

THE HONOURABLE 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: CEANEH D. CLINTON JOHNSON..... ASSOCIATE JUSTICE

Foday Conneh, Mohammed Bah, Alpha Sow)  
Annie Kawah, and Surveyor to be identified, )  
all of Monrovia, Liberia ..... Appellants )  
 )  
Versus ) APPEAL  
 )  
The Republic of Liberia by and thru Farmata )  
Gaojia Soma and thru her Attorney-in-Fact )  
Peter Somah ..... Appellee )  
 )

GROWING OUT OF THE CASE:

The Republic of Liberia by and thru Farmata )  
Gaojia Soma and thru her Attorney-in-Fact )  
Peter Somah ..... Plaintiff )  
 )  
Versus ) CRIMINAL CONVEYANCE  
 ) OF LAND AND CRIMINAL  
 ) CONSPIRACY  
 )  
Foday Conneh, David Conney, Mohammed )  
Bah, Alpha Sow, Annie Kawah, Surveyor )  
to be identified, Mohammed Bah and J. )  
Biomah Sambolah all of Monrovia, Liberia )  
..... Defendants )

Heard: June 24, 2024

Decided: December 19, 2024

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

On the 27<sup>th</sup> day of November 2020, the Grand Jury for Montserrado County, sitting in its November Term, returned a True Bill charging the appellants, Foday Conneh, David Conneh, J. Boimah Sambolah, Mohammed Bah (Buyer) and Surveyor to be identified, with the crimes of Criminal Conveyance of Land and Criminal Conspiracy, a felony of the second degree. The Indictment averred that, on the 25<sup>th</sup> day of May A.D. 2020, in the Coffee Farm Community, Township of Caldwell, defendants Foday Conneh and Boimah Sambolah were arrested, acquainted with their Constitutional Rights, investigated and subsequently charged with the commission of the crimes of Criminal Conveyance of Land and Criminal

Conspiracy, while it charged co-defendants Mohammed Bah and David Conneh in absentia. THE INDICTMENT averred substantially that the private prosecutrix, Farmata Gojai Somah thru her husband and Attorney-in-fact, Mr. Peter D. Somah, are the owners of the disputed property; that during the periods of A.D. 2017 up to and including May A.D. 2020, the defendants went on the disputed property criminally and intentionally sold same to co-defendant Mohammed Bah; that defendants Foday Conneh, David Conneh, J. Boimah Sambola having being warned on numerous occasions by the private prosecutrix, induced, influence and encourage Co-defendant Mohammed Bah to buy the private prosecutrix property; that Co-defendant Mohammed Bah being informed regarding the ownership of the said property, he went along with co-defendants, Foday Conneh, David Conneh, and J. Boimah Sambolah to buy the private prosecutrix's property; that Co-defendants Annie Kawah and Alpha Sow did facilitate and participate in the Commission of the crimes of Criminal Conveyance of Land and Criminal Conspiracy; that Co-Defendant Alpha Sow spotted the property, made contacts and negotiation with Co-defendants Foday Conneh, David Conneh, Annie Kawah, and J. Boimah Sambolah for co-defendant Mohammed Bah to purchase the disputed property. The Indictment concluded that the defendants' action violated Chapter 15, Section 23 (a) and (b) of the New Penal Law of Liberia; 4LCLR, Title 26, Section 10.4 (1) and (2) of the New Penal Laws of the Republic of Liberia.

The records show that on the 14<sup>th</sup> day of December 2020, the First Judicial Circuit for Montserrado County, Criminal Assizes "C," ordered a writ of arrest for the defendants. The Sheriff's returns show that co-defendants Foday Conneh, David Conneh, and Mohammed Bah were arrested and brought under the trial court's jurisdiction. The records show that they were bailed out and released from detention. On February 25, 2021, the appellants Foday Conneh, David Conneh, J. Boimah Sambolah, and Mohammed Bah filed a six (6) counts motion for an investigative survey. The motion alleged in substance that co-defendant David Konneh is the administrator of the Intestate Estate of the late Mustapha Konneh that they are occupying the property on the strength of Mustapha Konneh's title deed and with the knowledge of the Administrator, David Konneh. The appellants further alleged that the property for which they are indicted is separate and distinct

from the property in dispute and that an investigative survey was appropriate to aid the court in determining this matter. The appellants annexed to their motion an administrator deed from Ruth S. Perry to Mustapha Conneh and extended letters of administration issued to David Konneh and Charles Konneh. The trial judge denied the motion after an argument on the Motion and its resistance.

The records further show that on June 3, 2021, the grand jury returned another indictment; this time, against Annie Kawah and Alpha Sow for the Crimes of Criminal Conveyance of Land and Criminal Conspiracy, a felony of the second degree. They were arrested, brought under the court's jurisdiction, and admitted to bail. The Prosecution moved the court to consolidate the two indictments for speedy determination since the two indictments charged the defendants with the commission of a sequence of criminal actions involving the same property. The defense counsel, not having interposed an objection, the court proceeded to consolidate the two indictments.

