

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

The Intestate Estate of the Martha Stubblefield Bernard)
represented by and thru its administrator, Ebrima Varney)
Dempster, of the City of Monrovia, County of Montserrado,)
Republic of Liberia.....Appellant)

Versus)

APPEAL)

Intestate Estate of the Danielette P. Tucker Bernard by)
and thru its administratrix, Danielle Thelma T. Bernard, of)
Monrovia, County of Montserrado, Liberia.....Appellee)

GROWING OUT OF THE CASE:)

Intestate Estate of the late Danielette P. Tucker Bernard)
by and thru its Administrator, Danielle Thelma T. Bernard,)
Monrovia, County of Montserrado, Liberia.....Plaintiff)

Versus)

ACTION OF
EJECTMENT)

The Testate Estate of the late William Thomas Bernard)
by and thru its Executrix of the City of Monrovia, County)
of Montserrado, Republic of Liberia.....1st Defendant)

And)

The Intestate Estate of the Martha Stubblefield Bernard)
represented by and thru its administrator, Ebrima Varney)
Dempster, of the City of Monrovia, County of Montserrado,)
Republic of Liberia.....2nd Defendant)

Heard: June 24, 2025

Delivered: August 15, 2025

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION FOR THE COURT

The appellee, the Intestate Estate of Danielette P. Tucker Bernard, by and thru its administratrix, Danielle Thelma T. Bernard, on January 15, 2019, filed an action of ejectment

before the Sixth Judicial Circuit Court, Montserrado County against the Testate Estate of William Thomas Bernard, thru its executrix as 1st defendant, and the Intestate Estate of Martha Stubblefield Bernard, represented by its administrator, Ebrima Varney Dempster, as 2nd defendant. The appellee alleged that the co-appellant Martha Stubblefield Bernard and William Thomas Bernard's estates were in possession of the appellee's 12.92 acres of land situated in Congo Town, Tubman Boulevard, and portion of which is commonly referred to as the Congress for Democratic Change (CDC) Headquarters. The appellee prayed the court to oust and evict the defendants from the subject property and have them pay to the plaintiff/appellee One Million United States Dollars (US\$1,000,000,00) for the illegal entry and detention of the property.

The appellee averred in its complaint that its ownership of the land derived from a purchase made by the late Danielette P. Tucker Bernard and her late ex-husband, William Thomas Bernard; that Danielette and William married in 1956, and while they were married, they jointly acquired 12.92 acres of land from the Intestate Estate of Boimah Jallah, Doewah Sayway and Boimah Weah, represented by its administrators, Varney T. K. Fahnbulleh and Madah K Kiazolu; that they constructed their dwelling house on a portion of the 12.92 acres and resided thereon until 1969 when they divorced and Danielette elected to keep the property as joint property in the interest of her three children borne by William Thomas Bernard during their marriage. The appellee further averred that William Thomas Bernard later married Martha Stubblefield Bernard and they lived in the dwelling house on the Bernard's property until William died in 1977, and left a Will in which he bequeathed to his wife Martha and his four children portion of the property purchased by him and Danielette, and on which was built his marital home. The appellee averred that the late William knew during his life time that the property was owned jointly by him and her and therefore it could not be a subject of his Will; that appellant Martha S. Bernard thereafter petitioned the Monthly and Probate Court for permission to purchase what she termed her "marital home" with the surrounding grounds and other houses inside the fence that formed part of the corpus of the estate in lieu of whatever real property her husband bequeathed to her and her right to one third of all real properties owned by him at the time of his death; that the estate the appellant had offered to purchase under her right of election was jointly owned by the late Danielette and William Bernard since it formed part of the 12.92 acres of land jointly purchased by them; that the estate of Danielette was never informed or notified about Martha S. Bernard's offer to purchase the subject property since Danielette and William having purchased the property jointly when married, upon his death in 1977, Danielette became the sole owner of the said property under the legal principle of survivorship; that Martha lived on the property until her

death, and the children of the late William T. Bernard lived on the property for more than twenty-six consecutive years until 2016 when the intestate estate of Martha Stubblefield Bernard sued the estate of William Thomas Bernard and its lessee, CDC, and obtained judgment to the utmost surprised of the appellee. Appellee states because it was not a party to the action, same could not have been concluded against it. The appellee therefore prayed the court to have the estates of the appellant and William T. Bernard ousted and ejected from said property and to pay damages in the amount of US\$1,500,000.00 (One Million Five Hundred Thousand United States Dollars).

