020, the appellee filed a ten-count reply basically recounting the averments in its complaint, that the appellants are not the owners of the subject premises.

As regards the co-appellant Siafa Fahnbulleh, the records are void as to any answer filed in his behalf for which the Court could order him (co-appellant) ousted and evicted and damages awarded for his wrongful withholding of the appellee's property. What the records do show is an arbitration agreement entered into between the appellee and the co-appellant Faud Nyei on October 28, 2020, requesting that the lower court submit the case to a Board of Arbitration for determination and subsequent presentation of an arbitration award. Accordingly, the trial judge granted the request of the parties and ordered the clerk to request the Liberia Land Authority to submit the name of a licensed and qualified surveyor to serve as Chairman of the Board of Arbitration and that the appellee and the co-appellant Faud Nyei submit the names of their respective surveyors for the conduct of an arbitration proceeding and survey. Accordingly, the appellee submitted the name of Surveyor Lawrence Zayzay, the appellant, the name of Surveyor Mohammed Sheriff, while the Liberia Land Authority submitted the name of Surveyor Lawrence R.M. Henries to serve as the Chairman on the Board of Arbitration, as per the precedent in this jurisdiction.

On November 8, 2021, the board of arbitration issued a survey notice informing the parties, and the adjacent landowners about the conduct of a survey of the disputed property on Friday, November 16, 2021 at the precise hour of 10:30 A.M. The survey

was conducted on the said date in the presence of the representatives of the disputing parties and the adjacent landowners.

On December 31, 2014, the Board of Arbitration filed its report with the trial court, the findings from which we quote excerpts as follows, to wit:

“OBSERVATIONS AND FINDINGS

6.1 Location Issues (Respondent/Plaintiff)

The respondent/plaintiff area of lines of possession or points shown on the ground is two (2) acres which is the same quantity of land called for in the deed.

The parcel of land described in the plaintiff’s deed is a two (2) acres parcel divided into two: One (1) on the west or left side of the 40-foot motor road heading from Logan Town to Caldwell Bridge and one (1) acre on the east or right side of the said 40-foot road heading from Logan Town to Caldwell Bridge. See points labeled “E, F, G, H, J, K, L, D-E” on Map.

The parcel of land described in the plaintiff’s deed is a rectangular (4 corners) parcel of land with length and width as 440’ X 217.8’ which is equal to 95832 square feet or 2.2 acres of land excluding 0.2 acres or 40-foot road.

The plaintiff has four (4) cornerstones or boundary markers on ground with initials “V.A.S & L.T.S” that defined the eastern one (1) acre of land and found on the right hand side of “Logan Town Road” heading from Logan Town to Caldwell Bridge. See point labeled “G, H, J, K,-G” on map.

The plaintiff also has three (3) cornerstones or boundary markers with initials “V.A.S & L.T.S” found on ground and defining the boundary of the western one (1) acre of land which is also found on the left side of the “Logan Town Road”, heading from Logan Town to Caldwell Bridge. The current ground location of the land and the development thereon by the caretaker of plaintiff is two (2) acres of land found on both sides of the 40-foot motor road heading from Logan Town to Caldwell Bridge which is nearly the same as the deed.

Location or Boundary Issues (Objector/Defendant)

The defendant/objector area of line of possession or points shown on the ground is two (2) acres which is also the same quantity of land called for in the deed.

The parcel of land described in the defendant's deed is an irregular parcel of land (six sided figure).

The current ground location of the land claimed by defendant is on the east side or right side of the motor road heading from Logan Town to Caldwell Bridge.

The defendant showed five free stations (positions on the ground with no cornerstone or no indication of boundary marker) and one iron pole standing by one of the cornerstones marked with initials "V.A.S &L.T.S." See points labeled on map as "G" (Iron pole) and "6,7, 8, 9" (Free Station).

7.0 ANALYSIS

The following were observed by the "Board of Arbitration" as the status of the parties as it relates to the dispute.

7.1 Status of the Respondent/Plaintiff

The plaintiff has possessed these two (2) acres of land since 1961, evidenced by the boundary markers/cornerstones found on the land with initials V.A.S & L.T.S and supported by the deed. The plaintiff also has tenants or caretakers who are currently occupying all of the land both left and right or east and west of the 40-foot motor road heading from Logan Town to Caldwell Bridge.

The Plaintiff claim of title (deed) is senior title to the defendant and grantors claims of title (deeds).

7.2 Status of the Objector/Defendant

The defendant is currently occupying two (2) lots on which he has erected a new school building also on the eastern side of the "Logan Town Road". This two (2) lots parcel of land is found within the eastern one (1) acre of land claimed by the plaintiff."

