IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2021

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR…….…….....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE……..ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH…….…...ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE…….…....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA…….……ASSOCIATE JUSTICE

Papa, Ansu and Ma to be identified, of the City of Monrovia, Montserrado County, Republic of Liberia …… Appellants	)	
Versus	)	APPEAL
Aboubacar Jalloh of the City of Monrovia, Liberia ……. Appellee	)	
GROWING OUT OF THE CASE:	)	
Aboubacar Jalloh of the City of Monrovia, Republic of Liberia …….. Plaintiff	)	
Versus	)	ACTION OF EJECTMENT
Papa, Ansu and Ma to be identified, of the City of Monrovia, Montserrado County, Republic of Liberia……Defendants	)	

Heard: November 18, 2020 Decided: August 26, 2021

MR. JUSTICE YUSSIF D. KABA DELIVERED THE OPINION OF THE COURT

This appeal grows out of an action of ejectment filed by Mr. Aboubacar Jalloh, appellee herein, on May 26, 2009 against Papa, Ansu and Ma (to be identified), appellants herein. The complaint substantially alleged that the appellee is the owner of a three bedroom house by virtue of a purchase from the Intestate Estate of John P. Smith; that the appellee's grantor owned and developed the disputed property for over sixty (60) years; that at the time of the purchase, Ms. Helena Konjay was notified to vacate the property, which notice she (Ms. Konjay) complied with; that upon Ms. Konjay vacating the property, the appellants forcibly moved on the property and occupied same; and that the appellants have remained on the property and refused to vacate after repeated communications to them up to the filing of the appellee's complaint.

On June 5, 2009, the appellants/defendants filed a joint answer which essentially alleged that the property in dispute is owned by the heirs of the late Chief Murphey and Vey John by virtue of a title deed issued in 1906 by the Republic of Liberia to the aforementioned owners; that they are on the property by permission and authority of the said Intestate Estate; that the said Intestate Estate owns 25 acres of land; that they live on the property since 2007; and that at no time did they forcibly move on and occupy the property.

On June 15, 2009, the appellee filed his reply along with the motion for preliminary injunction. The appellee contended that the appellants' answer was fit for a dismissal on ground that the appellants failed and neglected to produce title deed, instead annexed to their answer the principal's deed. It is worth noting that despite the presiding judge's order to preliminarily enjoin the appellants on the appellee's application, the records are devoid of any writ issued to that effect.

On January 15, 2010, the appellee moved the trial court to commission a board of arbitration to conduct a survey of the disputed property which motion was unopposed by the appellants. Pursuant thereto, the parties executed an arbitration agreement with the following terms:

> 1. That each of the parties shall nominate one surveyor to constitute the Board of Arbitration with the court appointing the third who shall serve as chairperson of the Board.
>
> 2. That each of the parties shall be responsible to underwrite the cost of their respective nominated surveyors and, they together shall pay the chairperson.
>
> 3. That the parties agree that they shall be bound by the result of the Board.

Subsequently, the appellant nominated Emery Brown who was later replaced by Kempson Murray while the appellee nominated Mathew B. Tarr. Based upon the request of the trial court, the Ministry of Lands and Mines forwarded the name of Reuben Johnson to serve as the chairman. The trial court thereafter qualified and instructed the members of the Board.

On August 17, 2011, the board of arbitration filed its majority report under the signatures of its Chairman, Mr. Reuben Johnson and the appellee's representative,

Mr. Mathew B. Tarr. The majority report concluded and recommended that "from the professional investigative and technical survey conducted…the 0.72 lot of land from Henry W. Smith to Aboubacar Jalloh with a building thereon, from all indications, belong to Mr. Aboubacar Jalloh, according to his (Jalloh) deed and ground location. The members of the board of arbitration recommended that the area [that is] bordered green (A,B, C,D) is 0.72 lot of land and appropriately claimed by Mr. Aboubacar Jalloh."

