

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS OCTOBER TERM, A.D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOH .....CHIEF JUSTICE  
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE  
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE

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The Intestate Estate of Daniel Webster Urey, by and )  
thru its Administrators, Edwin M. Urey and Evan Urey of )  
the City of Careysburg District, Montserrado County )  
Republic of Liberia.....Appellant )  
 ) APPEAL  
Versus )  
 )

The Intestate Estate of Karboyah represented by and )  
thru its Administrators, Abraham Barbour, Frank D. Koko )  
Jeff Kollie, Kpenkpayh Y. Flomo and Issac Darway of )  
Tatee Town Careysburg District, Montserrado County, )  
Republic of Liberia.....Appellee )

GROWING OUT OF THE CASE: )  
)

The Intestate Estate of Karboyah represented by and )  
thru its Administrators, Abraham Barbour, Frank D. Koko )  
Jeff Kollie, Kpenkpayh Y. Flomo and Issac Darway of )  
Tatee Town Careysburg District, Montserrado County, )  
Republic of Liberia.....Plaintiff ) ACTION OF EJECTMENT  
 )  
Versus )  
 )

The Intestate Estate of Daniel Webster Urey, by and )  
thru its Administrators, Edwin M. Urey and Evan Urey of )  
the City of Careysburg District, Montserrado County )  
Republic of Liberia.....Defendants )

HEARD: April 30, 2024

DECIDED: December 19, 2024

MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This case is on appeal from ruling rendered, by the Civil Law Court Sixth Judicial Circuit, Montserrado County. The Intestate Estate of Karboyah represented by its administrators, filed an action of ejectment against one Kelvin Enterprise represented by its managers, to include: Mr. Kennie, Enty King, Annie Joe Brown, Mr. Morris Jay-Jay, Yata Walker, Edwin Urey et.al administrators, on July 4, 2020 alleging that it is the legitimate and bona fide owner of two hundred and twenty-four (224) acres of land situated in Tatee Town, Careysburg District,

Montserrado County, purchased by the late Karboryah from the Republic of Liberia on September 6, 1865 during the administration of President Daniel B. Warner and that they are administrators of the Intestate Estate of Karboyah by way of Letters of Administration issued them by the Monthly and Probate Court for Montserrado County, Republic of Liberia, on May 8, 2018 under the gavel of His Honor Judge Vinton Holder. The appellee attached copies of their title deed to the late Karboyah from the Republic of Liberia and their Letters of Administration to authenticate their claims. The appellees in further attempt to authenticate the genuineness of their ownership to the said land, attached a certificate of authentication from the Ministry of Foreign Affairs issued them on April 17, 2014, under the signature of one C. Morris Kollie, Director of Archives at the Ministry of Foreign Affairs; further, the appellee alleged that Edwin Urey is in the habit of selling land in the disputed area and had sold land belonging to the estate to the other defendants named in the suit and they are illegally occupying the said property against the will and consent of the administrators of the estate and that said occupation by them is depriving the estate of the use and benefit of its property. They contend that co-defendant, Edwin Urey without the fear of God, hired the services of yellow machines that moved on the estate property and damaged and removed all the structures of those occupying the land and destroyed the cash crops planted by them and beat and wounded one of the inhabitants, all under the guise that co-defendant Edwin Urey had won the case in the Civil Law Court and therefore the property belongs to him; and that they have the right to institute this action of ejectment as the defendants have wrongfully entered on their land and are continuing to withhold their property which has lasted for several years against the will and consent of the appellee and that the estate now demands that each of the within named defendants pay general damages in the amount of not less than One Hundred Thousand United States Dollars (US\$100,000.00) for the illegal and wrongful entry and detention of appellee's property and that the appellee administrators should be placed in possession of their lawful property.