In answer to the appellee's complaint, the appellant, the intestate estate of Martha Stubblefield Bernard, prayed the court to deny the appellee's complaint and action as the appellee estate does not exist since the intestate estate of Danielette P. Tucker Bernard was closed more than twenty (20) years ago; that the appellant challenged the appellee's purported administratrix to provide the inventory of the properties forming the corpus of the intestate estate of Danielette P. Tucker Bernard and for which she obtained Letters of Administration; that further, Danielette P. Tucker Bernard and William Thomas Bernard were married in 1956 and subsequently divorced in 1969, and therefore became separate and distinct persons; that the property elected and bought by the appellant and referred to by the appellee was the sole and legitimate property of William Thomas Bernard and not a property owned jointly with Danielette, and that William had the legal authority to will said property; that if Danielette P. Tucker Bernard had interest in said property with their "matrimonial home" situated thereon when she and William were married, she would have claimed same at the time of their divorce or William would have left her therein, or rather, Danielette who was alive when William died would have objected to William's devise of said property to the appellant and his four children; that Danielette not having asserted any claim to said property during her lifetime, her estate cannot now exercise a right which she did not exercise during her natural life. Additionally, the appellant says that the deeds for the properties, subject of the last Will and Testament of William Thomas Bernard was in the sole name of William Thomas Bernard as admitted by Leona P. Bernard, one of the children of Danielette, in her amended answer to the action of ejectment filed by the intestate estate of Martha Stubblefield Bernard against the testate estate of William Thomas Bernard et. al.

The appellant Martha S. Bernard also denies that the appellee and her ex-husband William Thomas Bernard acquired 12.92 acres of land from the Intestate Estate of Boimah Jallah, Doewah Sayway and Boimah Weah, on the 10th day of July, 1956; that the deed proffered by the appellee was a product of fraud, fabricated to deny the appellant her right to the property, subject of the ejectment action, and evidenced by the fact that the appellee in its initial

ejectment action proffered a “True and Certified Copy” of a deed as its Exhibit P/2, and said to have been issued by Julius H. Flomo, Acting Registrar of Deed and Titles of the Center for National Documentation and Records Agency; that the appellant answered the complaint and attached an affidavit from Mr. Flomo stating that he did not issue said “True and Certified Copy” of the title deed proffered by the appellee; that also on the purported True and Certified Copy of appellee’s deed, it was stated thereon that the appellee and her ex-husband probated their deed on the 8th of August 1956 and registered same in Volume 70-J, Pages 60-61, but that said Volume was mutilated and the said deed was re-registered in Volume N/N, Pages 408; the appellant questioned that if the said original Volume 70-j was mutilated, where did the author of the “True and Certified Copy” obtain the literature of its deed to have same re-registered in Volume N/N, page 408; that the only logical conclusion was that the “True and Certified” Copy of the Administrator’s Deed proffered by the appellee was fabricated and a product of fraud. With all these challenges by the appellant to the appellee deed, the appellee then discontinued its action and filed this new action of ejectment which is now on appeal.

The appellee in filing its new action attached again a “Certified Copy” of the same deed, but this time, file its deed along with a purported mother deed said to be from the Republic of Liberia and signed by President William D. Coleman, making mentioned of 133.5 acres of land located in Sinkor, while the appellant’s deed made mention of 12.92 acres of land located in Oldest Congo Town; that again the appellee annexed “True and Certified Copy” of its deed attached to its complaint indicates that the purported Administrator’s Deed, is re-registered in Volume 70-J, pages 60-61, but this time does not indicate that said Volume 70-J was mutilated, and this time signed by Josephine L. Benson of LLA of the Liberia Land Authority (LLA) on October 22, 2018.