The appellants' technical representative filed his objection to the majority report. The minority report in essence averred that the majority report is grossly misleading on ground that the chairman single handedly compiled the report without the inputs of the parties' representatives; that the appellee's surveyor signed the report because it favors his client; that both parties should have been called by the chairman on the method of mapping each deed presented in the report, which did not take place; that the report ignored the fact that the grantors of the appellee were tenants of the Intestate Estate of Chief Murphey and Vey John; that based on a Supreme Court's Decision, the Ministry of Lands and Mines produced a cadastral map out of a survey conducted covering Gabriel Tucker Bridge up to and including Clara Town; that the said cadastral map shows that the 0.72 lot disputed land falls within the 25 acres of land owned by the Murphey-John Intestate Estate; that the said cadastral map did not include any name called Mr. Smith (an apparent reference to the appellee's grantor);and that the commencing point of X acre block of land on the appellee's grantor's deed cannot be identified.

On September 13, 2011, the majority report was read in open court. The appellants entered exception to the report on the court's record. Thereafter, on October 12, 2011, the appellants filed their objection to the arbitration report. It should be noted that the objectors' objection restated the objections flagged in their arbitrator's minority report. Twelve days later, that is, on October 24, 2011, the appellee filed his resistance to the objectors' objection contending *inter alia,* that the minority arbitrator should have filed a minority report instead of an objection; that the appellants' surveyor participated in the conduct of the survey; that the majority report shows that the property in dispute does not fall within the Murphey-John's 25 acres of land; that contrary to the appellant's surveyor's assertion that he and appellee's surveyor did not participate in the preparation and signing of the report, the record shows that the appellee's surveyor signed the report; and that the board

of arbitration took into consideration the appellants' 25 acres of land and documents presented by the appellants to the arbitral board.

The records show that while the disposition of the objection to the majority report was pending, on January 3, 2012, the Intestate Estate of Chief Murphey and Vey John, who was not party to the suit, filed a bill of information before the trial court. The information summarily averred that the disputed property is part and parcel of the 25 acres of land adjudged in favor of the Murphey-John Intestate Estate by the Supreme Court of Liberia in 1989. The information was resisted, argued and denied on ground that the said Decision of the Supreme Court did not affect the appellee and his grantors.

The records also show that on December 28, 2011, the trial court issued out a notice of assignment for hearing of the objectors' objection on January 4, 2012. The notice was served on the parties and returned served. Although the records are devoid of minutes of the assigned hearing on January 4, 2012, we notice a court's order dated February 6, 2012 which was communicated through the Assistant Clerk, Mr. Victor G. Gailor, to the Minister of Lands and Mines to nominate a licensed surveyor to conduct another survey. For the benefit of this Opinion, we quote excerpt of the order as follows:

> By orders of His Honour Emmanuel M. Kollie, Assigned Circuit Judge, Sixth Judicial Circuit, Civil Law Court for Montserrado County, sitting in its December Term, A.D. 2011, we hereby request that you nominate a qualified/registered land surveyor to conduct an investigative survey between the parties in the above captioned cause.
>
> Please do not nominate Surveyors Mathew Tarr, Kempson S. Murray and Reuben Johnson as they have participated in this case before.

However, the records also show that on February 9, 2012, the trial court issued out a notice of assignment for hearing of the objectors' objection on February 10, 2012. The notice was served on the parties and returned served. At the call of the case on February 10, 2012, the appellants submitted that the notice of assignment served on them called for hearing when there is a pending ruling on the bill of information. The appellee resisted the appellants' submission on ground that the appellants were duly served the notice of assignment for ruling on the information, but deliberately absented themselves from receiving the ruling; and that the court appointed Counsellor Nyenati Tuan to receive the ruling on behalf of the

appellants. In passing on the appellants' submission and the resistance thereto, Judge Kollie of sainted memory held as follows:

> The submission and the resistance are noted and to the effect the court says that our predecessor passed on this matter to some extent that a survey was ordered conducted and it was conducted and report made and read before court and passed on by the said court. We as a court being in this case now and having concurrent jurisdiction cannot reverse nor revoke his ruling, for by doing so we will be acting [ultra vires] which will not go down well with the law. The bill of information was also filed before us and argument was had and passed on by us and Defendants' lawyer being absent, we appointed a counsel in person of Counsellor Nyenati Tuan to take the ruling on behalf and in favor of Defendants and so he did and a copy must have been given him because I am sure that's what happened; and he received copy to be delivered to the client that he was representing, and it was so done. At this point and today we are only in the best position to entertain argument on the objection and its resistance but will not retract all that we have done nor what our predecessor has done in this case. This being the case, the submission is hereby noted to that extent and no more, no less.

