

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS MARCH TERM, A.D. 2022

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE  
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE  
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

Oumou Sirleaf-Hag, Bashir M. Hage, Rachel M. )  
Hage, Monica M. Hage, Elie M. Hage, Tony M. )  
Hage, Terez G. Safi and Lor G. Azar of the City )  
of Monrovia, Montserrado County, Republic of )  
Liberia.....Informants )

Versus )

BILL OF INFORMATION

His Honor J. Boima Kontoe, Assigned Circuit )  
Judge for the September Term A.D. 2017 and )  
Special Assigned Circuit Judge for the Milad Hage )  
Estate and the Curator of the Probate Court for )  
Montserrado County, Republic of Liberia..... )  
.....1<sup>st</sup> Respondents )

And )

Nohad Hage Mensah by and thru her Attorney-in- )  
Fact, Edith Hage Smith also of the City of Mon- )  
rovia, Montserrado County, Republic of Liberia... )  
.....2<sup>nd</sup> Respondent )

GROWING OUT OF THE CASE: )

INRE: THE TESTATE ESTATE OF MILAD R. HAGE

Heard: May 10, 2022

Decided: September 5, 2022

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

This Opinion is a consolidation of two bills of information and an application for the sequestration of rents filed by Oumou Sirleaf Hage, Bashir M. Hage, Rachel M. Hage, Monica M. Hage, Elie M. Hage, Tony M. Hage, Terez G. Safi and Lor G. Azar, informants, against the final ruling of Judge J. Boima Kontoe presiding by special assignment over the September Term, A.D. 2017 of the Monthly and Probate Court for Montserrado County and Nohad Hage Mensah, respondents herein; which information and application grew out of the Mandate of the Supreme



Court handed down on January 24, 2014 in the matters relating to the Testate Estate of Milad R. Hage. The late Milad R. Hage was a Lebanese businessman who died testate on April 19, 2010 in the Republic of Lebanon seized of real and personal properties in Liberia. The history of this case has been well laid out in the case *His Honor Holder et al v. Sirleaf Hage, Supreme Court Opinion, October Term, A.D. 2013*. In that opinion, this Court mandated the Monthly and Probate Court for Montserrado County to resume jurisdiction over the case and execute the following:

- "a) Order the appellant to submit to the Monthly and Probate Court for Montserrado County a comprehensive inventory of the Hage Estate's assets, as required by the Decedents Estates Law, as well as its liabilities;
- b) In connection with (a), further order that a comprehensive audit be conducted for both the period the executor administered the Hage Estate and the period Ecobank collected proceeds of the Estate to cover loans given by Ecobank to the late Hage, to ensure that no illegal or irregular acts were perpetrated on the Estate. The audit shall include recommendations of steps and actions to be taken in the event of any findings of improper collection or use of the Estate's funds by any of the fiduciaries. The foregoing acts shall be without prejudice to any actions commenced or pending in any courts of the Republic by or between any of the parties named herein;
- c) Order the appellant to furnish a detail statement of the status of the loan facility the Hage Estate has with the Ecobank;
- d) Ensure that the appellant establishes an account (if such account is not already established) into which all monies belonging to the Hage Estate are deposited; operation of the account shall be with the approval of the Monthly and Probate Court for Montserrado County;
- e) Forthwith investigate the allegations of malpractices alleged to have been committed by the appellant in his handling of the Hage Estate's properties, including the Estate's funds;



f) Revoke the appellant's letters testamentary in the event that the investigation conducted pursuant to "d" above reveals that the appellant has engaged in misconduct or mismanagement of the affairs of the Hage Estate;

g) Determine whether or not the lease agreement executed by and between Oumou Sirleaf-Hage and Milad R. Hage has expired in accordance with its terms and conditions, and in the event that said lease agreement is determined to have expired, return all properties covered by the agreement to Oumou Sirleaf-Hage;

h) Determine whether or not the property or properties covered by the lease agreement include properties owned by the children of Milad R. Hage and Oumou Sirleaf-Hage, and if so, render void the lease agreement by and between Oumou Sirleaf-Hage and Milad R. Hage insofar as it covers and relates to the properties owned by said children;

i) Determine whether or not the conduct of the appellant as relates to Oumou Sirleaf-Hage, constitutes a disavowal of the Last Will and Testament of Milad R. Hage, and if so, revoke the appellant's letters testamentary and remove him from his position as Executor of the Hage Estate;

j) Determine whether or not the disharmony between the appellant and the appellees necessitates an immediate closure of the Estate; and

k) Given that this case has been pending for a long time without final determination, the Monthly and Probate Court is mandated to give it first priority handling."

The substantive allegations of the informants' information are that they, the widow, the Liberian and the Lebanese children including the co-respondent Nohad Hage Mensah, are the beneficiaries of the Testate Estate of Milad R. Hage; that the widow, the Liberian and the Lebanese children, respectively are entitled to 33.33% share or proceeds from the said estate; that the respondent judge had authorized series of payments to co-respondent Nohad Hage Mensah to the detriment of the



decedent's other heirs including the widow, Oumou Sirleaf Hage evidenced by an LBDI Bank Statement which shows that the amount of US\$102,040.63 was in the estate's account as at December 1, 2020; that the said bank statement shows that on December 2, 2020, the respondent judge authorized payment of US\$35,000.00, December 7, 2020, the payment of 25,000.00, and December 12, 2020, a payment of US\$25,000.00, all to the co-respondent, Nohad Hage Mensah, to the exclusion of other beneficiaries; that up to the filing of the second bill of information, the Curator of the Monthly and Probate Court for Montserrado County was in the process of making another payment to Nohad Hage Mensah in the amount of US\$60,000.00; that the respondent judge had irregularly proceeded and litigated adverse claims to three of the properties in favor of co-respondent Nohad Hage Mensah in direct contravention of count (h) of the Supreme Court's Mandate; and that the respondent judge's determination of the adverse claims to the three properties should have been based on the best evidence of collaterals lodged with Ecobank Liberia Limited.