The appellant also says that the Last Will and Testament of William Thomas Bernard was admitted into probate in keeping with law with no objection from any of the heirs, beneficiaries, legatees and devisees under said Will; that in his Last Will and Testament, William Thomas Bernard willed all his properties to his wife, Martha Stubblefield Bernard, brothers and sisters, and all of his children benefited therefrom; that subsequent to the admission into probate of the Last Will and Testament of William Thomas Bernard, Martha Stubblefield Bernard, in exercise of her constitutional and statutory rights to elect to take such shares in lieu of any testamentary disposition, petitioned the Monthly & Probate Court on July 4, 1984 for 4.23 acres of land on which her dwelling home with the deceased William T. Bernard was situated, and her petition was granted and a deed issued her for the said 4.23 acres; that the testate estate of the late William Thomas Bernard in consequence of the cessation of hostilities in the wake of the Liberian Civil Crisis, leased the property, subject of the action of ejectment

now on appeal, to the Congress for Democratic Change (CDC), prompting the intestate estate of Martha Stubblefield Bernard to institute an action of ejectment to which it obtained a judgment from the lower court which was confirmed on appeal by the Supreme Court, awarding the property to the intestate estate of Martha Stubblefield Bernard.

After the parties rested with pleadings, as is mandated in our jurisdiction that all ejectment cases be tried by a petit jury, the case was ruled to a jury trial based on the court's finding of mixed issues of law and facts.

Danielle Thelman T. Bernard, testifying for the appellee, stated that when she was between 13 -14 years, while she and her dad, William Thomas Bernard, worked in the yard, he told her that all the land where they lived was bought by him and her mother, Danielette; that it was bought when they were married, and when she was about 18 years, her mother constantly spoke about their ownership of the land; that when she asked her mother since they were divorced why did they not agree to give ownership of the land to one person, her mother responded that although she was divorced from William and he had remarried the appellant, she and him still had three children together; therefore, it was not a problem as they had no need to give the property to a person because when they die, the property would be for their children. The witness stated further that when her father died and while her mother was still alive, her mother told her that Martha was also their mother as she had helped to raised them (children) and they were all family and she had no problem with the appellee living in the house until she died and they were sure that she was at peace.

The witness Danielle testified to a certified copy of a land deed, representing the deeded 12.92 acres of land alleged to have been issued to Daniellette and William Thomas Bernard by the administrators of the Intestate Estate of Boima Jallah, Boima Wayah and Dowah Soyah, in 1956, and which forms part of the property deeded to the Martha under the Will.

As regards the statement made by her sister, Leona P. Bernard, who was also the daughter of Danielette, and who had previously stated that the properties willed by their father, William Thomas Bernard and on which his domestic home lies was solely owned by him, the witness responded that the statement made by her sister Leona was for monetary and political gain; that she told a lie when she made the statement. The witness stated that she was in Monrovia in 1984, and it was a surprise to the children that the appellant had bought the marital house in 1984 for US\$45,000 (Forty-Five Thousand United States Dollars) since none of them received any notice of any sale transaction in 1984.

The appellee second witness, Archiebald Bernard, testified that the disputed property was called Nurray Clarke Villa, named after his father William T. Bernard's mother, and that was

where he and his siblings grew up with their father and mother, and later their stepmom, Martha; that before their father died, he had on many occasions told them how he and their mother Danielette had come to possess the property; that their mother was the one that approached her Vai relatives to purchase the land and she had constructed the building on the land which she named Nurray Clarke Villa; that when his mom and father divorced, she had no problem with their stepmom Martha living in the house with his dad and his children, and his mother said that she and the appellant were friends; that it was during the EBOLA outbreak when he worked with the United Nations in East Africa that he learnt that the court had decided to make one of Martha's nephews, Ebrima, the owner of the house. On cross examination he stated that when they later heard that the court had given the property to Ebrima, they went to look amongst their mother's papers and they found a deed in both their mother and father's (Danielette and William Bernard) names.