At the call of the case, the Prosecution moved for a severance trial for co-defendants David Conneh and the surveyor (to be identified) and the entry of a plea of nolle prosequi on behalf of co-defendant J. Boimah Sambolah. The court granted these applications.

The trial commenced with Annie Kawah, Alpha Sow, Foday Conneh, and Mohammed Bah. The Court arraigned the appellants, and they entered a plea of Not Guilty, thereby joining issues with the State. The trial court had a jury trial culminating in the return of a unanimous guilty verdict. The appellants filed a motion for a new trial, which the court heard and denied. On the 28<sup>th</sup> day of December A.D. 2021, the trial court entered a final ruling affirming the verdict and, on the 4<sup>th</sup> day of March 2022, sentenced the appellants to a three-year jail term based upon a pre-sentencing report from the Ministry of Justice. The appellants entered exceptions to the final ruling and sentencing by the trial judge and announced an appeal to the Supreme Court, interposing a thirteen-count bill of exceptions.

The appellants' bill of exceptions averred that: 1) the State did not rebut the appellant's claim that the late grandfather of Foday Conneh owned the

disputed property as is evidenced by the title deed and letters of administration relied upon by the appellants as evidence of their authority and the report of the investigative survey that the land commissioner of Caldwell commissioned, and the Writ of Summons from the Civil Law Court evidencing that the matter of the dispute is pending before the Civil Law Court 2) that the prosecution never rebutted the appellant's evidence that co-appellant Foday Conneh's grandfather constructed the structures on the disputed property and had lived thereupon from the acquisition of the property up to his death; 3) that the trial jurors went contrary to the trial judge's charge on the point of law on the principles of *FALSUS IN UNO* "false in one false in all."

The appellant's bill of exceptions raises two major cardinal points: first, that the property, subject of the dispute, belongs to the appellants by title deeds; second, that the State evidence falls far short of the evidence required to hold the appellants for the Crimes of Criminal Conveyance of Land and Criminal Conspiracy.

Before we identify the issues determinative of this appeal, we find it necessary to comment on the trial judge's ruling on the motion for a new trial filed by the appellant herein and the trial judge's final ruling.

In reviewing the ruling rendered by the trial judge, T. Ciapha Carey, in this case, it is imperative to express grave concern regarding the lack of adherence to fundamental judicial principles. A judicial ruling must be grounded in recognized law, supported by coherent reasoning, and explicitly identify the legal issues at stake. Unfortunately, the judge's ruling in the leading case falls short in these critical areas.

First and foremost, the absence of any citations to applicable law undermines the integrity of the ruling. Judges must anchor their decisions in statutory provisions or case law relevant to the issues presented. By failing to reference specific legal authorities, the judge has not only neglected to provide a legal framework for the decision but has also rendered the ruling vulnerable to claims of arbitrariness. This lack of legal basis confuses the parties involved and diminishes public confidence in the judicial process.

Furthermore, the judge's rationale for the conclusion reached needs to be more conspicuously present. Without a clear explanation of how the facts were analyzed in the context of the law, the ruling appears to lack depth and seriousness. Judicial transparency is vital; parties must understand the outcome and the grounds upon which that outcome is based. The failure to articulate reasoned arguments detracts from the decision's soundness and leaves parties without guidance on resolving their disputes.

Additionally, Judge Carey did not explicitly identify the pivotal legal issues that required resolution. Instead, the ruling presents a vague conclusion without delineating the critical questions that were ostensibly considered. This omission complicates any potential appeal or future legal interpretation, leaving unresolved questions about the ruling's intent and scope.

Therefore, the trial judge's ruling represents a troubling departure from the standards of judicial conduct. For the sake of justice and the rule of law, future rulings must adhere to established legal principles, articulate reasoning, and clearly delineate the issues involved. This is essential for maintaining the credibility of the judiciary and ensuring fair outcomes for all parties involved.

Because the ruling is not comprehensive sufficiently to inform our consideration of the appeal, we will rely on the Indictment, the evidence adduced during the trial, the motion for a new trial, and the resistance thereto in resolving the appellants' contentions raised in the bill of exceptions. After perusing the records and considering the basic contentions in the appellants' bill of exceptions and the verdict returned by the trial jurors, this Court picked two determinative issues to resolve this case. The issues are:

1. Does the evidence establish that title is in issue regarding the disputed property and, therefore, the crimes of Criminal Conveyance of land and Criminal Conspiracy as charged in the Indictment will not lie?
2. Did the Prosecution establish beyond reasonable doubt that the appellants committed the crime of Criminal Conveyance of land and Criminal Conspiracy as charged in the Indictment?

These issues shall be addressed in the order in which they are presented.

