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. 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
BEFORE HER HONOR: CEAINEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE

Lysander G. Martin, Sr., and Attorney Etmonia M. Martin of Monrovia, Liberia.....Petitioners

Versus

George S. Wiles, Jr. Administrator of the Intestate Estate of Mardea E. Martin Wiles, of the City of Monrovia, Liberia .....Respondent

) PETITION FOR RE-ARGUMENT

GROWING OUT OF THE CASE:

Lysander G. Martin, Sr., and Attorney Etmonia M. Martin of Monrovia, Liberia.....Petitioners

Versus

George S. Wiles, Jr., Administrator of the Intestate Estate of Mardea E. Martin Wiles, of the City of Monrovia, Liberia .....Respondent

) APPEAL

Heard: January 15, 2025 Decided: February 17, 2025

## MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

On December 19, 2024, this Court handed down a majority opinion in a bill of information consolidated with the appeal filed before this Court by the petitioners herein affirming the ruling of the Chambers Justice and revoking the second letters of administration issued by the then judge for the Monthly and Probate Court for Montserrado County, His Honor J. Vincent Holder. Predicated on the judgment of this Court against the appellant, the appellant took advantage of Rule IX of the Rules Governing the Supreme Court of Liberia and filed a petition for re-argument which petition was signed by our distinguished colleague.

The appellant filed an eight (8) count petition praying this Court to re-examine issues they thought were inadvertently overlooked by this Court. In substance, the petitioners have argued in their petition for re-argument that: The petitioner contends and argues in his

petition that this Court inadvertently overlooked a significant point of law which if considered, the Court final judgment would have been different. According to the petitioner, that point of law is that the appellee in the court below having filed before the Probate Court for Montserrado County a petition for cancellation of the second letters of administration issued to the appellant and having withdrawn said petition for cancellation with the right to refile and having subsequently filed a petition for prohibition before the Supreme Court, there was nothing left before the court below to be prohibited and that as such, prohibition was the wrong form of action and could not lie.

This is the fact summary of the petitioner's contention which they believed was inadvertently overlooked by the Court for which they sought re-argument.

The respondent filed his returns to the petitioners' petition basically refuting the claims made by the petitioners and pray this Court not to disturb its previous judgment.

The sole issue for the Court to address is:

1. Did this Court overlook the above contention as raised by the petitioners?

We answer this question in the negative. The issue raised by the petitioner was squarely raised before our distinguished colleague, Madam Chief Justice Yuoh in Chambers and same was adequately addressed. The same issue was subsequently raised during the argument before the full bench and equally addressed. It is the law in this jurisdiction that the judge or the court is the master of the law and that the judge sitting therein is required to take judicial notice of the law even if not raised by the contending party. In this jurisdiction, the law is unequivocally clear that at no point can a probate judge issue a second letter of administration to any beneficiary without first revoking the first letter of administration. In other words, no estate under our law should have two letters of administration with two separate people simultaneously.

By that parity of reasoning, the subsequent letters of administration issued by the probate judge when there was an existing letter of administration issued by the same judge were null and void ab initio.

The contention that the appellee filed a cancellation proceeding in the court below and withdrew same and subsequently filed a petition for prohibition cannot and should not

operate in any manner and form in favor of the petitioner. This Court holds that the contention that there was nothing before the court below to be prohibited is totally incorrect.

Firstly, when a letter of administration is issued for an estate, and up until the time the said estate for which the letter of administration was issued is closed, the estate remains under the auspices of the probate court until the said estate is closed and deeds are issued in fee simple to beneficiaries. More besides, it is the law in this jurisdiction that prohibition will undo whatever that was illegally done by the inferior tribunal or court. *Broh v. Hon. House of Representative et al.*, Supreme Court Opinion, October Term, 2014; *Mathies & Fima Capital Corp. v. Alpha International Investment Ltd,* 40 LLR 561, 572.

In the instant case, the second letters of administration irregularly and arbitrarily issued by the probate judge to the petitioner fall within the office of prohibition to undo what was illegally and wrongfully done. In other words, the probate judge did not have authority to issue the second letters of administration when the first letters of administration were still in full force and effect without cancelling or revoking same.

This Court has held that: "Re-hearings are not granted as a matter of right, and not allowed merely for the purpose of re-argument or because a party disagrees with the Court's decision; unless there is a reasonable probability that the Court had arrived at the erroneous conclusion or overlooked some important question or matter necessary to a correct decision. *Lamco J.V. Operating Co. v. Azzam et al,* 31 LLR 649 (1983).

The petitioners did not show in their petition for re-argument any legal ground thereof nor does it show any point of law or fact which was duly presented and argued for our consideration during the original hearing of the case, but which was inadvertently overlooked. Generally, rehearing will be granted only for manifest errors or omissions which are so material that, if they are correct, they should result in a substantial alteration or change in the original decision, otherwise, the re-argument must crumble.

"If no omissions or new authorities or points of law or fact are shown, the appellate court will seldom permit a rehearing simply for the purpose of obtaining a re-argument on, and a reconsideration of, points, authorities, and matters which have already been fully considered by the court, on the assertion of counsel that, notwithstanding the court fully considered everything wished to be urged on the rehearing, it reached the wrong conclusion..." 4 C.J.S., Appeal and Error, § 1411--Grounds for Rehearing, pp. 2027-2029.

In view of the above, this Court says that absolutely no germane point of law or facts which has the propensity to change the Court's previous decision that was overlooked by this Court. The petition for re-argument, being without the support of the law and wanting in all respects should be and the same is hereby dismissed and denied; the previous judgment of the court is hereby confirmed in its entirety.

WHEREFORE AND IN VIEW OF FOREGOING, the petition for re-argument is hereby denied and dismissed. The Clerk of this Court is hereby ordered to send a Mandate to the lower court, commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. Costs are ruled against the petitioners. AND IT IS HEREBY SO ORDERED.

*WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLORS LAWRENCE TOMAH AND KEBEH FREEMAN SIRYON APPEARED FOR APPELLANTS. COUNSELLOR MARK M. M. MARVEY APPEARED FOR THE APPELLEE.*

*Petition denied.*