The witness Archiebald further testified that his father had stated in his Will that the appellant should live in her house in peace for the rest of her life and never one day did she give any indication that she had a desire to claim the house. He confirmed the first witness' testimony regarding their sister, Leona P. Bernard, previous statement that the property sold to Martha was solely that of his father, stating that Leona's statement was false and misleading, and was purely politically motivated.

The appellee rested with evidence after its two witnesses and submitted its confirmed documentary evidence which included letters of administration of the intestate estate of Danielette Tucker Bernard, certified copy of the mother deed which was a deed from the Republic of Liberia to Boimah Jallah, Dowah Saybah and Boimah Wayah; the letter of confirmation of the said certified copy of the mother's deed; the certified administrators' deed from the Intestate Estate of Boimah Jallah, Dowah Saybah and Boimah Wayah to William Thomas Bernard, Sr. and Danielette P. Bernard, the letter of confirmation of ownership of sale, all of which were marked as P/2 in bulk and confirmed.

The appellant's witness, Ebrima Dempster, was out of the country when the case was called for hearing, and though his legal counsel requested for postponement of the hearing, this request was denied by the judge who stated that the parties had sufficient time to have prepared for the hearing especially as they had notice of the hearing when the pretrial conference was held. Therefore, Counsellor J. Johnny Momoh took the stand as the lone witness. A synopsis of his testimony in chief is stated as follows:

That after the institution of the action of ejectment by Danielette P. Tucker Bernard against the Intestate Estate of Martha Stubblefield Bernard, he, Cllr. J. Johnny Momoh was contacted by Mr. Ebrima Varney Dempster to represent the Intestate

Estate of the late Martha Stubblefield Bernard. Accordingly, relevant information and documents were provided by Mr. Ebrima Varney Dempster to Cllr. J. Johnny Momoh to facilitate the filing of the Answer. Cllr. Momoh also indicated that from the information received, the late Danielette P. Tucker Bernard and William Thomas Bernard got married in 1956 and subsequently divorced in 1969; and that William Thomas Bernard died in 1977 in a tragic motor accident on the Monrovia-Kakata Highway in a curve on said highway, now known as Bernard's Curve. Prior to the demise of William Thomas Bernard, he prepared what is known as his Last Will and Testament in which he willed the property housing the Congress for Democratic Change (CDC)'s Headquarters to his wife, Martha Stubblefield Bernard and his children named in said Will. However, subsequent to the proving and admission of the Will of William Thomas Bernard into probate, Martha Stubblefield Bernard exercised her right of election and purchased the property housing the Congress for Democratic Change (CDC) which was the matrimonial home of the said William Thomas Bernard and Martha Stubblefield Bernard. Upon a petition duly filed and heard by the Monthly & Probate Court for Montserrado County, the petition for the right of election filed by Martha Stubblefield Bernard to acquire her matrimonial home, waiving her right to the interests she had in other real properties under the Will, her petition was granted by the Monthly & Probate Court and an Administrator Cum Testamento Annexo De Bonis Non was appointed by the court – i.e. the Curator for Montserrado County who issued title deed to Martha Stubblefield Bernard; that Danielette P. Tucker Bernard was alive when the Last Will and Testament of William Thomas Bernard was presented, proved, admitted into probate, and subsequent thereafter, Martha Stubblefield Bernard exercised her right of election and acquired the property subject of the action of ejectment.

