

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 H I S HONOR : YUSSIF D. KABA ASSOCIATE JUSTICE
BEFORE H I S HONOR : YAMIE QUIQUI GBEISAY, SR..... ASSOCIATE JUSTICE
BEFORE HER HONOR : CEANEH D. CLINTON-JOHNSON..... ASSOCIATE JUSTICE

Mr. Samuel Kogar of the City of Monrovia, Liberia)
.....Appellant)
Versus) APPEAL
Mrs. Ramatta Yoda Kogar, also of the City of)
Monrovia, Liberia.....Appellee)
GROWING OUT OF THE CASE:)
Mrs. Ramatta Yoda Kogar, also of the City of)
Monrovia, Liberia.....Petitioner)
Versus)
His Honor Yamie Quiqui Gbeisay, Assigned Circuit)
Judge, Civil Law Court, Sixth Judicial Circuit Court,) PETITION FOR THE WRIT
Montserrado County.....1st Respondent) OF CERTIORARI
And)
Representative Samuel G. Kogar of the City of)
Monrovia, Liberia.....2nd Respondent)

HEARD: OCTOBER 29, 2024 DECIDED: February 18, 2025

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

This is an appeal from the ruling of the then Chambers Justice, Her Honor Madam Justice Yuoh. The records of this case show that appellant/plaintiff, Samuel Kogar filed in the Civil Law Court for Montserrado County, a six count complaint in an action of divorce for incompatibility of temper against his wife, Ramatta Yoda Korgar, appellee/defendant, alleging abandonment, etc. by his wife on January 26, 2018. The appellee/defendant, in response to the complaint, filed an eight count Answer to appellant/plaintiff's complaint on February 2, 2018, along with a motion for alimony *pendente lite*, alleging that appellant/plaintiff's and appellee/defendant are still married and will remain married until death do them part, in keeping with their marital vow made before God and man, thereby denying appellant/plaintiff's assertions as contained in his complaint. The records also show that the appellee/defendant, in her motion for *alimony pendente lite* requested for the amount of US\$15,000.00 (fifteen thousand United States dollars). In resistance, the appellant/plaintiff filed his answer to the motion for *alimony pendente lite*. The appellant/plaintiff answered

substantially in his resistance to the motion that he had been abandoned by the appellee/defendant and prayed for dismissal of movant's motion for *alimony pendente lite*; appellant also contended that he earned a net monthly salary of Six Thousand Five Hundred Thirty-Six (US\$6,536.00) plus Two Hundred Five Thousand Nine Hundred Ninety-Four Liberian Dollars Sixty-three Cent L\$205,994.63 a net monthly deduction of Three Thousand One Hundred Twenty-Five United States Dollars (US\$3,125.00) with a 12% interest annually due to loan acquired by respondent before the institution of the divorce proceeding; appellant/Plaintiff also alleged that as a representative of BUU-Yao Electoral District #5, Nimba County, he usually deducts the amount of One Hundred Thirty-Two Thousand Liberian Dollars (L\$132,000.00) for his local staff, in addition to school fees and other monthly expenses; appellant/plaintiff further contended that he extends at his Morris' Farm home containing 16 dependents including seven children with a monthly feeding amount of Sixty Thousand Liberian Dollars (L\$60,000.00) and Forty-Five Thousand Liberian Dollars (L\$45,000.00) as transportation allowance to and fro from school totalling One Hundred Five Thousand Liberian Dollars (L\$105,000.00); and appellant/plaintiff also alleged that appellee/defendant is gainfully employed.

Alimony pendente lite is a court-order allowance that one spouse pays to the other spouse for maintenance and support while they are separated, while they are involved in a matrimonial lawsuit, or after they are divorced. Alimony, which signifies literally nourishment or sustenance, means, in a general sense, the allowance required by law to be made to a spouse from the other spouse's estate for support or maintenance, either during a matrimonial suit or at its termination, where the fact of marriage is established and the right to a separate maintenance is proved. *Black's Law Dictionary, 9th Edition, page 85*. In the case, *Anderson v Anderson 9 LLR 301, 308 (1947)*, the Court opined that, 'Alimony' . . . is the allowance required by law to be made to a wife out of her husband's estate for her support or maintenance, either during a matrimonial suit or at its termination, where the fact of marriage is established and she proves herself entitled to a separate maintenance. . . ." 27A C.J.S. Divorce § 202, at 868.