The trial judge further entertained argument on the appellants' submission for a continuance and the resistance thereto which application was granted. The hearing on the objection was assigned on the record for Tuesday, same being February 14, 2012. Additionally, the trial court issued out regular notice of assignment for hearing on the objectors' objection on the said February 14, 2012 which notice was served on the parties and returned served. This Court notes that neither party excepted to the two rulings of the trial judge hereinabove.

On February 16, 2012, the trial judge entered final ruling in open court and upheld the majority report as follows:

> Following the reading of the majority report of the board of arbitration, the Defendants in these proceedings filed objection to the majority report. In the objection, the Defendants raised a number of issues. The fundamental issue raised in the objection is that the parcel of land which is the subject matter of these proceedings is part and parcel of the 25 acres of land belonging to the late Chief Murphey and Veh John Estate. Defendants averred that their surveyor submitted the 25 acres to the chairman of the board of arbitration.
>
> Plaintiff/Respondent filed his returns to the objection within statutory time. In the returns, the Respondent averred that the issue of the 25 acres of land was fully endorsed by the majority report which

established that the disputed land does not fall within the 25 acres of land belonging to the late Chief Murphey and Vey John Estate.

From a careful perusal of the majority report, it is observed that bearing the 25 acres of aborigine deed issued in favor of the late Chief Murphy and the residents of Vai Town does not coincide with the ground location areas of the disputed parcel of land. It is the opinion of this court that the experts, that is to say that the surveyors, having addressed this issue in their report, this court cannot disturb same. Hence, the objection to the majority report is hereby overruled.

This court also holds that the expert report cannot be disturbed because in the majority report, it is recommended that the 0.72 lot of land appropriately be claimed by plaintiff herein. The majority report also indicated that the bearing of 0.72 lot of land deed from Henry W. Smith to plaintiff, Aboubacar Jalloh, coincides with the deed and ground location of land area in dispute. If the experts having determined the 0.72 lot, which is the exact quantity of land Plaintiff is claiming, this court cannot and will not disturb the majority report.

Wherefore and in view of the foregoing, the majority report is hereby affirmed and confirmed; the objectors' objection is hereby denied and the resistance thereto sustained.

The appellants entered exception to the trial judge's final judgment and announced appeal to this Court urging a review and a reversal of the trial court's final judgment for the alleged errors as contained in their bill of exceptions as follows:

Defendants' Bill of exceptions

1. That defendants in these proceedings are owners of the twenty five acres of law obtained through a title deed acquired in fee simple in 1906 which title was reconfirmed by the Honorable Supreme Court of Liberia sitting in its July 14, 1989 Opinion naming the descendants and heirs of the late Chief Murphey and Vey John as the legitimate owners of the aforesaid land following trial proceedings against illegal occupants and claimants.

2. That plaintiff herein filed an Action of ejectment against Papa, Ansu and Ma claiming that the above name individuals are occupying the subject property of this proceedings sold to him by Harry W. Smith, heir of the late Mr. John Piene Smith, one of the individuals named in the December, A.D. 1989 Term of Court, Court's order of the Civil Law Court, Sixth Judicial Circuit sitting in December Term A.D. 1989 enforcing the Supreme Court's mandate following its July 14, 1989 opinion in favor of the heirs of the late Chief Murphey and Vey John.

3. That one of the main issues in this matter is that Your Honor refused to accept the fact that the Supreme Court had ruled in 1989 that the heirs of the late Chief Murphey and Vey John are the legitimate owners of the twenty five acres of land situated and located in Vai Town, Bushrod Island, Monrovia, Liberia. Subsequent thereto, predicated upon the mandate of the Honorable Supreme Court of Liberia, the heirs of Chief Murphey and Vey John were put in possession of the subject premises of these proceedings since July 14, 1989. And that since the subject property of these proceedings form part and parcel of the Chief Murphey and Veh John's property, the Sixth Judicial Circuit, Civil Law Court shall not entertain any action linked to the subject property predicated upon the Supreme Court's ruling, which your honor ignored, set aside, denied and proceeded with the trial of the matter.