Counsellor Momoh also testified that the testate estate of Martha Stubblefield Bernard represented by the Dean & Associates Law Firm of Cllr. F. Musah Dean instituted an action of ejectment against the Intestate Estate of William Thomas Bernard and the Congress for Democratic Change (CDC) and obtained a judgment ordering the eviction of the testate estate of the late William Thomas Bernard and the Congress for Democratic Change, in 2016. Subsequent to the entry of the judgment against the testate estate of William Thomas Bernard and the CDC, Ebrima Varney Dempster executed a sale agreement with Nelson Oniyama to purchase portion of the property subject of the action of ejectment; however, the Congress for Democratic Change elected to negotiate with the Intestate Estate of Martha Stubblefield Bernard to purchase the land subject of the action of ejectment, but while the negotiations were ongoing, the administratrix of Danielette P. Tucker Bernard and Archibald Bernard advised the CDC to stop all further negotiations for the purchase of the property from the intestate estate of Martha Stubblefield Bernard as they were prepared to go to court, obtain judgment and subsequently sell the property to the Congress for Democratic Change; hence, the negotiations between the intestate estate of Martha Stubblefield Bernard and the Congress for Democratic Change for the purchase of the property was halted.

The intestate estate of the Danielette P. Tucker Bernard then filed an action of ejectment against the intestate estate of Martha Stubblefield Bernard and attached to the complaint a "True and Certified Copy" of a deed said to have been issued by

Julius H. Flomo who was the Registrar of Deeds and Title Documents. In response, Martha Stubblefield filed an answer and attached to the answer an affidavit which was issued by Julius H. Flomo indicating that the “True and Certified Copy of the deed attached to the complaint was not issued by him. The answer also challenged the Administrator Deed which was attached to the complaint without Letters of Administration and Court’s Decree authorizing the said Administrator to sell the property covered by the Administrator Deed. Based on these challenges, the intestate estate of Danielette P. Tucker Bernard withdrew the entire complaint and filed a new complaint and annexed to said complaint an affidavit which was issued by two (2) individuals who are said to be current administrators, who were not born, did not observe and witness the sale of properties to confirm said sale that occurred in 1956.

Counsellor Momoh further testified that it is not logical that a husband and wife would acquire property jointly, divorced, the husband remarried another woman, the divorced husband and his new wife live on the property said to be jointly owned by the divorced husband and the divorced wife, and the divorced husband will make a Will of the said property to his remarried wife who acquired said property through the exercise of her right of election to own her marital property and the divorced wife made no claim to said property, and more than thirty (30) years thereafter the children of the divorced wife come to claim the same property under the doctrine of survivorship – i.e. the husband dies before the wife. Cllr. Momoh testified that he was baffled by the conduct of the children of William Thomas Bernard who are claiming that the property willed by their father was not owned by their father in fee simple, insinuating that their father was a crock and committed a criminal act by conveying through his Last Will and Testament a property he, their father, William Thomas Bernard did not own. Cllr. Momoh concluded and prayed that documentary evidence which were pleaded, including the petition filed by Martha Stubblefield Bernard, the ruling of Judge Ash-Thompson granting Martha Stubblefield Bernard’s petition, and appointing an administrator to issue Martha Stubblefield Bernard a title deed to the property would all be turned over to new jurors for consideration.

The appellant presented into evidence the Will and several deeds of William Thomas Bernard evidencing that his properties willed were solely in his name.

To rebut the appellant witness’ testimony that the property on which the CDC resides was not bought solely by William Thomas Bernard, the appellee brought one Mr. Augustine Kiazulu as a rebuttal witness. He testified that when he was about ten or eleven years old the administrators, Martha Kiazulu and T. K Fahnbulleh, went to their parents to buy the land and that they got a title deed for the property; that he went with his Ma and Pa to see the place, and that if anyone say the land is for them that is a lie, the land is for his family. We type below the following questions posed to him and his answer thereto:

“**Q.** Mr. Witness, according to your testimony you were around ten to eleven years and you said you were part of the survey, so when the deed was issued, whose name was on that deed?”

“**A.** The father and the mother, Danielette P. Bernard & Archie Bernard, *and **the rest of the children.*** [emphasis ours]”

“Q. Mr. Witness, you told the court that you were small at the time your parents sold the property to Mr. Bernard and his wife. Do you really believe that at that age, you could remember such transaction?”

“A. Yes.”

