

IN 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: CEATNEH D. CLINTON-JOHNSON..... ASSOCIATE JUSTICE

---

Jane Hodge Davis, by and thru her Attorneys- In-Fact, Edith T. Hodge and Leila T. Hodge of Duport Road, City of Paynesville, Liberia .....Appellant	)	
	)	
Versus	)	Appeal
	)	
Mrs. Maria D. Johnson Yangbe, by and thru her husband, M. Kron Yangbe of the City of Monrovia, Liberia .....Appellee	)	

GROWING OUT OF THE CASE:

Mrs. Maria D. Johnson Yangbe, by and thru her husband, M. Kron Yangbe of the City of Monrovia, Liberia .....Plaintiff	)	
	)	
Versus	)	Action of Ejectment
	)	
Gertrude Hodge of Duport Road, City of Paynesville, Liberia .....Defendant)	)	

Heard: June 24, 2024

Decided: February 18, 2025

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

This appeal grew out of an action of ejectment instituted by the appellee herein, Maria D. Johnson Yangbe, through her husband, M. Kron Yangbe, filed on January 30, 2014, before the Sixth Judicial Circuit, Civil Law Court for Montserrado County against the appellant, Gertrude Hodge. The appellee’s five-count ejectment action alleged substantially that the appellant had encroached upon her one acre of land lying and situated on Duport Road, Paynesville City, Montserrado County, Liberia, which the appellee had purchased from the Republic of Liberia in 1964 before traveling to the United States of America. Appellee further averred that upon her return to Liberia, between the intervening time of December 13, 2013, and January 4, 2014, she commissioned a survey of her said parcel of land through the services of Mr. George G. Kaibiar, a registered land surveyor, the outcome of which show that the appellant had constructed a house on the appellee’s land; that

because the appellant failed and neglected to respond to all of the invitations intended to resolve the dispute absent court's intervention, she filed an action of ejectment against the appellant for the wrongful and illegal withholding of her property, demanding judgment against the appellant, and awarding the appellee her property, with costs against the appellant. The appellee attached to her complaint a copy of a Public Land Sale Deed signed by the late President William V. S. Tubman, a copy of the re-survey notice, and copies of the two communications addressed to the appellant seeking a peaceful resolution of the dispute.

On February 7, 2014, the appellant filed an answer, challenging the appellee's claim of ownership of the disputed property and exerting her claim thereto by a title deed in the name of Jane Hodge Davis after an honorable purchase from Marian Glenn in 2001; appellant further averred that she has not encroached on any property allegedly owned by the appellee; that appellant was never a party to a survey, if any, as being alleged by the appellee; and that the title deed the appellee attached to her complaint shows no adjoining party as to the metes and bounds, making it challenging to examine the appellee's title; hence, appellant prayed the trial court to deny and dismiss the appellee's complaint. The appellant attached to her answer a copy of an Administrator Deed issued to Jane Hodge Davis by Marian Glenn, administrator for the Intestate of Thomas MacDeshield.

The records show that on February 17, 2014, the appellee, communicated the below letter captioned "Notice of withdrawal" to the court:

"... Notice of withdrawal

Upon receipt of this Notice of Withdrawal, please spread on the record of the Civil Law Court, Sixth Judicial Circuit, Montserrado County, that the plaintiff has withdrawn her complaint this 17th day of February 2024 and has filed an amended complaint."

Subsequently, on February 24, 2014, the appellee filed an amended complaint, but captioned it as an action of Summary Proceedings to Recover Possession of Real Property and not an action of ejectment as previously indicated in the writ of summons, the written direction and the caption of the original complaint. The averments in the amended complaint were the same

as the averments in the original complaint, except that the appellee included in the amended complaint a provision giving notice to the court that during the trial, she would produce a copy of the report from the survey she had previously ordered before the commencement of the action.

On March 20, 2014, the appellant filed an amended answer along with a motion to strike the appellee's amended complaint. In her amended answer, the appellant maintained her contentions as stated in her original answer to the ejectment action. In the motion to strike, the appellant averred that the appellee filed the amended complaint outside of the statutory period provided by law in that, after the appellant filed and served her answer to the appellee's complaint on February 7, 2014, the appellee failed to file its reply within the statutory provided time of ten days but yet proceeded to file an amended complaint on February 24, 2014, fourteen days after the appellant had filed her answer. The appellant, therefore, prayed that the appellee's amended complaint be stricken from the records of the proceedings.