Regarding the application for sequestration of rents, the informants reiterated their allegations that the respondent judge wrongly proceeded to execute count (h) of the Supreme Court's Mandate; and contend that counts (g), (j), (k) and especially (h) of the said Mandate not been fully executed, the co-respondent judge had unjustly enriched the co-respondent Nohad Hage Mensah by directly paying from the estate an approximate amount of US\$2,000,000.00 over the period of four years or thereabout to their detriment. The informants therefore pray this Court to grant their information, sequester the rents and have same deposited in an escrow account pending the final determination of the case.

In her response to the information and application for sequestration of rent, the co-respondent Nohad Hage Mensah vehemently denies that the testator willed 33.33% share for the widow and each group of the Liberian and the Lebanese children, and that this is also not consistent with law; that the *Decedent Estate Law* provides for one third right of a widow and children, respectively to real property of a decedent's estate; that Item no. iii B of the Last Will and Testament of Milad R. Hage willed a yearly amount of US\$50,000.00 to each of the his Liberian children for education, health, support, comfortable maintenance and welfare, and "a lesser amount" for the Lebanese children; that based on the said will, the respondent



judge authorized payments in favor of co-respondent Nohad Hage Mensah for her four year accumulated benefits; that the informants made similar requests to the respondent judge including nearly half a million United States Dollars for attorney fees which were honored by the said judge; that the informants have received in excess of their entitlement from requests approved by previous judges assigned to the case; and that she has no information sufficient to form a belief regarding sequel of payments from an amount of US\$102,040.63.

Further resisting the informants' application for sequestration of rents, the co-respondent Nohad Hage Mensah contends that there are factual allegations made in the application which requires the taking of evidence not cognizable before the Supreme Court; that co-respondent Nohad Hage Mensah is one of the appellees in the aforementioned case decided by the Supreme Court in which it mandated the Monthly and Probate Court for Montserrado County to investigate and if found, exclude the children's properties from the Testate Estate of Milad R. Hage; that the said Monthly and Probate Court properly executed that Mandate by excluding co-respondent Nohad Hage Mensah's properties as was similarly done in the case of the informants; and that the application is intended to deprive co-respondent Nohad Hage Mensah's right to collect rents from her properties.

Before proceeding further to consider the issues in this case, we must note with sadness and discountenance the protracted delay that has attended the execution of this Court's Mandate for about eight years couple with the fact that the records are kept in tatters. We are equally sadden by the fact that rather than executing the clear Mandate of this Court, the lower court proceeded to re-litigate the matters touching the last will and testament of Milad R. Hage already determined by this Court on January 24, 2014 as indicated, *supra*.

On December 3, 2014, this Court's attention was drawn to one such re-litigation through the first bill of information filed by the informants herein. Consequently, we ordered the recusal of His Honor Judge J. Vinton Holder of sainted memory on December 23, 2014 and replaced him with Her Honor Judge Eva Mappy Morgan reinforcing this Court's position on the strict execution of its Mandate in manner deserving a logical conclusion of the testate estate matter. Notwithstanding our stance to seeing the matter lay to rest in keeping with the last will and testament of



the decedent, it appears to us that the counsels representing the parties relentlessly engaged in dilatory tactics by filing worthless applications before the lower court. Counsels for the appellant, Bassam H. Jawhary, made one such worthless application requesting the lower court to dispense with this Court Mandate and remove him unconditionally as the executor of the estate. In her ruling, Her Honor Judge Morgan rightly held as follows:

“This court convened for another sitting on 20 January 2015. During that meeting the parties requested time to discuss out of court and file a joint stipulation on 21 January 2015 concerning the outcome of their meeting. Needless to say, the lawyers appeared, did not file the aforesaid stipulation and requested another day to conclude their discussion. This request was granted. All through Court’s several conferences with the lawyers we issued this caveat. That any stipulation filed by the parties consistent with the Mandate of the Honorable Supreme Court, this court will uphold; and anything to the contrary rejected. Now, counsels have appeared today without signed document but a proposal, containing terms which did not support with the Mandate of the Honorable Supreme Court. The records in this case are voluminous. They contained briefs, exhibits and all of the documents counsels have filed in defense of their clients. We have read the files, conference with counsels, etc., accordingly, this court determines as follows:-

1. That appellant will submit to the Monthly and Probate Court for Montserrado County a comprehensive inventory of the Hage estate’s assets as well as liabilities as required by the Decedents Estates Law pursuant to Article A, and court letter of 26 December 2014 reminding/informing him of this responsibility.
2. That the audit will be conducted of Ecobank and the Executor consistent with Article B of the Honorable Supreme Court Mandate.
3. That Appellant will furnish a detail statement of the status of the loan facility the Hage Estate has with Ecobank pursuant to Article C of the Honorable Supreme Court Manager, and court’s letter of 26 December 2014 reminding/informing him of this responsibility.