4. Defendants say that Your Honor erred when you denied the Bill of Information filed by the intervenors/informants/defendants. Considering the legal and factual challenge to this court, you issued an order to the Ministry of Lands, Mines and Energy to conduct an investigative survey to establish whether or not the Lands, Mines and Energy map prepared by the Ministry in 1990 was overlooked and ignored by the arbitration panel which order he later revoked.

5. That your honor also erred when you ignored the request of the Defendants that the Arbitration panel failed to take into consideration the map prepared by the Ministry of Lands, Mines and Energy which placed the defendants herein, in possession of the subject property of these proceedings, part and parcel of the twenty five acres of land as per the Supreme Court's ruling of July 14, 1989.

6. Defendants further say that the entire ruling of Your Honor is erroneous and contrary to law, because Your Honor ignored the facts and laws presented on the defendants' answer, Intervenors' answer, objectors' objection and Bill of Information thereby concluding and ruling on only the issues raised by the Plaintiff which is unfair and inequitable, hence, Defendants excepted and announced and appeal to the Honorable Supreme Court sitting in its March Term, A.D. 2012.

Our review and analysis of the parties' contentions present a single dispositive issue for the consideration of this Court: Whether the trial court was justified when it upheld the majority report of the board of arbitration?

Before addressing this lone issue, the Court sees reasons to first pass on two contentions advanced by the appellants regarding the decision of the trial judge to rescind his order for a resurvey and the denial of the appellants' bill of information. From a search of the records, the appellants attempt to impress the mind of this Court that their due process right to a hearing was not accorded before the trial judge reached his decision to rescind the order for a resurvey. However, a much

deeper scrutiny of the records show that besides the letter of February 6, 2012 over the signature of the assistant clerk of court, nowhere are there minutes of a proceeding which may have predicated the trial judge's order for a resurvey.

This Court observes that on February 10, 2012 when the objection to the majority report was called for a hearing, the appellants submitted on the minutes of court an application for continuance on ground that there was a pending ruling on the bill of information. In passing on the appellants' submission and the resistance thereto, the trial judge opined that his predecessor ordered the arbitral survey of the disputed land and that a report was submitted to the court with a subsequent objection filed by the appellants; and that the court not having heard argument on the objection to the survey report, it would be ultra vires under the doctrine of concurrent jurisdiction for the presiding judge to order another survey without first disposing of the objection filed by the appellants.

In the face of the above ruling of the trial judge, it can be reasonably inferred that the trial judge did order a resurvey which predicated the request to the Ministry of Lands and Mines for appointment of a new chairman other than those surveyors who had participated in the first survey. Interestingly however, the Court notes that neither party excepted to the ruling setting aside this order for a re-survey which is indicative of an effective waiver. The law in vogue in this jurisdiction is that an exception shall be noted by a party at the time the court makes any order, decision, ruling, or comment to which he objects. Failure to note an exception to any such action shall prevent assigning it as error on review by the appellate court. The party who excepts is entitled to have his exceptions noted in the minutes of the court. *Constance et al v. Ajavon et al, 40 LLR 295 (2000), Teahjay v. Dweh, Supreme Court Opinion, October Term, A.D. 2013* It is therefore the considered opinion of this Court that the appellants having effectively waived their exception to the judge's ruling on February 10, 2012, the appellants are precluded from assigning said ruling for our review.

Concerning the appellants' contention on the judge's denial of their bill of information, this Court takes cognizance not only of the parties' arguments and the judge's ruling on the information, but it also notes the case *Lartey et al v. Corneh et al, 36 LLR 255 (1989)* that the appellants have so resoundingly paraded as the

premium defense in the proceedings below and on this appeal. The appellants vehemently argue that the trial judge's ruling denying the information amounts to setting aside the Supreme Court's judgment in 1989 awarding the appellants and their privies 25 acres of land including the disputed property. Considering the force of the appellants' argument which resonates throughout these proceedings, this Court embarks on a review of the *Lartey* case to determine the soundness of the judge's conclusion sustaining the appellee's argument that neither he nor his grantors were affected by the said case.