The defendants filed an answer to the appellees/plaintiff complaint alleging that the appellees first lacked the legal capacity to sue because the Letters of Administration granted them by the Monthly and Probate Court of Montserrado County which they attached to their complaint was not registered with the National Archives as there is neither volume nor page numbers nor date and time of filing as required by law which makes the said instrument void ab initio; moreover, the Letters of Administration attached to the complaint is dated May 8, 2018 is expired as Letters of Administration are issued for one (1) year, subject to extension by the court based on a petition but there is no evidence to show that it wasn't extended after it had been expired about two years ago and the law says that in an ejectment action, a party should

sue on the strength of their title or legal instrument and since the appellees brought this action not as owners of the Intestate Estate of Karboyah but Administrators the suit must crumble as the Letters of Administration relied on by the administrators has expired; that the Letters of Administration relied on by the appellees shows that the Intestate Estate of Karboyah is allegedly situated in Tatee Town, Careysburg District, Montserrado County, but appellees obtained the signature of His Honor J. Vinton Holder instead of His Honor Amos M. Fagans of the Careysburg Monthly and Probate Court and that this discrepancy undermines appellees legal capacity to sue and requires an investigation and the appellees action should be dismissed as they are not properly before the court as a result of illegality; that co-defendant, Edwin Urey says that he is one of the Administrators of the Intestate Estate of D. Webster Urey and that he along with the other administrators have the legal right to sell the estate land to anyone, including the co-defendants; that the parties in this action appeared before the Civil Law Annex "B" presided over by His Honor Roland Dahn in a case captioned "Objectors Objections to Respondents' Deed based on Fraud" and this case emanated from the Monthly and Probate Court for the District of Careysburg, which order the transfer of the parties to the Civil Law Court for investigation of defendants' deed because the appellee herein alleged that the defendants deed was a product of fraud after the defendants filed a petition to intervene with the Intestate Estate of D. Webster Urey. The case was heard by a jury which rendered a verdict and final judgment was rendered in defendants favor to which appellee announced an appeal to the Supreme Court and the said appeal is currently pending; that appellees are precluded by law from raising the same issues they raised before the Civil Law Annex "B" claiming defendants deed is fraudulent which was considered by a jury and a verdict of not liable was rendered in defendants favor and that since the case is pending before the Supreme Court on appeal, it would be improper for the Civil Law Court to hear the case. The defendants then prayed the court to dismiss the complaint as the case is already pending before the Supreme Court.

The appellee filed its reply to the defendants answer averring that: defendants claim that its Letters of Administration does not have a volume and page number is a fallacy as the said instrument had a volume #: (05-018) and page (s) # (331409) which was registered and filed on May 8, 2018 but probably because the copier used was faulty, the copy attached wasn't clear enough to show the volume and page number and that assuming without admitting that the volume and page number was absent, the National Archives Center would be subpoenaed to testify to the instrument; that the averment made by the defendants that the appellee's Letters of Administration had expired more than two years ago thus rendering appellee incapacitated to sue is a clear lack of understanding of our law, because under our

law, Letters Testamentary and of Administration may be introduced in evidence in all cases until they have been regularly revoked and since their letters of administration has never been revoked, they have the legal authority to sue on the strength of the said letters of administration; that the allegations by the appellant that appellees obtained letters of administration from the Monthly and Probate Court of Montserrado County instead of Provisional Probate Court of Careysburg District is baseless and without any legality because the Monthly and Probate Court of Montserrado County has superior territorial jurisdiction over Montserrado on probate matters including Careysburg District, Montserrado County, and therefore, appellees are properly before the court; that the title deed of Daniel W. Urey proffered by the defendants is a product of fraud, in that, nowhere and at no time during the 1800s and up to present did the Republic of Liberia grant one thousand (1000) acres of public land to an individual, least to say that such land was granted to Daniel W. Urey in 1890; that from 1800 to 1900, the presiding officer of the Probate Court for Montserrado County was not styled and called "Probate Judge", but rather the "Commissioner of Probate" and for the Public Land Sale Deed to be signed by President Hilary R. W. Johnson on the 22<sup>nd</sup> day of August, A.D. 1890, and during probate signed by John F. Dennis on August 30, 1890 as Judge of the Probate Court is false and misleading; that the objectors objections to Respondents' Deed based on fraud was heard and judgment rendered in defendants favor is distinct and different from the current case and as such res judicata will not lie; appellee then maintained its prayers as averred in its complaint.