4. That pursuant to Article E of the Honorable Supreme Court Mandate, investigation into the allegations of malpractices alleged to him been committed by the appellant in his handling of the Hage Estate properties including the Estate's funds shall commence Monday, 26 January 2015 at 10a.m. The parties are also reminded to bring any and all documents, witnesses they consider relevant to the hearing of this matter.
5. That pursuant to Article G of the Honorable Supreme Court mandate this court determines that the lease agreement executed by and between Oumou Sirleaf and the Milad R. Hage (Late) has expired, and all properties covered by the aforesaid lease are turned over to Oumou Sirleaf Hage. The Clerk is directed to issue an order turning over any such property to the Lessor(s).
6. That pursuant to Article II of the Honorable Supreme Court mandate, this court renders void any and all lease agreements by and between Oumou Sirleaf Hage and Milad R. Hage (Late) covering property owned by the children of the aforesaid Oumou Sirleaf Hage and Milad R. Hage (Late). Such properties not being part of the Testate Estate of Milad R. Hage are forthwith return to their children. Further, the executor herein shall make an accounting to this court within 10 days from date of the ruling of any such property (ies) under his management. The clerk is directed to issue an order turning over any such property to the children.

It is so ordered.

The below items of the Honorable Supreme Court mandate are pending:

- a. Revocation of appellant's letter testamentary in the event that investigation conducted pursuant to "e" above reveals that the appellant has engaged in misconduct or mismanagement of the affairs of Hage Estate. **Article F.**

b. Determine whether or not the conduct of the appellant as relates to Oumou Sirleaf Hage, constitutes a disavowal of the Last Will and Testament of Milad R. Hage, and if so, revoke the appellant's letters testamentary and remove him from his position as Executor of the Hage Estate. **Article I**

c. Determine whether or not the disharmony between the appellant and the appellees necessitates an immediate closure of the Hage Estate.

**Article J**

**NOTE:** It is observed that the last inventory submitted by the executor reveals an estate account held at Global Bank. The bank has twice been written, 29 December 2014 and 29 January 2015 concerning this account. This is pursuant to Article D of the aforesaid mandate.

The Court: Mr. Clerk, is there other matter before court?

The Clerk: No, Your Honor

The Court: Court's adjourned.

Given under my and hand seal  
of Court this 22<sup>nd</sup> day of January  
A.D. 2015

Her Honor Eva Mappy Morgan  
ASSIGNED JUDGE"

Nearly two months later, that is, March 17, 2015, the records show that despite the lower court's insistence on the strict execution of this Court's Mandate, the said court however still ordered the removal of the appellant, Bassam H. Jawhary, as the executor of the estate without the appellant performing key instructions such as making a comprehensive report of inventory of the testate estate, and status report of the loan the testator secured from Ecobank Liberia Limited. We do not see any basis for the granting of the removal of the appellant as the executor except that his application was unopposed by the informants. We also find it necessary to quote the ruling of the trial judge on the appellant's application for removal as the executor.



“Pursuant to the submission of Respondent/Informant Jahwary’s request to be removed as executor of Testate Estate of Milad R. Hage, Mr. Bassam H. Jawhary is herewith permanently removed as executor of the herein named Testate Estate. Henceforth, the said estate shall be administered by the curator of Montserrado County, Mr. Steven Clark and Mrs. Oumu Sirleaf Hage, Widow of Mr. Milad R. Hage, with supervision of the assigned judge, Her Honor Eva Mappy Morgan. Therefore, any and all decisions concerning the aforementioned estate must be with leave of the aforementioned assigned judge. The court notes that there are other matters pending under the Honorable Supreme Court mandate (HSCM):-

**Count A** – Submission to court a comprehensive inventory of the Hage Estate’s assets as well as liabilities as required by the Decedent’s Estates Law;

**Count B** -, a comprehensive audit of the estate of both the executor and Ecobank for the period of administration, and for collected proceeds by the bank to cover loans of the estate, ;

**Count C** – Production of bank statements on status of loan facility and estate has with Ecobank and Count E – Investigate allegations of malpractices by Mr. Bassa Jawhary on his handling of the estate. This court once again admonishes counsels that the client has yet to comply with the above despite orders to him and, notations to counsels during our several hearings. In fact, counsels have offered court no useful explanation on the failure of their client in carrying out these directives.

However, the court opened an Escrow account with LBDI, thus curing the failure of the now former executor who was instructed to open and escrow account for the deposit of rental proceeds and other obligations to the estate. The opening of this escrow account satisfied Court of the HSCM.

Finally counts F, I and J of the HSCM are incorporated as resolved. The executor having been removed per his submission, the issue of revocation of letters testamentary, disavowal of the will and/or



determination of disharmony between the appellant and appellees is settled. Notably, the for executor's willfully disobedience to abide by court orders and his non-appearance at the court for hearing continues to be a stumbling block for resolving the issues regarding counts, A, B, C and E of the aforementioned mandate. This is why count K of the HSCM which directs that we prioritize this matter continues to be our guide, as we strive to put to rest these outstanding problems.

That said, the clerk shall issue orders revoking the Letters Testamentary of Mr. Bassam Jawhary concerning the Testate Estate of Milad R. Hage. The clerk will also issue orders informing the curator, Mr. Steven Clark and Oumu Sirleaf Hage, widow of Mr. Milad R. Hage that they shall have responsibility for managing the affairs of the estate under court's supervision. Meanwhile, all issues pertaining to liabilities of the estate to counsels and Mr. Jahawary shall be determined following completion of the audit.

It is so ordered.

THE COURT:

The Court: Mr. Clerk, is there other matter before court?

The Clerk: N, Your Honor\

The Court: Court's adjourned.