The *Lartey* case review shows that the Republic of Liberia deeded an aborigine grant in 1906 of a 25 acre land to Chief Murphey and Vai John and his people. Later on, in 1931, the same Republic deeded the same and identical 25 acres of aborigine grant to Alhaji Varmuyah Corneh and Alhaji Sondifu et al. After a protracted conflict between these aboriginal grantees, the Republic of Liberia commenced a cancelation proceeding against the Corneh Party which judgment was affirmed by this Court in 1989. This findings gathered from the *Lartey* case are undisputed. However, the lingering contention from the judge's ruling on the bill of information concerns the question as to whether the appellee or his grantors, the Intestate Estate of John P. Smith, were parties to the *Lartey* case, and if no, whether the appellee is bound by the judgment thereof. This Court says that a review of the *Lartey* case clearly reveals that neither the appellee nor his grantors were ever parties to the said case. It is the law extant in this jurisdiction that no judgment can conclude a person not a party to the suit, nor can it affect the property of such a person unless he has been brought under the jurisdiction of the court. It is also the law that a judgment is not binding upon a party who has neither been duly cited to appear before the court nor afforded an opportunity to be heard. *Dennis et al v. Wright et al, 37 LLR 702 (1994)*

Additionally, this Court takes judicial cognizance of the revocation of a previous order issued by the presiding judge of the Civil Law Court, Sixth Judicial Circuit for Montserrado on January 23, 1990 to the effect that the writ of possession ordered in the *Lartey* case did not affect the appellee's grantor and others who were not parties to the said case. We quote the order of revocation as follows:

> Mr. P.K. Hage
> P & G West Brand
> Monrovia, Liberia.
>
> Dear Mr. Hage:

> His Honour J. Henric Pearson, Presiding Judge of the Civil Law Court, Sixth Judicial Circuit, Montserrado County, sitting in its December Term, A.D. 1990, has ordered me to inform you that in view of the fact that the estates of the late S.B. Nagbe, John P. Smith, Joseph Dunbar and Mr. Toh were not parties to the Ejectment Action brought by Bolma Larty and J.D. Lasana et al against Varmuyah Corneh et al, and also because the Supreme Court's Decision of July 14, 1989 did not include them, his orders of September 6, 1988 that the rent arrears be paid to Boima Lartey and J.D. Lasanna is hereby revoked.
>
> In view of the above, you are ordered to pay all rents arrears and future rents to the heirs of the Late John P. Smith, Joseph Dunbar, S.B Nagbe and Mr. Toh upon receipt of this order until otherwise ordered by the Supreme Court.
>
> Upon your failure to obey those orders you shall be held in contempt.
> Irene Ross-Railey
> Clerk, Civil Law Court, Mont.
> Approved:
> J. Henric Pearson, JUDGE PRESIDING.

Besides, this Court observes that the appellants' principal was not a party to the cause instituted by the appellee. Ordinarily, the proper course for the appellants' principal to join the defense of the appellants was by a motion to intervene where the principal believed that the defense of the appellants was inadequate and that it shall be adversely affected by a judgment growing out of the case. *Civil Procedure Law Revised Code: 1:5.61 and 1:5.62.* Contrary to this requirement of the law, the appellants' principal filed a bill of information. It is worth noting that not only did the caption of the paper filed by the appellants' principal failed to satisfy the applicable law, but the averments as contained in the information made no indications that the appellants' principal was intervening in the case. This Court has held that a bill of information is usually a special proceeding in the form of a complaint before a court where a matter is pending, or before a court which had earlier adjudicated a cause, invariably informing said court of a failure to do what it was ordered to be done, or of something which ought to be done or undone for one who is a party, or for one who was a party in, or otherwise affected by a cause already adjudicated. *Kindii et al v. Foster et al, Supreme Court Opinion, March Term , A..D. 2010* Therefore, for reasons above stated, we hold that the trial judge did not err or set aside the Supreme Court's judgment when he denied the appellants' bill of information.

Now returning to the issue presented for our determination, we take recourse to the certified records of this case. The records show that after pleadings rested, the parties agreed to resolve this dispute by arbitration. Subsequently, an arbitration agreement was signed by the parties. It must be noted that it is this agreement and the relevant statute laws that govern the resolution of this matter.

