

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING
IN ITS MARCH TERM, A.D. 2025

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

Mamade M. Kamara, DEM Electronics Bus Center, Chinese Ent. Tecno)
 One Thousand, Janet Scoot Business, Kouloun Business Center,)
 Matela M. Toure Bus Center, S & Sow Money Remittance Services,)
 T. O. B. Trading Center, Bowal Bus. Center, M. V. Kenneh Warehouse,)
 V. Kenneh Bus. Center, Blue Store, Scrap Buyers, Mrs. Kamara Bus.,)
 and all others to be identified.....Appellants)

Versus) APPEAL

Mr. Batune Keita by and thru Mohammed Tanja Keita, of the City of)
 Monrovia, Liberia.....Appellee)

GROWING OUT OF THE CASE:)

Mr. Batune Keita by and thru, Mohammed Tanja Keita of the City of)
 Monrovia, LiberiaPlaintiff)

Versus) ACTION OF
EJECTMENT

Mamade M. Kamara, DEM Electronics Bus Center, Chinese Ent. Tecno)
 One Thousand, Janet Scoot Business, Kouloun Business Center,)
 Matela M. Toure Bus Center, S & Sow Money Remittance Services,)
 T. O. B. Trading Center, Bowal Bus. Center, M. V. Kenneh Warehouse,)
 V. Kenneh Bus. Center, Blue Store, Scrap Buyers, Mrs. Kamara Bus.,)
 and all others to be identified.....Defendants)

Heard: April 8, 2025 Delivered: August 14, 2025

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION FOR THE COURT

This review emanates from an ejectment action filed by Batune Keita, the appellee, plaintiff below, represented by his son and attorney-in-fact, Mr. Mohammed Tanji Keita, against Co-appellant Mamadee M. Kamara, and all others under his authority.

The appellee alleged in his complaint that in 1989, his father, Mr. Batune Keita, acquired one-acre of land along the Monrovia-Kakata Highway from Charles S. B. Watkins which was

registered and probated according to law; that the subject land is an adjoining property with that of the co-appellant Mamade M. Kamara; however, co-appellant Kamara has encroached and erected structures on the appellee's portion of the property, leased portions to various businesses and individuals over a protracted period of time while Mr. Batune Keita was away; that despite the appellee approaching co-appellant Kamara and other appellants about their illegal encroachment on the appellee's property and requesting them to vacate the said property, the appellants have remained defiant and have continued to illegally occupy the said property.

The appellee further stated that when he confronted co-appellant Mamade M. Kamara to ascertain the location of the appellee's one-acre of land, the co-appellant showed him a half lot of swamp land as his land; that this necessitated the appellee to file a complaint with the Liberia Land Authority (LLA) for an administrative resolution of the land dispute, requesting that the LLA conducts an investigative survey; that the survey was done and the findings established that the appellants were indeed encroaching on the land exactly as laid out on the appellee's deed. The appellee contends that co-appellant Kamara having collected rental payments from tenants on the land from 2006 to 2019, and said action having deprived him from obtaining rental income in the amount of United States Two-Hundred Fifty Thousand Dollars (US\$250,000.00), that the appellants be held for wrongful withholding of the appellee's property, and appellants be held to pay the rental amount collected.

The appellants filed a sixteen (16) count answer, essentially challenging the appellee's standing to sue, contending that the power of attorney issued to Mr. Mohammed Tanja Keita is defective in that it was never notarized in the country, Mali, in which the principal, Mr. Batune Keita, resided, and because of this defect, the complaint should be dismissed; that in fact, co-appellant Mamade M. Kamara is the bona fide owner of the subject one-acre of land which was acquired in 1974 from Mr. Anthony Barclay and not Charles S. B. Watkins as claimed by the appellee, and appellant has since constructed several structures thereon; that co-appellant Mamade M. Kamara at no point in time acquired an adjoining property along with the appellee, and had no knowledge of a complaint filed with the LLA, as he did not participate in any such investigation.

Before submitting the case for trial, the appellants filed, and were granted, a motion for investigative survey to aid the court and jury in determining whether the disputed property claimed by both parties as per their deed are the same.

Surveyor Samuel W. Danway, Jr. was nominated to serve as the surveyor by the LLA and was qualified by the court to carry on the survey, and both parties submitted the names of their technical representatives.

The investigative survey was conducted, and the 11- count findings/observation report filed essentially established in its conclusion that the parties' deeds showed the existence of their respective properties as being adjacent to each other; that the appellant had structures built on two lots of the appellee's adjacent property, one of which is occupied by EcoBank; that both deeds' information and survey boundaries support the appellee's claim. The report further recommended that the appellee be allowed to re-demarcate his property according to his deed information running towards the back.

