

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

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Varney Mambu Dennis, the Intestate Estate of David Coleman by and )  
thru its Administrator De Bonis Non David A. Garnett, Ambrose, Leroy )  
Logan and all occupants under their control of S.D Cooper and all )  
occupants under their control of S.D. Cooper Road, Congo Town, )  
Montserrado County, Liberia.....Appellants ) APPEAL

Versus )  
)

The Intestate Estate of James Morris by and thru its Administrator, )  
Richard B. Quadeh of S.D. Cooper Road Paynesville, Montserrado )  
County, Liberia.....Appellee )

The Intestate Estate of James Morris by and thru its Administrator, )  
Richard B. Quadeh of S.D. Cooper Road Paynesville, Montserrado )  
County, Liberia.....Plaintiff ) ACTION OF  
) EJECTMENT

Versus )  
)

Varney Mambu Dennis, the Intestate Estate of David Coleman by and )  
thru its Administrator De Bonis Non David A. Garnett, Ambrose, Leroy )  
Logan and all occupants under their control of S.D Cooper and all )  
occupants under their control of S.D. Cooper Road, Congo Town, )  
Montserrado County, Liberia.....Defendants)

Heard: June 19, 2025

Decided: August 14, 2025

MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This case originated in the Paynesville Magisterial Court when the Intestate Estate of James Morris by and thru its Administrator, Richard B. Quadeh, appellee herein instituted an action of summary proceedings to recover possession of real property from the appellants. Upon assignment for hearing, Varney Mambu Dennis, the Intestate Estate of David Coleman represented by its Administrator De Bonis Non, David A. Garnett, Ambrose, Leroy Logan, et. al, appellants herein, showed up and presented a title deed and the magistrate dismissed the case claiming that title was in question and advised the appellee to file an ejectment action in

the Sixth Judicial Circuit Civil Law Court. The appellee then proceeded to the Sixth Judicial Circuit, Civil Law Court and filed an action of ejectment against the appellants.

The appellee in his complaint alleged that he is the administrator of the Intestate Estate of James Morris and attached his letters of administration to authenticate his claim; that the Intestate Estate of James Morris acquired three (3) acres of land from Anna Mardea Dennis in 1952 and that the said property had been administered by the current administrator since the death of Mr. James Morris; that upon inventory of the estate, it was discovered that the appellants herein were occupying a portion of the property even though they never acquired the property from the said estate; that despite several notices and warnings, the appellants have refused to leave the said property; that upon filing the action of summary proceedings to recover possession of real property in the magisterial court, the appellants appeared and produced a fraudulent deed which prompted this action as the magisterial court does not have jurisdiction over matters where titles are in issue; that ejectment will lie to oust the appellants out of its property.

The appellee in its prayer to the court asked that the appellants be ousted and evicted from its property and that the appellants should be made to pay it (appellee) Fifty Thousand United States Dollars (US\$50,000.00) as general damages for the mental anguish, emotional disturbance, pain and suffering it had to endure because of the appellants' actions.

The records reveal that co-appellant Ambrose Matron filed an answer to the appellee's complaint basically averring that he is occupying the said property based upon a lease agreement executed between him and one Varney Mambu Dennis and as such, the said Varney Mambu Dennis must be joined to the suit, so as to defend whatever interest he may have in the property.

Co-appellant, the Intestate Estate of David S. Coleman by and thru its Administrator David A. Garnett filed a motion to intervene and its interveners' answer, arguing that the late David Coleman, during his life time, acquired title to forty (40) acres of land lying and situated in S.D. Cooper Road, Paynesville, Montserrat County for which a deed was issued to him on March 25, 1952 and that the said deed was registered according to law; that its current Administrator De Bonis Non took over the Intestate Estate of David Coleman; that the Administrator of the said Intestate Estate, David A. Garnett discovered that one (1) lot of land out of its total of forty (40) acres of land was transferred by conveyances until it became the property of the Co-appellant Varney Marbue Dennis and that the said Varney Marbue Dennis

is a grantee of the Estate and that he (Varney Marbue Dennis) is also the lessor of Co-appellant Ambrose Matron; that the deed pleaded by the appellee is fraudulent in that the volume of the recording does not correspond to the year of the recording of the said deed; that the said deed is fake further because according to the endorsement, the deed is signed by one S.B. Williams, Acting Clerk of the Monthly and Probate Court for Montserrado County, when indeed and in fact the only Williams who served as Clerk of the Monthly and Probate Court for Montserrado County was the late Susanna E. Williams and not S.B. Williams, as indicated in the Plaintiff's Deed; that the appellee's deed is further fake and fraudulent because the coordinates in the metes and bounds, representing to be for three (3) acres of land, does not correspond with the measurements for three (3) acres of land in terms of width and length; that any judgment arising from the ejectment action will affect it; that intervention is a matter of right and that the court should grant its intervention and allow it to intervene in the said suit.