Subsequently on March 8, 2022, the co-appellant, Nyei filed a six-count motion to vacate the arbitration award which we summarize as follows:

- that pursuant to the provision of the Civil Procedure Law, Revised Code 1: 64.11 (d), which provides that the refusal of the arbitrators to postpone the hearing upon sufficient cause being shown therefor, or to hear evidence material to the controversy, or otherwise conducted the hearing contrary to the provisions of Sections 64.5 or 64. 6 is a ground to vacate the arbitration award, the Chairman of the Board of Arbitration was under obligation to postpone the arbitration survey exercise in order to notify the grantor(s) of the appellants for the purpose of locating the points of its metes and bounds; that the Board of Arbitration exceeded its scope of authority when it declared that the appellee is the legitimate owner of the disputed property as the role of the board of arbitration is to only use the title instruments presented by the parties to physically locate the property/land on the ground; and that the Chairman of the Board of Arbitration exercised undue influence and impartiality in favor of the appellee.

On June 1, 2022, the trial Judge, His Honor Scheaplor R. Dunbar ruled on the appellants' motion to vacate the arbitration award. We quote below pertinent excerpts from the trial judge's ruling as follows to wit:

“This court says that in every arbitration survey each party is represented by a qualified surveyor of their own choosing who will represent their interest and file any objection or reservation with the conduct of the survey. He is under a duty to timely file his objection if the survey was not properly carried out.

In the instant case, movants' surveyor Mr. Peter Bindah did not file any objection or reservation to the arbitration survey report and as a matter of fact he joined the other two surveyors in awarding the disputed property to the plaintiff. In the absence of any reservation or objection being filed by the technical representative of the movants to the conduct of the survey, this court says that movants are hereby estopped from challenging the survey report and the unanimous award.

This court says that the objector's legal counsel is not a surveyor and therefore cannot raise issues that were not raised by the technical representative of movants during the conduct of the survey.

This court is therefore satisfied that the unanimous award as presented by the board of arbitration is consistent with the board of arbitration survey report. This court cannot vacate the award simply because movant's counsel is not satisfied with the report especially so when he is not a surveyor nor have the technical knowledge of surveying.

This Court also says that there are valid grounds under Section 64. 11 of the Civil Procedure Law for vacating an award and that movants have not alleged any valid grounds in their motion to warrant setting aside the award especially so when their own surveyor has joined the other surveyors in awarding the property to the plaintiff.

Wherefore and in view of the foregoing, movant's motion to vacate the award is hereby denied.”

The appellants noted exceptions to this ruling of the trial judge by filing a six count bill of exceptions basically re-stating the same issues raised in its motion to vacate the arbitration award to the effect that the Chairman of the Board of Arbitration should have postponed the arbitration survey and notify the appellants' grantor(s) to participate in the arbitration proceedings. refused to postpone the arbitration survey despite its grantor not being notified for the conduct of the survey; that the points of its metes and bounds could not be properly identified due to the absence of its grantor; that the Board of Arbitration exceeded its scope of authority when it declared that the appellee is the legitimate owner of the disputed property when it had failed to only use the title instruments as presented by the disputing parties to physically locate the property in dispute on the ground; and that the Chairman of the Board of Arbitration exercised undue influence and impartiality in favor of the appellee, duly noting the rush to conduct the survey despite the absence of the appellants' grantor. Our summary of the contentious issues raised in the appellant's bill of exceptions is in consonance with the law that “the Supreme Court is not bound to pass on all of the issues raised in the counts in the bill of exceptions but only those it finds pertinent to the disposition of the case.” *CBL v. TRADEVCO*, Supreme Court Opinion, October Term 2012; *Knuckles v. TRADEVCO*, 40 LLR 49, 53 (2002); *Vargas v. Morns*, 39 LLR 18, 24; *Rizzo et. al v. Metzger et. al*, 38 LLR 476 (1997); *Transport of Belgium v. Family Textile Center*, 38 LLR 49 (1995).

Having summarized the basic contentions of the appellants, this Court says there is only one issue dispositive of this case, which is whether the appellants established that the Board of Arbitration violated section 64.11(d) of the Civil Procedure Law to warrant this Court's reversal of the decision of the lower court? We answer in the negative.

As stated herein above, the primary contention of the appellants is that sufficient reasons existed for the Chairman of the Board of Arbitration to have postponed the arbitration survey due to the lack of notice to the appellants' grantor(s) to participate in the arbitration proceedings.