The appellants filed an objection to the investigative survey report challenging the veracity and consistency of the report which was resisted by the appellee. The objection was heard and denied, prompting the appellant to file a petition for a writ of certiorari which the Chambers Justice declined to issue.

With all the pre-trial motions and procedures having been exhausted, the lower court judge ruled the case to trial on its merits. During the trial of the case, the appellee paraded two general witnesses, Samuel W. Danway, the surveyor, and Mohammed T. Keita; while the appellants produced four (4) general witnesses – Yusuf A. Kamara, Sedeke J. Komara, Mateea Turay and George Tolbert.

After the trial, the jury returned a unanimous verdict in favor of the appellee, and the appellant filed a motion for new trial, which was argued and denied by the trial court judge. The judge then proceeded to enter a final judgment, stating, "plaintiff had produced evidence, which the trial jury believed, and which proved that the plaintiff (appellee) had acquired one-acre of land from Charles S.B. Watkins in August 1989, and that the defendants (appellants) had encroached on two lots of the property; that when a plaintiff in an ejectment has shown a valid and legal title to property, he or she is rightfully entitled to recover said property in dispute upon the strength of his/her title."

The judge in finding the appellants liable to the appellee in the ejectment action, ordered the appellants evicted, ousted, and ejected from the appellee's two lots of land.

In this review of the trial judge's denial of the appellants' motion for new trial and confirmation of the jury's final verdict, we find counts 2, 3, and 4 of the appellants' bill of exceptions relevant to the disposition of this matter, and which are set forth below:

2. "That, defendants say because the investigative survey chairperson was instructed to conduct an investigative survey using the entire title deeds pleaded by the parties but during trial the chairperson informed the court and juries that he did not use the purported mother deed of the plaintiff but only the plaintiff's title deed without using the source of the plaintiff's title deed contrary to the instruction of the court yet the jurors returned with an unanimous verdict against

the defendants, holding defendants liable and to which verdict defendants excepted.”

3. “That, defendants say also because the plaintiff admitted during trial and in her complaint that co-defendant Manmade M. Kamara acquired his land as far back as 1974, and that co-defendant Mamadee Kamara owns four (4) lots while the investigative survey acknowledges that plaintiff’s title deed diagram thereon recognizes defendant’s Mamadee M. Kamara’s ownership of four (4) lots but the Investigative Survey Report indicated that co-defendant Mamadee M. Kamara has only two (2) lots of land and same encroached on the plaintiff’s property but despite this discrepancy which raised serious creditability issue as to the authenticity of the report, yet the jury returned with a verdict in favor of the plaintiff and to which verdict defendants excepted and filed a motion for new Trial, but Your Honor heard the motion and denied it; and to which ruling defendants excepted and to which exception Your Honor noted but entered Final Judgment in favor of the plaintiff and, to which judgment, defendants excepted and announced an appeal”.
4. “That defendants say also because the plaintiff paraded with a title deed which carries a diagram showing one Lassana Kamara, Batune Keita and co-defendant, Mamadee M. Kamara being owners of four (4) lots each but the survey failed to capture Lassana Kamara who is the immediate adjoining property owner to the plaintiff in keeping with the diagram aforesaid, neither did plaintiff bring anyone from the community to testify of plaintiff being owner of a property within the vicinity yet the trial jurors returned with a verdict in favor of the plaintiff and to, which exception the court below noted and entered its final judgment against defendants and to which judgment defendants noted exception and announced an appeal”.

Having reviewed the facts and circumstances of this case, as well as the contentions advanced by the parties, the issue raised from the bill of exceptions is whether the jury’s verdict and the judge’s confirmation thereof, was manifestly and palpably against the weight of the evidence to warrant setting the final ruling aside?

Referencing count 2 of the appellants’ exceptions to the lower court’s ruling, the appellant challenges the investigative survey because of the chairperson’s non-use of the appellee’s mother’s deed which the appellants say was contrary to the judge’s instruction requiring the surveyor to use all the instruments presented by the parties.

The instruction of the lower court judge was that the government’s surveyor commences his work by using only the deed(s), map (s) and diagram(s) that were pleaded and placed in the case file, along with the government’s adjudication map. This Court has repeatedly opined that the purpose of an investigative survey is to assist the court by providing it with the technical assistance necessary to reaching a fair and equitable disposition of a matter before the Court. This is done, as in the case of a land dispute, when the technicians, under the

direction of the court, conduct a survey identifying the metes and bounds and exact location of a parcel of land that may be a subject of controversy. (*Freeman et al v. Webster*, 14 LLR 493,507 (1961); *Josephus Surmie, Norwah Garkpor et al. v. Calvary Baptist Church*, Supreme Court Opinion, March Term, A.D. 2007. This Court says that the final determination of an investigative survey requested by the parties is not left with the surveyor but rather the court and jury, as the report is simply a technical aid to the court, leaving the issues of facts and evidence with the court or jury.

