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

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

The Intestate Estate of Abrom Robinson, of the City of)
Monrovia, represented by his administratrix Sarah)
Catherine Robinson by and thru her Attorney-In- Fact,)
Mr. Benjamin Striker of the City of Monrovia, Liberia)
....Appellant)
)
Versus) APPEAL
)
Mrs. Merlene Grimes Boayue, by and thru her attorney)
-In -fact, Samuel D. The, II of the City of Monrovia,)
Liberia ....Appellee)
)
GROWING OUT OF THE CASE:)
)
The Intestate Estate of Abrom Robinson, of the City of)
Monrovia, represented by his administratrix Sarah)
Catherine Robinson by and thru her Attorney-In- Fact,)
Mr. Benjamin Striker of the City of Monrovia.......Movant)
)
Versus) MOTION TO RESCIND
)
Mrs. Merlene Grimes Boayue, by and thru her Attorney-)
In -fact, Samuel D. The, II, of the City of Monrovia,)
Liberia ....Respondent)
)
GROWING OUT OF THE CASE:)
)
The Intestate Estate of Abrom Robinson, of the City)
of Monrovia, represented by his administratrix,)
Sarah Catherine Robinson by and thru her attorney-in-)
Fact, Mr. Benjamin Striker of the City of Monrovia,)
Liberia ....Informant)
)
Versus) BILL OF INFORMATON
)
Mrs. Merlene Grimes Boayue, by and thru her Attorney-)
In-fact, Samuel D. The, II, of the City of Monrovia, Liberia)
....Respondent)
)
GROWING OUT OF THE CASE:)
)
Mrs. Merlene Grimes Boayue, by and thru her Attorney-)
In-fact, Samuel D. The, II, of the City of Monrovia, Liberia)
....Petitioner)

Versus

The Intestate Estate of Abrom Robinson, of the City of Monrovia, represented by his Administratrix, Sarah Catherine Robinson by and thru her Attorney-In-Fact, Mr. Benjamin Striker of the City of Monrovia, Liberia...... ....Respondent

) SUMMARY PROCEEDING TO RECOVER POSSESSION OF REAL PROPERTY

Heard: June 3, 2026

Decided: August 28, 2029

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

This is an appeal announced from a ruling of the trial judge of the Sixth Judicial Circuit, Civil Law Court for Montserrado County, which held the appellant, The Intestate Estate of Abrom Robinson, liable by default judgment, in an action of summary proceedings to recover possession of real property, filed by the appellee, Mrs. Merlene Grimes Boayue, by and thru her Attorney-In-Fact, Mr. Anthony Robinson on December 7, 2012.

The certified records before this Court show that this case has its genesis in the Monthly and Probate Court for Montserrado County as far back as 2009 when the appellant, the Late Abrom Robinson, who is now represented herein by his Intestate Estate, challenged the titled deed and the chain of title of the appellee, Mrs. Merlene Grimes Boayue, for a 0.5 lot of land with residential building thereon, situated on Carey Street, Monrovia, Liberia which is the subject of this litigation. According to the records, this land was originally owned by the late Joshua A. Robinson who was the father of the appellant, Abrom Robinson and Rosina Robinson Grimes, the adopted mother of the appellee in this proceeding. The appellee claimed that her grandfather, the late Joshua A. Robinson sold the land to her mother, the late Rosina Robinson Grimes, whose estate the appellee is now claiming ownership. In support of her claim, the appellee presented three title deeds in the following categories: copy of a certified deed and a warranty deed allegedly issued to the late Arisina Robinson by the late Joshua A. Robinson, and a curator deed allegedly issued to the appellee by the Monthly and Probate Court for Montserrado County, after the alleged closure of the intestate estate of Rosina Robinson Grimes. Using these documents as reliance to prove ownership, the appellee attempted moving the appellant from the disputed land and taking possession; and denied that the deeds are product of fraud.

As a consequence of the appellant's resistance, the appellee, on December 7, 2012 filed in the Six Judicial Circuit, Civil Law Court for Montserrado County, a petition for summary proceedings to recover possession of real property, to evict and oust the appellant and put appellee in possession of the property.

In the five-count petition for summary proceedings to recover possession of real property, the appellee thru her Attorney-In-Fact, Mr. Anthony Robinson, averred that she, is the owner in fee simple of the 0.5 lot of land which is the subject of dispute; that she had earlier instructed the appellant to demolish all illegal structures that he, the appellant, had constructed on the land and stop the raising of livestock thereon; that the appellant refused to honor the instructions; and therefore, the appellee prayed the trial court to grant her petition, evict and oust the appellant, and put appellee in possession of the 0.5 lot of land.

