

**CORRECTED AND ADOPTED**

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
MARCH TERM, A.D. 2017

PRESENT: HIS HONOR FRANCIS S. KORKPOR, SR.,.....CHIEF JUSTICE  
 “ HIS HONOR KABINEH M. JA’NEH,.....ASSOCIATE JUSTICE  
 “ HER HONOR JAMESETTA H. WOLOKOLIE,....ASSOCIATE JUSTICE  
 “ HIS HONOR PHILIP A. Z. BANKS, III.,.....ASSOCIATE JUSTICE  
 “ HER HONOR SIE-A-NYENE G. YUOH,.....ASSOCIATE JUSTICE

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THURSDAY, MAY 11, 2017  
10<sup>TH</sup> DAY’S SESSION

The Honorable Supreme Court of the Republic of Liberia, sitting in its March Term, A. D. 2017, met this morning at the hour of 10:00 a.m., for the transaction of business with His Honor Francis S. Korkpor, Sr., Chief Justice, presiding.

OFFICERS OF COURT PRESENT.

COUNSELLORS PRESENT: Cooper W. Kruah, Emmanuel B. James, Peter W. Howard, Edwin K. Martin, Sylvester D. Rennie, Eugene Massaquoi, J. Bima Lansanah, A. Kanie Wesso, G. Moses Paegar, Albert S. Sims, Luther N. Yorfee, Seward M. Cooper, C. Alexander B. Zoe, and Roland F. Dahn.

His Honor Francis S. Korkpor, Sr., ordered and the Marshal cried the opening of the day’s session. Thereafter, the Court was led in devotion by Rev, I. Cisco Brown, Assistant Chaplain, Supreme Court of Liberia.

A motion for the correction and adoption of the minutes of Wednesday, May 10, 2017, 9<sup>th</sup> day’s session, was made by Counsellor Cooper W. Kruah of the Henries Law Firm and seconded by Counsellor J. Bima Lansanah of the David A. B. Jallah Law Firm.

The following corrections were made to the minutes of Wednesday, May 10, 2017, 9<sup>th</sup> day’s session, by the Bench and the bar:

**Page 2:**        “*THE CASE: IN RE: THE CONSTITUTIONALITY OF SECTIONS 22.1 & 22.2 OF THE ALIEN AND NATIONALITY LAW IS CALLED FOR HEARING.*”

**Page 3 :**        “5.    *Are the challenged statutes also unconstitutional because they violate Articles 11(e) and 95(a) of the Constitution of Liberia?*”

**Page 4:**        “*Ans: Your Honors, he saw the announcement exhibited as P/2 on the internet and approached the Embassy and he was required to obtain a visa before entry in Liberia.*”

**Page 5:**        “*Ans: Your Honors, conversation with one’s client is subject to attorney/client privilege.*”

THE CASE: OLUBANKE KING-AKERELE OF THE CITY OF MONROVIA, REPUBLIC OF LIBERIA, APPELLANT, VERSUS EZZAT N. EID AND THE INTERNATIONAL ALUMINUM FACTORY, REPRESENTED BY AND THRU ITS PRESIDENT, EZZAT N. EID ALSO OF THE CITY OF MONROVIA, LIBERIA, APPELLEES. ACTION OF EJECTMENT IS CALLED FOR HEARING.

REPRESENTATIONS: *“The appellant is represented by the Law Offices of Zoe & Partners Inc., and the Yonah, Obey & Associates Law Offices, and present in Court are Counsellors C. Alexander B. Zoe and Roland F. Dahn. And respectfully submit.” “The appellees are represented by the Sherman & Sherman Inc., and present in Court are Counsellors Luther N. Yorfee, Albert S. Sims, and G. Moses Paegar. And respectfully submit.”*

EACH SIDE WAS GIVEN 45 MINUTES TO ARGUE

*Counsels for the appellant argued as per their brief and presented the following issues for determination by the Bench:*

- “1. Whether the trial judge committed reversible error when he rendered his final judgment, without reference to the trial jury who sat and listened to the evidence during the production of evidence by the appellant, thereby holding appellees not liable to the appellant?”*
- 2. Whether the appellant having established her allegation by preponderance of evidence, a prima facie case was established and appellees were therefore under duty to rebut the evidence provided by the appellant?”*
- 3. Whether the conveyance made by appellant to the National Housing and Savings Bank was one in fee simple intended to divest appellant of title, or a mortgage to secure a loan?”*
- 4. Whether the trial judge committed reversible error when he refused and neglected to assign and dispose of appellant’s motion for relief from judgment and motion for newly discovered evidence?”*

The following questions were posed to counsel for the appellant by the Bench:

Ques: Were the properties acquired by inheritance?