On April 24, 2014, some thirty (35) five days after the appellant filed its amended answer, the appellee filed a reply to the said amended answer and a resistance to the appellant's motion to strike. In her resistance to the motion to strike, the appellee brings to the court's attention that it had withdrawn the original action of ejectment and substituted it with a new action of Summary Proceedings to Recover Possession of Real Property; that, by operation of law, the withdrawal and substitution of the original action terminated the action of ejectment. Hence, the appellant had the legal duty to file her responsive pleading to the new action within the time allowed by law.

The records show that without disposing of the motion to strike and its resistance, the trial judge proceeded to assign the disposition of law issues on the withdrawn ejectment action for hearing and, after hearing the same on default, ruled the ejectment action to trial. This procedure adopted by the trial judge is a total departure from this jurisdiction's practice and statute laws. It is the law that pretrial motions be disposed of before the hearing of law issues. *Conneh et al v LPRC* 40 LLR 728, 735 (2001). But in the instant case, rather than dispose of the pretrial motion to strike, interposed by the appellee, the trial judge proceeded to assign the ejectment action for

disposition of law issues, ignoring the letters of withdrawal and the new action instituted by the appellee as a consequence of that withdrawal. This is undoubtedly irregular and unprecedented.

We further observed that on July 11, 2018, the appellee filed a motion for investigative survey. On the same July 11, 2018, the trial judge ordered the clerk to send a communication to the Land Authority to submit the name of a licensed surveyor to survey without the hearing and determination on the motion and without allowing the appellant to file a resistance to motion as required by law. The survey was accordingly conducted. The surveyor stated that the appellant did not submit a deed during the conduct of the survey to substantiate the appellant's claim. This suggests that the surveyors only used the appellee's title even though the court records contained the appellant's title, which is annexed to her complaint and should have been considered during the survey. The surveyor further finds that the appellant encroached on the appellee's property. We wonder how the surveyor concluded that the appellant had encroached on the appellee's property when, in fact, the appellant's title deed, which is apparent in the case records, was never used. It is further observed that a pre-trial conference was had to narrow down the issues to be considered during the trial of this matter. At the pretrial conference hearing, the appellee moved the court to deny the marking of the appellant's title deed because the appellants could not locate the original and had not told the court that it had lost. The trial judge granted the appellee's request and denied marking the appellant's title.

The trial commenced on the 28<sup>th</sup> of December, 2020; on January 5, 2021, Jane Hodge Davis, by and through her Attorneys-In-Fact, Edith Hodge, and Leila Hodge, filed a motion to intervene. The intervenor averred that she is the owner of the property, subject of the proceedings, and that she placed her sister, Gertrude Hodge, the appellant, on the said property as a caretaker. She averred that she acquired the subject property through a purchase from Mariam Gleen, built thereon, and placed her sister, Gertrude Hodge, therein as a caretaker. She further averred that she has not encroached on any land owned by another person. She prayed that the trial court would grant her motion, making her a party defendant. The records show that the trial court did not hear the motion to intervene and, as such,

did not make a determination by allowing the intervenor to intervene so as to protect her property interest consistent with the Civil Procedure Law Rev. Code 1:5.61.

The court opted to proceed with the trial. After the parties rested with the production of evidence and arguments, the judge charged the jury and retried them in their room of deliberation. The jury returned a unanimous liable verdict against the appellant. The counsel for the appellant entered exceptions to the verdict and filed a motion for a new trial. The records revealed that the motion was heard, but the record is void of any decision rendered on the motion. The trial court entered the final ruling, confirmed the jury's liable verdict, and ordered the appellant evicted from the property the subject of the dispute.

Not satisfied with the trial court's final ruling, the counsel for the appellant noted exceptions and announced an appeal to the Supreme Court of Liberia. The appellant filed a five-count bill of exceptions. After a thorough examination of the records, including the evidence adduced by the parties and the trial Judge's determination, the issue dispositive of this matter is whether the trial judge properly heard and determined this matter.

