

IN THE HONOURABLE 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: CEATNEH D. CLINTON JOHNSON..... ASSOCIATE JUSTICE

The Intestate Estate of John N. Lewis)
Represented by its current administratrix Kebbah L.)
Mulbah of the City of Monrovia, Liberia)
..... Appellant)
Versus) Appeal
Kumba Bendu and Sons represented by and)
through its President, Mr. Fumba V. Trawally of)
the City of Monrovia, Liberia..... Appellee)

GROWING OUT OF THE CASE:

Kumba Bendu and Sons represented by and)
through its President, Mr. Fumba V. Trawally of)
the City of Monrovia, Liberia..... Petitioner)
Versus)
His Honor, James E. Jones, Resident Judge Debt)
Court for Montserrado County..... 1st Respondent)
And)
The Intestate Estate of John N. Lewis) Petition for a
Represented by its current administratrix Kebbah L.) Writ of Certiorari
Mulbah of the City of Monrovia, Liberia)
..... 2nd Respondent)

Heard: October 30, 2024

Delivered: December 19, 2024

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT.

This appeal grows out of the ruling of our distinguished colleague, His Honor Yamie Quiqui Gbeisay, Sr., Justice presiding in Chambers, in a petition for a writ of certiorari filed by Kumba Bendu and Sons, appellee herein, alleging substantially that the Judge of the Debt Court of Montserrado County, proceeded to close down its businesses, and businesses belonging to its

tenants, based on an action of debt filed by the Intestate Estate of John N. Lewis, the appellant herein, against Mr. Eric Wellington of ERICO World Wide Venture, (hereinafter known as ERICO) without any notice to the appellee as the owner of the property. The appellee asserts that it did not know of any action pending against it or its tenants at the Debt Court of Montserrado County until officers of the court entered its premises and began the closure of its businesses without according to it and its tenant due process as required by law. The appellee averred that it, therefore, filed a bill of information before the debt court informing the said court of its interest in the subject property under a lease agreement and that it secured a judgment from the self-same debt court against the self-same ERICO for rents due under a sub-lease agreement for the same property. The appellee, therefore, prayed the debt court to halt the eviction of the appellee and its tenants, but the debt court heard and denied the bill of information. Aggrieved by this decision by the debt court, the appellee filed a petition for a writ of certiorari before the Chambers of this Court, then presided over by our distinguished colleague, Mr. Justice Yamie Quiqui Gbeisay, praying for the issuance of the alternative writ to review the decision of the trial judge and to restrain the appellant from further intruding into the appellee's commercial activities and that of its tenants and the trial judge from enforcing its judgment against the appellee without due process.

In the petition, the appellee alleges that it leased 3.7 Lots of land from Cllr. George S.B. Tulay who purchased the said property from Mr. Joe Y. Young. The appellee asserts that it constructed a commercial complex on the parcel and sub-lease the same to the ERICO World Wide Venture. The appellee further averred that upon executing the sub-lease agreement, ERICO World Wide Venture carried out some modification and expansion works on the premises, occupied it, and paid rent until 2006. The appellee pleaded that thereafter, ERICO reneged on the payments of rent to the appellee to the extent that ERICO'S rental obligation to the appellee accumulated to the amount of One Hundred Eighty-Four Thousand, Four Hundred Ninety-Five United States Dollars (US\$184,495.00); that the refusal of ERICO to satisfy its rental obligations as contained in the sub-lease agreement was predicated upon representation to ERICO by the appellant herein that the appellant is the owner of the said property; that

the appellee instituted an action of debt in the debt court against the ERICO in 2011 and obtained a favorable final ruling in the amount of One Hundred Eighty-Four Thousand, Four Hundred Ninety-Five United States Dollars (US\$184,495.00) plus 6% legal interest; that due to the inability of ERICO to satisfy the execution issued on the final ruling, the debt court ordered the tenants to pay all rents to the appellee; that while these payments on the judgment secured by the appellee were on ongoing, the appellant also instituted an action of debt against ERICO in the same debt court for the collection of due rent for the same property and secured a final ruling against ERICO; and that because of ERICO inability to satisfied that judgment, the debt court is attempting to evict the appellee and its tenants from the appellee leased property.