Section 9.3 of the Domestic Relations Law, provides that "In any action brought during the lifetime of both parties to the marriage to declare the nullity of a void marriage, or to annul a voidable marriage, or for a divorce, the court may direct the husband pendente lite to provide suitably for the support of the wife as, in the court's discretion, justice requires..., upon the application of either the husband or the wife, upon such notice to the other party and given in such manner as the court shall direct, the court may annul or modify any such direction as justice requires."

The trial judge, in the exercise of his discretion, as laid down by statute in our jurisdiction, made a determination, on the motion for *alimony pendente lite*, that the appellant/plaintiff pay to the appellee/defendant the sum of One Thousand United States Dollars (US\$1,000.00) on June 22, 2018.

However, on the 17th of July, 2018, appellant/plaintiff filed a six count bill of information before the trial judge, contending that appellee/defendant has taken from their home household materials; dismantled lights from the living room; dismantled bedroom set which appellant/plaintiff spent over US\$25,000 to purchase and took them out of their marital home and compound without appellant's consent or court's order. On July 25, 2018, appellant/plaintiff filed another bill of information, alleging that appellee/defendant's attitudes of taking appellant/Plaintiff bed and other belongings from the home and couple with the trial court's interlocutory ruling of US\$1,000.00 alimony pendent lite per month, appellee/defendant has caused the appellant/plaintiff undue hardship and inconvenience.

The appellee/defendant filed returns to the bill of information on August 1, 2018, and alleged that appellant/plaintiff had abandoned his marital abode close to a year and now lives with his mistress; appellee/defendant also alleged that she had to hurriedly escape from their marital residence on July 8, 2018, when the appellant/plaintiff attempted to forcibly enter the house, threatening violence against her; additionally, appellee/defendant further contended that she only removed her personal effects from their home and furthermore, appellee/defendant alleged that the bed set appellant/plaintiff purchased valued US\$2,500.00 was purchased for the appellee/defendant as a gift from the appellant/plaintiff. The appellee/defendant denied locking their marital abode and requested that appellant/plaintiff increased her alimony to US\$2,500 since appellee/defendant no longer lives in said residence due to reasons of threats from appellant/plaintiff.

Upon having a conference on the bills of information, the trial judge ordered the sheriff to conduct an inventory and report his finding. However, after the sheriff's inventory report, the trial court, in its ruling on the bill of information on August 17, 2018, reduced/modified appellee/defendant's alimony pendente lite from One Thousand to Two Hundred United States Dollars (US\$1,000.00 to US\$200.00). To which ruling, the appellee/defendant noted exceptions and notified the court that she would take advantage of the statute.

Subsequently thereafter, the appellee/defendant filed a petition for the writ of certiorari for the Chambers Justice. In the petition for writ of certiorari, appellee/defendant challenged the trial court's determination, averring that the said ruling was erroneous because the wife's support is paramount to all obligations of a husband. The appellee/defendant also averred that it was

in the midst of the repeated delinquencies by appellant/plaintiff to pay alimony to appellee/defendant that appellant/plaintiff filed a bill of information alleging that appellee/defendant took away household materials from the house, removed and dismantled lights from the living room, dismantled bedroom set, etc.

The appellant/plaintiff filed a return to the writ of certiorari, contending that it was within the discretion of the trial judge to have reduced appellee/defendant's alimony; the appellant/plaintiff also challenged the issuance of the writ of certiorari because appellee/defendant has not paid accrued cost; further contending that the Counsellor's Certificate to the petition for certiorari signed by Counsellor Ambrose Tarplah was defective because he was not in good standing with the Liberian National Bar Association due to his failure to pay annual bar dues in 2018.

This Court has held in cases, *Dean v Dean* 7 LLR 47, 49 (1939), "temporary alimony or alimony pendente lite, sometimes designated ad interim alimony, is an allowance made by the court to be paid by the husband for the maintenance of the wife during the pendency of the matrimonial action either by or against her..." *Vincent-Harding v Harding* 31 LLR 200 (1983) the financial capacities of the parties will not necessarily relieve the husband of his legal obligations to support his wife since a plea of poverty is to no avail to relieve him of such obligation. An award of alimony shall be limited to not more than one-third of the husband's income and that where alimony pendente lite is prayed for, the court may direct the husband to provide suitably for the support of the wife as in the court's discretion and as justice requires, having regard to the circumstances of the case and of the respective parties. All of this was considered by the trial court, in its discretion in the determination of the alimony pendente lite; it would seem that the parties were satisfied by the trial court ruling of alimony pendente lite of US\$1000.00 (One Thousand United States dollars. However, contentions grew when the bill of information requested the trial court to reduce same.