The Co-appellant then prayed the court to grant its motion to intervene and make it a defendant along with the other defendants so it along with the other defendants can defend their rights to the subject property and dismiss the entire complaint as the same is unmeritorious and enter a judgment in favor of the intervenor and defendants.

The appellee filed its resistance to the appellees motion to intervene arguing that even though intervention is a matter of right, the said motion must be timely filed but in this instance, the motion was filed untimely; that the deed attached to the said intervenor's answer shows on its face that the property on the deed is located in Oldest Congo Town whereas the inner part of the deed provides that the property is located on the beach settlement of Monrovia, Montserrado County and as such they cannot intervene as their property is separate from its property; that the said motion to intervene should be dismissed because the movant/intervenor does not own a property in the City of Paynesville but rather in the Oldest Congo Town and the beach settlement in Monrovia.

The appellee then prayed the court to dismiss the said motion to intervene on grounds that it was filed untimely and that the property that the appellants/intervenors deed is for a property located in the Oldest Congo Town and on the beach settlement of Monrovia and not in the City of Paynesville; therefore, the said intervention should be denied as the two properties in question are not the same.

The court heard arguments on the motion to intervene and ruled granting the said motion.

The records show that there were series of pre-trial motions filed throughout the proceedings all of which were heard and disposed of, and the case was ruled to regular trial.

However, before the conduct of the regular trial, the appellants filed a motion for the conduct of an investigative survey, arguing that the conduct of an investigative survey between the parties was necessary to ascertain and determine whether or not the property in question is the same and identical property being claimed by the parties because the appellee deed indicates that the property that it is claiming is located in Paynesville while the appellants property that it is claiming is located at S.D. Cooper Road in Congo Town; that because the respective deeds pleaded by the parties clearly show that the properties claimed by both parties are in two (2) different and separate locations and as such an investigative survey is the proper procedure to verify and settle this matter.

The appellee filed its resistance to the said motion for investigative survey arguing that the said motion should be dismissed because it was untimely filed as the matter has already been assigned for jury trial and the respondent/appellee first witness had taken the stand and was directed and cross by both lawyers representing both parties; that the appellants/movant never requested for an investigative survey after pleadings rested and they filed several motions that were disposed and to now request for an investigative survey when the jury is now hearing the evidence and witness had taken the stand is an attempt to delay the proceedings as investigative survey will not lie where the jurors are sitting and hearing evidence and the movants/appellants therefore suffer waiver and laches; that their property is on S.D. Cooper Road in the City of Paynesville, and it is the same property that the movants/appellants are occupying and as such the movants/appellants' property is not distinct and separate from the respondent/appellee's property; therefore, the said motion for investigative survey should be denied and dismissed.

The trial court heard arguments on the said motion and ruled denying the motion on grounds that motion for investigative survey is a pre-trial motion which should be filed before trial and the fact that the jury had been empaneled and trial had begun, the motion is filed belatedly; moreover, whoever prevails in the matter will be put in possession of the said property by a surveyor as per the metes and bounds of their title deed.

Thereafter, a regular trial of the case began. During the trial, the appellee produced two witnesses and one rebuttal witness while the appellants produced three witnesses to prove its case.

The appellee's first witness, Mr. Richard Quadeh, administrator of the appellee's intestate estate, testified that the appellants were illegally occupying a portion of the estate's property located on S.D. Cooper Road in Paynesville, Montserrado County, that the estate owned a total of three (3) acres of land for which the appellants are illegally occupying one and a half lot.

The appellee's second witness, Mr. Joshua Kpawudu testified that the administrator of the Intestate Estate of James Morris, Mr. Richard Quadeh is his brother on mother side and that Richard Quadeh's late father was reared by the Morris' family and took the name James Morris; that James Morris acquired three (3) acres of land from Mardea Dennis in 1952 and after the death of James Morris, Richard Quadeh obtained letters of administration from the probate court to administer his late father's estate.

The appellee then admitted into evidence, its letters of administration and copy of the warranty deed of the late James Morris and thereafter rested with the production of oral and documentary evidence.

