

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2026

BEFORE H I S HONOR: YAMIE QUIQUI GBEISAY, SR CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE ASSOCIATE JUSTICE
BEFORE H I S HONOR: YUSSIF D. KABA..... ASSOCIATE JUSTICE
BEFORE HER HONOR: CEANEH D. CLINTON-JOHNSON ASSOCIATE JUSTICE
BEFORE HIS HONOR: BOAKAI N. KANNEH..... ASSOCIATE JUSTICE

John Garr of the City of Paynesville, Montserrado)
County, Republic of LiberiaAppellant)
)
Versus) APPEAL
)

Isaac Massaboi, also of the City of Paynesville,)
Montserrado, County, Republic of Liberia.....Appellee)
)

GROWING OUT OF THE CASE:)
)

John Garr of the City of Paynesville, Montserrado)
County, Republic of LiberiaMovant)
)

Versus) MOTION TO VACATE
) ARBITRATION AWARD
)

Isaac Massaboi also of the City of Paynesville,)
Montserrado County, Republic of Liberia....Respondent)
)

GROWING OUT OF THE CASE:)
)

Isaac Massaboi of the City of Paynesville, Montserrado)
County, Republic of LiberiaPlaintiff)
)

Versus) ACTION OF EJECTMENT
)
)

John Garr, also of the City of Paynesville, Montserrado)
County, Republic of Liberia Defendant)

Heard: June 8, 2026

Decided: August 28, 2026

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

This appeal emanates from a ruling of the Sixth Judicial Circuit, Civil Law Court for Montserrado County, in which the trial judge denied the appellant's motion to vacate arbitration award on October 30, 2018.

The records certified before this Court show that the appellee, Isaac Massaboi, on January 21, 2013, filed a three count action of ejectment in the Six Judicial Circuit, Civil Law Court for Montserrado County, and complained that he is the owner of a piece of real property containing 1.7 lots of land located in Paynesville City, Montserrado County; that the appellant encroached upon said land and despite repeated warnings and intervention from the Ministry

of Justice, the appellant refused to stop; and that for the wrongful withholding of his land, the appellee prayed the trial court to hold the appellant liable and be made to pay US\$25,000(Twenty Five Thousand United States Dollars) as general damages.

In response to the appellee's complaint, the appellant, on January 30, 2013, filed a two (2) count answer, withdrew same and filed an amended answer on February 8 in which he denied the appellee's claim of ownership to the land and averred that he, the appellant, is the rightful owner of the land; that he acquired same from the Testate Estate of Anthony Barclay, Sr., in 1981 by and thru its Executor Mai B. Roberts; that his original deed got missing during the war, and same was reported to his grantor; that he acquired the land through an honorable purchase, constructed three buildings thereon, and have lived there unmolested for a period of over twenty-five (25) years; and that the appellee's complaint is a product of fraud; hence, general damages will not lie.

The certified records before this court reveal that the appellant filed on February 8, 2013, its motion for setting up of an arbitration board, excerpts of which we quote:

"...That the Movant herein is the legitimate owner of the property subject of the action of Ejectment instituted by the Respondent against the Defendant, which is pending before this Honorable Court. Your Honor is most respectfully required to take judicial notice of the records before Your Honor.

That, both the Movant/Defendant and the Respondent/Plaintiff, is contesting the ownership of the property owned by the Movant. The movant is uncertain whether the Respondent have title deed for the property he is claiming.

That assuming without admitting that the Respondent have a deed to support his claims and or title, it is highly likely that the metes and bounds as of their title deeds and those of the Movant/Defendant may not be the same. The only means such a situation or issue can be settled will be through arbitration board to carry out a physical demarcation survey of the properties to determine their metes and bounds.

Wherefore and in view of the foregoing facts and circumstances, Movant most respectfully prays Your Honor to set up a Board of Arbitration to comprise of one surveyor from the Movant/Defendant, one surveyor from the Respondent/Plaintiff, and a third surveyor from the Ministry of Lands, Mines and Energy to carry out the survey of this property in dispute to determine their metes and bounds to form the basis of this Court's ruling and also grant unto Movant further relief that Your Honor may deem just, legal and equitable."