In response to the allegations contained in the appellee's petition for the writ of certiorari, the appellants averred that the trial judge properly denied the bill of information because the appellee was not a party to the case in which he obtained a judgment and, therefore the appellee lacks the standing and capacity to have filed the bill of information. The appellant further averred that it is the legitimate owner of property that was leased to the ERICO World Wide Venture; that the property leased is a part of 17 lots of land which form part of appellant's real property it acquired from the Republic of Liberia on January 5, 1867; that on the strength of the appellant's title deed, the ERICO World Wide Venture, voluntarily entered into a 20 years lease agreement with it on May 1, 2012, and agreed to pay US\$20,000.00 annually in advance for the first ten (10) years; and for an optional period of ten (10) years, agreed to pay US\$25,000.00 per annual; that after the signing of the Lease Agreement on May 1, 2012, the ERICO World Wide Venture made only one (1) year payment and thereafter refuse to pay any other additional rent; that despite several demands made to the ERICO to honor its Lease Agreement, it failed, refused and neglected to do so; that after the appellants exhausted all efforts to make ERICO to pay the rent void of litigation, the appellant was constrain to institute an action of Debt against ERICO; that during the trial, ERICO admitted to executing a lease agreement with the appellant; that based on the admission, the court entered final ruling against the ERICO since its failed to honor the legally binding contract between it and the appellant.

For its part, ERICO alleged that title for the subject property which it occupies had not been determined, admitting that it entered into two separate and distinct lease agreements with the appellee and appellant, from whence the appellee obtained an earlier judgment in 2012, and appellant likewise later in 2021 obtained another judgment against it; that these judgments have exposed it to untold suffering and confusion; that the contest and challenge posed to the ownership of the property are not only creating hurdles for him and his tenants but that it has created lots of confusion regarding who is the genuine owner of the property to whom he is obligated to pay rent. It, therefore, prays that the writ prayed for by the appellee be granted and to correct the lower court's error of ordering the attachment and enforcement of the 2021 judgment entered against it to be enforced upon the appellee's property, the appellee already having secure an earlier ruling against him in 2012 for the same property and in the same court..

The records show that after a hearing had on the petition for a writ of certiorari, the Chambers justice concluded that the trial judge erred by ordering ERICO to pay all rental due to the appellant in the wake of the contest over the ownership of the subject property for which the appellee and the appellants have lease agreements with ERICO; and ordered the trial judge to open an escrow account under the supervision of the Sheriff, wherein all rentals and the judgment amounts, will be deposited by ERICO pending the final determination of the ownership of the property by the 6th Judicial Circuit, Civil Law Court, Montserrado County, and after which, the prevailing party shall be entitled to the rent and judgment amount. The appellants entered exceptions and announced an appeal to the Full Bench.

Given due consideration to the briefs filed and the argument had by the parties, and after reviewing our colleague's Chambers ruling, we determine that the lone issue that is determinative of this appeal is whether when he ordered issue the peremptory writ of certiorari in this case.

Regarding this issue, the appellants argued that the appellee was never a party to the main suit between the appellants and ERICO; as such, the

Chambers Justice erred when he reversed the ruling of the trial judge who denied the bill of information filed by the appellee.

