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

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

The Intestate Estate of Zoe-Gar by and thru its Administrators, Francis R. Gaye and Emmanuel Freeman, all of the City of Paynesville, Montserrado County, Liberia…….……Appellant	)
Versus	) APPEAL
The Intestate Estate of Francis R.T. Gardiner, by and thru its Administrator, Kelvin Gardiner, of the City of Monrovia, Liberia…….……Appellee	)
GROWING OUT OF THE CASE:	)
The Intestate Estate of Zoe-Gar by and thru its Administrators, Francis R. Gaye and Emmanuel Freeman, all of the City of Paynesville, Montserrado County, Liberia…….……Movant	)
Versus	) MOTION TO INTERVENE
The Intestate Estate of Francis R.T. Gardiner, by and thru its Administrator, Kelvin Gardiner, of the City of Monrovia, Liberia……..Respondent	)
GROWING OUT OF THE CASE:	)
The Intestate Estate of Francis R.T. Gardiner, by and thru its Administrator, Kelvin Gardiner, of the City of Monrovia Monrovia, Liberia…….Plaintiff	) ACTION OF EJECTMENT
Versus	)
Othello S. Nuah & Hellen Nuah, Gilouwor Hawa Barco, Oultracious D.K. Zakamah, Shiffa Z. Baysah, Augustine D. Dorbor, Boris H. Makedia, Musu James & Joseph Jacob, Stephen Kollie, Abraham Ade Alonge, Alfred Suah &Tonia Suah, Forkpa Flomo, Kuku, Gibson, Junior Gayflor, Prince Gayflor, Oretha David and all those under their control of the City of Paynesville…….Defendants	)

Heard: March 28, 2023 Decided: May 19, 2023

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This case presents a legal issue that has been settled by this Court in several Opinions. We are therefore left to wonder why a long standing member of this Honorable Supreme Court Bar would elect to waste the Court's time by raising the same issue on appeal. This speaks to the fact that despite many pleas from this Court requiring that lawyers acquaint themselves with Opinions of this Court, they have deliberately chosen not to be *au courant* with the Court's Opinions, or it is a scheme by lawyers to bring up settled issues before this Court on appeal as a means to deliberately delay and baffle the settlement of proceedings in the court below. The Code of Moral and Professional Ethics of lawyers provides in Rule 31 that a lawyer's appearance in court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

The essential facts of this case are that the appellee, the Intestate Estate of Francis R. T. Gardiner, filed an action of ejectment against Othello S. Nuah, Hellen Nuah, Gilouwor Hawa Barco, et al, as defendants in the Sixth Judicial Circuit, Civil Law Court, on October 4, 2017. The appellee alleged that the defendants are illegally encroaching on the appellee's eighteen (18) acres of land lying and situated in the City of Paynesville and have built structures on the said land. The appellee averred that it filed a complaint against the defendants in the Office of the Land Commissioner, and the Commissioner after conducting an investigation found for the appellee and recommended the appellee to proceed to claim its land. The appellee having exerted every efforts to have the defendants removed from its property, sought the appropriate legal action of ejectment to oust and evict the defendants and have the appellee placed in possession thereof. The appellee prayed the Civil Law Court to award it general damages in an amount deemed necessary for the defendants unlawful, illegal and wrongful withholding of the appellee's property and for the injury, damages, embarrassment and inconveniences sustained by the appellee at the instance of the defendants.

The defendants filed an answer, stating that they owned the property and would provide their title instruments during trial. They later withdrew their answer and filed an amended answer, alleging that they purchased their respective properties from the appellant, the Intestate Estate of the late Zoe-Gar which is the owner of Three Hundred and Ninety (390) Acres of land

lying and situated in the Settlement of Upper Paynesville, Montserrado County, Republic of Liberia; that they are not illegally occupying the appellee's land as they are in occupation of portions of their grantor's Three Hundred and Ninety (390) acres of land which is distinct and different from the appellee's Eighteen (18) acres of land; that ejectment will not lie against them because under our laws, no one can be asked to vacate his/her own legitimate property for which genuine title is vested. The defendants prayed the court to dismiss the appellee's complaint in its entirety and rule all cost against the appellee.