Given under my and hand seal  
of Court this 17<sup>th</sup> day of March A.D. 2015

Her Honor Eva Mappy Morgan  
ASSIGNED JUDGE"

About one year after the removal of the appellant, Bassam H. Jawhary, as executor of the testate estate, co-respondent Nohad Hage Mensah on March 2, 2016 filed a bill of information before the lower court then presided over by His Honor Judge J. Boima Kontoe, essentially informing the court that she is the elder of the testator's children; that at the time of the demise of the testator she was an adult who owns properties held under the testate estate; that the current administratrix, Oumou Sirleaf Hage, who is the mother of three of her siblings, has fraudulently submitted deeds in respect of three properties she owns singularly or jointly; and that she was requesting the return of the properties pursuant to count (h) of the Supreme



Court's Mandate. Due to the disorganized state of the records, the returns of the informants herein to co-respondent, Nohad Hage Mensah's information filed before the lower court can be discerned, if any, from the synopsis of the facts as are couched in the trial judge's ruling quoted, *infra*:

A review of the case file shows that Mr. Milad R. Hage departed this life on 19 April 2010 and that on the 13<sup>th</sup> day of May A.D. 2010 his Last Will and Testament was in due form exhibited to the Monthly and Probate Court for Montserrado County and admitted into probate upon the Petition of Mr. Bassan Jawahry. Thereafter, Bassan Jawahry made petition made and granted, and letters of testamentary issued, appointing the petitioner Bassan Jawahry as Executor to manage the affairs of the Testate Estate of the late Milad R. Hage.

On 09 May 2011, the respondent herein filed a Motion before the Monthly and Probate Court for Montserrado County to exclude properties owned by respondent and informant from the Testate Estate of Milad R. Hage and to order the audit of Mr. Bassan Jawahry's handling of the estate fund. From the Probate Court this case travelled on appeal to the Supreme Court of Liberia which heard the appeal and rendered judgment and sent a mandate to the judge of the Monthly and Probate Court for Montserrado County mandating him to resume jurisdiction over the case and proceed to implement a number of orders in said mandate from (a) to (h) but for the purpose this ruling this court hereby expatiates on count (h) of said orders which states "determine whether or not the property or properties covered by the lease agreement include properties owned by the children of Milad R. Hage and Oumou Sirleaf Hage and Milad R. Hage insofar as it covers and relates to the properties owned by said children". As a result of the failure of the Probate Court Judge to implement the mandate of the Honorable Supreme Court, the case was assigned to our esteemed colleague, Her Honor Eva Mappy Morgan, Chief Judge of the Commercial Court of Liberia by order of the Chief Justice ordering her to hear and determine the matter in a timely manner ensuring that the mandate of the Supreme Court is fully executed.

On 2<sup>nd</sup> day of March 2016, informant Nohad Hage Mensah by and thru her Attorney-in-fact Edith Hage Smith filed a six count bill of information before this Honorable Court alleging that she is the eldest daughter of the late Milad R. Hage and that at the time of the death of their late father she was an adult capable of representing herself in administering the Testate Estate of their late father but that this court grant her the authority to jointly administer the estate along with the respondent, Oumou Sirleaf Hage, mother of three of her siblings. After hearing said bill of information, the court ruled appointing the informant to jointly administer the Estate along with Oumou Sirleaf Hage and Mr. Stephen Clarke, curator of the Monthly and Probate Court for Montserrado County.



In adherence to the Honorable Supreme Court's Mandate, this court ordered the conduct of a demarcation survey and further instructed both the informant and respondent to submit the names of their respective surveyors to serve on the panel of surveyors to be chaired by a licensed surveyor from the Ministry of Lands Mines and Energy. The records show that the demarcation survey team was chaired by Mr. Albert D. Giah, Jr. from the Ministry of Lands, Mines and Energy. The survey was conducted and report submitted but said report was never read up to and including the time this matter was assigned to His Honor J. Boimah Kontoe, Resident Circuit Judge, Ninth Judicial Circuit of Bong County, by His Honor Francis S. Korkpor, Sr. Chief Justice of the Supreme Court of Liberia for adjudication. Upon receiving said mandate, an assignment was ordered issued and served on the parties to appear on Friday December 8<sup>th</sup> 2017 for reading of the survey report. The report was read in open court and content therein reveals the followings:

1. Informant presented a title deed for 1.61 lots of land from Mai B. Robert to Nohad Hage while the Respondent presented a title deed for 1.61 lots from Mai B. Robert to Bashir M and Nohad Hage. The two deeds as verified at the Center for National Documents and Archives indicate that the Mai B. Roberts to Nohad Hage deed was purchased on 7<sup>th</sup> December 1995, probated and registered on 22<sup>nd</sup> December 1995 while the Mai B. Roberts to Bashir M. and Nohad Hage was purchased in July 1997, probated and registered on 22<sup>nd</sup> of July 1997, two years after informant purchased her property.
2. The Informant also presented a title deed for 1.9 lots of land from John J. Dosen to Nohad Hage while the Respondent presented a deed of 1.9 lots of land from John G. Dossen to Oumou Sirleaf & Bashir M. Hage. The deed presented by Respondent after being verified at the archives indicate that the property was acquired and purchase on October 18<sup>th</sup>, 1996, probated and registered on November 12<sup>th</sup>, 1996 while the deed presented by the Informant indicates that the same parcel of land was bought from John J. Dossen in favor of Nohad M. Hage on 4<sup>th</sup> August 1989 and the deed probated on 11<sup>th</sup> August 1989 and accordingly registered.
3. Informant also presented a title deed for 1 lot of land from John Barwosole Arkoi to Bachir Milad Hage, Nohad Hage and Rockel Milad Hage while the Respondent presented a title deed for the same 1 lot from John Barwosole Arkoi to Bachir Milad Hage and Rockel Milad Hage. The two deeds as verified at the archives indicate that the deed presented by the Informant shows that the property was purchased in favor of Bachir Milad Hage, Nohad Hage and Rockel Milad on 29<sup>th</sup> 1999 and said deed was probated and registered on 2<sup>nd</sup> July 1999 while Respondent's deed shows that the same land was purchased in favor of Bachir and Rockel Hage on 29<sup>th</sup> June 1999 and probate and registered on 5<sup>th</sup> July 1999.