The appellee interposed no objection and as a consequence of this, the trial court ruled, set up the board of arbitration, and ordered the arbitration to be proceeded forthwith. We quote verbatim the order of the trial court:

"This Court hereby appoints surveyor Mr. Cyril S. Banya as chairman of the Board of Arbitration in the above case. And surveyor Momo G. Yee is hereby appointed as member of the Board of Arbitration. This Board is hereby ordered to proceed to the property/premises in dispute and conduct a reconnaissance survey and thereafter,

make/present a cost analysis tot his court indicating the cost to undertake this exercise. Thereafter, he parties will make payment on a 50/50 basis either in whole or part to compensate their respective surveyors.

The Board is further ordered to use only the deed(s), diagram(s), map(s), etc, that were pleaded and placed in the case file as their working tool (s). The chairman of the Board of Arbitration is further instructed to issue Notice of Survey to members of the Board of Arbitration and adjacent parties stating the date and time of the survey/ arbitration exercise. The said survey Notice should be filed with the court for further reference. Any party who fail to nominate a surveyor to represent its interest, the report and findings will be enforceable on all. Any surveyor who absent himself having been served with the Notice of Survey and without any tangible reason (s) to the Chairman stating his/her reason for being unable to be present, the remaining members of the Board of Arbitration should proceed and commence the work/exercise as mentioned/indicated in the Survey Notice.

All legal technicalities relating to the defect(s) of the Deed(s), Map(s), Diagram(s), etc. should be left with this court for determination. This Board of Arbitration is hereby instructed to submit their report to this Court within four (4) weeks as of the payment of the costs analysis by the parties. Any member of this Board who is not satisfied with the manner/form in which the survey was conducted is hereby ordered to submit his/her objection before this court prior to the submission of the report. AND IT IS HEREBY SO ORDERED."

Thereafter, the board of arbitrators proceeded with the arbitration and submitted its findings and conclusions to the trial court.

We also quote verbatim the board of arbitration's report:

1. That John Garr technical representative was present who is not a Licensed Surveyor.
2. That John Garr did not contribute a dime to facilitate the cost of the survey.
3. That every stakeholder was present during the survey exercise, John Garr was very polite and patient.
4. That John Garr presented Executor's Deed from Mai B. Roberts to John Garr, part of range (1) in the year 2013, containing one (1) lot.
5. That the ground information contains 1.1 lot which is acceptable, according to the boundaries they identified.
6. That Isaac Massaboi and Yassah Gono presented a certified photo copied warranty deed from Elizabeth B. Cooper and Mai B. Roberts, also range one (1); lot #1, dated 1988, and containing 1.7 lots.
7. That the ground information contains 1.8 lots, which is also acceptable according to the boundaries they identified.
8. That according to the map, the figure BDA is the area of encroachment. The encroachment area contains 0.37 lot.
9. That this area of encroachment belongs to Isaac Massaboi which is equal to the quantity of land on the deed.

Conclusion

From or technical view point, Isaac Massaboi should take control of the encroached area; and Isaac Massaboi is in full possession of his property since he has the oldest deed which I believe the legal counsels will agree."

Upon the filing of this report by the board of arbitrators, the appellant, John Garr, objected to the findings, and thereafter filed a 13 count motion to vacate arbitration award, contending that the award was procured by fraud; that both the appellee and the appellant bought 1 lot of land each from the same grantor; that instead of the appellee presenting a deed for 1 lot of land, the appellee presented a deed for 1.7 lots of land; that he filed a complaint against the appellee to a representative of Mai B. Roberts who is also her grandson, Mr. Aren A. Ramirez, in his capacity as an administrative assistant of Charnida Enterprise Inc., a company that manages the properties of Mai B. Roberts; that the appellee had encroached on his 1 lot of land which was purchased from Mai Roberts; that when he filed the complaint, Mr. Aren A. Ramirez reviewed the records in the possession of his grandmother and made a detailed report on the land sale transaction which took place between his grandmother, John Garr and the appellee, Isaac Massaboi, in which he stated that besides the issuance of payment receipt to Isaac Massaboi for 1 lot of land, his grandmother, Mai B. Roberts did not sign any deed for Isaac Massaboi because the said Isaac Massaboi failed to do what he was told to do after he completed the payment for the 1 lot of land; and that the arbitration award of 0.37 lot of land awarded to the appellee is grossly in error and was fraudulently awarded to the appellee by the board of arbitration.

It is further revealed by the records that the appellee, resisting the appellant's motion to vacate award filed a 10 count returns, contending that the arbitration was done by the order of the court with all parties and their representations present without fraud; that appellant failed to specifically state the fraud that was alleged; that he had never been under any investigation conducted by Charnida Enterprise Inc.; that the intestate estate of Anthony Barclay administered by Mai Roberts had nothing to do with the property with the appellee since said estate had parted ownership to the appellee in 1988, through legitimate purchase; and that appellee maintained that he purchased 1.7 lots of land from the intestate estate of Anthony Barclay for which he is in possession of a title deed.