Ans: The properties were given to the appellant and her brother by their mother.

Ques: Did the appellant buy the adjoining property from her brother?

Ans: Yes, Your Honors.

Ques: Did the appellant’s brother execute a deed to the appellant for the property that he used as collateral for the loan he took from the National Housing & Savings Bank?

Ans: Yes, Your Honors.

Ques: Did the appellant buy the property from her brother at the time the property had been mortgaged?

Ans: Your Honors, she took responsibility to service her brother's loan obligation to the bank and then took ownership of the property.

Ques: Did the appellant settle her loan obligation to the bank?

Ans: Not completely Your Honors, but she has been paying.

Ques: Was there a proper conveyance made to the appellant from her brother?

Ans: Yes, Your Honors. After the agreement was made that the appellant would take over her brother's loan obligation to the National Housing and Savings Bank, a conveyance was made from the bank to the appellant's brother and then the appellant's brother conveyed the property to the appellant who in turn used the property, now in her name, as a collateral to the bank for the loan.

Ques: Did the bank foreclose the mortgage after the appellant defaulted on the payment of the loan?

Ans: No, Your Honors. There is no evidence of any foreclosure proceeding carried out by the bank.

Ques: If you say that the bank did not foreclose the mortgage, then why are you before the Supreme Court?

Ans: The appellant instituted these proceedings because of encroachment on her properties by the appellees.

Ques: Did the lower court decide the matter on its merit?

Ans: No, Your Honors. The appellant produced three witnesses and documents were testified to and marked. The Judge should have allowed the Jury to decide the matter, since they had started taking evidence.

Ques: Did you make it clear to the court below that there were two properties involved in this matter?

Ans: Your Honors. We did inform the judge that there were two properties, one was used as collateral and the other had no lien on it.

Ques: Are you here before the Court to recover the both properties?

Ans: Yes, Your Honors.

Ques: You said one of the properties has a lien on it, and that the appellant had defaulted in settling the loan, then why do you want to recover it by way of an action of ejectment?

Ans: The bank took the properties without reference to the appellant, while she was making payments.

Ques: Did you say that the motion for judgment during trial was not applicable in this case?

Ans: Yes, Your Honors. Motion for judgment during trial is only applicable when the judge is sitting as a judge and jury.

Ques: What did you do after the ruling in the foreclosure proceedings?

Ans: We did not know about the foreclosure proceedings, if there were any.

Counsel for the appellant rested on the opening argument.

Counsel for the appellees argued as per their brief and presented the following issues for determination by the Bench:

- “1. *Whether a party who receives payment in consideration for the transfer and conveyance of interest in real property to another and issues a warranty deed in favor of said other party can, unless otherwise expressly indicated, at the same time maintain or retain any scintilla of title or interest in said property? In other words, what is the effect of the issuance, by an owner, of a warranty deed covering real property to a third party who has paid valuable consideration for same?*
2. *Whether the trial judge committed reversible error by granting appellees/defendants’ motion for judgment during trial and denying the resistance interposed thereto by appellant/plaintiff?*
3. *Whether a party claiming special damages is required by law to prove same with specificity and particularity?*

The following questions were posed to counsel for the appellees by the Bench:

Ques: Were the two properties used as collaterals to secure the loan from the National Housing & Saving Bank?

Ans: Yes, Your Honors. The appellant used one of the properties as a collateral to secure a loan from the bank and defaulted in settling the loan obligation to the bank, and the mortgage was foreclosed. The second property was the one that she used as collateral after she took over the responsibility of settling her brother's loan obligation to the bank.

Ques: Were the properties purchased?

Ans: Yes, Your Honors. The properties were purchased through court auctions by private individuals who leased one of the properties to the appellees and the other was sold to the appellees.