The records as revealed show that our Colleague's Chambers ruling under scrutiny leaves us with no doubt that he comprehensively addressed this issue, and we adopt the relevant excerpt from the said ruling to form a cogent part of this Opinion as follows:

"... the trial court, being a court where the provision of evidence is permitted, any information that would lead to the justiciable outcome of controversy would be appropriate; thus, a bill of information before the trial court may be filed by a party of interest; even though he/she/it may not be a real party to the case. A party of interest is anyone whose interest may be affected due to the controversy between the real parties in a case. This person may be allowed to provide the trial court with relevant information that will inform the decision of the court in the interest of justice, fairness, and transparency. From the facts and circumstances in this case, the appellee, is a party of interest in this case, a party that obtained judgment from the trial judge against the ERICO in an action of debt, and to whom the judgment amount was being paid, filed a bill of information before the trial-judge, informing the trial judge that it is the legitimate owner of the property which is occupied by ERICO, and had obtained judgment against the ERICO in an action of debt filed before the same court; that the appellant is not the owner of the property but it is involved in a scheme to defraud the petitioner of its rental for the lease it entered with the ERICO several years ago; that the judgment obtained by the appellant against the ERICO should be declared null and void because the referenced property does not belong to the appellant. The appellee, therefore, requested the 1st Respondent to vacate the judgment and stay all further payments to the 2nd Respondent from the 3rd Respondent and to further order the 3rd Respondent to continue its payment to the Petitioner as its 1st Lessor and consistent with the previous judgment in the Debt Court.

The Court is amazed to note that even through these pieces of information appear to be germane, relevant and essential to the

justiciable outcome of the controversy between the parties and were timely provided to the trial judge, the trial judge chose to dismiss and deny the appellee/petitioner's bill of information on grounds that the appellee/petitioner was not a party to the main suit and that it lacked the standing or capacity to file a bill of information which the court is obliged to delve into and make determination therefrom. The Court vehemently disagrees with the trial judge's determination of the bill of Information on the sole ground of standing and capacity. Courts of law are courts of justice that should ensure that all of their decisions consider all facts and circumstances that will lead to the wholesome and unlimited conclusion of all controversies. This Court believes that the judge should have verified the information provided by the appellee/petitioner in the bill of information and, if found to be true and correct, taken appropriate actions to resolve the issue in the interest of justice. Because the trial judge had heard and decided the case involving the appellee/petitioner and ERICO in an action of debt, and from which the appellee obtained a judgment, and because the appellant had filed another action of debt against ERICO for the same property, and had obtained a judgment, the bill of information filed by the appellee/petitioner, if it had been entertained and consider in its entirety, would have set the basis for the fair conclusion and/or resolution of this case in the interest of justice. As mentioned earlier, courts of law are required, by the dictates of our laws and practices, to ensure that justice is done and that all controversies before it are properly resolved. Regrettably, the trial judge, by its decision in the appellee's bill of information, constructively set aside his previous ruling in favor of the appellee against ERICO, which this Court considers as erroneous and a reversible error. It is the holding of this Court that a bill of information in the trial court is intended to aid and guide the court in the judicial determination of cases before it; as such, a party of interest, not real party, should be permitted to file such information pending the final determination of the case.

This court believes that all judgments emanating from courts of law must be holistic and should properly resolve all issues surrounding controversies before it. As mentioned earlier, the core of the

controversy between the parties is ownership of real property. The appellee asserts that it is the owner of the property, which is occupied by the ERICO based on a lease agreement it entered into with the ERICO. The appellee also alleged that 3.7 Lots of land, which it occupies, was leased from the bona Fide owner, Cllr. George S.B. Tulay acquired the referenced property through an Honorable purchase from Mr. Joe J. Young. The appellee asserts that it constructed a commercial complex on the parcel of land it leased and later entered a sub-lease agreement with ERICO World Wide Venture, for the occupancy of the property.

The appellant also alleged that it is the legitimate owner of the property that was leased to ERICO; that the property leased is 17 lots of land which form part of the appellant/respondent's title deed it acquired on January 5, 1867; that on the strength of the appellant/respondent's title deed, the ERICO, voluntarily entered into a 20 years lease agreement on May 1, 2012, and agreed to pay US\$20,000.00 annually in advance for the first ten (10) years; and for an optional period of ten (10) years, the ERICO agreed to pay US\$25,000.00 per annual; that after the signing of the Lease Agreement on May 1, 2012, the US\$20,000.00 made only one (1) year payment and thereafter refuse to pay any other additional rent.