After the parties rested with evidence, the jury returned with a liable verdict against the appellant and the testate estate of William Bernard, finding them liable to pay to the appellee the amount of United States Fifteen Thousand Dollars (US\$15,000.00) as general damages. The appellant Martha Stubblefield Bernard filed a motion for new trial, alleging that the verdict was contrary and inconsistent with the evidence adduced at trial and the instruction of the trial judge. The judge denied the motion for new trial and entered a final ruling, finding the appellant and the estate of William Bernard liable to the appellee in the ejectment action.

The appellant, the intestate estate of Martha Stubblefield Bernard, noted exceptions to the ruling and announced an appeal to the Honorable Supreme Court, filing thereafter an eight-count bill of exceptions which is a narration of similar averments as contained in its answer filed to the appellee’s complaint, stating that the verdict was against the weight of the evidence.

The matter having been called up by this Court for review, the Court sees that there is no dispute regarding the relationship of the parties except the question of whether the property deeded to Martha Stubblefield Bernard by approval of the Probate Court could be legally retained by her under the facts and circumstances of this case.

This Court notes the appellee’s contention that the late Danielette Tucker Bernard during her marriage to the late William Thomas Bernard jointly acquired 12.92 acres of land; that thereafter they divorced and William got married to the Martha S. Bernard; that upon his death, he left a Will where he devised to his wife, Martha Stubblefield Bernard, and his children several properties which included the 12.92 acres of land acquired by Danielette and him. The appellee questions the right of William to have devised the said property under his Will, since the 12.92 acres purchased by them reverted to Danielette in its entirety, she being the sole survivor of said property; that Martha S. Bernard’s election to take such share under the Will in lieu of any testimonial disposition, should not have come from the 12.92 acres land purchased and owned by Danielette and William, and which passed to Danielette by entirety upon Williams death. The Judge, in his ruling confirming the jury’s verdict for the appellee and finding the appellant liable to the appellee, held:

“The law is that a grantor cannot give away real property to which he does not have legal title; where a grantor executes a deed to a grantee without legal title in him

(grantor), the title given is a legal nullity and passes no title to the grantee. Therefore, by survivorship, the subject property became the sole property of Danielette (appellee's decedent), and without this evidence being impeached or overcome by other evidence, it means that the title passed to movant's decedent, Martha Stubblefield Bernard, was not legal, as what is not legally done is not done at all".

This Court also notes the appellant's resistance that the properties willed by William were all solely owned by him, and that the "Certified Copy" of the deed of the appellee claiming ownership to the disputed property is a product of fraud. For example, the appellant narrated that it was after the appellant in 2016 had obtained a judgment in the case, *The Intestate of Martha Stubblefield Bernard v. The Testate Estate of William Thomas Bernard and the Congress for Democratic Change (CDC)*, Supreme Court's Opinion, March Term 2016. that one of the appellee's witnesses, Mr. Archibald Bernard, alleged that he searched and found a deed in the name of his father and mother, ironically however, said deed was never produced in court by the appellee but rather it had proffered with its complaint a "True and Certified" copy of a purported deed; that the appellee in substantiating its "Certified Copy" of the deed attached to its complaint of August 6, 2018, stated that the "Certified Copy" of the deed was issued by Julius H. Flomo, Acting Registrar of Deed and Titles of the Center for National Documentation and Records Agency, but the appellant upon challenging the appellee's deed, and proffering an affidavit from Flomo stating that he did not issue said "True and Certified Copy" as alleged by the appellee, the appellee discontinued its case and filed a new action on January 15, 2019, attaching again a "True and Certified Copy" of the same deed, but this time alleging that it was signed by "E. Winfred Smallwood, Registrar, of the Center for National Documents and Record Agency (CNDRA) Montserrado County; that again, under our law, an administrator cannot dispose by sale or lease portion of an intestate estate without letters of administration and a courts decree of sale/lease which the appellee did not exhibit to confirm its legal purchase of 12.92 acres of land; that the affidavit of confirmation which was issued by two (2) individuals who are said to be current administrators, and who did not observe and witness the sales of the said properties to confirm said sale that occurred in 1955 was without merit as the deed could speak for itself.