Ques: What would have obtained if the appellant had paid her loan obligation completely?

Ans: The bank would have executed a deed for the property(ies) back to her.

Ques: What was the basis for your motion for judgment during trial?

Ans: We moved the court for judgment during trial, because the witnesses for the appellant had admitted that the appellant made an outright sale of the property to the National Housing & Savings Bank.

Ques: Don't you think that the judge should have allowed a full array of evidence to allow the jury to make a determination?

Ans: Either way would have helped our case, Your Honors. We had defenses of evidence of foreclosure and evidence of outright sale of the properties.

Ques: Were you in the foreclosure case?

Ans: No, Your Honors.

Ques: Ejectment cases are generally decided by a jury. Why did the judge not allow the jury to make determination in this case?

Ans: There was no need to proceed with the case further, since the appellant had admitted not owning the property.

Ques: What was the province of the jury since the judge thought that evidence was sufficient?

Ans: The judge should have retained the jury and charged them to bring a directed verdict.

Ques: Is the judge's failure to have retained the jury and charge them to bring a directed verdict a reversible error?

Ans: I cannot say that, Your Honors.

Counsel for the appellees rested on the opening argument.

One of counsels for the appellees in closing, prayed the Honorable Supreme Court to uphold the ruling of the trial judge and grant unto appellees/defendants any other and further relief as may by Your Honors be deemed legal, just and equitable in the premises. And respectfully submitted.

One of counsels for the appellant in closing, prayed the Honorable Supreme Court to reverse the final judgment of the trial judge and remand the case so that the jury would be afforded the opportunity to make a determination. And respectfully submitted.

**THE COURT:** "RULING RESERVED, MATTER SUSPENDED."

**THE CASE:** IN RE: THE CONSTITUTIONALITY OF THE RATIFICATION OF THE FOREST MANAGEMENT CONCESSION CONTACT FOR AREA "F" BY THE NATIONAL LEGISLATURE INFAVOR OF EURO LIBERIA LOGGING COMPANY IS CALLED FOR HEARING.

**REPRESENTATIONS:** *"The petitioner is represented by CEMAR Law Offices and present in Court are Counsellors Sayma Syrenius Cephus and Edwin K. Martins, in association with the Legal Watch Inc., by and through Counsellor Sylvester D. Rennie; Counsellor Peter W. Howard of the Barbu & Howard, Inc., and Counsellor Emmanuel B. James of the International Group of Legal Advocates and Consultants, Inc. and respectfully submit"* *"The respondents are represented by the Ministry of Justice in association with the Sherman & Sherman, Inc., and present in Court are Counsellors G. Moses Paegar and A. Kanie Wesso, who says that after the notation of representations by Your Honors, he has a submission to make. And respectfully submit."*

**THE COURT:** *"The representations of the parties are noted. And the counsel for the respondent may proceed to make his submission."*

**SUBMISSION:** *"At this stage, the Ministry of Justice, counsel for respondents, most respectfully informs Your Honors and this Honorable Court that it received the notice of assignment on short notice and as such was unable to do its brief in this case as provided for by law."*

*In view of the above, the Ministry of Justice requests Your Honors most respectfully to be given time to enable it file its returns and brief, so as to adequately represent the Government of Liberia in this case. And respectfully submits.”*

RESISTANCE: *“One of counsels for the petitioner interposes no objection to the request for continuance made by one of counsels for the respondents. And respectfully submits.”*

THE COURT: *“The request made by one of counsels for the respondents, for time to enable the Ministry of Justice file returns and brief in this case, to which request the counsel for petitioner interposed no objection, is hereby granted. This case is hereby re-assigned for hearing on Tuesday, May 16, 2017, at the hour of 10:00 a.m. And it is hereby so ordered. Matter suspended.”*