Thereafter, the Intestate Estate of Daniel Webster Urey, by and thru its administrators, appellant herein filed a motion to intervene on grounds that it was the legitimate owner of the property that was subject of the litigation before the lower court and that any judgment emanating from the court concerning the said property would affect its rights to the property and that intervention is a right in our jurisdiction as provided for in Our Civil Procedure Law Rev. Code 1:5.61.

The said motion was held and granted, and the movant filed an intervener's answer basically reiterating the defendants answer and adding that it is the legitimate owner of the land subject to this dispute and that it has owned this land for more than one hundred and thirty (130) years openly and notoriously and that appellee doesn't own the land and is therefore not entitled to any damages.

The parties, appellee, and appellant both filed several pre-trial motions and they were all disposed of by the court; thereafter, the disposition of law issues was held, during which

counsel for the appellant made an application for the case to be ruled to investigative survey to which appellee's counsel interposed no objection.

Thereafter, the clerk of court was ordered to send a communication to the Liberia Land Authority to nominate a licensed surveyor to serve as chairman of the investigative survey while the parties were asked to nominate a surveyor each to serve as their technical representatives on the investigative team. The appellee nominated Mr. Lowell Mitchel while the appellant nominated Mr. Albert Gbah, and the Liberia Land Authority nominated Mr. Tom Wellington Nimley thereto. The Investigative Board was qualified by the court and instructions were given to the technical representatives on the board.

After the conduct of the investigative survey, a final report was submitted to the court on February 21, 2022, with the following observations:

1. *That the defendant/appellant claim engulf the plaintiff/appellee claim as appellee claim fall within portion of the appellant claim.*
2. *That the deed metes and bounds of the appellee/plaintiff more particularly when plotted to their claim area **reflected it**; also, the appellant/defendant deed metes and bounds when plotted to their area of claim **reflected it** but with variant in its bearings and distances.*
3. *That appellee/plaintiff claim on the ground is 226.2 acres with Deed calling for 224 acres. However, appellee/plaintiff deed has error in its closure but when error is corrected, the quantity of land thereon is 223.3 acres almost the same quantity of land as stated on their deed while appellant/defendant claim on the ground is 1337.4 acres with their deed calling for 1000 acres respectively. In short, the appellee/plaintiff claim reflects the quantity of land stated on their deed while the appellant/defendant is claiming more land on the ground than what is stated on their deed.*
4. *That appellee/plaintiff and appellant/defendant grantor is the same, but appellee/plaintiff deed is older than appellant/defendant deed. In short, appellee/plaintiff is the holder of oldest deed.*
5. *That the width distance of the appellant/defendant claim is more than the width distance on his deed thus causing his claim to engulf the appellee/plaintiff claimed area.*

6. *That the defendant/appellant claim engulf the plaintiff/appellee claim as appellee claim fall within portion of the appellant claim.*
7. *That the deed metes and bounds of the appellee/plaintiff more particularly when plotted to their claim area reflected it; also, the appellant/defendant deed metes and bounds when plotted to their area of claim reflected it but with variant in its bearings and distances.*
8. *That appellee/plaintiff claim on the ground is 226.2 acres with Deed calling for 224 acres. However, appellee/plaintiff deed have error in its closure but when error is corrected, the quantity of land thereon is 223.3 acres almost the same quantity of land as stated on their deed while appellant/defendant claim on the ground is 1337.4 acres with their deed calling for 1000 acres respectively. In short, the appellee/plaintiff claim reflects the quantity of land stated on their deed while the appellant/defendant is claiming more land on the ground than what is stated on their deed.*
9. *That appellee/plaintiff and appellant/defendant grantor are the same, but appellee/plaintiff deed is older than appellant/defendant deed. In short, appellee/plaintiff is the holder of oldest deed.*
10. *That the width distance of the appellant/defendant claim is more than the width distance on his deed thus causing his claim to engulf the appellee/plaintiff claimed area.*

