

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA SITTING IN
ITS OCTOBER TERM, A.D. 2023

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : JOSEPH N. NAGBE..... ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABAASSOCIATE JUSTICE
BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE

Rocky Marshall and all those acting under his)
scope of authority of the City of Monrovia,)
Liberia.....Appellants) APPEAL

Versus)

The Intestate Estate of Solomon Edward by and)
thru its Administrator, Mr. Eddie Kojo Ledlum Sr.)
also of the same address.....Appellee)

GROWING OUT OF THE CASE:)

The Intestate Estate of Solomon Edward by and)
thru its Administrator, Mr. Eddie Kojo Ledlum Sr.)
of the City of Monrovia., Liberia.....Plaintiff)

Versus)

ACTION OF EJECTMENT

Rocky Marshall and all those acting under his)
scope of authority of the City of Monrovia,)
Liberia.....Defendants)

Heard: November 7, 2022

Decided: December 19, 2023

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

The Intestate Estate of Solomon Edwards, the appellee and plaintiff below, by and through its administrator, Eddie Kojo Ledlum, Sr., instituted an ejectment action against Co-appellant Rocky Marshall and all those acting under his authority, before the Sixth Judicial Circuit, Civil Law Court, Montserrado County on November 7, 2017. The appellee alleged that it owns five (5) acres of land, lying and situated in the Settlement of Lower Virginia, Montserrado County, Republic of Liberia; that the Co-appellant Rocky Marshall and others have encroached upon said property without the appellee's consent, and have illegally constructed and are constructing buildings thereon; that the appellee informed the appellants about their illegal encroachment, requesting them to vacate the property and to stop constructions thereon, but they have refused to do so.

The appellee prayed the court below to oust the appellants from its property and to grant it United States Twenty-Five Thousand Dollars (US\$25,000.00) as special damages, and United States Two Thousand Five Hundred Dollars (US\$2,500.00) as general damages for defacing of its property and for the wrongful withholding thereof. The appellee attached to its compliant, its titled deed, Letters of Administration and photos of the defacing done by the appellants on its property.

The appellants in an amended answer responded to the appellee's complaint, stating that the property is not for the appellee as alleged; that the Co-appellant Rocky Marshall had acquired the said property in 1973, and has had opened and continuous possession of the said property without any qualms from anyone until the appellee came in 2013, making claim to the property.

When the case was called for hearing, the appellee's administrator, Eddie Kojo Ledlum, Sr., took the stand and testified that Mrs. Naomi Holmes, the Commissioner of the township, Virginia, where the property is situated, called and had him informed that the Co-appellant Rocky Marshall had encroached on the estate's property and was selling portions of same to some unknown buyers. The witness stated that when he approached Rocky Marshall about the illegal sale of the estate's land, Rocky Marshall began to insult him and his grandparents, decedents of the estate; that this prompted him, as the administrator of the estate, to proceed with a criminal action against Rocky Marshall at the magisterial court but he was advised by the magistrate to get a lawyer and have the matter taken to the Civil law Court. The witness said that a preliminary investigation done by the Liberia Police Crime Division revealed that Rocky Marshall had forged the names of the Probate Court Judge and Clerk, and one surveyor, Mulbah Boakai, on his deed and it carried a fake stamp said to be from the probate court; that Rocky Marshall was charged with forgery and tampering with public records and forwarded to the office of the County Attorney for Montserrado County for prosecution. The witness admitted into evidence a copy of his Letters of Administration, a certified copy of a deed from the Republic of Liberia to Solomon Edwards, in 1877, recorded in Volume 15, Page 57 of the records of Montserrado County, and filed in the Archives of the Department of State; the certified copy signed by J. Rudolph Grimes, on the 9th day of July 1965; a copy of a survey report presented to Commissioner Flowers, and pictures of the defacing of the property by the appellants.

The appellees brought several other witnesses, among whom were Rev. Stephen Snorton, Jr., Senior Pastor of the 72nd United Methodist Church and Dean of the United Methodist University, Counsellor Bahartu Holmes Varmah, Mr. P. Amos Johnson, Inspector of the

Township of Virginia, and Surveyor Sam Paye. All of these witnesses reiterated the testimony of the appellee's administrator, Eddie Kojo Ledlum, Sr. The witnesses stated that the appellee's property shares common boundary with the Snortons; that there were several families that owned land in the Virginia area and because at the time when they acquired their properties, demarcation was done by planting of soap trees, the Commissioner of Virginia, in 2010, asked all land owners in the area to now demarcate their properties by replacing these soap trees with cornerstones and that they register their deeds in the Commissioner's office. Rev. Stephen Snorton, Jr. stated that the appellee's property of five acres was acquired in 1877 and the Snortons' in 1860, and the administrators of both estates had a resurvey of their properties, their cornerstones planted and their deeds registered with the Commissioner's office. Thereafter, the Commissioner advised property within the Township of Virginia to keep an eye on each other's property. In 2013, Co-appellant Rocky Marshall went on the appellee's property and began to dig dirt, cut trees and sell portions of the property; the Office of the Commissioner had the appellee's administrator informed. That when it was observed that the Co-appellant Rocky Marshall, who was violent and noted for stealing and selling land, was selling land in their area, the Township Commissioner, Madam Flowers, ordered a survey and had the notice published. The survey found that the Co-appellant Rocky Marshall had sold all of the appellee's five acres of land and portion of the adjacent Snorton's property. The witnesses confirmed that Co-appellant Rocky Marshall had no land in the area of the disputed property.

The appellants' first witness, Emmanuel David, testified that he bought one lot of the disputed property from Co-appellant Rocky Marshall and was given an Administrator's Deed and that he only got to know that the land was being claimed by the appellee when the appellee went to carry out a survey in 2016.