Considering the first issue, it is the law that only ejectment can determine the merits of title to real property. *FLA v Metzger et al 42 LLR 64 (2004)*. In the instant case, a criminal case, the appellants did not challenge the Indictment by a motion to dismiss for failing to charge an offense. Moreover, the allegations contained in the Indictment show that the act allegedly committed by the appellant, if proven at the trial, constitutes what is defined as criminal conveyance of land and criminal conspiracy to commit criminal conveyance. Succinctly put, the Indictment accused the appellant of knowingly, purposely, and intentionally conveying and conspiring to convey land owned by the private prosecutrix, knowing that the said land was owned by the private prosecutrix with the sole intent and purpose of depriving the private prosecutrix of the said land without her consent and converting the proceed from the sale of the said land to their personal use. This act, if proven, indeed constitutes criminal conveyance of land and criminal conspiracy to commit criminal conveyance of land as defined by Title 26 section 15.23(2) as amended of the Penal Code. The issue now is, did the State overcome the burden to proof beyond a reasonable doubt that the appellants committed the act for which the Indictment accuses them?

According to the appellants' bill of exceptions, the evidence of the appellants established that the appellants' privy holds title to the property that is the subject of the criminal conveyance as evidenced by the title deeds and the letters of administration introduced into evidence by the appellants during the trial and that the outcome of the investigative survey conducted at the instance of the land commissioner of Caldwell further supports this assertion.

A thorough review of the evidence shows that the private prosecutrix initially instituted an action of Summary Proceeding to Recover Possession of Real Property in the Magisterial Court against co-appellant Mr. David Conneh, for one lot of land upon which is a burnt-up structure without zinc that co-appellant Mr. David Conneh occupied. The private prosecutrix alleged that during the hearing of that case, the co-appellant pleaded a deed for one lot of land issued in favor of Mustapha Conneh, the late father of co-appellant David Conneh, as the title for the disputed property. The magisterial court determined that because both parties exhibited titles for the disputed property, summary proceedings to recover possession of real property would

not lie. The private prosecutrix, therefore, proceeded to the Civil Law Court and instituted an action of ejectment against the co-appellant David Conneh, which is pending in the said court. According to the Prosecution, it is the selfsame title deed that the appellants are relying upon in support of their defense in this criminal proceeding as the title to the property that is the subject of these proceedings, which is separate and distinct from the property in the civil case.

The appellants, for their part, did not deny the Prosecution's witness testimony that the deed relied upon by the appellants is the same deed presented in the magisterial court and later annexed to their pleadings in the action of ejectment instituted against them. The appellants' evidence tends to establish that they hold a title deed for one lot and that this holding is supported by a report of an investigative survey conducted at the instant of the Land Commissioner. In addition to the undisputed averments of the Prosecution that the deed relied upon by the appellants is the deed that co-appellant David Conneh pleaded in the magisterial court and the Civil Law Court as title for the property in the civil action for the land containing the unzincd structure, the investigative survey report itself shows that the land area of the said deed contained half lot of land rather than one lot as is written on the face of the deed. This, taken in conjunction with the testimony of witness Sambolah that David Conneh had told him that he (David Conneh) did not have a deed for the property and that David Conneh hired a surveyor to manufacture a deed for the property when he attempted to dispose of the same, clearly establish that the deed relied upon by the appellant as the title for the property was purposely concocted to alienate the private prosecutrix property illegally.

While we acknowledged the appellants' purported title, we also note from the records that the Prosecution's first witness, Mr. Peter Somah, provided the distinction between the two cases: the Criminal Conveyance and the Ejectment case, pending before Criminal Court "C" and the Civil Law Court respectively. He testified that the property being occupied and claimed by Mr. David Conneh is the one that Mr. David Conneh is dwelling on. He further testified that when Mr. Conneh was taken to the Magisterial Court, he presented a deed and was subsequently transferred to the Civil Law Court.

He further testified that the criminal conveyance case surrounds one lot of land with two unfinished buildings, which had been sold to Mr. Mohammed Bah through the participation of Mr. Foday Conneh, Boimah Sambolah, Annie Kawah, Alpha Sow, and David Conneh. The records show that no appellants ever denied that the two properties involved in the two cases are separate and distinct. It is a legal maxim that what is not denied is deemed admitted. *Munnah et al v RL*, 35LLR 40 44 (1988). The appellants' testimonies did not denied the testimony of witness Peter Somah that the matter before the Civil Law Court and the matter before the Criminal Court "C" concern two separate and distinct properties. The records established that the parties derived their respective titles from different grantors with different quantities of land. On its face, the deed relied upon by appellants calls for one (1) lot, while the private prosecutor's deed called for three (3) lots.

A further perusal of the evidence shows that the appellants' exhibit D/1 "*Land Commission Investigative Survey Reports*" shows the deed presented by the appellants, purporting to be the title of the late Mustapha Conneh, claiming to be the title for one lot, is, in fact, for half lot according to the metes and bounds contained in the said deed. The report further shows that the private prosecutor's title instrument calls for three (3) lots covering the disputed property.