The head of the investigative survey then recommended that **“the appellant/defendant be made to re-survey their land so to reflect the actual quantity of land as stated on their deed as they are claiming more land on the ground than what their deed is calling for and that appellee/plaintiff also be made to correct the technical error with reference to their deed metes and bounds being in error with its closure.”**

Thereafter, this case being a bench trial before the lower court, the trial judge handed down his ruling on March 2, 2023, holding that both the appellee and appellant land as identified by the survey report be re-demarcated as recommended by the investigative survey report with the appellee’s land being the first to be re-demarcated follow by the appellant land to reflect the amount of land indicated on their respective deeds and that said re-demarcation survey should be done within thirty days as of the ruling of the court.

The appellant excepted to this ruling and announced an appeal to the Honorable Supreme Court.

The crux of the appellant's argument in its bill of exceptions is centered on the trial judge's handling of the court's ordered investigative survey report, the appellant has vehemently challenged the trial judge's handling of this report and we note from the records that the trial judge made his ruling solely based on the investigative survey report.

Before we proceed, we now quote verbatim counts 1, 2, 4,7 and 8 of appellant's bill of exceptions as these are the averments we find weighty enough to the determination of this case as it is the authority of the Supreme Court to pass only on the issues in the bill of exceptions which it deems necessary to the determination of the case. *Tehquah v His Honor Paye and RL*, Supreme Court Opinion, March Term, 2014.

We now quote verbatim the counts in the appellant's bill of exceptions that we have deemed necessary to the determination of this case:

*Count 1: That your honor erred and made reversible error when you imputed statement in your final ruling that was never made by the surveyor verbally nor written in the surveyor investigative survey report. That is, when you said in your ruling "the surveyor in both his survey investigative report and testimony informed the court and said that the plaintiff/appellee land is engulfed by the defendant/appellant's land. That is, the most amicable resolution to the dispute is a re-demarcation of the disputed properties since both parties have the same point of commencement.*

*Count 2: That your honor erred and made reversible error when you assumed into the surveyor investigative report and said "the surveyor report of February 21, 2022, recognizes the existence of both properties and their respective chains of conveyance which is the Government of Liberia. This means that both plaintiff/appellee and defendant/appellant title instruments are legitimate and properly and legally conveyed".*

*Count 4: That your honor erred and made reversible error when you imputed statement in the conclusion of your final ruling which was never said verbally nor written in the surveyor investigative report. That is, when you said, "it is the ruling of this court that the land areas identified by the surveyor in the investigative survey report, that is say, plaintiff/appellee's 223.38 acres of land on the one hand, and defendant/appellant's 1000 acres of land on the other, be re-demarcated as indicated in the survey report with the appellee's 223.38 acres being first to be demarcated to be followed by the appellant's 1000 acres."*

*Count 8: That your honor erred and made reversible error when you failed, refused and neglected to consider the surveyor statement that the plaintiff/appellee and defendant/appellant property commence from the same point, and the appellee land is engulfed in the appellant's land.*

It is clear from the above averments in the appellant's bill of exceptions that the crux of his argument is that the trial judge erred in interpreting the court ordered investigative survey report, because of this we now turn our attention to the investigative survey report provided herein for proper analysis.

The appellant alleged in counts one (1) and four (4) of his bill of exceptions that the judge imputed statements in the survey report, that the report never said that “the appellee land is engulfed by the appellant’s land and that the amicable solution to this dispute is a re-demarcation of the disputed properties”; that the survey report never stated that “plaintiff/appellee’s 223.38 acres of land on the one hand, and defendant/appellant’s 1000 acres of land on the other, be re-demarcated as indicated in the survey report with the appellee’s 223.38 acres being first to be demarcated to be followed by the appellant’s 1000 acres”.

