



upon and exerted unauthorized control over the appellants' property; and for this act, the appellee should be held liable to the appellants in the amount of Fifty Thousand United States Dollars (US\$50,000.00), representing damages for the appellee's illegal entry upon and wrongful withholding of the disputed property. Attached to the complaint were copies of the appellants' deed, the deed of John Y. Harris, their adjacent neighbor, and Letters of Administration from the Intestate Estate of Boymah Zulu and George Carey.

Upon being brought under the jurisdiction of the trial court, the appellee filed his answer to the amended complaint. Mr. Thomas P. Fallah, Sr., also filed a motion to intervene, along with an intervener's answer. In both their respective answers, they denied the averments stated in the complaint, alleging *inter alia*, that the deed of the appellants is a product of fraud; that the appellants' deed indicate no conveyance date; that the name of the Intestate Estate of Boymah Zulu and George Carey was forcefully inserted in the deed attached to the appellants' amended complaint; that the disputed property was purchased in 1987 by Thomas Fallah Sr., from the Intestate Estate of Joe and David Clarke; that in 1994 Thomas P. Fallah, Sr. subsequently repurchased the same property from the Intestate Estate of Boymah Zulu and George Carey through its administrators in persons of Varney Gbessie, Jr., and Sando Gbessie; and that since the appellee is in possession of the oldest deed from the Intestate Estate of Boymah Zulu and George Carey, the appellee is the legitimate owner of the property and not the appellants.

Thereafter, the appellants filed their reply confirming the allegations in the amended complaint and counter asserting that it is the appellee's deed which is a product of fraud. Pleadings having rested, the trial court on September 28, 2018, disposed of law issues and granted Mr. Thomas P. Fallah, Sr motion to intervene. Subsequently, a trial by jury was conducted during which time the appellants introduced four (4) witnesses and the appellee introduced three (3) witnesses to prove their respective cases.

Upon listening to the evidence presented by both parties the jury retired to their room of deliberation and returned with a verdict in favor of the appellee to which the appellants noted exceptions and thereafter, filed a motion for new trial. The appellee filed resistance to the motion, and upon listening to oral arguments on the motion and the resistance thereto, the trial court denied the motion for new trial.

On August 2, 2019, the trial court rendered its final ruling wherein it affirmed the jury's verdict in favor of the appellee. The appellants noted their exceptions, announced an appeal to the Supreme Court, and filed an approved bill of exceptions basically stating that the verdict is against the weight of the evidence adduced, and that the trial court committed reversible error by affirming the verdict of the trial jury.

This Court has determined that there is only one issue dispositive of this appeal which is, whether or not the verdict is against the weight of the evidence adduced.

In disposing this issue, we take judicial notice of manifold Supreme Court's Opinions which states: "in an action of ejectment the plaintiff must recover upon the strength of his own title and not upon the weakness of the defendant's title; and the burden of proof to establish title to real property rests exclusively on the plaintiff and not the defendant." *Neal v. Kandakai*, 17 LLR 590 (1966); *Cooper v. Gissie et al.*, 28 LLR 202 (1979); *Donzo v. Tate* 39 LLR 72 (1998); *The Tower of Faith Church v. The Intestate Estate of the Late Wheagar Blaybor*, Supreme Court Opinion, March Term A.D. 2010; *The Intestate Estate of the Late karman Dassen v. Bawo, Captan et al.*, Supreme Court Opinion, March Term, A.D. 2012.

Predicated on the principle of law stated above, this Court notes that the present appellants, plaintiffs in the trial court, are challenging the jury's verdict and the trial court's ruling affirming same. Therefore, we shall proceed to examine the records in order to ascertain whether the appellants met the burden of proof required by law in proving their title to the disputed property, and if so, to reverse said jury's verdict as well as the trial court's ruling affirming same.

As stated earlier, the records show that in addition to testifying on their own behalf, the appellants produced two witnesses in persons of Mr. Francis Paye, and Mr. John Y. Harris, all of who rendered testimonies to the effect that the disputed property belongs to the appellants and not the appellee; that the property was purchased in 2000 from the Intestate Estate of Boymah Zulu and George Carey, through its administrators Verney Gbessie, Jr., and Sando Gbessie; and that the appellee's title is a product of fraud. Witness Francis Paye testified that he is the appellants' caretaker with responsibility to look after the disputed property while

witness John Y. Harris testified only to his adjoining property near the disputed property.