Considering the above, the contention by the appellants that title was in issue does not find support in the evidence as produced during the trial.

We shall now address whether the Prosecution establishes beyond a reasonable doubt that the appellants committed the crime of Criminal Conveyance of land and Criminal Conspiracy as charged in the Indictment.

Penal Law, Section 15.23(2) as amended defines Criminal Conveyance of land as:

"knowingly, willfully, or purposely transfer or deliver something such as a right or property to another person or persons, or group of persons or institutions, entity or entities, including all-natural and judicial persons."

The offense encompasses the following:



(a) A person is guilty of criminal conveyance of land, a felony of the second degree if they convey to another through sale, gift or mortgage or lease, a parcel of land that he/she has no title to by purchase, gift or inheritance evidenced by a deed, traceable to the Republic of Liberia, from the lawful owner or by any other lawful means.

(b) A person is guilty of third degree felony if he knowingly purchases a parcel of land which he knows or have reason to know does not belong to the seller or is being criminally conveyed.

(c) A surveyor who encourages, persuades, surveys, uses his influence or in any other way participates or conspires with anyone in the sale or purchase of a parcel of land, knowing or being in the position to know that the seller of such land has no lawful title is guilty of a first degree felony punishable by both a fine to be determined by a court of competent jurisdiction, and a prison term of not less than ten years.

(d) A surveyor who surveys a parcel of land without a notice to all adjoining property owners, consistent with existing law, regulation or executive order or procedure, is guilty of a felony of the third degree.

(e) A district commissioner, land commissioner, city mayor, township commissioner, or any other local government official, or a person charged with the responsibility to archive land deeds and records, or traditional chief, elder, or any person holding a powerful traditional position, who abuses his/her authority to unduly influence or, compel an Individual or group of individuals to convey a parcel of land or any position thereof, knowing or being in position to know that the land so conveyed belongs not to the person or persons conveying same or knowing or being in the position to know that without the use of such influence or compulsion, a conveyance of said land is not possible is guilty of a felony of the second degree.

(f). A legislator or a person holding a national level position such as minister, deputy minister, director general, deputy director general, any ranking officer of a law enforcement agency, or any other public official or law enforcement officer, also abuses his/her office by influencing or compelling the conveyance a parcel of land, knowing or having reason to know that without the use of such Influence or compulsion a conveyance of said land is not possible is guilty of a second degree, felony.

Given the above definition of criminal conveyance and after concluding that the indictments appropriately charged the offense of criminal conveyance, we shall now examine the evidence to determine whether the state proved its case beyond a reasonable doubt. We therefore herein summarized the evidence as culled from the records:

The certified records show that the appellee, the Prosecution, fielded three (3) witnesses: Peter W. Somah, J. Boima Sambolah, and subpoenaed

witness Alpha Sow. We hereunder give a summary of each of their testimony:

**Prosecution's first witness, Peter W. Somah**

He testified that he knows co-appellant Foday Conneh and Annie Kawai. The witness testified that his wife, parents, and siblings resided in the property in question; in 1992, they left the house during octopus, and when they returned after the war, they met the house burned, so they moved to Vai Town. He testified that in 2004, his father-in-law, Mr. Stephen Gaojia, brought Mr. David Conneh and informed him that he was going to be taking care of the house in Caldwell since Mr. David Conneh had appealed that he did not have a place to stay and since the place was being used as a dump site. He also testified that Mr. David was instructed not to zinc the burned house but instead use tarpaulin. He further testified that Mr. David Conneh made some gardens on the land at a time, bringing some of the greens to them. After his father-in-law passed in 2012, they got information that someone was zinging the houses, so they went there and inquired, and out of anger, they damaged the zinc. He testified that David Conneh took them to the magisterial court the following day. At the magisterial court, they presented their deeds containing two lots with three buildings, one burned and two unfinished apartments. Because David Conneh could not produce a deed for the property, the judge threw out the case on the ground that they could not destroy their own property. Based on the judge's ruling, they filed an action of summary proceeding to recover possession of real property against David Conneh to get him out of the land. Still, David Conneh appeared and produced a deed for one lot of land. The court then refused to hear the case since both parties have titles; they then filed an action of ejectment in the civil law court pending determination. He testified that the ejectment action has to do with the one lot with the house without zinc, which he was permitted to occupy and for which he presented a purported deed during the hearing in the magisterial court and does not include the one lot with the two unfinished buildings that Mr. David Conneh sold and for which action the State indicted him.

The witness, still testifying, told the court that since the dispute surrounding the one lot in which David Conneh is residing, he (the witness) usually visits the other property with the unfinished buildings. On one such visit, he noticed that one side of the wall was broken down. He reported this to the police, who arrested and charged David Conneh, J. Boimah Sambola, and Foday Conneh for criminal mischief. and forwarded them to court. The witness testified that at the court, defendants Alpha Sow, Mohammed Bah, and Annie Kawi appeared and said they had purchased the property.