After hearing the motion to vacate the arbitration award, the trial judge ruled as follows:

"The Movant stress on basis support for the prayer of the movant that this court vacates the arbitration award. That contention is that pursuant section 64.11 paragraph 1 subparagraphs (a) of the Liberia Code of Law Revised Title 1 the Civil Procedure Code, caption "vacating an award", the award by the arbitrators was a product of fraud. According to the Movant the pleadings of the Respondent presented a title that was fraudulently procured because well as the receipts in support of the title awarded the Respondent one lot, however, the title instrument in the possession of the respondent provided for 1.7 lots. According to the movant the arbitrators were duty bound to inquiry

into this matter in finding a resolution to the provision of the law relied on. The fraud referred to under section 64.11 paragraph 1 subparagraphs (a) is one which is permitted during the arbitration, the parties divert the court of all rights and authorities to inquiry into the substance of the conflict this is why it is provided that parties must voluntarily submit their controversies to arbitration. Section 64.1 defines arbitration as follows: "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 regards to the justifiable character of the article of the controversy and irrevocable except on such ground as exist for the revocation of any contract." Once therefore, the parties decided to submit their controversy to arbitration, they cannot therefore come and call the court to intervene to resolve part of the issue already submitted to arbitration. The movant should know or should have reason to know that there issues of fraud in the controversy that must handle by the court. But in spite of the existence of such allege issue, the movant and the respondent voluntarily without cohesion submitted themselves to arbitrators to decide their controversy, therefore it will be a violation of the law if this court is to get itself in reviewing the conclusion of the arbitrators. This court limit of review of the arbitrators' action can be found in the section just referred to and the condition for that review is clearly sell out in section 64.11. The Movant not having squally raise any of the grounds stated therein, this court does not see justify to disturb finding of the arbitrators.

Wherefore and in view of the foregoing, this court hereby ordered denied the Movant's motion to vacate the arbitration award and by that, this court hereby confirmed the said award and ordered the same enforceable by its letter and intend. The Clerk is ordered pursuant to the arbitration to issue out the necessary instruments to give effect to the findings and the award of the arbitrators."

To which ruling, the appellant noted exceptions and announced an appeal to this Court *en banc*.

In the appellant's 10 count bill of exceptions, the appellant essentially contended that during the survey, the surveyors ignored other documents submitted to the court, and used the appellee's deed as the sole instrument to verify appellee's title; that the arbitrators were mandated to consider the deed and other documents submitted by the parties; that the arbitrators did not follow the instruction of the trial court; that the arbitrators permitted fraud when they refused to consider other documents which included list of other individuals who purchased properties(land) from the intestate estate of Anthony Barclay; that the arbitrators failed to perform their statutory duties under the *Civil Procedure Law Rev. Code:1.64.5* and *1.64.6*; same being, to conduct hearing, subpoena witnesses, and make inquiries about deeds and other documents submitted for the investigation so as to enable the arbitrators verify and establish the legitimacy of each title deeds before using it in conducting a survey; that the trial court judge erred when he denied the motion to vacate arbitration award, and refused to accept the conduct of the arbitrators as fraud under the *Civil Procedure Law Rev. Code:1.64.11(a)*; and that the appellee's award is a product of fraud; hence, the findings of the board of arbitration is based on fraud.

We note that while the parties may have countless numbers of issues and contentions to

support their respective claims, this Court has always been consistent in reminding party litigants that it will address only issues that are germane to a justiciable determination of matters brought before it. *Scanship (Lib.) Inc. v. Flomo*, 41 LLR 181 (2002); *Knuckles v. TRADEVCO et al*, 40 LLR 511 (2001); *Rizzo et al v. Metzger et al*, 38 LLR 476 (1997). Hence, the sole issue that is determinative of this matter is, whether or not the trial court's judge erred when he denied the appellant's motion to vacate arbitration award. We answer in the affirmative.

This Court notes that the grounds available to the appellant are provided under *The Civil Procedure Law, Revised Code: 1.64.11.1* (a, b, c, d):

1. *Grounds for vacating.* Upon written motion of a party, the court shall vacate an award where:

- (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 *Civil Procedure Law Rev. Code: 1.64.5* or *1.64.6*. The fact that the relief granted in the award was such that it could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm an award.