The Court notes that from the facts and circumstances in this case, both the appellee/petitioner and the appellant/respondent are claiming ownership to the parcel of land occupied by the ERICO; and they both have lease agreements with the ERICO and are claiming rental from the 3rd Respondent. Both the appellee/petitioner and the appellant/respondent obtained judgments before the Debt Court of Montserrado County at different times against the ERICO for rental the ERICO owes them based on their respective lease agreements they have with the ERICO. The Court further notes that the ERICO is in a predicament regarding who the legitimate owner of the property is and to whom it should pay rent. The issue of title now comes into plain view. Regrettably, the Debt Court of Montserrado County does not have the authority to determine title. So, the best forum, under

Liberian laws, must be pursued in order to resolve this controversy in its entirety. Hence, the ERICO would be obliged to comply with the judgment of the debt court in that party's favor. Even though the trial judge had made rulings in favor of the appellee and the appellant against ERICO at different times, it cannot properly enforce any of its decisions when ownership of the property is an issue. The trial judge was in error in ordering ERICO and all its tenants to pay rent to the appellant in the wake of the contestation of ownership of the property. Thence, Certiorari will lie. Certiorari is a special proceeding to review and correct a lower court's interlocutory ruling or intermediate order. *Vargas v. Reeves et. al.* 39 LLR 368 (1999); *Wright v. Reeves*, 26 LLR 38 (1977). Several opinions of this Court support this provision of the Civil Procedure Law cited, *supra*, and have always emphasized that certiorari is only granted to review and correct prejudicial errors of a trial court during the pending of a case. (Our emphasis). *Vandevoorde v. Morris and Mirza*, 12 LLR 323 (1956); *Wright v. Reeves*, 26 LLR 38 (1977).

In the interest of transparent justice and fairness, it is the holding of this Court that considering the fact that there is a contest between the appellee and appellant regarding the ownership of the property, both parties shall not, thenceforth, receive any rental payment from the 3rd Respondent. Accordingly, the trial judge is hereby ordered to instruct the sheriff of the Debt Court of Montserrado County to open an escrow account with any local bank in Liberia, and ERICO shall deposit the highest judgment amount the court entered in the two cases (appellee v. ERICO and appellant v. ERICO) and all rentals due, into that account and furnish the court with appropriate receipts evidencing payment thereto. The said monies shall remain in the account pending the final determination of the ejectment action that any one of the parties may file before the Civil Law Court."

Being in full agreement with our distinguished colleague in his ruling granting the petition for a writ to Certiorari, we, however, find it necessary to determine which amount of rent mentioned in the two agreements that were the subject of the two debt actions before the debt court that ERICO

is to be made to deposit in the escrow account alluded to in the said ruling. Since ERICO is not disputing any of the two lease agreements, it is only proper that ERICO pay the highest of the lease agreement amount agreed to in the two agreements. In the event the holder of the lease agreement with the lesser amount prevails in any ejectment suit that may be instituted in keeping with this Opinion, the difference between what is paid by ERICO and that lessor's entitlement shall be returned to ERICO

This being said, and considering that this ruling of our distinguished colleague legally and equitably addressed all of the contentious issues raised on this appeal, we find no reason to disturb it. Hence, we adopt it as the opinion of this Court.

WHEREFORE and in view of the foregoing, the final ruling of the Chamber Justice is affirmed. The alternative writ issue is upheld, and the Peremptory writ prays for order issued. The Clerk of this Court is ordered to send a Mandate to the trial court commanding the judge presiding therein to resume jurisdiction over this case and give effect to the Judgment of this Opinion. IT IS HEREBY SO ORDERED.

Ruling affirmed.

WHEN THIS CASE WAS CALLED FOR HEARING COUNSELLOR WELLINGTON G. BEDWELL APPEARED FOR APPELLANT. COUNSELOR ALHAJI SWALIHO A. SESAY APPEARED FOR APPELLEE. COUNSELLOR EUGENE L. MASSAQUOI APPEARED FOR ERICO.