A review of the appellants' exhibits which were testified to and admitted into evidence show that the Letters of Administration and Court's Decree of Sale were issued to the administrators in 1993 and were never renewed or extended even up to the acquisition of the property by the appellants in 2000. The records also attest that it was based upon these expired Letters of Administration and Court's Decree of Sale that the appellants bought the property from the Intestate Estate of Boymah Zulu and George Carey.

This Court says that absent valid Letters of Administration and Court's Decree of Sale from the Monthly and Probate Court where the property of a decedent is located, the administrators are without authority to convey the decedent's property. Our Statute prohibits the conveyance of a decedent estate without the expressed authority of the Monthly and Probate Court which is the sole authority in the supervision and management of decedents' estates. *MDMC, Express Inc., v. Ruth S.Y. Ibrahim*, Supreme Court Opinion, March Term, A.D. 2020. As such, the expiry of the letters of administration and court's decree of sale renders the deed invalid.

In addition to the invalid Letters of Administration and Court's Decree of Sale, the appellants were also negligent in consummating the purported conveyance in that the deed has no conveyance date to compute the four months-time frame for probation thereof as required by law; and that absent such conveyance date this Court will not accept that the appellants' deed was probated within four months, nor can we conclude that the said instrument is valid within the contemplation of the law.

The Property Law Rev Code 29:1(2) (6) provides the following:

“...All persons acquiring any interest affecting or relating to real property shall appear in person or by attorney-at-law before the Probate Court for the county or territory in which such real property is situated within four months of the date of execution of the instrument, and have

the deed, mortgage or other instrument affecting or relating to the real property publicly probated...If any person shall fail to have any instrument affecting or relating to real property probated and registered as provided in this Chapter within four months after its execution, his title to such real property shall be void as against any party holding a subsequent instrument affecting or relating to such property, which is duly probated and registered.”

The Supreme Court in giving interpretation to the above statute has held that a deed conveying realty should be probated and registered within a period of four months from the date of execution and delivery to the grantee; a deed probated and registered [outside the statutory period] twelve years after its execution is voidable; and that a duly probated and registered deed is superior as evidence of title to any prior instruments which have not been duly probated and registered. *Dundas v. Botoe*, 17 LLR 457 (1966); *Kissdell v. Diogo*, 22 LLR 329 (1973); *Cooper v. Davis et al.*, 27 LLR 310 (1978); *Wilson et al. v. Wilson et al.*, 37 LLR 420 (1994). In the instant case, the appellee’s purchase is prior to that of the appellants, that is, in 1987 and again in 1994 from the selfsame Intestate Estate through the present administrators.

Given the described defects in the appellants’ title, we hold that the appellants did not meet burden of proof of their title to or demonstrated a superior title to the disputed property thus negating grounds for a reversal of the jury’s verdict and the trial court’s affirmance thereof.

We also see that although the appellants have strongly argued that the appellee’s title deed is a product of fraud, but presented no proof in substantiation thereof; as such, this claim amounts to mere allegations. The appellants and their witnesses failed to specifically prove the allegations of fraud as alleged. For example, the appellants in rendering testimony to the issue of fraud only produced oral testimony that the appellee replicated the metes and bounds of their deed to produce his (appellee) deed; while the appellants’ other two witnesses provided absolutely no testimony on the issue of fraud.

This Court says that fraud must be specifically proven and that a party who alleges fraud has the burden to establish same by proof and not mere allegations. *Testate*

*Estate of the late Bernard et al. v Intestate Estate of the late Stubblefield-Bernard*, Supreme Court Opinion, March Term, 2016; *Massaquoi v. Massaquoi*, 35 LLR 508, 511 (1988); *Francis v. Mesurado Fishing Company Ltd.* 20 LLR 542 (1971). In view of the aforesaid, this Court holds that the appellants did not establish fraud especially in the face of the appellee's three (3) witnesses in persons of Thomas P. Fallah, Jr., Matthew Clarke, Jr., and Robert Zoegar who provided testimonies not only establishing the appellee's claim to the disputed property but also refuting the appellants' allegations of fraud by producing oral and documentary evidence showing that that the appellants' deed indicate no conveyance date; that the name of the Intestate Estate of Boymah Zulu and George Carey was forcefully inserted in the second deed attached to the appellants' amended complaint; that Thomas Fallah Sr., purchased the property in 1987 from David Clarke and the appellee subsequently repurchased the same property from Varney Gbessie and Sando Gbessie in 1994; that the appellee title from Varney Gbessie and Sando Gbessie being the oldest deed from the Intestate Estate of Boymah Zulu and George Carey; that, by operation of law, the appellee is the legitimate owner of the property and not the appellants.