The Chambers Justice, after hearing argument pro et con, reversed the trial judge's ruling on the bill of information which reduced appellee/defendant's alimony from US\$1,000 to US\$200, on ground that the trial judge should have appointed a referee to take evidence, make findings, so as to determine specific issues pursuant to *Civil Procedure Law, Rev. Code:24.1*. To this ruling of the Chambers Justice, appellant/plaintiff noted exceptions and announced an appeal to the full bench of the Honourable Supreme Court of Liberia.

Since it is a settled principle of law in this jurisdiction, that this Court is not compelled to address all the issues raised in the parties' pleadings *Kollie Buway v. Republic of Liberia, Supreme Court Opinion, March Term A.D. 2023, Oliver Newton v. Augusta D. Kromah,*

Supreme Court, October Term A. D. 2022, Ministry of Foreign Affairs v. Sartee et al, 41 LLR 285, 290 (2002)}, in the mind of this Court, the main issue of contention in this appeal is the deduction of the *alimony pendente lite* from US\$1,000.00 to US\$200.00 by the trial judge; and that the germane issue determinative of this matter is whether or not the ruling of the Chambers Justice reversing the trial judge's ruling is within the pale of the law.

We take recourse to the facts and circumstances that led to the trial judge's ruling on the bill of information filed by the appellant/plaintiff on allegation that his wife removed belongings from their abode and bed worth US\$25,000. The record shows that the trial court in the determination of the information, ordered the sheriff to go to the home of the parties and to report his/her findings to the court. From the sheriff's report, the trial judge made a determination to reduce the alimony from US\$1000.00 to US\$200.00. The appellee/defendant contends that there was no hearing conducted to determine by evidence the allegations raised by the parties. There is no showing before this Court that the sheriff knew what was in the home of the parties to have known what was not there, when he did his returns. Further, from the records before this Court, there is no evidence that the trial court had proceeded to make a determination based on a hearing; its ruling was based on the sheriff's report, thereby not giving the parties the opportunity to be heard concerning the allegations couched in the bill of information and the returns thereto. This Court is of the opinion that it was proper for both parties to have been heard; that the taking of evidence was essential to better inform the trial court on what was the appropriate alimony, if any justification and or need to reduce or augment the said alimony. In *Brown v. Kollie, et al., Supreme Court Opinion, March Term, A.D. 2014*, this Court has opined that in order to substantiate a claim seeking to set aside alimony, the trial court should take evidence. This Court says that, in the absence of a hearing by the trial court to take evidence, so as to pass on the allegations by the parties, the trial court's ruling which reduced appellee/defendant's alimony from US\$1,000 (One Thousand United States Dollars) to US\$200 (Two Hundred United States Dollars) was not in consonance with law.

This Court holds that the Chambers Justice acted within the pale of the law by reversing the decision of the trial judge when the trial judge acted without the law in reducing the appellee's *alimony pendente lite* without a hearing. We agree with the Chambers Justice's ruling that even though the law requires the trial court's discretion in the determination of *alimony pendente lite*, the interest of justice and in accordance with law, the trial judge should have appointed referee to take evidence, make findings, so as to determine specific issues in the bill of information and the returns thereto, pursuant to *Civil Procedure Law, Rev. Code:24.1*. Further, it is our opinion that because the alimony was reduced, and the appellee/defendant

raised issues and or justification as to why the alimony, in fact, should be increased because the amount of US\$1000.00 was granted due to the fact that she lived at their home and since she no longer lived at home, should be considered as issues of fact that the trial court, if evidence has been taken, could have determined.

Certiorari is a special proceeding to review and correct decisions of officials, boards, or agencies acting in the judicial capacity or to review an intermediate order or interlocutory judgment of a court, Civil Procedure Law, Rev. Code:16.21. The petition for the writ of certiorari prayed for by appellee is intended to correct the trial judge's decision when it rescinded its previous ruling without conducting an investigation by considering the contentions of appellee/defendant in support of said decision rendered in the bill of information. Hence, the writ of certiorari is proper. The appellee/defendant is entitled to the retroactive payment of alimony of US\$1000.00.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the Chambers Justice is hereby affirmed. The alternative writ issued is sustained and the peremptory writ upheld. The appellant is ordered to pay the original alimony of US \$1,000.00 retroactive as of the date of the last payment. The Clerk of this Court is hereby ordered to send a Mandate to the trial court commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. AND IT IS HEREBY SO ORDERED.

Affirmed.

WHEN THE CASE WAS CALLED FOR HEARING, NO COUNSELLOR APPEARED FOR THE APPELLANT. COUNSELLOR RUTH N. JAPPAH APPEARED FOR THE APPELLEE.