On cross-examination, the witness testified that during the criminal mischief action trial in the magisterial court, he learned that Foday and Boimah had sold the property under the instruction of David Conneh.

**The prosecution's second witness, J. Boimah Sambola.**

This witness testified that he knew David Conneh, who is his father-in-law and the father of co-defendant Foday Conneh. He testified that one evening, Mr. David Conneh came and said he had land for sale and that Boimah should help him find an interested buyer. He testified that he contacted his business friend, Daouda Fahnbulleh, in August 2019 and introduced him to David Conneh to buy the land. When Fahnbulleh asked to see the deed for the property in question, Mr. David could not provide the deed on the ground that the deed was in Sierra Leone and he would get it anytime soon. The witness testified that after some time, in November 2019, Mr. David Conneh again asked him to find another customer for the land; he then told Mr. Konneh that Mr. Fahnbulleh was still interested in buying the property, provided Mr. Konneh brought the deed for the property. The witness testified that Mr. David Conneh admitted to not having a deed for the land. The witness further testified that he informed Mr. Conneh that selling land without a deed was impossible. After some time, Mr. Conneh brought a surveyor and said that the guy was always fixing his deeds, and he had agreed to fix the deed for US\$600, so I should credit him the US\$200.00.

The witness, still on the direct, testified that he opposed the US\$200.00 because it was too much, and the surveyor justified that the amount would be used for the signing of the deed, probate of the deed, and the registrations. After that, he gave US\$80.00 to the surveyor as an initial payment; Mr. Conneh proceeded to his room upon the surveyor's request, brought out the first deed, and gave it to the surveyor. He promised the surveyor that after he prepared the deed and the property was sold, he would pay the surveyor's balance amount. After the surveyor returned with the deed, David Conneh informed Mr. Fahnbulleh that he now had the deed and was ready for the transaction. The witness testified that Foday Conneh and Annie Kawah brought other potential buyers, but none could buy the land.

Still on the direct, the witness testified that Mr. David Conneh left for Sierra Leone, leaving the deed with him; that in March 2020, Mr. Conneh called and told him that Foday and Annie Kawah knew some of his friends who were interested in buying the land. He photocopied the deed and gave copies to the pair. Two days thereafter, Alpha Sow came into the yard and said that David Conneh sent him to do business with us (J. Boimah Fambola, Foday Conneh, and other family members) for the property. Alpha Sow was given the deed to work with Foday Conneh to ascertain how Mr. David Conneh acquired the property. He testified that the two took the deed to the Land Commission Office, and the Commission could not honor their request for verification because their names did not appear on the deed. According to the witness, Mr. Conneh wrote an authorization bearing his thumbprint and photo; when they presented this instrument to the Commission, the Commission told Mr. Sow that the document was insufficient to authenticate the validity of the deed and that Mr. Sow may go to the community to inquire as to the genuineness of Mr. Conneh claim of ownership of the property and also to conduct a legal survey. He told the court that Annie Kawa and Foday Conneh ignored this advice from the commission, conducted an unannounced survey,

planted a cornerstone bearing the initial of Mr. Alpha Sow Principle, and issued a deed in favor of the said principal.

**The Prosecution's third and subpoenaed witness, Alpha Sow**

He testified to the authorization letter given to him by the individual who sold the subject property. He, however, did not mention the name of the individual.

The Prosecution rested with the production of both oral and documentary evidence and admitted into evidence the following pieces of instruments:

1. P/1 in bulk, representing the deed that was issued to Mr. Stephen Gaojia in 1981 and also the deed issued to the same Stephen Gaoji in 1974;
2. P/2 representing a deed from Stephen Gaojia to Famata Gaojia Somah;
3. P/3 Power of attorney issued to Mr. Somah by Famata
4. P/4 – representing the different photos that were taken on the property;
5. P/5 – representing police charge sheet
6. P/6 – representing David Conneh's authorization to Mr. Foday Conneh.

The appellants, in refuting the Prosecution's witnesses' testimonies and exonerating themselves, took the witness stand and produced three (3) witnesses: namely, Foday Conneh, Annie Kawah, and a subpoena, Ellen Hall-Kamara. Below are the witnesses' testimonies.

**Appellants' first witness, Foday Conneh**

This witness testified that his grandfather, Mustapha Conneh, is the original owner of the property in question and that the witness was born on the property and has lived there since 1987. He told the court that he and others left the property during the octopus war and that when they returned, they saw that the property had been burnt; that he bought some tarpaulin and placed it on top of the burnt structure to live, that it was in 2014 when the private prosecutrix confronted them and claim ownership of the property; that the matter was taken to the land commissioner which culminated into the conduct of a survey; that the prosecutrix did not follow up on the outcome of the survey but proceeded to court and instituted an action of ejectment in the civil law court, which action is still pending and yet to be determined; he told the court that he did not plant cornerstones on the disputed property in favor of Mr. Mohammed Bah.