Further investigation by the survey team reveals that the grantor to the three disputed properties indicated to the surveyors during the survey exercise that neither did they nor their forebear ever engaged in double sale of land to the late Milad R. Hage for and on behalf of his children.

The law hoary with age in our jurisdiction provides that for one to own real property, title must be vested in that person by way of a title deed duly probated and registered in keeping with law. The survey report suggest[s] that informant acquired her properties, and probated and registered her deeds before Respondent acquired hers, thus showing that informant's title is older than that of Respondent, thereby giving this court every reason to give greater consideration and weight to informant's deeds as against Respondent's. (15 LLR 582 syl. 1; 16 LLR 108 syl. 1).

In the Mind of this court and in strict adherence to the Mandate of the Honorable Supreme Court, especially with respect to Count (h) thereof as mentioned above, which relates to properties owned by the children of the late Milad R. Hage, the survey being the technical means by which this court can determine properties owned by the children based on the deeds presented to the court, the said survey report is hereby incorporated into these proceedings to and the court in implementation the mandate of the Honorable Supreme Court.

WHEREFOER AND IN VIEW OF THE FOREGOING FACTS AND CIRCUMSTANCES: This Court holds that the deed in favor of the Informant, Nohad Milad Hage Mensah, and the deed for one lot from John Barwosole Arkoi to Bachir Milad Hage, Rockel Milad Hage and Nohad Hage are valid and genuine and that Nohad Milad Hage Mensah should therefore be placed in possession of her property and in joint possession and ownership of the property she jointly owns with her siblings Bachir Milad Hage and Rockel Milad Hage.

THEREFORE

The clerk of this Court is hereby ORDERED to issue an order and place same in the hands of the sheriff of this court instructing him, with the aid of a qualified and licensed surveyor, to place informant Nohad Milad Hage Mensah and her two siblings, Bachir Milad Hage and Rockel Milad Hage, in complete and unrestricted possession of their private real properties in accordance with the meters and bonus of

- (a) The informant's title deeds for 1.61 lots and 1.9 lots and
- (b) The one lot jointly owned by Nohad Milad Hage Mensah, Bachir Hage and Rockel Milad Hage

AND



The Respondent is ORDERED to submit to this Court within fifteen days of the date of this ruling, a comprehensive report, with supporting documents, showing the following as from the date of her appointment as Administrator:

All the incomes derived from both the informant's real properties and from the one

lot jointly owned by the informant, Bachir Milad Hage and Rockel Milad Hage; and

The questions(s) (bank accounts, etc.) into which rent proceeds from stores situated on said properties have been deposited.

AND IT IS SO ORDERED.

Given under my hand and seal of court this 15<sup>th</sup>  
day of December 2017

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J. Boima Kontoe  
JUDGE      PRESIDING      BY      SPECIAL  
ASSIGNMENT"

Subsequently, co-respondent Nohad Hage Mensah filed on February 13, 2018 another application for sustenance. His Honor Judge Kontoe having heard argument, *pro et con*, on the application and the returns thereto, he ruled as follows:

"Milad R. Hage, according to the records was Lebanese businessman, resident in Liberia and he died in Lebanon on the 19<sup>th</sup> day of April, 2010. Milad R. Hage's last will of testimony was exhibited to the Monthly and Probate Court of Montserrado County and admitted into probate upon the petition of Bassam Jawahry who was subsequently Issued letters testamentary appointing him executor of the Testate estate of Milad R. Hage. The records also revealed that Oumou Sirleaf Hage came to the helm to manage the testate estate following the exit of Bassam Jawahry in 2014 and has continued to serve as administrator of said estate up to present. On February 13, 2018, Nohad Hage Mensah filed a four count application for sustenance allowance by and thru her counsel. In count one of the application, applicant averred that item No. iii B of the last will and testament of



Milad R. age, reads thus "after payment of all expenses, taxes and costs incurred in the management of the trust estate, the trustee is authorized to accumulate yearly or pay or apply so much of the net income and such portion of the principle at any time and from time to time for education, health, support, comfortable maintenance and welfare of my Liberian wife and children listed below by giving each of the beneficiaries the yearly amount of the net income accumulated from the estate as stipulated." The applicant contends that she is one of the beneficiaries under this column of the will of their late father Milad R. Hage. The applicant asserted in count two of the application for sustenance allowance that Mr. Oumou Sirleaf Hage falsely claimed that Nohad Hage was a minor daughter of her and therefore demanded **\$50,000.00** for each of her children including Nohad Hage and respondent Oumou Sirleaf Hage has received **US\$95,000.00** consistent with item iii B of the last will and testament of Milad R. Hage, excerpt of which is quoted above as evidence by applicant exhibit A/1 which is Madam Oumou Hage's complaint to the Probate Court of Montserrado County in which she admitted receiving **US\$95,000.00** on behalf of the children named under the column in item no. ii B of the last will and testament of Milad R. Hage. The applicant further averred that Oumou Hage, the respondent herein and her children had benefited from the above provision of the last will testament of their late Father Milad R. Hage by receiving **US\$95,000.00** in addition to the fact that they received **\$200,000.00** US as loan from Ecobank which they yet to account for. The applicant submits that she had just given birth to a baby girl in the United States of America on January 28, 2018 and needs substantial amount of money to settle her hospital bill and other associated expenses. The applicant attached an annexed to the application to her hospital bill for the perusal of this court, applicant Nohad Hage Mensah prays this court for her application to be granted and that the estate of their late father Milad R. Hage be ordered to disburse **US\$150,000.00** from the estate account to enable her settle her hospital bill and other expenses.