The appellants contend that the cadastral map produced by the Ministry of Lands and Mines in the survey conducted to put the *Larteys* in possession of the 25 acres of land after the Supreme Court's judgment in 1989 was not used by the chairman of the board of arbitration in the present case to reach the board's findings and conclusion. On the other hand, the appellee contends that the titles and other instruments proffered by the parties during the survey were considered during the preparation of the survey report. To resolve these contentions, we take recourse to the certified records to ascertain as to the instruments pleaded by the parties as well as the terms of the arbitration agreement. The records reveal that the appellants pleaded the aborigine grant deed of 1906 and that the appellee pleaded his Administrator's Deed. However, the agreement is silent on what instruments were required by the parties to produce in aid of the survey. In light of this revelation, it can be said that the aborigine grant deed and the administrator deed proffered by the parties are the two instruments that were required for the conduct of survey absent other stipulations in the agreement.

The records also reveal that the appellants' surveyor, Mr. Kempson Murray, participated in the conduct of the survey in spite of the appellants' contention that the majority report was single handedly prepared by the chairman of the board of arbitration. It is on the basis of this contention that the appellants demand a new survey to be conducted. The records show that the chairman and the appellee's surveyor joined in signing the majority report. The compelling question then is: whether oral evidence can vitiate written evidence. The answer to this query is a resounding no.

It is trite law that oral evidence can in no case be received as equivalent to, or as a substitute for a written instrument, for by so doing, oral testimony would be admitted to usurp the place of evidence decidedly superior in degree. *White et al v. Steel et al, 2 LLR 22 (1909)* Therefore, we hold that the allegation by the appellants

that the chairman of the board of arbitration did not incorporate the inputs of other arbitrators is deemed unsustainable in the face of a documentary evidence that two of the arbitrators joined in the award to the appellee.

In further support of this position, we note that although the arbitration agreement is silent on the power of the arbitrators to take action, the statute clearly provides that in the absence of such stipulation by the parties to the agreement, the powers of the arbitrators may be exercised by a majority. *Civil Procedure Law Revised Code:1.64.4*

This Court notes that arbitration is recognized in this jurisdiction as the alternative mechanism of resolving disputes void of long and expensive litigation. It involves rules set by statutes and/or stipulated by agreement and decision that can be enforced as any other judgment. *KML v. Metzger et al 42 LLR 216 (2004)* This Court notes that the parties agreed that they shall be bound by the report of the board of arbitration which is enforceable as a judgment unless there is a showing that the report is contrary to public policies as to the validity of the obligation to bind the parties.

The appellants having objected to the survey report have the burden of showing any of the grounds set by statute to vacate the award made by the arbitrators in favor of the appellee. Our search of the records has not convinced us that the appellants have demonstrated sufficient ground as provided for by law to warrant this Court to disturb the majority report. As mentioned earlier in this Opinion, the reasons for which the appellants seek to set aside the arbitral award are not supported by the statute controlling under the facts and circumstances of this case. The grounds for vacating an arbitral awards as provided for by law are as follows:

> 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 sections 64.5 or 64.6. *Civil Procedure Law Revised Code: 1.64.11*

Besides, this Court is of the opinion that the appellants' surveyor was under a duty to timely communicate with the presiding judge on the allegation that the chairman of the board of arbitration single handedly prepared the survey report to the exclusion of the other surveyors. This Court says that said contention raised in the objector's objection was belated as not having been timely brought to the attention of the court before the reading of the arbitration report. *Juah v. Konneh et al, 42 LLR 187 (2004)*

Our review of the records also show that the appellants have not alleged any of the above grounds as provided for by statute. Rather, the appellants alleged that the chairman refused to procure the cooperation of the other arbitrators. This allegation, as already indicated in this Opinion, is found to be unsupported by the evidence couched from the records and belatedly raised. We are therefore inclined to uphold the trial judge's ruling when he held that the expert report cannot be disturbed because in the majority report, it is recommended that the 0.72 lot of land appropriately be claimed by the appellee; that the majority report also indicated that the bearing of 0.72 lot of land deed from Henry W. Smith to the appellee coincides with the deed and ground location of land area in dispute; that if the experts having determined the 0.72 lot, which is the exact quantity of land the appellee is claiming, the court cannot and will not disturb the majority report.

WHEREFORE and in view of the foregoing, the final judgment of the trial court is affirmed. The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and enforce the Judgment of this Opinion. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor J. Bima Lassanah appeared for the appellants. Counsellor Sylvester D. Rennie of the Law Office of Legal Watch, Inc. appeared for the appellee.