On the cross-examination, he told the court that Mr. Mohamed Bah sued him and J. Boimah Sambulah for the amount of US\$14,500.00 based upon Mr. Sambula's representation to Mr. Bah that he and Mr. Sambulah sold the property to Mr. Bah. He denied ever selling land to or signing a title deed in favor of Mr. Mohammed Bah, as is evidenced by Mr. Mohammed Bah's alleged testimony before the Magisterial Court that he did know him. He further told the court that Mr. J. Boimah Sambulah admitted to selling the property to Mr. Mohammed Bah and using the proceeds to buy three (3) Keikeis. That Sambulah justified selling the property because the witness was afraid to sell the same. He told the hearing that Mr. Sambulah attempted to give him funds, said to be his share of the amount generated from the sale of the property; he rejected the said amount and took Mr. Sambulah to

the police to have Mr. Sambulah return the money he sold the property for to those to whom he sold the property.

**Appellants' second witness, Mohammed Bah.**

This witness testified that his representative, Alpha Sow, met with J. Boimah Sambulah concerning the purchase of the disputed land; that when they reached an understanding, they both went to the Commission's office to verify the documents presented by Sambulah; that based upon the advice of the land commission, Mr. Sow conducted appropriate search on the title and thereafter paid to Mr. Sambulah the amount of US\$14,500.00 as the agreed price for the land anticipating a title deed duly probated and registered in favor of his principle, the witness; that upon his return to Liberia, he visited the site of the property and learned that Mr. Foday Conneh, was claiming that he did not authorize Mr. Sambulah to dispose of the land and therefore he took Mr. Sambulah to the police station; that it was at this point that he was introduced to Foday Conneh as the son of David Conneh; that considering the confusion between Foday Conneh and Sambulah, he demanded that Sambulah return his money; that he later learnt that Mr. Somah had taken Mr. Sambulah to the central prison; and that he later sued Mr. Sambulah for the return of his money.

On cross-examination, he told the court that the land commission refused to engage in the matter pertaining to the sale of the land because Mr. Foday Conneh was a juvenile. He reiterated to the court that he did not directly participate in the land transactions and was represented by Mr. Sow, who is uneducated. He confirmed that no survey had been conducted and no cornerstone planted on the disputed property.

**Appellants' third witness, Annie Kawah Dennis**

She testified that she was never present at the land Commissioner's office and did not carry a buyer for the disputed property. On cross-examination, she testified that her brother Mustapha Conneh owned the disputed property and that she knew nothing about the selling of the disputed land. She testified that she got arrested when she got to the court, having been informed by her nephew Foday Conneh that Peter Somah sued him and that she got to know Mr. Bah when he was arrested and brought to the court.

**Appellants' subpoena witness Ellen Hall Kamara**

This witness testified that a writ of summons was issued in the case of Mrs. Famata Geojia Somah, Plaintiff, versus the Intestate Estate of the late Mustapha Conneh, represented by its Administrators, Mr. David Conneh and all those under his control of Caldwell, Montserrado County, Republic of Liberia, as defendants in an action of ejectment. The writ of summons was issued out of the Civil Law Court "A" on the 10<sup>th</sup> day of May, A.D. 2016.

The defendants rested with the production of both oral and documentary evidence and presented to be admitted into evidence the following instruments:

1. Land Commission Investigative Survey Report marked as D/1
2. A warranty deed from Ruth S. Perry to Mustapha Conneh and extended letters of administration marked in bulk as D/2;
3. Power of Attorney marked as D/3
4. The case before the Civil Law Court; marked in bulk as D/4

Succinctly put, the prosecution's evidence tends to establish that the private prosecutrix's father owned, by title, three lots of land situated, lying, and being in the township of Caldwell and that the late father of the private prosecutrix constructed on one lot thereof a dwelling house and on another lot two unfinished building; that due to Liberian Civil War, the family of the private prosecutrix abandoned the said property to seek refugee elsewhere. Subsequently, when the war subsided, the family returned and saw that the dwelling house had been vandalized and the roof thereupon removed; that upon request by the co-defendant, David Conneh, for permission to squat in the unroofed premises, the private prosecutrix's late father, permitted him with the proviso that he should not zinc the property but rather covered it with the tarpaulin; that upon the death of the private prosecutor's father, the private prosecutrix requested co-defendant David Conneh to return the said property but that Co-defendant David Conneh refused to do so; that the private prosecutrix instituted an action of summary ejectment against the co-defendant David Conneh in the magisterial court and the co-defendant produced a deed for one lot thereby bringing title in issue and leading to the magisterial court dismissing that action; that subsequently, the private prosecutrix proceeded to institute an action of ejectment against Co-defendant David Conneh in the Civil Law Court in which the said co-defendant pleaded the one lot deed in his defense. Later, when the private prosecutrix attempted to exercise authority and control over the two unfinished buildings on the other lot, the private prosecutrix realized that the appellants had disposed of that property; hence, the criminal conveyance action.