In a twelve-count returns, the appellant denied all the averments as contained in the appellee's petition, and substantially averred that he and the appellee's mother, the late Rosina Robinson Grimes, are biological children of the late Joshua A. Robinson, the original owner of the 0.5 lot of land that is the subject of this dispute; that the Curator deed, the warranty deed, and the certified copy of a warranty deed in the possession of the appellee are all products of fraud; that a Curator deed is never issued with a map or drawing of the property on it; that the signature of Judge Holder of the Monthly and Probate Court as contained on said documents is not genuine and must have been forged by petitioner's Attorney-In-fact; that petitioner and her Attorney-In-Fact, Anthony Robinson are still serving as administratrix and administrator respectively to manage the disputed property; that their letters of administration has not been revoked or cancelled; that there is no record to indicate the closure of the intestate estate of the late Rosina Robinson Grimes; that the Monthly and Probate Court did not issue Curator Deed transferring the disputed property to the petitioner; that his late father, Joshua A. Robinson, never sold the disputed property to Rosina Robinson Grimes, and his signature was forged on the warranty deed which is claimed to have been issued to the appellee's mother by the late Joshua A. Robinson. The appellant further claimed that the appellee's Attorney-In-Fact, Anthony Robinson, was in the employ of the archives in the capacity as a director, and he used his position to alter the documents of the late Joshua A. Robinson and created forged documents in favour of the appellee; that he challenged the validity of the warranty and the certified copy of a warranty deeds in the possession of the petitioner on issues of fraud. Further, that as a consequence, the issue of the ownership of said disputed property is still pending before the Monthly and Probate Court undetermined; and that after conference, the appellee is yet to substantiate her claims to said property as the daughter of the late Rosina Robinson Grimes; that he is not and has never been a tenant at will; that since he was born, he lived on the property prior to the birth of the petitioner, and until the death of his father, and he continued to live on said property without a claim of ownership by his late sister, Rosina Robinson Grimes.

The records of this case further reveal that while this action was pending before the Civil Law Court, the appellant, on December 28, 2012, filed a bill of information in the Monthly and Probate Court, raising the issues of fraud in the acquisition of the Curator deed from the Probate Court, the certified copy of a warranty deed from the archives, and the warranty deed allegedly issued to the appellee's mother, the late Rosina Robinson Grimes, by the appellant's father, the late Joshua A. Robinson.

The Probate Court heard the bill of information which mainly focused on allegation of fraud and subsequently forwarded the case to the Civil Law Court for jury determination of the issues of fraud. Having excepted the decision of the Probate Court, on December 12, 2017, the appellee filed a petition for a writ of certiorari before the Chambers Justice, requesting the review of the Probate Court Judge's decision, claiming that both the appellee and appellant were not parties to any case before said court for which bill of information would lie. Justice Ja'neh did not hear the petition but later, on April 9, 2024, the petition was placed before Chambers Justice Yussif D. Kaba, who issued the writ but, did not hear argument to the petition; and finally, the petition subsequently transitioned before Chambers Justice Yamie Quiqui Gbeisay, Sr. who entertained argument in the petition and thereafter on December 17, 2024, ruled, granting the petition and declaring null and void the bill of information and forwarding of the case to the Civil Law Court on grounds that there was no case before the Probate Court to which appellant and appellee were parties.

The records certified to this Court reveal that at the Civil Law Court, the appellant again filed two bills of information at different time intervals; one on October 1, 2013 before His Honor J. Boima Konto and the other on August 16, 2024 before His Honor Ousman F. Feika, raising the same issues of fraud as contained in the previous bill of information earlier filed in the Monthly and Probate Court by the appellant. Even though there was an assignment issued in the first instance by the Civil Law Court citing the parties for the hearing of the bill of information, there is no indication that it was heard and determined.

After a delay in bringing this case to conclusion due to the various legal proceedings, the Civil Law Court, on August 14, 2024 issued an assignment for trial to resume on August 19, 2024 for the petition for summary proceeding to recover possession of real property. When the appellant failed to appear on August 19, 2024, the appellee moved the trial court to grant default judgment against the appellant on grounds that the appellant has failed to make substitution after the death of Abron Robinson, the respondent in the summary proceedings. The trial court granted the default judgement and on the same day, August 19, 2024, a writ of possession was ordered issued to put the appellee in possession of the disputed property.

