

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A. D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOHCHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SRASSOCIATE JUSTICE
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON...ASSOCIATE JUSTICE

Keturah Tengbeh et al	Appellants)		
)		
Versus)		APPEAL
)		
The Intestate Estate of Samuel B. Cole by and thru its)		
Administrator Thomas B. Cole.....	Appellee)		
)		
<u>GROWING OUT OF THE CASE:</u>)		
)		
The Intestate Estate of Samuel B. Cole by and thru its)		
Administrator Thomas B. Cole.....	Plaintiff)		
)		
Versus)		ACTION OF
)		EJECTMENT
Keturah Tengbeh et al	Defendants)		

Heard: July 16, 2024

Decided: December 19, 2024

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

On June 28, 2010, the appellee, the Intestate Estate of Samuel B. Cole, Sr., by and thru its administrator Thomas E. Cole filed a six-count action of ejectment before the Sixth Judicial Circuit, Civil Law Court, Montserrado County during its June Term A.D. 2010 against Madam Keturah Tengbeh et. al, the appellants herein.

The complaint basically alleged that in 1957, the late Samuel B. Cole, Sr. purchased thirty (30) acres of land from Gaimah Bryant and Wilhemina A. Bryant in the settlement of Brewerville around the Lott Carey Mission School, Montserrado County and was issued a deed which he (Samuel B. Cole, Sr.) probated and registered as per the law; that following the death of Samuel B. Cole, Sr., his son Calvin Cole, obtained Letters of Administration from the Monthly and Probate Court for Montserrado County to administer the deceased estate; that while the administrator Calvin Cole, was out of the bailiwick of the Republic of Liberia, the appellants Madam Keturah Tengbeh et. al, unauthorizedly entered upon a portion of the subject property, and commenced the building of structures thereon; that every

attempt to have the appellants vacate the appellee's property proved futile; and that damages will lie against the appellants for their wrongful withholding and illegal possession of the appellee's property.

On July 19, 2010, the appellants, as per the designation in the caption of the appellee's complaint, seemingly filed a joint six-count answer praying the trial court for the dismissal of the appellee's entire complaint for the appellee's alleged failure to file its complaint fifteen (15) days before the opening of the June Term of 2010 of the trial court; that contrary to the allegations made by the appellee, the appellants are the respective legitimate owners of the disputed property having purchased their respective portions from their grantor Mai Barclay Roberts; that prior to the death of Samuel B. Cole, Sr., some of the appellants were already in possession of and occupying their respective properties;

On July 27, 2010, the appellee filed a six-count reply basically restating the averments in its complaint.

On August 12, 2010, the appellants' grantor Mai Barclay Roberts by and thru her Attorney-In-Fact Charles B. Roberts, Jr., filed a three-count motion to intervene along with an intervenor's answer to the appellee's complaint alleging that she is the legitimate owner of the disputed property; that it is on the strength of her title that the appellants are occupying the disputed property; and that she will be adversely affected by judgment emanating from the present proceedings if the court does not allow her to intervene in these proceedings. The trial judge heard the movant's motion to intervene and granted same, making Mai Barclay-Roberts a proper party in these proceedings.

Subsequently, the appellee, the Intestate Estate of Samuel B. Cole, Sr. filed a four-count motion requesting for the conduct of an investigative survey, and with no objection by the appellants, same was granted by the trial judge, and the court constituted an investigative survey team chaired by licensed surveyor Cyril S. Bana from the then Ministry of Lands, Mines and Energy along with the surveyors designated by the appellee and the appellants in persons of Surveyor Arah Kamara, and Surveyor Sam Paye, respectively.

The records show that on August 11, 2015, with all parties present and fully represented, the survey was conducted, and a Report submitted to the trial court on September 28, 2015, stating therein, that the Intestate Estate of Samuel D. Cole, Sr., the appellee is the legitimate owner of the disputed property.

Thereafter, trial was conducted and at the close of evidence by both sides, the trial judge forwarded the matter to the jury for their determination. Following its deliberation, the jury returned a unanimous verdict in favor of the appellee, and which verdict was confirmed by the trial judge. The appellants then filed a motion for new trial, which was heard and denied by the trial court, and final ruling entered, against the appellants. The latter noted exceptions thereto, announced an appeal to the Supreme Court, and thereafter filed a fourteen-count bill of exceptions for this Court's review, mainly challenging the verdict of the jury that same was against the weight of the evidence. Hence the present appeal.

The foregoing narrative of the facts, paints a picture that the trial was conducted in compliance with the applicable laws and procedures, but this is far from the truth. A thorough review of the certified records reveals glaring missteps by the trial judge, and if not addressed by this Court of last resort, would not only call into question the administration of justice by our courts, but would have the propensity to generate public outrage or outcry. The following are our observations, to wit:

1. The designation of parties to an action of ejectment by mere initials discovered on corner stones located on the disputed property, (a total of 41 initials) and stating further, "and others to be identified";
2. That there is no showing from the records that all of the designated parties were served the writ of summons and the complaint and brought under the jurisdiction of the trial court;
3. That Bailiff Kpehe M. Nyei Returns dated July 8, 2010 showed that only three (3) persons, Alice Chea, Sayennehkon C.S. Jerbor, and Tenneh Massaquoi, were served; that although Madam Keturah Tengbeh is named in the complaint, she refused to sign for and receive the trial court's precept, yet there is nothing in the records showing severance of parties from the three persons that were served, or any action by the trial court against her, or that she was brought under its jurisdiction;
4. That nothing in the records shows that the trial court issued a writ of resummons, or where applicable, service by publication. Civil Procedure Law, Rev. Code 1: 3.40; *Estate of Cooper v. Kaba et. al*, Supreme Court Opinion, October Term 2006 *Stevens v. National Housing and Savings Bank*, Supreme Court Opinion, March Term 2012; *Davis Sr. et. al v. LTA*, Supreme Court Opinion, October Term 2016.

The Constitution (1986) at Article 65 grants unto the Supreme Court appellate jurisdiction and final arbiter of appeals within the Republic of Liberia. Also, the

Civil Procedure Law, Rev. Code 1:1. 4 provides for the promotion, just, speedy, and inexpensive determination of every action. Hence, the Supreme Court is duty bound to ensure that in all appeals filed before it, that justice is the hallmark of its decisions.

Pursuant to the above, this Court has upheld the constitutional right of all to due process, which is the law that mandates the opportunity to be heard before being adjudged guilty, civilly or criminally, as parties not properly brought under the jurisdiction of the court cannot be bound by judgment emanating therefrom. *John et. al v. Kaidii*, 41 LLR 277, 279 (2002); *AIC V. Morris et. al*, 42 LLR 508, 509 (2005); *Broh v. Hon. House of Representatives et. al*, Supreme Court Opinion, October Term A.D. 2013; *CDC et. al v. NEC et.al*, Supreme Court Opinion, October Term A.D. 2014.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the trial court is hereby affirmed as to the four (4) persons mentioned herein and they are ordered ousted and evicted from the areas of the appellee's land which they occupy according to the metes and bounds of the appellee's deed with the aid of the Liberia Land Authority. The Clerk of this Court is hereby ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, no Counsel appeared for the appellants. Counsellor G. Wiefueh A. Sayeh of the Sayeh and Sayeh Law Firm appeared for the appellee.