The respondent filed a four count returns in which she concedes the application made by the applicant but caution the court to take into consideration that there are other beneficiaries of the estate who include her children and the Lebanese children of Milad Hage who also has right to benefit from the estate account as well as considered the [indebtedness of] the estate to Ecobank of Liberia.

When this application was called for hearing in keeping with the notice of assignment, Cllr. Tiawon Gonloe and Stanley Kparkillen appeared for applicant while Cllr. Vivian J. Cherue and Attorney Augustine M.W. Tegelah appeared for the respondent. Arguments was entertained and heard on both sides and ruling reserved for today, March 2, 2018.

This court says that the two issues it finds to be dispositive of the application for sustenance allowance are:

1. Whether or not beneficiaries other than the applicant had benefited from the estate account under item No. iii B of the last Will and Testament of Milad R. Hage? And
2. Whether or not the respondent herein had made any showing to this court that the applicant herein has benefited under item No. ii B of the last will and testament of Milad R Hage?

In discussing these issues, this court says that it is incontrovertibly established that the respondent Oumou Sirleaf Hage filed a complaint against the then executor Bassam Jawhahry complaining of mismanagement, misconduct and malpractices committed by said executor of the testate estate of Milad R. Hage and in count "C" of said complaint which is quoted hereunder verbatim, ... the executor has the petitioners only **US\$95,000.00** for the last three almost four years." From this complaint filed by the respondent to the probate court it is an admission by respondent that she apparently along with her biological children had benefited under the will of Milad R. Hage specifically item No. iii B of said will. There is no showing, after perusal of the entire records of this case that Nohad Hage, the applicant herein has ever benefited under the provision of he will of their late father Milad R. Hage.



The court takes note that respondent indicated in count four of her returns that the estate is indebted to Ecobank and this court should take that into consideration along with the facts that there are other beneficiaries of the estate which include she and her children and the Lebanese children of Milad R. Hage.

This court says, as indicated earlier, the respondent Oumou Sirleaf Hage came in control and management of this testate estate since 2014 following the exit of Bassam Jawahry who was then executor of said estate. Up to date, the respondent had failed and refused to submit financial statement of the estate when ordered to do so by this court. The latest of said order was issued to her in January, 2018 ordering her to submit financial statement of the estate with supporting documents to this court within fifteen days and she had not only failed to submit said report but even the time she had requested that the court grant her to submit said financial report, she had reneged on her promise to submit said financial report. Most besides, as administrator of the said estate of Milad R. Hage without establishing whether or not the loan contracted from Ecobank by Milad R. Hage for the construction of the structure at Red Light had unpaid balance she secured another loan which she referred to as co-assumption of obligation to the tune of **\$200,000.00 US** which remains unaccounted for because the legal services for which respondent says the **200,000.00** for which the loan was secured for is not supported by any retainer agreement between the Milad R. Hage testate estate and any law firm.

Wherefore and in view of the foregoing, it is the considered opinion of this court that the application for sustenance allowance as filed by applicant ought to be granted. The application is hereby granted and the clerk of the monthly and probate court of Montserrat is hereby ordered to order the Liberia Bank for development and Investment to pay to the applicant, Nohad Hage the amount of **USD 150,000.00** from the escrow account **No. 001USD40389468602**. And hereby so ordered.



Given under my and seal  
Of Court, this 2<sup>nd</sup> Day of March, A.D. 2018.

James F. Korleplee  
Assistant Clerk  
Approved:

Cllr. J. Boima Konoe  
Resident Circuit Judge”

It should be noted that the rulings of Judge Kontoe, of December 15, 2017 and December 2, 2018, respectively, present the crux of the informants’ information and request to sequester the rents received under the trust created by the testator in his last will and testament. The informants contend that Judge Kontoe awarded title to co-respondent Nohad Hage Mensah for each of the contested properties herein based on a demarcation survey report without the opportunity to cross examine witnesses whose testimonies the co-respondent judge relied upon, but were not made part of the survey records. The informants also contend that the co-respondent judge’s determination of the “demarcation survey report” is contrary to the best evidence rule; and that the best evidence which this case admits of are the deeds in the custody of Ecobank Liberia Limited used as collaterals for the loan secured by the testator Milad R. Hage; as such the co-respondent judge’s awards to co-respondent Nohad Hage Mensah amount to an improper execution of the Supreme Court’s Mandate, particularly count (h) thereof. The informants also contend that the lower court has been making several payments to co-respondent Nohad Hage Mensah based on Judge Kontoe’s ruling to the exclusion and at the detriment of other beneficiaries and the obligation of the estate under the last will and testament of Milad R. Hage.

On the other hand, the co-respondent Nohad Hage Mensah contends that she received a fair share of the benefits under the testator’s will for the last four years as the informants received similar benefits under the will on the orders of previous judges presiding over the Monthly and Probate Court for Montserrado County; and that the said court properly executed count (h) of the Supreme Court’s Mandate by returning her properties previously held under the lease agreement executed by and between Oumou Sirleaf-Hage and the testator.



We are urged upon to determine the following issues based on the information and application for sequestration of rents, the returns thereto as well as arguments contained in the briefs and made in open court:

- (1) Whether the judge presiding over this case by special assignment in the Monthly and Probate Court for Montserrado County, can determine adverse claim over title to real property especially claim of fraud asserted by one party against the other?
- (2) Whether the judge's distributions of yearly income for the support and upkeep of the beneficiaries were consistent with the last will and testament of the testator in furtherance of the Supreme Court's Mandate? and
- (3) Whether bill of information will lie under the facts and circumstances of this case?