The certified records show that the surveyor in fact took note of the two title instruments appellee attached to his complaint, the first being a warranty deed transferring property of four (4) lots from Charles S. B. Watkins to the appellee, and the second, a public land sale deed from Arthur Barclay, President of Liberia, to Jarbah E. Mardeh in 1909, the estate from whom the appellee's grantor purchased his property. This Court says that the appellee's mother deed was not necessary for the demarcation of the disputed property as it solely rested on the personal deeds proffered by both parties which were the subject of the dispute, and were necessary to ascertain whether the parties' properties lie adjacent to each other as alleged by the appellee and shown on his deed, and whether the structures claimed by the appellants were lying on their property or that of the appellee. Hence, the appellee's mother deed was not mandatory for the demarcation of the disputed property.

The investigative survey found that the deeds proffered by the appellants reflected one (1) lot each which lied adjacent to the appellee's four (4) lots of land when plotted from his deed; that further, the survey showed that both parties land run parallel from the road as clearly reflected on the deed of the appellant. The investigative survey also found that the structures claimed by the appellants run diagonally unto the front two lots of the appellee. The investigative survey being not one to grant an award as to the superiority of title, but only to assist the court in determining the disputed property as per the parties' deed, count 2 of the appellants' bill of exception is untenable.

In addressing count 3 of the appellants' bill of exceptions, this Court notes that the deed of the appellee reflects four (4) lots, and though the diagram on his deed reflects that the co-appellant Mamadee M. Kamara owns four (4) lots adjacent to the appellee's property, the appellants attached and proffered with their answer, two deeds containing one (1) lot each and which the surveyor used in plotting the points to derive at a survey map that clearly identifies the location of each party's property. Evidently, the quantity of land surveyed could have only been traced to the points in the parties' deed, and not what is orally stated. The surveyor having laid out the demarcation of the parties deeds, now showing that the appellants' own less than what they are claiming, that is two lots rather than one acre, the

obvious conclusion to this Court is that the appellants took advantage of the absence of the appellee to illegally enter into the appellee's land, build structures thereon, claiming additional two lots of the appellee's land, consequently pushing the appellee furthest from his original location.

Lastly, as to count 4 of the appellants' bill of exceptions, this Court says that it is irrelevant since the investigative survey called for the disputed property and those laying claim to it. It did not call for all the property owners in the vicinity, and especially when Lassana Kamara, the property owner whose diagram was omitted during the survey, resides one block away from the disputed area. Therefore, it was unnecessary for the surveyor to use the said diagram in his survey as it was meaningless to the demarcation he was ordered to investigate.

Our Civil Procedure Law, Rev. Code 1:62.1 states, "any person who is rightfully entitled to the possession of real property may bring an action of ejectment against any person who wrongfully withholds possession thereof. Such an action may be brought when title to real property as well as right to possession thereof is disputed." This Court has mandated that ejectment actions be settled with the aid of an investigative survey, and a trial jury, whose duty is to give weight and credibility to the evidence and testimonies at trial, and that unless the verdict is manifestly and palpably against the weight of the evidence, it ought not to be disturbed or set aside by the Court.

In the instant case, the Court having found that the investigative survey report settled the exact ground points of each of the contending parties, and the jury having listened to the testimonies of the witnesses, reviewed the evidence and returned a unanimous verdict of liable against the appellants, the trial court's confirmation of the jury's verdict is hereby affirmed. The Sheriff is ordered to place the appellee in possession of his property using the metes and bounds of the appellee's deed, and to further oust, eject and evict appellants from the appellee's the final ruling of the trial court affirming the jury's verdict is hereby affirmed, the appellant are ordered ousted, ejected, and evicted from the appellee's property, and the appellee placed in possession thereof.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the trial court affirming the jury's verdict is hereby affirmed. The appellants are ordered ousted, ejected, and evicted from the appellee's property, and the appellee placed in possession thereof, using the metes and bonds of his deed pleaded. The Clerk of this Court is hereby ordered to send a Mandate to the court below to resume jurisdiction over this case and give effect to the Judgment emanating from this Opinion. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, THE APPELLANTS WERE REPRESENTED BY COUNSELLOR TOMMY N. DOUGBA OF THE LAW OFFICES OF WEAH AND ASSOCIATES. THE APPELLEE WAS REPRESENTED BY COUNSELLORS GBOGOMA JONES, DAVID M. KOLLEH JR., AND MAMEE S. W. GONGBAH JR OF THE CENTURY LAW FIRM.