The appellants then took the stand and produced its first witness in person of Mr. Varney Marbue Dennis who testified that he is the owner of one (1) lot of land on S.D. Cooper Road, Paynesville City; he testified that S. David Coleman was the owner of a particular property in Oldest Congo Town and that after he died, his widow became the administrator of the property which consisted of forty (40) acres of land; that Dianette Coleman, daughter of S. David Coleman, was his godmother and she decided to give him one lot of land as a gift but since he (Varney Marbue Dennis) was underage then, the administrator of the said estate gifted the one lot of land to his mother and father on his behalf and were issued deed to authenticate the said transfer of land to him; that he was later handed two deeds in the early 1970's, one to his father and mother and one from his father and mother to him and this is how he came to possess the said property. The witness further testified that the property is located in Oldest Congo Town and that he was given one lot of land by the estate but that he does not have physical features on the property to show his one (1) lot demarcation, the witness further testified that he lost his two deeds and had not gone to the archives to apply for certified copies of the deeds.

The appellants second witness, Mr. Christopher Cooper testified that Mr. Varney Marbue Dennis is his uncle and that in 2004, Mr. Dennis told him that he was diagnosed with Parkinson's disease and that he (Mr. Dennis) wanted to take him (Christopher) to all his properties because he will soon start losing his memory but stated that his uncle (Varney) never showed him any deed when he took him to see his property.

The appellants' third witness, Mr. David Garnett testified that he is the current administrator of the Intestate Estate of S. David Coleman, which consists of forty (40) acres of land located in Oldest Congo Town and that Mr. Varney Mambue Dennis was the godson of his late aunt Diana Coleman Cooper who give him one lot of land as his gift and to the best of his knowledge, Mr. Dennis is the owner of the said property. He testified to the letters of administration issued by the Probate Court and copies of the warranty deed of the late S. David Coleman and the said documents were marked by the court and admitted into evidence.

On the cross, he testified that the forty (40) acres of land owned by the Coleman estate was located in Oldest Congo Town on S.D. Cooper Road.

The appellants thereafter rested with the production of oral and documentary evidence.

The jury then proceeded to their deliberation room and returned with a unanimous verdict of liable against the appellants. The appellants excepted to this verdict of the jury and thereafter filed a motion for a new trial.

The appellants argued in their motion for new trial that the jury's verdict was grossly contrary to the weight of the evidence adduced during the trial based upon the fact that in ejectment suits, a party is to recover only based upon the strength of its title and not on the weakness of the other party's title; that there were doubt and inconsistencies in the testimonies of appellee's witnesses and that said inconsistencies should have operated in favor of the appellants; that the said verdict should be set aside because the appellants/movants deed is older and superior than the appellee/respondent's deed and that in ejectment suits, superior title is the controlling principle but the jury failed to take this into consideration.

The movants/appellants then prayed asking the trial judge to set aside the verdict of the jury and order a new trial.

The respondent/appellee filed its resistance to the movants/appellants motion arguing that the jury's verdict was in line with the evidence adduced at trial and that it won the said case based on the strength of its title and not the weakness of the movants/appellants' title; that the movants/appellants' deed has many contradictions in that the inner part of the deed carries the beach settlement of Monrovia whereas the back carries the Oldest Congo Town and the two areas mentioned are two separate and distinct locations and one title deed cannot carry two distinct locations and as such the doctrine of superior title cannot lie in their favor as the deed is not specific as to the particular land it describes; that the said motion will not lie as there are no inconsistencies in the respondent/appellee's witnesses testimonies and as such the jury verdict was straightly in line with the evidence adduced during trial.

The respondent/appellee then prayed asking the court to deny and dismiss the motion for new trial on grounds that the jury's verdict was straightly in harmony with the evidence adduced during the trial.

The motion was assigned for hearing, but the movants/appellants did not show up for argument of its motion, the respondent/appellee counsel then invoke Section 10.7 of the Civil Procedure Law and prayed the court to deny the movants/appellants' motion and proceed to make its final ruling.

The court ruled denying the motion on grounds that the movants/appellants abandoned its motion and proceeded to render final judgment.