The appellant also averred in his count eight (8) of his bill of exceptions that the trial judge erred when he failed, refused, and neglected to consider the surveyor statement that the plaintiff/appellee and defendant/appellant property commence from the same point, and the appellee land is engulfed in the appellant's land.

To properly address these issues raised by the appellant in its bill of exceptions, we deem it necessary to quote the findings of the investigative survey report:

- 1. The area claimed by the plaintiff/appellee falls within portion of the appellant/defendant claimed area and that the total quantity of land as claimed by the plaintiff/appellee from various points shown during the survey is 226.2 acres while the total quantity of land as claimed by the defendant/appellant from various points shown during the survey is 1337.4 acres.*
- 2. Plaintiff/appellee claim from various points shown on the ground is 2.2 acres more than what is mentioned of their Deed (224 acres) while defendant/appellant claim from various points shown on the ground is 337.4 acres more than what is mentioned on its Deed (1000 acres). In short, plaintiff/appellee claim with respect to its quantity is more realistic than that of the defendant/appellant.*



3. *That the plaintiff/appellee deed metes and bounds when plotted to its claim and the disputed area more particularly reflected it while defendant/appellant deed metes and bounds when plotted to its claim and the disputed area also reflected it but with huge variant in its bearings and distances; however, the metes and bounds of the plaintiff/appellee deed has slight error in its closure but when such error is corrected, the quantity of land thereon is 223.38 acres not 224 as stated while the defendant/appellant deed metes and bounds when plotted has no error in its closure with quantity of land thereon being 1000 acres.*

Based upon the investigative survey report as quoted herein above and upon perusal thereof, we are compelled to uphold the trial judge's ruling.

The records show that both parties trace their deed to the Republic of Liberia and that the appellee deed is older than the appellant's deed; moreover, as indicated also in the survey report both parties land is located in the same area in Careysburg and this is the exact reason why when the motion for investigative survey was filed by appellant, the trial judge granted same without objection by the opposing party. The survey report is clear that both parties can trace their land to the Republic of Liberia, both parties land is located in the same area, and there is some variance involving both parties land and that because of this it was recommended by the surveyor that a re-survey be done so as to correct the errors on the both parties deed to reflect the actual ground reality.

The purpose of an investigative survey is to help the court to settle certain technical aspects of a case which will aid the court in determining an issue and can be used as an evidentiary tool in helping the court to determine a particular technical nature or controversy of a matter before it. *Gardiner v James, Supreme Court Opinion, March Term, 2015.*

Since it is clear from the records that both parties can trace their deed to the Republic of Liberia and that both parties are claiming land in the same location, the investigative survey report was proper to determine the exact location of both parties land and because the survey report stated that the plaintiff/appellee and defendant/appellant's land commence from the same point and that the appellee's land is engulfed in the appellant's land; moreover, the appellee is claiming more land on the ground than its deed reflects, while the appellant deed needs some correction in its closure points; therefore, the only way to properly determine the exact metes and bounds of both parties' land is to conduct a survey to re-demarcate their respective lands and as such the trial judge was right when he held that a re-demarcation survey be done to properly reflect the land indicated on their various deeds.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the trial court ordering a demarcative survey and putting both parties in possession of their respective property is hereby confirmed and affirmed. The Clerk of this Court is hereby ordered to send a mandate to the lower court commanding the judge presiding therein to resume jurisdiction and give effect to the judgment emanating from this Opinion. AND IT IS HEREBY SO ORDERED.

*WHEN THIS CASE WAS CALLED FOR HEARING COUNSELLOR JONATHAN MASSAQUOI APPEARED FOR THE APPELLANT. COUNSELLOR MILTON D. TAYLOR APPEARED FOR THE APPELLEE.*