Considering the contentions of the parties, this Court finds astounding that the trial court ruled as it did. The appellant pointed to various legal and factual inconsistencies relating to the appellee's deed, particularly noting that the appellee's second witness Archiebald Bernard's testified that the heirs of the appellee found their mother's (Martha T. Bernard) deed after the Intestate Estate of Martha Stubblefield Bernard won an ejectment case against the William Bernard Testate Estate, and the CDC but when the appellee proceeded to file its ejectment action firstly in 2018, withdrew the case, and again filed another ejectment action in 2019, it

attached to its complaint a certified copy of the alleged deed to the complaint instead. Let us quote this relevant portion of the appellee's second witness' (Archibald Bernard) testimony on cross-examination.

Q. Mr. Witness, did I hear you say in your testimony that the property in question was part of your mother's estate and not that of your father's estate?

A. What I did say is that upon the death of our father, in his Will, he stated that Ma Martha should live in the house during the rest of her life. Later on, when we heard that the court had given the property to Ebrima, **we looked into our mother's papers and found a deed in both our mother and father's names** [*Emphasis ours*].

Like the appellant asked, why was the deed that Archibald and his siblings found not proffered with the appellee's complaint but some purported "Certified Copy" of a deed? Again, the appellee's rebuttal witness was asked, "So when the deed was issued, whose name was on that deed?" He answered, "Danielette P. Bernard & Archie Bernard, **and the rest of the children.** [*Emphasis ours*]." Rest of which children that were born unto the union of Danielette and William Bernard in 1956 when the alleged property was bought?

This Court has cautioned lower courts to handle property matter with every available care and objectivity. See the cases, *Sarah C. Kennedy et al. v. His Honor Eugene L. Hilton*, 33 LLR 398, 405 (1985); *Teah v His Honor Judge Andrews et al.* 39 LLR 493, 503 (1999).

Let us consider the various issues raised by the appellant: Danielette Tucker Bernard was alive when William Thomas Bernard, Sr. died in 1977, and was also alive when appellant elected to buy the property, 4.23 acres, to include the marital home in 1984 under the right of election under Williams's Will, she (Danielette T. Bernard) did not lay claim to the 4.23 acres of land elected and deeded to the appellant until she (Danielette) died; that also the property having been bought in 1984 by the appellant, how could the appellee, heirs of Danielette's Intestate Estate, bring such suit after thirty-five (35) years? Legally, considering that the appellant acquired the property in 1984, which evidently was possessed and occupied by her until her death, the appellee was estopped from instituting an ejectment action after twenty years from the time the appellant Martha gained possession of the said property under her right of election under her husband's Will. (See our Civil Procedure Law Rev., Code 1: 2.12.2). By this computation, the appellee's action of ejectment should have legally been filed in 2005 and not in 2019. The appellee's action is therefore barred by the statute of limitation. *Seku Freeman et al. v A. Kini Freeman et al*, 31 LLR 235, 245 (1983); *Ammons-Webster et al. v Lartson et al* 33 LL

Further, the records reveal that when Martha Stubblefield Bernard set out in an ejectment action to recover her property that was deeded to her upon her election under the Will against the CDC and its lessor, the Estate of William Thomas Bernard, Daniellette's daughter, Leona Bernard, admitted that William deeded only properties solely owned by him. Besides, nowhere in the records and as the appellant contends did the appellee proffer evidence from the Probate's Court, giving its consent to the appellee's grantors for sale of the 12.92 acres of land allegedly sold to William and Danielette Bernard.