THE CASE: SEA LIFE NAVIGATION CO., GREEN JASPER LTD AND NOTABLE CORPORATION, MOVANTS, VERSUS FLAME S. A., A SWISS CORPORATION BY AND THRU ITS ATTORNEY-IN-FACT GEORGE E. HENRIES OF THE HENRIES LAW FIRM, BENSON STREET, MONROVIA, LIBERIA, 1<sup>ST</sup> RESPONDENTS, AND FAMILY DOLLAR UNIVERSAL INSURANCE SERVICE, BY AND THRU MATTHEW K. ZAYZAY, SR., ITS AUTHORIZED OFFICIAL OR ANY OTHER AUTHORIZED OFFICIAL, 2<sup>ND</sup> RESPONDENT, AND SKY INTERNATIONAL INSURANCE CORPORATION, BY AND THRU CHARLES T. LINCOLN, ITS AUTHORIZED OFFICIAL OR ANY OTHER AUTHORIZED OFFICIAL, 3<sup>RD</sup> RESPONDENT, AND THE CONTINENTAL GENERAL AND LIFE INSURANCE COMPANY BY AND THRU ITS AUTHORIZED OFFICIALS, CAREY STREET, MONROVIA, REPUBLIC OF LIBERIA, 4<sup>TH</sup> RESPONDENT, ACTION: MOTION TO DISMISS APPEAL IS CALLED FOR HEARING.

REPRESENTATIONS: *“The movants are represented by the Sherman & Sherman, Inc., in association with the International Group of Legal Advocates and Consultants, Inc., and present in Court are Counsellors Albert S. Sims, Luther N. Yorfee, Emmanuel B. James, and G. Moses Paegar. And respectfully submit.” “The respondents are represented by the Henries Law Firm, and present in Court is Counsellor Cooper W. Kruah. And respectfully submits.”*

The Chief Justice reminded the counsels representing the parties, that the case had been argued before, and urged them to resubmit without argument for the Court to enter upon the records and make determination in the matter. The counsels responded in the affirmative, and the matter was suspended pending ruling.

THE CASE: THE INTESTATE ESTATE OF THE LATE SAYE SIPPI, REPRESENTED BY ITS ADMINISTRATORS/ADMINISTRATRIX OF THE CITY OF PAYNESVILLE, MONTSERRADO COUNTY, APPELLANT, VERSUS HIS HONOR JUDGE YUSSIF D. KABA, RESIDENT/ASSIGNED CIRCUIT JUDGE OF THE SIXTH JUDICIAL CIRCUIT, CIVIL LAW COURT FOR MONTSERRADO COUNTY, REPUBLIC OF LIBERIA, 1<sup>ST</sup> APPELLEE, AND RICKY GREIGRE, REPRESENTED BY AND THRU HIS ATTORNEY-IN-FACT DEJO EMO GEORGE OF THE CITY OF PAYNESVILLE, MONTSERRADO COUNTY, REPUBLIC OF LIBERIA, 2<sup>ND</sup> APPELLEE, ACTION: APPEAL, PETITION FOR A WRIT OF CERTIORARI IS CALLED FOR HEARING.

REPRESENTATIONS: *“The appellees are represented by the David A. B. Jallah Law Firm, and present in Court are Counsellors L. Eugene Massaquoi and J. Bima Lansanah. And respectfully submit.”*

No counsel appeared for the appellant.

The Chief Justice ascertained from the Clerk of Court whether the notice of assignment was served on the parties, and if so whether there was any letter of excuse filed by the absent counsel. The Clerk of Court informed the Court that the notice of assignment was served on the parties, as per the Marshal’s Report, and that there was no letter of excuse filed by the absent counsel (Heritage Partners & Associates, Inc.), but only a notice of withdrawal of representation was filed by Heritage Partners & Associates, Inc.

THE COURT: *“The representation of the appellees is noted. The counsel representing the appellant is absent without an excuse. The Clerk of Court is ordered to have the Heritage Partners & Associates, Inc., counsel for the appellant, cited to appear on Tuesday, May 16, 2017, at the hour of 10:00 a.m. to show cause why it should not be held in contempt of Court for its failure to appear for the hearing of this case. And it is hereby so ordered. Matter suspended.”*

There being no other matters to claim the attention of the Court, His Honor Francis S. Korkpor, Sr., Chief Justice, ordered Rev. J. Joel Gould, Chaplain, Supreme Court of Liberia, to give the benediction. The Marshal was ordered to adjourn the Court to meet on Tuesday, May 16, 2017, at the hour of 10:00 a. m. And said order was carried out.

Respectfully Submitted:

Atty. Sam Mamulu  
ACTING CLERK, SUPREME COURT, R.L.