Before proceeding to determine the issues presented herein, we must emphatically note that our review and analysis of the records before us reveal that Judge Morgan's rulings of January 22, 2015 and March 17, 2015, respectively tell us that the lower court removed the appellant, Bassam H. Jawhary, as executor of the testate estate when he had not fully executed fiduciary duty as executor of the testate estate and give a comprehensive inventory of the estate and a status report of the loan obtained from Ecobank Liberia Limited. Rather, the lower court judge devolved those responsibilities on the curator of the court and Oumou Sirleaf Hage who were subsequently appointed as administrators. The records further show that after Oumou Sirleaf Hage and the curator were appointed to administer the testate estate of Milad R. Hage, the pair did not execute the instructions of the probate judge, Her Honor Eva Mappy Morgan, which was in line with the Mandate of this Court, ie, to execute counts a), b) and c) of this Court's Mandate. When Judge J. Boima Kontoe was appointed to continue the process of executing the Mandate, we again notice that he also did not give consideration to the implementation of counts a), b) and c) of our Mandate. Rather, the records show that Judge Kontoe focused on the implementation of count h) and the portion of the last will and testament that has to do with the testamentary distributions to the heirs of the estate.



Our *Decedent Estate Law Revised Code: 8:116.11* provides a clear line of priority in handling matters pertaining to accounting for the administration and the distribution of the assets of a testate estate. The said statute provides for priority of debt incurred by the testator after funeral expenses and cost of administration. The paramount concern of the executor/s of a testate estate is to liquidate those liabilities before commencing the payments of bequest, devices and other testamentary dispositions contained in the will. It is in this regard that this Court, in its Mandate out of which this information grew, prioritize the execution of counts a,) b,) and c, thereof that have to do with a full accounting of the assets of the estate which shall include status report of lease agreements held by the estate and a status assessment of the loan contracted by the testator from the Ecobank Liberia Limited. To do otherwise, will affect the interest of creditors and others to whom the testator had liabilities, secured and unsecured. In the case of the Ecobank Liberia Limited, there is clear indication that the testator had a debt secured by the title instruments for the properties that constitute the major assets of the testate estate. The status of this liability is yet to be assessed although the bank is said be in possession of the security deposited by the testator to secure the loan. Without a determination of the state of affairs of this loan, we believe it will be a defeat of the purpose and intent of our *Decedent Estate Law* to proceed to distribute the proceeds to testamentary legatees. It is with this purpose and intent that the Supreme Court clearly indicated as a priority the items a), b) and c) in our Mandate.

In this regard, this Court hereby Mandate as a matter of urgency that the probate court, upon the reading of the Mandate of this Court immediately constitutes a board of referees consisting of a technical representative from the Ecobank Liberia Limited, and a technical representative each from the informants and the respondent herein. The probate court shall appoint a neutral technical person to chair the board of referees. The mandate of the board shall be to examine all the records pertaining to this loan and determine its current status in term of balance due, if any. Ecobank Liberia Limited and the parties are to each nominate their respective representatives to the board within two months of the reading of the



Mandate of this Court, and, the referees so appointed shall conclude their investigation and file a comprehensive report containing their findings to the probate court within three months of their appointment. The probate court shall thereafter proceed as provided for by law. Fees or compensation for the referees shall be fixed by the lower court pursuant to *Civil Procedure Law Revised Code: 1:24*.

As to the comprehensive inventory of the assets of the estate and the report as to manner of administration of the estate from 2014 up to and including the present, Oumou Sirleaf Hage and the curator shall within three (3) months, after the reading of the Mandate of this Court, file a comprehensive report with the probate court.

We shall now consider the first issue raised by the bill of information which is Whether the judge presiding over this case by special assignment in the Monthly and Probate Court for Montserrado County, can determine adverse claim over title to real property especially claim of fraud asserted by one party against the other?

As indicated herein, the records show that based upon the application of co-respondent Nohad Hage Mensah, the presiding judge of the probate court proceeded to enforce count (h) of our Mandate which ordered that the lower court "determines whether or not the property or properties covered by the lease agreement include properties owned by the children of Milad R. Hage and Oumou Sirleaf-Hage, and if so, render void the lease agreement by and between Oumou Sirleaf-Hage and Milad R. Hage insofar as it covers and relates to the properties owned by said children".

The informants have argued that the best evidence in respect of the deeds for the three properties are those lodged with Ecobank Liberia Limited; and that they were not given due process. Our search of records show that when co-respondent Nohad Hage Mensah filed her application for the return of properties allegedly bought by her late father in her name, after the conduct of an investigative survey, and in the face of objection by the informants that the title instruments proferted by the co-respondent Nohad Hage Mensah was a product of fraud and that the correct deeds



for the properties were lodged with the Ecobank Liberia Limited as security for the loan secured by the testator, and after a hearing had by Judge Kontoe on the contentions of the parties, Judge Kontoe proceeded to rule that based upon the investigative survey report and testimonies collected by the surveyor during the said survey, the deeds proffered by co-resondent Nohad Hage Mensah was the true and correct deeds for the properties. These contentions by the parties call our attention to the issue whether the Monthly and Probate Court for Montserrado County may delve into question touching on adverse claims to real property bordering on the issue of fraud. The *Decedent Estate Law Revised Code: 8:105(2)* provides that "upon the motion of any party or on the court's own initiative, the court may submit any controverted issue of fact required to be decided by the court to any advisory jury by transferring the proceeding and, where necessary, the papers and other records therein, to the trial term part of the circuit court within the county in which the probate court sits, for trial by jury. The order directing such action shall specify the issues to be tried....".