The appellee filed an amended reply to the defendants amended answer basically reiterating its complaint and further contending that the defendants claim to land from the Intestate Estate of Zoe Gar are devious and they and their lawyers are involved in devious acts to claim lands that they do not own; that the defendants did not attach their respective title deeds issued to them by the Intestate Estate of Zoe-Gar; that ownership of a property is not by words but same must be acquired by either descent or honorable purchase and copy of said written instrument should be attached or annexed to the pleadings; that the defendants did not file their deeds or any instrument to validate their claims, but on the contrary, attached photocopies of their alleged grantor's title deed, letters of administration and a decree of sale, again giving notice to the court that at trial, they would produce their respective title deeds; that the appellee has proven its case by the preponderance of the evidence that the defendants are illegally encroaching on its land. The appellee than prayed the court to deny and dismiss the defendants amended answer and sustain its reply and grant it any further relief that is just, legal and equitable.

When pleadings rested, the appellant, the Intestate Estate of Zoe Gar, filed a motion to intervene, contending that it is the bona-fide owner of Three Hundred and Ninety (390) acres of land lying and situated in Paynesville City, Montserrado County out of which it sold several portions to the defendants; that it has the right to intervene because it may be bound by any adverse judgment in the ejectment action filed by the appellee.

The appellee filed resistance to the motion to intervene, basically contending that the motion should be dismissed because it is intended to prejudice the rights of the original parties; that the movant's interest is not direct or substantial but rather indirect, inconsequential, remote, for which the motion should be denied; that intervener and the defendants collusively manufactured administrators' deeds bearing the fake signatures of His Honor

J. Vinton Holder and that the counsels for interveners' and the defendants should be held in contempt.

The trial judge heard and denied the motion to intervene, ruling that a party must be situated such that a judgment from the case will affect it if it does not intervene; that in the instant case, the appellant seeking to intervene sold the property to the defendants and issued title deeds thereby parting with title. The judge concluded that because the appellant has no direct or indirect interest in the property and the motion not being sound in law or supported by the practice and procedure in this jurisdiction, it has no legal basis to be allowed. The judge therefore denied the motion to intervene.

The appellant excepted to this ruling of the trial judge and announced an appeal to this Court, urging the Court to overturn the judge's ruling.

The sole issue presented in the appeal is whether the appellant, the Intestate Estate of Zoe Gar, has a substantial interest in the case to confer upon it the right to intervene?

Our Civil Procedure Law, section 5.61 provides that: *"Upon timely application, any person shall be allowed to intervene in an action: When the representation of the applicant's interests by existing parties is or may be inadequate and the applicant is or may be bound by a judgment in the action; or When the applicant is so situated as to be adversely affected by a distribution or other disposition of property in the custody or subject to the control or disposition of the court or of an officer thereof."*

In the case *Abi-Jaoudi & Azar Trading Corporation v. Monrovia Tobacco Corp.,* 36 LLR 156 (1989), the Supreme Court specified the kind of interest that a party must have in a litigation in order to have the right to intervene in that litigation. In that *case,* Abi-Jaoudi & Azar Trading Corporation filed an action of damages for wrong before the Civil Law Court, Sixth Judicial Circuit, against the Monrovia Tobacco Corporation, claiming that the Monrovia Tobacco Corporation was in breach of a sole distributorship agreement entered into between the three corporations. When pleadings rested in the case, the Monrovia Tobacco Corporation filed a motion to dismiss the case, and the court granted the motion dismissing the entire case. Abi-Jaoudi & Azar Corporation excepted to the court's ruling and appealed to the Supreme Court. On appeal, the Supreme Court reversed the lower court's ruling and remanded the case with instruction that the lower court dispose of the law issues in the case and thereafter try the case on its merits. When the lower court resumed jurisdiction over the case and

commenced hearing the case as instructed by the Supreme Court, the Government of Liberia by and thru the Ministry of Justice filed a motion to intervene in the case contending that it has vested interest and stake in the outcome of the case because the case grew out of Monrovia Tobacco Corporation abiding by the policy of the Government of Liberia. The lower court granted the motion to intervene filed by the Government of Liberia. On appeal to the Supreme Court, the lower court ruling in granting the motion to intervene was reversed. The Supreme Court held that the interest necessary to support intervention is generally an interest in the subject matter of the original litigation, and that interest must be a substantial interest or an interest known and protected by law. *Ibid. 163.* The Court therefore determined that the Government of Liberia had no substantial or known interest protected by law to confer on it the right to intervene in the action of damages filed by Abi-Joaudi & Azar Coporation against the Monrovia Tobacco Corporation.

