

Investigative Survey. A prima facie Evidence for Summary Judgment in Ejectment Cases, Speedy Trial, and Access to Justice for Land Owners.....Judge Peabody



The Resident Circuit Judge of the Sixth Judicial Circuit, Civil Law Court in Montserrado County, Cllr. J. Kennedy Peabody says investigative survey is a prima facie evidence for summary judgment in ejectment cases, speedy trial, and access to justice for land owners.

Judge Peabody speaking on Monday, September 18, 2023, during the opening of the Sixth Judicial Circuit, Civil Law Court for the September Term of Court A. D. 2023, said accordingly, the significance of using the survey report as prima facie evidence in ejectment cases is a sine qua non to clearing of the docket of the courts, as well as for the speedy disposition of ejectment cases.

Judge Peabody delivering his charge on the topic, "*Investigative survey a prima facie evidence for summary judgment in ejectment cases, speedy trial, and access to justice for land owners,*" said the Survey exercise, incorporating the record is consistent with conventional metes defined as 'the territorial limits of the disputed property as measured by distances and angles from designated landmarks and in relation to adjoining properties.'

He said it is therefore, safe to say that a summary judgment may be granted based on an investigative survey, since the Court, the Jury, and the lawyers do not have the Technical know-how with the aim to establish an impartial and fair ownership of the disputed property.

"Especially so where the Investigative survey report is prepared by the engineers who are the technicians trained to locate and interpret metes and bounds which report is concise, precise and to the point where it is clear and convincing that the subject property of contention is located on the ground and that one of the contending parties has the strongest title

deed than that of the other party; then and in that case, said report shall be highly considered”, he added.

The Judge mentioned that the Supreme Court has again said that the law in this jurisdiction is that the Report of the Survey is in the nature of evidence.

He quotes the Supreme Court as also saying, *“that the object of an investigative survey is to assist the Court by providing the Court the technical assistance necessary to a legally fair and equitable disposition of a matter before the Court; this is done when the technicians, especially in a land case, under the direction of the Court, conducts a survey identifying the metes and bounds and exact location of a parcel of land that may be subject of controversy.”*

“The lawyers, the party litigants, the Jury, and the judges are not surveyors, they cannot technically establish the location of a property, nor can they interpret the meaning of 23 degrees east, 20 degrees north, 90 degrees west, and 25 degrees south. We as lawyers and judges cannot also interpret metes and bounds therefore, only the Surveyors who are the engineers trained to do so,”.

Judge Peabody disclosed that there has been a four-year analysis of cases before the Sixth Judicial Circuit, Civil Law Court, from March 2020 up to and including August 31, 2023, and found that a total of 2, 212 cases were filed before the court, 877 of that number was ejectment cases accounting 39.6%

He further observed that 103 of these ejectment cases were disposed of, thereby, accounting for 11.7%.

He stated, *“it is clear and worth noting that the number of ejectment cases disposed of is far less that the number of cases that are pending undetermined.”*

The Judge believes, the establishment of a procedure where ejectment cases are ruled based on the investigative survey report would enable a judge to dispose of more than ten to 15 ejectment cases per term. *‘This*

will alleviate the burden of overcrowded dockets and long years of cases pending for more than 15 years or more undisposed,' the Judge stated.