We quote verbatim excepts from the trial judge's ruling:

> "The court notes the acceptances of the court's appointed counsel. This court again notes the assignment for today's hearing having receiving and signed for the notice of assignment. This court refers to the application made by the petitioner counsel evoking Chapter 10, Section 10.7 of the Civil Procedure Law, entitle Default on Motions. This court says that the said application, being consistent with the records in these proceedings, the law appertaining and the practice and procedure in this jurisdiction, the petitioner application for default on motion is hereby granted. Additionally, the records in these proceedings show that the Respondent proper having died or absented himself from these proceedings for over a year or more prior to today, and the counsel for the said respondent having failed to institute the appropriate and necessary legal steps required under the circumstance, that is to say, for the substitution of the party consistent with Chapter 5, Subchapter (c) Section 5.37 of the Civil Procedure Law the evocation of the said Section 5.37 by the petitioner counsel is justified. It is therefore the holding of this court that the respondent having failed and neglected to properly substitute the respondent herein consistent with the Statute, the application of the petitioner should be and the same is hereby granted. The petition for summary proceedings as filed by the petitioner is also granted and the resistance thereto denied and dismissed consistent with the self-same Section 5.37 of the Civil Procedure Law. The Clerk of this court is accordingly ordered to prepare a Writ of Possession, place same in the hands of the sheriff of this court to have the respondent ousted, ejected and evicted from the property subject of these proceedings and placed the petitioner in possession thereof forthwith, costs of these proceedings disallowed."

It is from this ruling that the appellant excepted through a court appointed counsel and appealed to this Supreme Court *en banc*. The appellant filed an eight-count bill of exceptions, which we quote verbatim.

1. Respondent believing the said ruling to be erroneous, against the law, and without legal bases, the Court's appointed Counsel on August 19, 2024 excepted to your said ruling granting Petitioner's request for a default judgment contrary to law, announced an appeal on behalf of Respondent to the Honorable Supreme Court sitting in its October Term A. D. 2024, and Respondent herewith submits the following exceptions praying your Honor's approval of this Bill of Exceptions which as per law is required to be filed with this Honorable Court.

2. Respondent says that Your Honor committed reversable error on August 19, 2024 by granting Petitioner's request for default judgment when Respondent had filed a Bill of Information on August 16, 2024 growing out of the main suit which should have been disposed of before hearing of the summary proceedings to recover possession of real property but for some strange reason, the Bill of Information was never heard and yet, Your Honor proceeded to immediately grant Petitioner's request contrary to Chapter 42 (Default Judgments) Sections 42.1, 42.2 and 42.6 of 1LCLR, Title 1 Civil Procedure Law (1973).

3. Respondent says Your Honor committed a reversable error after granting Petitioner's Application for default judgment, and entering a ruling/judgment thereon, you ordered the issuance of a Writ of Possession dated August 19, 2024 to be placed in the hands of the Sheriff to oust, evict and eject Respondent from the described property as contained in the Writ of Possession when Petitioner, the moving party for the default judgment failed and neglected to present evidence or

give proof of the facts constituting the claim, the default and the amount due as required by law.

4. Respondent says that Your Honor further committed reversable error by ignoring the law which requires that following the granting of default judgment, the moving party in this case the petitioner should have presented Petitioner's side of the case, by the production of evidence, both documentary and oral, have documents identified by witnesses, marked, confirmed and subsequently admitted into evidence thereby resting both oral and documentary evidence in toto as provided for by statute and this, the Petitioner herein failed and neglected to do.

5. Respondent says that Your Honor further committed a reversible error by failing to take judicial notice of the Supreme Court's opinion in the case "Liberia Telecommunications Corporation, Appellant v. Former Managers of Liberia Telecommunications Corporations, Appellee" (Decided March 2, 2012) that "the granting of the default judgment is not in and of itself sufficient to justify entry of a final judgment. Such final judgment, the Court said could only be entered upon evidence duly presented to support the claim" This Court further stated that "the law provides that default judgment does not entitle the moving party to a judgment as a matter of law but he must amongst other things give proof of the facts constituting the claim, the default and the amount due"

6. Respondent says that Your Honor committed reversable error when Your Honor failed and neglected to adhere to the law which provides that default judgment does not entitle any party to an automatic judgment where a default judgment has been granted contrary to the law as in the instant case, it is a mandatory legal requirement that proof of the facts constituting the claim must be provided and that the granting of the default judgment in no way absolves a complainant of the legal duty to perfect the imperfect judgment and this Your Honor failed and neglected to have the complainant herein to abide by the mandatory requirement referenced herein above.

7. Further, Respondent says that the Supreme Court held further in the referenced case above that without doubt, the laws in this jurisdiction specifically require that a party in whose favor a default judgment has been granted should and must produce proof to justify a judgment award. Respondent says that Your Honor again committed reversable error in that the application for default judgment made by Petitioner's counsel, the granting of same by your Honor and the award emanating therefrom were all done contrary to statute and the opinion of the Supreme Court referenced herein and which action on your part warrants a reversal of Your Honor's ruling.