These grounds are only available wherein the procedural conduct of an arbitration are followed. We note that the records before this Court is void of any evidence to show that the appellant raised any objections to the trial court's order; however, this Court's attention is drawn to the instruction of the trial judge, when he said that all legal technicalities relating to the defect(s) of the Deed(s), Map(s), Diagram(s), etc. should be left with the trial court for determination.

For clarification, this Court says that arbitration is governed by law which states that, unlike regular proceeding before a court of law, proceedings in arbitration must first be initiated by an agreement between or among adversary parties to submit themselves to arbitration. The statute requires that an arbitration agreement be written by parties wishing to settle their dispute through arbitration. *Civil Procedure Law, Revised Code: 1.64.1*. However, we note that the scope of this requirement on arbitration agreement has been further expanded by this Court in its opinion in *Fallah Willie et al Vs. Yuissif Fahnbulleh et al*, case. In the said case, the question placed before the Supreme Court was "Whether or not a party who agrees and submits to arbitration, suffers waiver and lashes to raise an objection to an arbitration report on ground

that he did not enter into a formal arbitration agreement." In answering this question, Mr. Justice Yamei Quiqui Gbeisay, speaking for the Court opined that, "We observed that the parties did not execute any 'written' agreement' as mandated by the statute. However, we note that the court ordered the arbitration and constituted the Board of Arbitration based on an implied agreement by the parties. The parties agreed and submitted the case to arbitration." *Fallah Willie et al Vs. Yuissif Fahnbulleh et al*, Supreme Court's Opinion, March Term, 2023.

This indicates that this Court recognizes the order of the trial court to set up the board of arbitration as agreed by the parties to constitute an arbitration agreement. We so hold that there is a valid arbitration agreement by the acquiescence of the parties by submitting themselves to arbitration.

Having settled the question as to whether there was an arbitration agreement, we must now find out whether the proper procedure was followed by the trial court. It is trite law that when judges give orders, such orders must be in accordance with law. In the instant case, the judge's order to the arbitration board for the conduct of arbitration must conform to the laws on arbitration as provided under the *Civil Procedure Law Rev. Code: 1.64.(1, 2)*, which provides that:

1. The arbitrators shall have the power to administer oaths and may request the clerk of the appropriate circuit court to issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence. Subpoenas so issued shall be served, and upon application to the court by a party or the arbitrators, enforced, in the manner provided in chapter 14 of this title.
2. On application of a party, the arbitrators, in the manner and upon the terms designated by them, may permit a deposition to be taken of a witness who cannot be subpoenaed or is unable to attend the hearing, for use as evidence...

In view of the above stated law, the contention of the appellant that the board of arbitration did not allow him to produce other witnesses and documents falls squarely under this provision of law even though the certified records before this Court are void of any evidence to show that the appellant objected to the order of the trial court as quoted supra. We cannot ignore any clear violation of the laws on grounds based only on legal technicality. Whenever it appears that a trial court's judge failed to apply the appropriate law in a case, and that such failure may potentially lead to a miscarriage of justice, this Court shall reverse such decision and apply the appropriate laws even if such issues were not raised by any of the parties.

In a litany of cases, in time passed, this Court has held that courts should, *sua sponte*, take judicial notice of the law even if the parties do not raise it. Moreover, the Supreme Court is vested with the authority by the laws in this jurisdiction to ensure that the laws are appropriately applied and scrupulously adhered to, to reverse or modify the judgment of the

lower courts, and render such judgment as the lower court should have rendered. *Yeakula et al. v. R L*, Supreme Court Opinion, October Term, 2014; *Catholic Relief Services (CRS) v. Natt, Brown and Cororál*, 42 LLR 400, 416 (2004). *The Ministry of Foreign Affairs v. The Intestate Estate of the late Jarbo Sartee*, 41 LLR, 285, (2002); *Lamco J. V., Operating Company v. Rogers and Wesseh*, 29 LLR 259, 267 (1981).