Moreover, this Court says, even if Danielette and William T. Bernard, Sr. bought 12.92 acres of land jointly when they were married, upon their divorce, the real property acquired by them, by operation of law, would no longer be held as an estate by the entirety, since an estate by the entirety is an estate created by a conveyance or devise of property to husband and wife. Under such a conveyance or devise, the husband and wife, by reason of their legal unity by marriage, take the whole estate as a single person with the right of survivorship, if one dies the entire estate belongs to the other by virtue of the title originally vested. However, where the marriage relation was dissolved by judicial decree, the dissolution of the marriage would create a tenancy in common where Danielette and William then would own the property *per tout* (by half), that is, fifty- fifty (6.46 acres each) and with no right of survivorship. The lower court's judge's ruling in such case then was erroneous since Danielette T. Bernard could not have become the sole survivor of the property. *Archie I. Sarnor v. Theresa Leigh-Sherman*, Supreme Court Opinion March Term A.D. 2012; *In Re: The Estate of Lloyd K. Whisnant*, 24 LLR 298,303 (1975).

This then means by virtue of the divorce of Danielette and William Thomas Bernard, Sr., the ruling of the lower court that Danielette acquired the entire property is not supported by law and is reversible; by virtue of their divorce, any real property acquired by them, by operation of law, could no longer be held as an estate by the entirety. Further, even if the decedent, Danielette P. Bernard was entitled to fifty percent of the land that the appellee alleged was bought by Danielette and William Bernard, Martha S. Bernard could elect to take from her husband's share of 6.46 acres. In this case, she elected and petitioned the probate court to take 4.23 acres of the real estate in his Will and upon which their marital home lies.

The 1986 Constitution of Liberia gives a widow the right to one-third of her deceased husband's real estate during her natural life and to hold one-third of his personal estate in her own right subject to alienation by her, by devise or otherwise. A widow has the personal right to elect to take such share in lieu of any testamentary disposition or distribution on intestacy provided by her and that said election shall be made within six months after the issuance of

letters testamentary or administration, as the case maybe. Decedents Estate Law, Rev. Code II:8.4.1-4; *Whisnant v. Whisnant*, Supreme Court opinion, October Term, A.D. 2015.

The estate of William Thomas Bernard, decedent, comprises an interest in a dwelling house which is not subject to an existing homestead exemption. The deceased surviving spouse Martha was resident at said homestead at the time of his death. Martha by notice in writing petitioned the court for appropriation of the dwelling house and surroundings toward the satisfaction of her share as a surviving wife in the real estate of her late husband under our law: Decedents Estates Law, Rev. Code II:8: 3.2; 4.1-4. During such period of six months, the personal representative which was appointed by the court could not, without the consent of Martha, the surviving spouse, sell or otherwise dispose of the said interest in the dwelling house since the law provides that a devise of a dwelling house to a person other than the surviving spouse shall pro tanto, be ineffective and invalid if the spouse decides to exercise the right of election by purchasing the dwelling house as dower right. Such dwelling house shall be appraised at the price it would be sold in open market at the time of the decedent's death and be appropriated toward the satisfaction of the spouse's share. Decedents Estates Law, Rev. Code II:8: 4.2. In this case, Martha Bernard elected to purchase the marital home and its fenced surroundings and paid Forty-Five Thousand United States Dollars (US\$45,000.00) as consideration to the estate for her said election.

We are convinced that as there was not any objection challenging Martha Bernard's right of election, as none could have been legally tenable since said right of election was supported by law given that a widow has rights of first refusal to purchase her marital home. In the instant case, Martha Tucker Bernard elected and purchased only 4.23 acres of the land owned by her husband William T. Bernard, which included her marital home, on the strength of her right of first refusal.

Therefore, for all the reasons stated above, this Court says that the ruling of the lower court finding the appellant liable to the appellee, is contrary to the evidence produce and the law controlling in said case.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the Sixth Judicial Circuit Court finding the appellant liable to the appellee is reversed. The Clerk is ordered to send a Mandate to the lower court to resume jurisdiction of the case and give effect to the Judgment of this Opinion. Costs are ruled against the appellee. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR J. JOHNNY MOMOH OF THE J. JOHNNY MOMOH AND ASSOCIATES LEGAL CHAMBERS INC. APPEARED FOR THE APPELLANT. COUNSELLORS ABRAHAM B. SILLAH SR. OF THE HERITAGE PARTNERS & ASSOCIATES LLC AND A. NDUBUSI NWADUBIKE APPEARED FOR THE APPELLEE.