This Court says that assuming *arguendo* that the appellee's deed is defective, the appellants will still not be entitled to recover on the alleged defects in the appellee's deed because in plethora of Opinions, the Supreme Court has held that: "...every court of law is forbidden from entering a judgment in favor of a plaintiff in an ejectment action on account of imperfections, defects and deficiencies discovered in the title of the party defendant"... and that "a plaintiff in every action of ejectment must recover on the strength of his own title and cannot and should not prevail as a consequence of a weakness in the defendant's title." *White v. Steel*, 2 LLR 22 (1909); *Miller v. McClain*, 12 LLR 356 (1956); *Neal v. Kandakai*, 17 LLR 590, 596 (1966); *Tay v. Tay*, 18 LLR 310, 315 (1968); *Jackson et al. v. Mason*, 24 LLR 97 (1975); *Cooper v. Gissie et al.*, 28 LLR 202 (1979); *The United Methodist Church and Consolidated African Trading Corporation v. Cooper et al.*, 40 LLR 449 (2001); *The Tower of Faith Church v. The Intestate Estate of the Late Wheagar Blaybor*, Supreme Court Opinion, March Term A.D. 2010; *The Intestate Estate of the Late karman Dassen v. Bawo, Captan et al.*, Supreme Court Opinion, March Term, A.D. 2012.

In light of the above, is the verdict against the weight of the evidence adduced by the parties in the trial court? We say no. The jury is trier of the facts, and is responsible to weigh the sufficiency of the evidence, observe the demeanor of the witnesses, and determine the credibility to be given to the testimonies of witnesses produced by the parties in support of their respective claims; and ultimately, based on all of the foregoing, determine what verdict to bring. *American Life Insurance Company, Inc. v. Holder*, 29 LLR 143 (1981); *Sinkor Supermarket v. Ville*, 31 LLR 286 (1983); *Sheriff v. The Testate Estate of the Late Alhaji S. Carew*, 34 LLR 3 (1986); *Liberian Tractor and Equipment Company (LIBTRACO) v. Perry*, 38 LLR 119 (1995); *Momolu v. Cummings*, 38 LLR 307 (1996); *Munnah and Sommah v. Republic*, 35 LLR 40 (1988); *Forleh et al. v. Republic*, 42 LLR 23 (2004); *Morgan v. Barclay*, 42 LLR 259 (2004).

Since there is no showing that the verdict of the jury is against the weight of the evidence, or an abuse of discretion, or that the jury was tampered with, or that there were other errors committed by the trial court so prejudicial to the appellants that it influenced the outcome of the trial or meted out grave injustice, this Court hereby upholds the verdict and hold that the trial court committed no error by affirming same. *Levin v. Juvico Supermarket*, 24 LLR 187 (1975); *American Life Insurance Company v. Sandy*, 32 LLR 338 (1984); *Barclay v. Digen*, 39 LLR 774 (1999); *The International Trust Company of Liberia (ITC) v. Cooper-Hayes*, 41 LLR 48 (2002); *Catholic Relief Services v. Natt, Brown and Cororal*, 42, LLR 400 (2005).

WHEREFORE AND IN VIEW OF THE FOREGOING, the appellants' appeal is denied. The final ruling of the Sixth Judicial Circuit, Civil Law Court, Montserrado County confirming the verdict of the jury is affirmed. The Clerk of this Court is ordered to send a mandate to the trial court commanding the judge presiding therein to resume jurisdiction over this case and give effect to the Judgment of this Opinion. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.

*Appeal denied.*

*When this case was called for hearing, Counsellor Yafar V. Baikpeh of the Heritage Partners & Associates, Inc. appeared for the appellants. Counsellors Jamal Christopher Dehtho of the Dehtho & Partners, LLC, and Wellington G. Bedell, Sr. of the Garlawulo & Associates Law Offices appeared for the appellee.*