Arbitration is a method of settling differences through investigation and determination, by one or more technical persons selected for the purpose of some disputed matter submitted to them by the contending parties for decision and award; and that the object of arbitration is the final disposition of differences between parties in a faster, less expensive, more expeditious and perhaps less formal manner than is available in ordinary court proceedings. *Gardner v James*, Supreme Court Opinion, March Term 2015; *Chicri Brothers Inc. v. Isuzu Motors*, 40 LLR 128, 135 (2000). Civil Procedure Law; Revised Code 1:64.1-11

The referenced chapter of the law also provides that, "a written agreement to submit to arbitration any controversy existing at the time of the making of the agreement or any controversy thereafter arising is valid, enforceable without regard to the justiciable character of the controversy, and irrevocable except upon good grounds as exist for the revocation of any contract." Further, the Supreme Court has held that "unless grounds provided for vacating an arbitration award conforms to the statute, it is not within the province of the trial court to determine factual issues in any arbitration proceedings and said award is binding on the parties to the dispute." *Gardner v James*, Supreme Court Opinion, March Term 2015; *Berry v Intestate Estate of Bettie*, Supreme Court Opinion, October Term 2013.

Chapter 64 of the Civil Procedure Law also sets forth the procedures, by which disputing parties, in this case, dispute over a parcel of land, can sign and submit a written agreement to the trial court to submit their disputes to arbitration. By so doing, the parties effectively oust the trial court of jurisdiction to conduct a trial of the matter, except to confirm the award submitted by the majority of the arbitrators, but may be vacated in accordance with the grounds set forth in section 64.11 of the referenced statute, as follows:

- “...a) The award was procured by corruption, fraud, or other undue means; or

- b) There was partiality in an arbitrator appointed as a neutral, except where the award was by confession; or there was corruption or misconduct in any of the arbitrators; or

- c) An arbitrator or the agency or person making the award exceeded his powers or rendered an award contrary to public policy; or

d) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor, or refused to hear evidence material to the controversy, or otherwise conducted the hearing contrary to the provisions of sections 64.5 or 64.6...”

Our review of the certified records shows that when the board was constituted, and the records of the respective pleadings to which title and other instruments were attached, as well as the arbitration agreement, were submitted to the arbitrators, the appellants made no application to the Board of Arbitration for the issuance of subpoenas for their grantor(s) to be present on the date of the arbitration survey. In the absence of this application, and only subsequent to the conclusion of the survey, and the arbitration report inclusive of an award submitted to the trial court, it was then, that the appellants filed the motion to vacate the award on grounds that the Chairman of the Board of Arbitration did not invite their grantor(s) to be present at the survey to identify the appellants’ metes and bounds appearing on their title deed. The Supreme Court has opined that arbitration is not limited to the inquiry on reconciliation of metes and bounds in the title instruments of the parties to the disputed property, as in the case of an investigative survey, 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. *Gardiner v. James*, Supreme Court Opinion, March Term, 2015; *Freeman et al v. Webster*, 14 LLR 493 (1961). *Gardner v James*, Supreme Court Opinion, March Term 2015.

Further, it is the practice in vogue that whenever there is an agreement to arbitrate, signed by the disputing parties in an ejectment action, the trial court executes such agreement by requesting each of the contesting parties to submit the name of a licensed and qualified surveyor to serve as its representative on the board of arbitration. The court then writes the Liberia Land Authority requesting the name of a licensed and qualified surveyor to serve as Chairman on the board of arbitration. This practice is to ensure that professionals with the requisite technical expertise in land matter represent the interests of the contending parties to ensure that the proper party prevails. Therefore, we find it inconceivable that the appellants will present as an excuse the absence of its grantor who lacks technical expertise in land matter as a ground for the vacation of the arbitration award especially when their representative to the board of arbitration who possesses the technical expertise in land matter was present and affixed his signature to the arbitration report, an indication of his confirmation that the arbitration survey was conducted in a fair and impartial manner and that the appellants agreed with the presentment of the arbitration award by the board of arbitration. Hence, in the instant case, the Board of Arbitration, which included the

appellants' representative having unanimously presented an award in favor of the appellee, and the appellants having failed to prove a violation of any of the grounds for vacating the award, same shall not be disturbed.

The Supreme Court has held in a long line of cases that “where the parties enter into an arbitration agreement submitting any controversy existing at the time of the making of the agreement or any controversy arising thereafter, the agreement is valid, and enforceable without regard to the justiciable character of the controversy, except it proves a violation of any of the grounds for vacating the arbitration award.” *Chicri Brothers, Inc. v. Overseas Distribution Corporation*, 40 LLR 128, 132 (2000); *Emirates Trading Agency Company v. Global Africa Import and Export Company*, 42 LLR 204, 213 (2004); *Berry v. Intestate Estate of Bettie*, Supreme Court Opinion, October Term 2013; *Gardiner v. James*, Supreme Court Opinion, March Term 2015. Hence, we hold that the Board of Arbitration did not violate section 64.11(d) of the Civil Procedure Law.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the trial judge is hereby affirmed and the February 14, 2017 Arbitration award of the two (2) acres of land to the appellee, is hereby upheld. The appellants are ordered ejected, ousted and evicted from the subject property and the appellees placed in possession thereof. 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 give effect to the Judgment of this Opinion. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.

Ruling affirmed