A recent case more on point and analogous to the instant case is *Isaac Gboking v. Johnny Hill, Sr., et al., Administrators of the Intestate Estate of Tar-sue Gezor,* Supreme Court Opinion, March Term 2019. In that case, the administrators of the intestate estate of Tar-sue Gezor instituted an action of ejectment against Isaac Gboking before the Civil Law Court, Sixth Judicial Circuit Court. Isaac Gboking alleged that he purchased the property from Samuel Vawah and Joe Clarke. A default judgment was rendered against Isaac Gboking in the court below. Gboking subsequently filed a petition for the writ of error before the Chambers Justice. During the hearing on the petition, the administrators of the intestate estate of Tar-sue Gezor conceded to the legal soundness of the petition. The Chambers Justice then remanded the case to the lower court for a new trial. When the case resumed for new trial in the court below in keeping with the Chambers Justice's mandate, the intestate estate of David and Joe Clarke filed a motion to intervene in the case, contending that Isaac Gboking acquired the subject property from the estate and that under Section 5.61 of the Civil Procedure Law, the estate is entitled to intervene as a matter of law to defend its interest in the case. The trial court heard and granted the motion to intervene, ordering the intestate estate of David and Joe Clarke to file its intervener's answer. The case was ruled to trial and at the conclusion of the trial, the jury returned a unanimous verdict of liable against Isaac Gboking and the intervener estate. Isaac Gboking and the intestate estate of David and Joe Clarke excepted to the final judgment and filed an appeal to the Supreme Court. In disposing of the issue of the trial court granting the

motion to intervene, the Supreme Court, relying on the earlier position of the court in the *Abi-Jaoudi* case, held that while intervention as provided in Section 5.61 of the Civil Procedure Law is a matter of right, however, that right does not confer upon a person who is not a party in the main suit a blank check to intervene in that suit; that for a person to be entitled to the enjoyment of the right to intervention, that person must demonstrate that he or she has a direct and substantial interest in the subject matter of the suit and that any judgment and/or determination arising from such a suit will necessarily affect the substantial interest of that person. The Court then concluded that the intestate estate of David and Joe Clarke had no substantial interest in the case to entitle it to intervene because it had already relinquished title to the property subject of the litigation. The Court's conclusion was worded as follows:

> "By parting with title to the subject property, the co-appellant/intervener relinquished all rights to and interest in the said property. There is no demonstrable interest of the co-appellant/intervener that is affected in this matter had the intervener not been permitted to intervene. The co-appellant/intervener's interest in the case at bar is remote, inconsequential and indirect….."

In the instant case, the appellant, like the co-appellant/intervener in the *Isaac Gbooking* Case, conveyed the property in dispute to the defendants in the court below and thereby relinquished all rights and interest in the said property. By parting title to the defendants, the appellant has no substantial interest in any litigation affecting the said property and will not be affected by any judgment emanating from a suit involving the property for it to be clothed with the right to intervene in the case in the court below. The appellant can only be called as a witness to testify to its previous ownership of the disputed property and the strength on which it transferred title to the defendants in the action of ejectment in the court below.

Accordingly, the ruling of the judge in the court below is in conformity with the law and Opinions of this Court.

We must say that members of the Supreme Court Bar are expected to be conversant with the Opinions emanating from the Supreme Court and to accordingly be guided by these Opinions in representing their clients in cases before the Court. A greater duty of candor is imposed on members of the Supreme Court Bar in advising their clients on the current status of the law as espoused in Opinions of the Supreme Court, and to refrain from presenting issues to the Court that have been so clearly and unambiguously decided in many Opinions of the Court. We find it demeaning that Counsellor

Festus K. Newon, Sr. who has many years of experience practicing before this Court would not acquaint himself with the Opinions of the Court and would in that vein file a suit involving an issue that has been so clearly settled by the Court. We admonish all members of this Bar to always endeavor to update themselves with the decisions of this Court before filing cases before the Court as the Court will not hesitate to use the full sanction of the law in punishing lawyers who deliberately file cases involving issues that have been clearly settled by the Court.

WHEREFORE AND IN VIEW OF THE FOREGOING, the appeal is denied, the Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and proceed with the matter. Costs are ruled against the appellant. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR FESTUS K. NORWON, SR. OF THE DUGBOR LAW FIRM APPEARED FOR THE APPELLANT. COUNSELLORS JIMMY SAAH BOMBO AND ADE WEDE KERKULAH OF THE CENTRAL LAW OFFICES APPEARED FOR THE APPELLEE.