In the instant case, the trial judge was under mandate to consider the law on arbitration as distinguished from the investigative survey. In a plethora of Opinions, the Supreme Court has reiterated, with emphasis, that an investigative survey report is distinguishable from an arbitration award; that an investigative survey may constitute part of a proceedings in an arbitration; and that it is not *ipso facto* conclusive as to the rights of the parties thereto, nor does it produce a binding award, as it is the case with arbitration. In the case: *Abraham K. Wales et al. v. The Intestate Estate of Arthur and Ruben Hart*, Supreme Court Opinion, March Term, 2025, this Court clearly showed the distinction between an investigative survey, and an arbitration when it opined that: "Chapter 64 of the Civil Procedure Law, titled 'Arbitration,' sets out a proceeding whereby parties to a dispute who desire their matter settled by arbitration must submit a written agreement to the court agreeing to refer their dispute to a board of arbitrators. This agreement effectively ousts the court from delving into the hearing of the matter, except to confirm the awards made by the arbitral board, with exceptions as set forth in section 64.10 of the Civil Procedure Statute. An arbitration agreement further sets out the issues agreed upon by the parties to be put before the board for resolution, and the parties must expressly consent to those issues in a written agreement. An investigative survey, on the other hand, is one requested or directed by the court as a means of assisting in the resolution of certain technical aspects of a case, thereby aiding the court in determining a factual issue, wherein the surveyor appointed by the court is placed on the stand to testify to the report, which is subsequently submitted to the jury for consideration."

This clarifies that in an arbitral proceeding, an investigative survey can be conducted. What the law contemplates in an arbitration proceeding is that proof of title must be comprehensively established as per due process. It also means that the parties in an arbitration proceeding must be given the opportunity to present oral and written evidence which may include subpoenaing witnesses to substantiate claims." *Snow Hill Community Playground v. Snow Hill Baptist Church*, Supreme Court Opinion, March Term, A. D. 2025.

It is evident that the judge's order is contrary to law, in that, from the records before us, it is clear that the board of arbitration conducted an investigative survey instead of conducting an arbitration which could have included an investigative survey as indicated in the judge's order to the board of arbitration to only use the deed(s), diagram(s), map(s), etc, that were pleaded

and placed in the case file as their working tool (s). Further, the fact that the trial judge allocated to himself the authority to determine all legal technicalities relating to the defect(s) of the Deed(s), Map(s), Diagram(s), etc. indicates a misapplication of the law on arbitration.

We are persuaded that this aspect of the trial judge's order to leave to the determination of the court, all legal technicalities relating to the defects Deed(s), Map(s), Diagram(s), etc, is an authority that is vested in the board of arbitration, does not have the characteristics of an order for the conduct of an arbitration; rather, it constitutes an order for investigative survey. Therefore, the trial judge erred when he retained to himself the authority of the board by ordering the board to consider in its investigation only the Deed(s), Map(s), Diagram(s), etc., that were pleaded, and that all legal technicalities relating to the defect(s) of the Deed(s), Map(s), Diagram(s), etc. should be left with the trial court for determination.

The Statute on arbitration gives the board of arbitration the power to subpoena the attendance of witnesses, and for the production of books, records, documents, and other evidence. The order of the trial court's judge which restricted the board of arbitration to consider only documents pleaded and placed on the trial court's file is contrary to the intend and purpose of an investigation during arbitration. Such order is in contravention of the laws governing the conduct of arbitration; hence, same cannot be sustained by this Court.

In view of this order from the trial court, this Court finds no justiciable grounds for the denial of the appellant's motion to vacate arbitration award; that the trial court's order to the board of arbitration was characterized by instructions to conduct an investigative survey, rather than conducting arbitration investigation as provided for under *Civil Procedure Law Rev. Code* 1.64. We therefore agree with the appellant's contention that the board of arbitration had a duty under *Civil Procedure Law Rev. Code* 1.64 to verify the authenticity of the appellee's deed and to consider other documents.

Therefore, considering the facts and circumstances revealed by the certified records of this case, it is the holding of this Court, that the trial court's judge erred, when he gave an order to the board of arbitration that was contrary to the laws of arbitration; hence, the ruling of the trial court denying the motion to vacate the arbitration award, being contrary to law, must to be reversed.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the ruling of the trial court denying the motion to vacate the arbitration award is hereby reversed and the case remanded with the order that the arbitration board proceeds to conduct the arbitration in accordance with Chapter 64 of the Civil Procedure Law of Liberia. The clerk of this court is hereby ordered to send a Mandate to the Six Judicial Circuit Civil Law Court for

Montserrado County, commanding the Judge presiding therein to resume jurisdiction and give effect to the Judgment of this Opinion. AND IT IS HEREBY SO OREDRED.

REVERSED AND REMINDED.

When this case was called for hearing, Counsellors Lawrence Sua of the Dominion Law Group and Wellington G. Bedell of Fortis Partners, LCC appeared for the appellant. Counsellor Samuel Y. Zayzay of Tubman Law Firm appeared for the appellee.