To determine this issue, we will have to determine whether the trial judge's failure to hear and dispose of the motion to strike and the motion to intervene and proceeding to hear the motion for an investigative survey without resistance from the appellant and a hearing was proper.

As stated above, a court must dispose of all pretrial applications before proceeding to hear and determine the merit of a case. Pre-trial motions must first be disposed of before a court touches the merits of the suit, out of which such motions grow. *Conneh et al v LPRC* 40 LLR 728, 735 (2001). An action has three (3) stages: the pre-trial, trial, and post-trial; the pre-trial stage includes the commencement of the action and determination of pre-trial motions, which include summary judgment, motion to dismiss, motion to strike, disposition of law issues, etc. *Jawhary v Watts et al.* 42 LLR 474, 498 (2005). In the instant case, the appellant filed a motion to strike an amended answer filed by the appellee raising the following procedural questions: the caption of amended action and the filling of the amended complaint outside

of the statutory time. Our law makes filing a pleading within the time provided for by statute a mandatory requirement. In the face of the appellant's challenge to the appellee's amended complaint, the court proceeding to hear the case's merit without disposing of this application is an egregious error that this Court should not ignore. Besides, in the face of the averments in the amended answer that the appellant is not the owner of the property and is only a caretaker, and when the actual owner appeared and filed a motion to intervene, the trial judge ignored and failed to hear the motion to intervene and proceeded to listen to the merit of the case. This again constitutes an egregious error that this court cannot and ought not to ignore. Finally, the investigative survey did not consider the title deed of the appellant, although the said title deed was pleaded and a copy annexed to the answer. The reason given by the investigative surveyor is that he did not have a copy of the appellant's title deed. We find this assertion by the surveyor incomprehensible considering that a copy of the appellant pleaded and annexed her title deed. Ordinarily, when the court ordered an investigative survey, one of the instructions to the panel is that they limit their reference instruments to those instruments that the parties plead; in the instant case, the records show that the appellant not only pleaded a title but annexed a copy of that title to her pleadings. We are, therefore, at a loss as to how the investigative surveyor can justify his conduct of the survey without using the appellant's title deed.

This Court has held that the interest necessary to support intervention is generally an interest in the subject matter of the original litigation. It is an interest that must be direct and not consequential, and it must be an interest that is proper to be determined in the action in which it is sought *Abi-Jaoudi et al. v Monrovia Tobacco Corp.* 36 LLR 156, 163 (1989). In the instant case, the party seeking intervention is the party that places the appellant on the subject property for which the appellee instituted her initial action of ejectment. Not entertaining the motion to intervene was an error by the trial judge, especially when the title annexed to the appellant's answer is in the name of the movant/intervener. Besides, the trial judge wanted the original copy of the deed annexed to the appellant's complaint, and the movant/intervener being the holder of said title in fee simple, the trial judge would have allowed the intervention. *Tulay v Hall et al.* 39 LLR 559, 566

(1999) A person who has a genuine interest in the subject matter of an action, whose interest could not be adequately represented by the parties to the action, and who could be adversely affected by a judgment in the action or by the disposition of property in the court's custody, has a right to intervene.

For these and many other reasons not necessarily referred to herein, we are convinced that the trial in this matter was irregular and without the pale of the law.

This Court favors the speedy determination of cases before the lower court; however, it frowns on any method that ignores the parties' rights. In *Wuo v Wardsworth et al.* 30 LLR 106, 110 (1982), this Court held that speedy trial, as required by law, means responsible and cautious speed, avoiding deprivation of all protected rights. A speedy trial, when pursued in violation of any party's rights, damages a fair and just trial as an unusual delay suppresses a party's rights and grievance. Both actions are provocative and incoherent with the concept of justice. With the enumerated irregularities above, confirming the ruling entered by the trial judge will be an injustice.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the trial judge is reversed and the entire action ordered abated. The parties are at liberty to file the appropriate action to defend their property rights. The Clerk of this Court is hereby ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and give effect to the Judgment of this Opinion. AND IT IS HEREBY SO ORDERED. Cost disallowed.

When this case was called for hearing, Counsellor Thompson Jargbah appeared for the appellant. Counsellor Felicia V. Coleman appeared for the appellee.