In this jurisdiction, all material facts essential to constitute the crime must be proved beyond reasonable doubt; otherwise, the accused will be entitled to a discharge. *Davis v R.L.* 40 LLR 659 675-676 (2001). To hold a person guilty for the commission of the crime of criminal conveyance, the State has the burden to prove that the Property, the subject of the dispute, has been conveyed by the defendant to another through sale, gift, mortgage, or lease, that the defendant has no title by purchase, gift or inheritance evidenced by a deed, traceable to the Republic of Liberia, from the lawful owner or by any other lawful means and that he know or has reason to know that the property

is not his. It is the law that a defendant charged with committing a criminal offense is presumed innocent until the contrary is proven. He is entitled to an acquittal in case of a reasonable doubt, whether his guilt is satisfactorily shown. *Criminal Procedure Law, Rev. Code. 2:2.1*. This Court has also held that "[i]n order to convict a person in a criminal case, the Prosecution must prove the guilt of the accused with such legal certainty as to exclude every reasonable hypothesis of his innocence; and all material facts essential to constitute the crime must be proved beyond a reasonable doubt; otherwise, the accused will be entitled to a discharge. *Davis v R.L. 40 LLR 659 675-676 (2001)*

Regarding co-defendant Annie Kawah, the State's evidence failed to show her direct involvement other than the testimony of Boimah J. Sambolah implicating Annie Kawiah. According to witness Sambolah, the co-appellant fully participated in all of the transactions to the disposition of the property without giving specific actions that she took in the process. Testifying on her own behalf, co-appellant Kawiah told the court that, indeed, she is aware that her brother, the late Mustapha Konneh, owned a property in the disputed area and that her only involvement with matters involving the said property is when co-appellant Foday Conneh called her that he had been taken to court on the land issue. No other witness corroborated the testimony of J. Boimah Sambolah. Alpha Sow, who was referenced by all the witnesses as the middle man representing Mr. Mohammed Bah, did not testify to the involvement of co-appellant Annie Kawah. In determining whether a defendant should be acquitted after the close of evidence, a trial judge must consider the crime with which the defendant is charged and the evidence adduced at the trial by the Prosecution to sustain the charges. The material facts that constitute the offense charged must be proved beyond a rational doubt, or the accused is entitled to a discharge. *Johnson v R.L. 31 LLR 280 284 (1983)*. To convict co-appellant Annie Kawah on the lone testimony of Boimah J. Sambolah, which Annie Kawah rebutted, will be an abuse of justice.

It is worth stating that Co-appellant Mohammed Bah is an innocent purchaser. Mohammed Bah, as the records show, did not partake directly in purchasing the disputed property because he was out of the bailiwick of

Liberia. Mr. Bah had no reason to know that the co-appellants Foday Conneh and co-defendant David Conneh did not have title to the disputed property. Mohammed Bah absence from the bailiwick of the republic and lack of direct involvement in the transactions, place him in the position of a good faith purchaser; therefore, he cannot be held for criminal conveyance. *Section 2 of the Penal Law Caption "Affirmative Defense"* provides in part that "...It shall be an affirmative defense, however, that the purchaser did not know or could not have known or had no reason to know, that the seller of the land conveyed did not have a title and that the land was purchased in good faith based on representation made by the seller...."

Regarding co-appellant Foday Conneh, the evidence shows that he actively participated in the negotiation and sale of the disputed property and that he financially benefited therefrom. In his testimony during the trial, co-appellant Foday Conneh denied ever selling land to or signing a title deed in favor of Mr. Mohammed Bah. He denied knowing Mr. Mohammed Bah and said that Mr. J. Boimah Sambolah had admitted to selling the property to Mr. Mohammed Bah and using the proceeds to buy three Keikeis. Contrary to this testimony, co-appellant Foday Conneh, in a statement made before the police, wrote the following:

"My father has a land in Coffee Farm and said that he wanted to sell it since the month of October, 2019. He told one of his friends named Alhaji that he wanted to sell the land. He told Alhaji to look for a customer for him. While the man was searching for a customer, my father got sick and decided to go to Sierra Leone. My father called Alhaji and said that whenever Alhaji got a customer for the land, he should send for us to come. When Alhaji came with the customer, we requested US\$200.00 for our father to come. Our father said he could not come due to a lack in Sierra Leone. My father later wrote a letter authorizing us to sell the land, and we took the letter to the Commissioner's office; the Commissioner said that they could not honor the letter because my father's photo was not on it. The Commissioner's office said that the only way they would hold it was when my father's photo was on it. My father wrote a letter and signed it. It was done, and we took it to the Commissioner's office, and they gave us a permit. My father said when the survey is done, I should sign the deed. Alpha paid the money on behalf of Bah, and Boimah J. Sambula received it in the amount of US\$14,500. After we sold the land, we allowed the people to plant cornerstone on it. After a few days, Peter Somah took out the cornerstones and said that the place was for him. I took his complaint to the police station. The police referred us to the Township Commissioner Officer. When the Township Office investigated the matter, they asked us to pay US\$20.00 each to go through the matter. To my utmost surprise, they brought my complaint back to the police station".