8. Respondent says that following Your Honor's erroneous ruling in granting Petitioner's request for default judgment contrary to law, Respondent by and thru his counsel filed a Motion to Rescind your Honor's ruling for the factual and legal reasons stated in this Bill of Exceptions which Motion is pending undetermined. Wherefore Respondent submits this Bill of Exceptions containing the exceptions taken to your Honor's ruling for your Honor's approval so that Respondent may complete the appeal process to the Honorable Supreme Court of Liberia as required by law."

After the review of the records of this case, this Court says, the two essential issues that are determinative of this case are:

1. Whether or not a default judgement in a summary proceeding to recover possession of real property must be perfected where the party against whom the default judgment is rendered is deceased and had not been substituted.

2. Whether or not the trial judge erred when he proceeded to hear and determine the summary proceedings without first disposing of the issues of fraud as raised by the appellant in its returns to the summary proceedings and in its bills of information filed before the court.

The first issue raised herein presents two procedural principles of law that must be taken into consideration when addressing the said issue:

1. The procedure required by law for the substitution of a main party in an action in case of death; and
2. The procedure required for the rendition of default judgment in summary proceedings involving real property.

Bearing these in our minds, it is obvious that our answer to the question raised in the first issue is certainly in the affirmative. The statutes in this jurisdiction are unequivocal and unambiguous concerning the procedures required by law for the substitution of a party in an action. Generally, the law controlling these procedures provides that: "Except as otherwise specifically provided by law, if any party to an action dies while such action is pending before any court in this Republic, the action may be continued by or against the executors, administrators, or other legal representatives of the deceased party or parties in accordance with the provisions of this subchapter and the statutes relating to survival of actions." *Civil Procedure Law, Revised* Code: *1.5.31.1.*

In the case at bar, when Abrom Robinson died, the case by law will be continued by the executors, administrators, or other legal representatives of the deceased party or parties. For the fair administration of justice for all parties to an action, the law also provides legal remedies for a failure to substitute a party within one year subsequent to the death of the party. The law states that if a party, in the case of the defendant, dies, and is not substituted for a period of more than one year, the available legal remedy reserved for the opposing party is the motion for default judgment; viz-a-viz, in the case of the plaintiff, the legal remedy reserved for the opposing party, is the motion to dismiss. The settled law that aims at providing relief for parties who may find themselves in similar legal dilemma is provided for under *Civil Procedure Law, Rev.* Code: *1.5.37(a)(b)* which provides that: "If substitution is not made within a reasonable time, which in the event of the death of a party shall be not more than one year thereafter, the court may, upon motion of an opposing party, (a) dismiss the action as to the plaintiff for whom substitution should have been made in accordance with the provisions of section 11.5 of this title, or (b) direct the entry of judgment by default against the defendant for whom substitution has not been made and/or against his representatives and successors in interest, as shall be appropriate."

In this instant case, the substitution of the appellant, the late Abrom Robinson, was filed on September 10, 2024 by counsel representing his intestate estate after the default judgment had already been rendered against him on August 19, 2024. This Court notes that the appellant's date of death is not indicated in the notice for substitution filed by the appellant's intestate estate nor was it indicated in the appellee's application for the default judgment. This Court says, without knowing the date of death of the appellant, Abrom Robinson, it is unattainable to reach a definitive conclusion as to whether the appellee filed its application for default judgment within the statutory period of not more than one year subsequent to the death of the appellant. This Court says that it does not have enough information/evidence to make an informed determination on this issue since both parties failed to provide the said information.

We now transition to the second procedural principle raised in the first issue mentioned supra; the procedure for the rendition of default judgment by courts. This Court, in a litany of opinions, has held in time past, that in a case of a default judgment, the onus of proof is still on the party who alleges a fact. *USTC v. Richards et al*, 41 LLR 205 (2002*), V. H. Timber v. Nacca Logging* Co. 42 LLR 527 (2005), *Children Assistance Program v. Tamba et al*, Supreme Court Opinion, October Term, A.D. 2006. Furthermore, in the case: *The Management of Forestry Development Authority v. Walters,* 34 LLR, 777, this Court opined that the granting of a default judgment does not necessarily end the matter; it does not entitle the complainant to relief without proof of the allegations set forth in his pleading and a final judgment cannot be rendered on a default judgment without proof of the allegations in the pleadings. Being consistent in upholding this principle of law, this Court further opined in the case, *Salala Rubber Corp. v. Gariawolu*, 39 LLR 609, that, "A default judgment is an imperfect judgment that must be made perfect by the production of sufficient evidence by the plaintiff in the substantiation of his claim".