Co-appellant Rocky Marshall took the stand thereafter. He alleged that his late father, Benjamin Marshall, acquired three acres of land in joint tenancy for both of them in 1973; he presented a deed allegedly issued to him and his late father in 1973 for three (3) acres of land. He stated that he had been in open and continuous possession of the property for over thirty (30) years, until 2013, and there had been no qualm or reservation from any quarter not even the appellee. He stated that he made farm on the subject property in the mid-eighties prior to disposing of some of the land.

The appellants third witness, David Appleton, stated that his grandfather was a friend of Rocky Marshall's father; that during the 1980's and late 90s, Rocky Marshall's father allowed his family to farm on the property and no one laid claim to the land at the time.

The appellee brought a rebuttal witness, Madam Josephine Bestman, who worked at the National Archives as the Registrar of deeds. Her functions, she narrated, was to authenticate legal instruments, sign land deeds, sign certified copies of land deeds, issue Letters of Confirmation, Non-discovery and research reports, and perform any other task assigned to her by her boss. She stated that based on a letter sent to the National Archives by the Assistant County Attorney of Montserrado County, which was forwarded to her for action, she was asked to research the Co-appellant Rocky Marshall's deed. The research officer reported to her that he saw no volume or page number so they went an extra mile going through the records of the entire 1973 and found nothing recorded relative to the Rocky Marshall's deed presented. They then forward a report of non-discovery to the County Attorney Office.

After the parties rested with evidence, the jury came up with its verdict, unanimously finding the appellants liable to the appellee, and assessing damages of Twenty Thousand United States Dollars against the appellants.

The appellants excepted to the verdict and filed a motion for a new trial. The court denied the motion, confirming the jury's verdict. The court held that the appellee established a clear, cogent and convincing evidence that it is the legitimate and *bona fide* owner of the five acres of land, situated in the Township of Viginia, Montserrado county, subject of the ejectment action, and it is entitled to possession of the property, and further found the appellants liable to pay the appellee United States Twenty Thousand (US\$20,000.00) Dollars as damages for the wrongful withholding and defacing of the appellee's property.

The appellants excepted to the lower court's ruling and filed a nine (9) count bill of exceptions. This Court has reviewed the bill of exceptions filed by the appellants and determined that with the exception of count 2 thereof, which we think is worthy of discussion in considering this appeal, the other counts of the bill of exceptions pertain to the weight given to the evidence adduced at trial. This Court has held that when the jury reach a conclusion after having considered the evidence which is sufficient to support a verdict, the decision should not be disturbed by the Court. *St. Stephen v. Gbedze*, Supreme Court Opinion, March Term 2013; *Momolu v. Cummings*, 38 LLR 307,374 (1996); *Gbessage v. Holt*, 24 LLR 293, 296 (1975); *Benson v. Sawyer*, Supreme Court Opinion, October Term, 2015.

We now proceed to review count 2 of the appellants' bill of exceptions wherein the appellants complain that the case was heard during the June Term A. D. 2018, and the jury verdict found the appellants liable; that the appellants excepted to the verdict and filed a

motion for new trial which was resisted by the appellee and an assignment made for argument on the motion; that argument on the motion was had during the June 2018 Term of Court, but the judge did not rule on the Motion for New Trial until the September Term of Court, A. D. 2018, and simultaneously entered final judgment. The appellants assigned this as an error which warrant the reversal of the final judgment and the holding of a new trial.

Our review of the records reveals that trial in the case commenced in the Sixth Judicial Circuit, Civil Law Court "B" for Montserrado County during the June Term 2018, with Judge Scheaplor R. Dunbar presiding by assignment. The trial continued and ended with the jury verdict given on July 23, 2018, in favor of the appellee. The appellants excepted to the jury verdict and moved the court for a new trial and the court proceeded to hear argument on the motion on August 16, 2018. The Judge however reserved ruling on the motion and did not render judgment until the June term of court ended. During the September Term of Court, Judge Dunbar was reassigned to the same court and he proceeded to give a consolidated ruling on the motion for new trial and a final judgment in the case.

The question raised is whether the ruling and judgment rendered by Judge Dunbar, during the subsequent September Term 2018, is reversible because same was not entered during the June Term 2018, when the motion for new trial was heard?

We do not believe so. Section 3.12 of the New Judiciary Law provides in part that a jury once empaneled in any case shall continue until the case is determined. In the instant case, Judge Scheaplor Dunbar having presided over the trial by jury during the June term 2018, heard the motion for new trial without ruling thereon, and having been reassigned the following term to the same court, he was competent to rule on the motion for new trial.

In this case, Judge Dunbar who presided over the trial during the June Term 2018, and heard the motion for new trial without ruling thereon, having been assigned the following term to the same court, it would be irrational to require him to hear the case anew simply because he did not render ruling on the motion for new trial during the June Term 2018. As the records show, the arguments on the motion for new trial had recently been heard on August 16, 2018 and Judge Dunbar who was subsequently reassigned to the court was properly placed to rule on the motion and render final judgment in the case immediately after the commencement of the September Term of court. We therefore do not find the ruling of the Judge to be reversible under the circumstances, since he was the Judge that heard the case and was the same Judge who made ruling thereon.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the court below adjudging the appellants liable in ejectment is hereby affirmed. The Clerk is ordered to send

a mandate to the judge presiding in the court below to resume jurisdiction over this case and give effect to the Judgment emanating from this Opinion. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING COUNSELLORS THOMPSON N. JARGBA AND TOMMY N. DOUGBA APPEARED FOR THE APPELLANTS. COUNSELLOR AMARA M. SHERIFF APPEARED FOR THE APPELLEE.