This statement of co-appellant Foday Conneh made before the Police demonstrates his involvement in criminally attempting to convey the private prosecutrix's property for which he received money. His subsequent denial of his testimony before the trial court cannot be considered by this Court in the face of his voluntary confession contained in the statement made at the police station.

Relative to Co-appellant Alpha Sow, he testified substantially that he initially negotiated for the property with David Conneh and subsequently with Foday Conneh, J. Boimah Sambolah; his testimony tends to establish that when he was ready to purchase the property, he went along with co-appellant Foday Conneh and others to the land commissioner, who after inspecting the deed advised him that none of the parties present at the time could convey the property to his principal in the absence of David Conneh or authorization from David Conneh. Subsequently, thereafter, David Conneh issued a letter of authorization, and again, when this letter was presented to the land commissioner, the commissioner again advised that due delinquent should be exercised to determine whether there were adverse claims to the property. From all indications, this advice by the land commissioner was not followed when he purchased the property.

Can it be said then that Alpha Sow is culpable and answerable for criminal conveyance of land as defined by our Penal Code? The relevant provision of the Penal Code with respect to the culpability of a purchaser of real property reads as follows: "A person is guilty of a third-degree felony if he knowingly purchases a parcel of land which he knows or has reason to know does not belong to the seller or is being criminally conveyed." Section 15.23.2(b) of the Criminal Conveyance Law of 2014.

The evidence in this matter shows that co-appellant Alpha Sow was given ample notice regarding the diligence he needed to exercise when purchasing real property. According to his testimony, the Land Commissioner advised him to ensure that a proper survey was conducted to determine adverse claims to the property. Rather than heeding this caution, co-appellant Alpha Sow connived with Co-appellant Foday Conneh, the surveyor, and others to clandestinely prepare a table deed for the property, thereby criminally

conveying the said property to co-appellant Alpha Sow's principal, Co-appellant Mohammed Bah. This makes co-appellant Alpha Sow a conspirator in the scheme to criminally convey title to a property under the relevant provision of the Penal Code cited herein above. Consequently, Co-appellant Alpha Sow is culpable in criminal conspiracy to convey land, a third degree felony, now a first degree misdemeanor.

Considering all of the evidence discussed above and the law relied upon, and in determining the second issue identified for discussion herein, it is our considered opinion that the State proved beyond a reasonable doubt that co-appellants Foday Conneh committed the crime of criminal conveyance, a felony of the second degree and Alpha Sow committed the crimes of criminal conspiracy a misdemeanor of the first degree and that the State failed to show any culpable action on the part of co-appellants Annie Kawah and Mohammed Bah in the commission of the crimes of criminal conveyance. Reviewing the sentence of three (3) years imposed by the trial judge on co-appellant Foday Conneh, we take recourse to the relevant statutory provision of the Penal Code Section 15.23.3(a) of An Act to amend Chapter 15 Subchapter B of the Penal Law that provides a maximum sentence of five (5) years for the commission of a second-degree felony. Considering the notoriety in which the appellants proceeded in this matter and the need to curb the incident of criminal conveyance of land, the sentence of three (3) years imposed by the trial judge is hereby modified to five (5) years. Section 15.23.3(c) of An Act to amend Chapter 15 Subchapter B of the Penal Law also provides a maximum sentence of three (3) years for the commission of a third-degree felony, which is now under the amendment of the Penal Code as the first-degree misdemeanor. For the same reason stated hereinabove, the maximum sentence of three (3) years imposed by the trial court against Co-appellant Alpha Sow need not be disturbed.

Wherefore and in view of the foregoing, the final ruling of the trial judge affirming the unanimous verdict of the trial jury is affirmed in part; that is, that co-appellant Foday Conneh is guilty of the commission of criminal conveyance of land, a second-degree felony; and co-appellant Alpha Sow is adjudge guilty of criminal conspiracy, a first degree misdemeanors. Co-appellants Annie Kawah and Mohammed Bah are adjudge NOT guilty. The

Clerk of this Court is hereby ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction and give effect to the judgment of this Opinion. IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELOR TOMMY N. DOUGBAH APPEARED FOR THE APPELLANTS. COUNSELORS ALHAJI SWALIHO A. SESAY AND BOBBY LIVINGSTON APPEARED FOR THE APPELLEE.