However, contrary to adherence to these long standing and well settled precedents maintained by this Court, our review of the records in this case revealed that the trial court rendered a default judgment against the appellant on August 19, 2024 and immediately thereafter ordered the issuance of a writ of possession to put the appellee in possession of the disputed property. Meanwhile, the writ of possession was issued on the same day, August 19, 2024, as ordered by the judge of the trial court. Moreover, there exists no indication in the records that the trial court ever took evidence from the appellee or its witnesses that could be used by the trial court as reliance for the granting of the default judgment as required by law. Notwithstanding, the general laws quoted herein concerning the perfection of an imperfect default judgment through the production of evidence, the appellee contends that unlike default judgments in regular/ordinary actions, default judgments in summary proceeding are decided purely on the issue of law that does not require a former production of evidence under the rule of evidence. We disagree.

Considering the rendition of default judgment in summary proceedings, this Court has set no exceptions concerning the production of evidence to perfect an imperfect default judgment; hence, we are reluctant to uphold such contention as doing so, would defeat and destroy the historical precedents consistently set and maintained by this Court concerning the perfection of imperfect default judgment.

Therefore, we hold that a default judgment is not perfect in itself and final on its face; and that a default judgment is an imperfect judgment which can only be made perfect by the preponderance of clear and convincing evidence or same will be set aside. The only tool available to the courts for use in deciding cases is evidence and in the absence of its production, the courts stand to be powerless and without authority to decide on any matter brought before them.

As to the second and final issue, whether the trial judge erred when he proceeded to hear and determine the summary proceedings without first disposing of the issues of fraud as raised by the appellant in its returns to the summary proceedings, and in its bills of information filed before the trial court, we answer in the affirmative.

This Court has always consistently maintained that judges of the trial courts must be cognizant of their duties and at all times, take judicial notice of their court's files. Our statue requires that Judges take judicial notice of the law and the records filed before it whether or not its attention is called to it. 1 LCLR Title 1 Section 25.1 (1973); *MIM Liberia Corporation vs. Towel* [1983] LRSC 19; 30 LLR 611

The records of this case reveal that the appellant, on December 12, 2012, filed its returns to the summary proceedings in the Sixth Judicial Circuit, Civil Law Court, and raised the issue of fraud; additionally, the appellant, on October 1, 2013, also filed a bill of information in the same court presided over by His Honor J. Boima Konto, then assigned circuit judge. Further to that, following the issuance of assignment for the summary proceedings to be held on August 19, 2024, the appellant, on August 16, 2024, again filed another bill of information before the same Civil Law Court, presided over by His Honor Ousman F. Feika, assigned circuit judge and again raised the same issue of fraud he had previously raised. Moreover, on December 26, 2017, the Civil Law Court, presided over by His Honor J. Boima Konto, issued an assignment for the hearing of the bill of information as stated earlier. There is no indication from the records that the bill of laws quoted herein concerning the perfection of an imperfect default judgment through the production of evidence, the appellee contends that unlike default judgments in regular/ordinary actions, default judgments in summary proceeding are decided purely on the issue of law that does not require a former production of evidence under the rule of evidence. We disagree.

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The law provides that: "When it appears in the course of a trial by the court that the relief required, even though not originally demanded by a party, entitles the adverse party to a trial by jury of certain issues of fact, the court shall give the adverse party an opportunity to demand a jury trial of such issues." *Civil Procedure Law, Rev.* Code 1:22.1.6

This Court remains consistent in upholding that the issues of fraud involves issues of facts which must be heard and determined by a jury or by a judge if the parties waive jury trial and when raised by a party, it should not be ignored by a judge like it was done in this instant case especially when it was repeatedly raised before more than three judges presiding over different terms of the same trial court. Hence, this Court says, the action of the trial court was erroneous.

Therefore, it is the holding of this Court that the judge of the trial court erred when he ignored the issue of fraud and proceeded to hear the summary proceeding and rendered a default judgment which immediately put the appellee in possession of the disputed property without the perfection of the imperfect default judgment. Hence, the ruling of the trial court's judge should be reversed, and the case remanded for trial.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the ruling of the trial court granting default judgment in favor of the appellee is hereby reversed and the case remanded for trial de novo. The Clerk of this Court is hereby ordered to send a Mandate to the Sixth 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 Emmanuel B. James and Rosemarie B. James of the International Group Legal Advocates & Consultants, Inc., appeared for the appellant. Counsellor Anthony B. Mason of the Henries, Kruah & Associates Law Firm appeared for the appellee.