In interpreting the *Decedent Estate Law Revised Code: 8:105(2)*, *supra*, this Court has determined that "...the Monthly and Probate Court [has] jurisdiction over all real properties of the deceased so long as they present no contest over title. But where there is dispute as to the title between and amongst parties or controversy over will or related instrument on the basis of fraud, the Probate Court loses jurisdiction. Under such circumstances, the probate judge must transfer such contest, dispute and controversy over title to the circuit court for its competent determination thereof..." *Sloan v. Administrators of the Intestate Estate of Parbai*, Supreme Court Opinion, March Term, A.D. 2007, *Peter Bonner Jallah v. Rev. Ola Jallah et al*, Supreme Court Opinion, October Term, A.D. 2015. We are therefore of the considered opinion that the facts and circumstances and the controlling in this case, the probate judge while sitting in probate could not determine adverse claimed bordering fraud with the aid of the circuit court. Judge Kontoe's determination of the issue of fraud and adverse claims to real property with due consideration of *Decedent Estate Law Revised Code: 8:105(2)* constitutes error.

Accordingly, the ruling of the Monthly and Probate Court for Montserrado County placing the co-respondent Nohad Hage Mensah in possession of the three described properties is reversed and that matter is remanded to the lower court with the instruction that the probate court shall certify the question of title to the Sixth



Judicial Circuit for Montserrado County for a trial by jury as a matter of law; and the verdict transmitted to the probate court pursuant to the enforcement of count (h) of this Court's Mandate, *ibid*; and thereafter proceed in keeping with law.

In the meantime and while the determination as to the true ownership of the three properties is pending, the lower court shall take seize of the said properties and all rents and proceeds henceforth accruing from the said properties shall be deposited in an escrow account to be established at a reputable bank by the lower court.

It suffices to say that our holding here that the rents shall be sequestered and deposited in an escrow account resolves the co-respondent's contention that this Court lacks jurisdiction to order the sequestration because the informants' request alleged facts which requires the taking of evidence. We note that the fact that there exists contest over title to the three properties is as clear as daylight and needs no further evidentiary showing.

We now come to the second issue in this case which is whether the distributions of yearly incomes for the support and upkeep of the beneficiaries were consistent with the last will and testament of the testator in furtherance of the Supreme Court's Mandate? We have determined herein that both the statute and our Mandate clearly delineate priorities in the handling of the testate estate; and we have also noted the failure of the court to demand as matter of law and the administrators to provide a comprehensive inventory report of the assets and liabilities of the estate as well as the status of the loan with Ecobank Liberia Limited before proceeding to give effect to the other testamentary dispositions. Amidst these outstanding priority issues, the records show that the devisees of Milad R. Hage Testate Estate have traded accusations and counter accusations as to the distribution of moneys for their yearly support and maintenance under his last will and testament. Albeit, these allegations of one party receiving more of the proceeds from the testamentary trust to the detriment of the other, are not supported by the records; that is neither the informants nor the co-respondent Nohad Hage Mensah proferted financial report in support of their respective positions. This Court says that in the absence of a full and complete compliance with items a), b) and c) of our Mandate, which has to do with the administrators providing a comprehensive report and inventory of the incomes generated and



expenditure made during their administration of the estate and of the assets and the liabilities of the testate estate including the loan secured from Ecobank Liberia Limited, and compliance with the law controlling the payment priorities of a decedent's testate, the court could not have legally proceeded to determine the testamentary dispositions to legatees.

Having mandated herein that the administrators, that is to say, the curator and Oumou Sirleaf Hage, shall within three (3) months, after the reading of the Mandate of this Court, file a comprehensive report with the probate court as to the comprehensive inventory of the assets of the estate and the report as to manner of administration of the estate from 2014 up to and including the present; and because the liquidation of the loan secured by the testator from Ecobank Liberia Limited stands out as a top payment priority at present, we further mandate the probate court to make only reasonable payments to the legatees whilst the court proceeds to ensure full implementation of our Mandate referred to herein in an orderly manner giving priority as provided for by law and in this Opinion.

Now, addressing the third issues whether the bill of information will lie under the facts and circumstance of this case, we answer in the affirmative.

It is settled in this jurisdiction "that in order for a bill of information to lie, the matter forming the basis of the information must have been pending before the Supreme Court, or decided by it; there must be an act to usurp the province of the Court; there must exist some irregularities or obstruction in the execution of the Supreme Court's mandate or there must have been a refusal to carry out the Supreme Court's Mandate." *Liberia Petroleum Refining Company v. Tulay*, 36 LLR 467 (1999) , *Bassan 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, A.D. 2012, supra, Intestate Estate of the late Sarah Sirleaf v. El-Bim et al, Supreme Court Opinion, March Term, A.D. 2013, Messrs. Varney Lartey Kiadii et al v. His Honor James E. Jones et, Supreme Court Opinion, March Term, A.D. 2020.*



In the instant case, we have sufficiently outlined herein the numerous irregularities that have attended the execution of this Court's Mandate dated January 24, 2014 which in our opinion suffices the granting of the informants' information.

WHEREFORE and in view of the foregoing, the informants/applicants' information, and application for sequestration of rents ~~are~~ granted. The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and give effect to this Judgment. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor Arthur Tamba Johnson appeared for the informants. Counsellors Bob Layweah, Philip Y. Gongloe and Stanley S. Kparkillen appeared for the respondents.