The trial judge rendered final judgment in the case affirming the jury's verdict on grounds that when the jury arrives at a verdict after having given consideration to evidence which is sufficient to support the verdict, the verdict should not be disturbed and that the jury's verdict is in harmony with the evidence adduced at the trial and that to merely allege that a jury verdict is contrary to the weight of the evidence adduced at the trial is not detailed enough to enable the court to reach a conclusion on whether to grant a new trial or not as the one moving for new trial is under a duty to clearly state with particularity the evidence that the verdict is contrary to. The trial judge further opined that the appellee established by clear and convincing evidence that it is the legitimate owner of the Three (3) acres of land situated in S.D. Cooper Road, in the City of Paynesville, and that the appellants entered upon and are occupying a portion of the said property illegally.

The appellants excepted to this ruling of the trial judge and announced an appeal to this Honorable Court. The appellants in its bill of exceptions before this Court argued that the trial judge erred and committed a reversible error when he denied the appellants' motion for new trial as the jury verdict was contrary to the weight of the evidence adduced at the trial as the jury failed to consider that the appellee could only recover based upon the strength of its own title and not on the weakness of the adversary title and that for the jury to ignore this cardinal principle of law, the trial judge's ruling should be reversed; that the trial judge committed reversible error when he denied the appellants' motion for investigative survey; that the verdict of the jury should be set aside and a new trial ordered because the appellants' deed is older and superior than that of the appellee's deed and it is the law in this jurisdiction that in an action of ejectment, the superior title should prevail and that because the warranty deed of the Intestate Estate of S. David Coleman, appellants' grantor which was pleaded and attached is older than the appellee's deed which was pleaded and the jury returned a verdict of liable against the appellants, the said ruling should be reversed.

The appellants also argued in their appellants' brief that the appellee cannot specifically prove that the property occupied and in possession by appellants falls within the metes and bounds of his purported three (3) acres that he is claiming without the conduct of an investigative survey. then prayed this Court to overturn and reverse the ruling of the lower court and hold the appellants not liable as the action of ejectment cannot lie.

The appellee filed its appellee's brief and argued that the ruling of the trial court should not be disturbed because it presented clear and convincing proof of its title and that the it prevail upon the strength of its title and not the weakness of the appellants' title and that the appellants could not provide a clear deed to show the property in question as the deed the appellants provided calls for two different properties in two separate locations and as such the jury verdict was in harmony with the evidence adduced at trial.

We must now determine whether the trial judge erred when he denied the appellants' motion for investigative survey?

The facts surrounding this case is simple, the parties are claiming ownership of a particular parcel of land and both parties are arguing that the said land in question is rightfully and legally theirs.

We see from the records that the appellee has argued that the deed pleaded by the appellants describes two different land in two different locations, while the appellants have argued that the appellee's deed is inferior to their own deed as their deed was registered before the appellee's deed; that the appellee's deed shows that it was registered in volume 61 at Page 78, and at the same time, the deed shows that it was registered in volume 25-97 at Page 116, which shows discrepancy and fraud in the appellee's deed and that their deed is older than the appellee's deed thus giving them the superior deed and therefore, they should prevail.

The entire controversy surrounds both parties claiming that the land is legitimately theirs with appellee claiming that the appellants are laying claim to the wrong land as their deed calls for a different land other than the one the appellee is claiming. Based upon this controversy and the claims and counter claims made by both parties, we are left in a conundrum as to why the trial judge denied the appellants motion for investigative survey.

Since the appellee is arguing that the land being claimed by the appellants is different from the one it is claiming, an investigative survey was the proper means to legally reach a fair and equitable disposition of the matter before the court. Ideally, this is the very objective of an investigative survey, that is to assist the court by providing the court with the technical assistance necessary to reaching a legally 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 (1961). *Jarba v Fagans-Freeman*, Supreme Court Opinion, October Term 2013.

However, since the case has already been concluded and the judge has already rendered a ruling in the appellee's favor, it is our considered opinion that the judgment of the lower court be affirmed with the proviso that the appellee be placed in possession of his property based upon the metes and bounds on his title deed that was pleaded into evidence during the exchange of pleadings in the case since both parties are alleging that the other party title deed calls for a different property and anything outside this order will be a violation this Court's mandate.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the trial court is affirmed and the appellee ordered placed in possession of its property according to the metes and bounds of its deed pleaded. The Clerk of this Court is ordered to send a mandate to the court below commanding the judge presiding therein to resume jurisdiction and give effect to this judgment. AND IT IS HEREBY SO ORDERED.

*WHEN THIS CASE WAS CALLED COUNSELLOR MOLLEY N. GRAY, JR. APPEARED FOR THE APPELLANT. COUNSELLOR JAMES N. KUMEH APPEARED FOR THE APPELLEE.*

*Affirmed.*