

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

The Intestate Estates of Toe Blopleh by and )  
thru Patrick Toe of Montserrado County, Liberia, )  
.....Appellant )  
 )  
Versus ) APPEAL  
 )  
The Intestate Estates of Victoria V. Marsh )  
represented by its administratrix, Cheryl Marsh of )  
the City of Monrovia, Liberia .....Appellee )  
 )  
GROWING OUT OF THE CASE: )  
 )  
The Intestate Estates of Toe Blopleh by and )  
thru Patrick Toe of Montserrado County, Liberia, )  
.....Movant )  
 )  
Versus ) MOTION FOR JOINDER  
 )  
The Intestate Estates of Victoria V. Marsh )  
represented by its administratrix, Cheryl Marsh of )  
the City of Monrovia, Liberia .....Respondent )  
 )  
GROWING OUT OF THE CASE: )  
 )  
The Intestate Estates of Victoria V. Marsh )  
represented by its administratrix, Cheryl Marsh of )  
the City of Monrovia, Liberia .....Plaintiff )  
 )  
Versus ) ACTION OF EJECTMENT  
 )  
Amie McCaulay Cole, Christian Cole, Regina Koti, Hawa )  
Williams, Mr. Fofana, Christian Smith, Anthony D. Toe, )  
Angel M. Toe, Daniel Farley, Paulina Doe, Gassim Sow, )  
Sessay, Morris Kamara, Ernest L. Verdier, Naomie )  
Verdier, Binta Sheriff, and all those occupants on the )  
said Property, Liberia.....Defendants )

Heard: April 15, 2025 Decided: August 15, 2025

MADAM JUSTICE CLINTON JOHNSON DELIVERED THE OPINION OF THE COURT

This appeal emanates from the ruling of Her Honor, Golda A. Bonah-Elliott, Assigned Circuit

Judge, Sixth Judicial Circuit, Civil Law Court for Montserrado County, sitting in its June Term, A.D. 2024, when she denied and dismissed appellant's motion for joinder as a party defendant on ground that the appellant failed to produce evidence that the administrator of the Intestate Estate of Toe Blopleh had letters of administration at the time the action of ejectment was instituted, and that the appellant's motion for joinder of party sought to have the court reverse its earlier ruling which placed the defendant on bare denial of the complaint in the action of ejectment out of which the motion for joinder grew.

The certified records transmitted to this Court reveal that on March 2, 2023, the appellee, the Intestate Estate of Victoria V. Marsh, as plaintiff, filed an action of ejectment in the Civil Law Court, Sixth Judicial Circuit for Montserrado County, naming Amie McCaulay Cole, Christian Cole, Regina Koti, Anthony D. Toe, Angel M. Toe, Hawa Williams, Christian Smith, Paulina Doe, Gassim Sow, Memuna Kaba, Seth Parker, Ernest L. Verdier, Naomie Verdier, Binta Sheriff and all those occupying appellee's property, as defendants. The appellee in its complaint averred that the defendants, without any color of rights, have encroached upon the appellee's two point seven five (2.75) acres of land situated in the St. Michael School vicinity in the Township of Gardnersville, Montserrado County and have constructed structures on said property; that all efforts applied by the appellee to have the said defendants vacate the property subject of the action of ejectment proved futile, in consequence of which the action of ejectment was filed to have the defendants ousted, ejected and evicted from the property and the appellee placed in possession of said property; and that the court adjudges each of the defendants liable in the amount of Fifty Thousand United States Dollars (US\$50,000.00).

The records also show that upon the filing of the complaint on March 2, 2023, the clerk issued the writ of summons, which was served on the defendants Gassim Sow, Seth Parker, Howard Williams, Memuna Kaba, Anthony D. Toe, Angel M. Toe and Amie McCaulay Cole and returned served but that the defendants did not file an answer. The court below assigned the case for the disposition of law issues for July 14, 2023. And during the said disposition of law issues, appellee's counsel to make submission after representation was noted and the court granted said application, at which time the appellee counsel informed the court that despite the service of the precept on the defendants, the defendants failed to file a responsive pleading within the ten (10) days required by statute and accordingly requested the court to rule the defendants to bare denial of the complaint, and rule the matter to trial on the merits and conduct an investigative survey; all of which were granted by the trial judge. The clerk was ordered to inform the Liberia Land Authority (LLA) to name a qualified and licensed surveyor to conduct an investigative survey of the property sued for; the trial judge also advised the parties to submit the name of their technical representative for the conduct of the

investigative survey.

The Liberia Land Authority, in response to the clerk's letter, designated Mr. Albert D. Giah, Jr., of the Department of Land Administration as Chairman/GOL licensed surveyor, whilst the appellee was represented by Kempson S. Murray, and the appellants were represented by John S. David (as can be seen from the investigative survey report) to carry out the investigative survey ordered by the court. Surveyor Albert D. Giah, Jr., was later qualified and instructed to conduct the investigative survey of the property subject of the action of ejectment. The survey was conducted on October 6, 2023; subsequently thereafter, on November 21, 2023, a report was filed with the court below and read on January 15, 2024. However, due to the absence of the appellants, the court below appointed Counsellor G. Wiefueh Sayeh to receive the investigative survey report, and after the reading of the said report, Counsellor G. Wiefueh Sayeh objected to the survey report and notified the court below that the defendants would take advantage of the statue controlling. The court below noted Counsellor G. Wiefueh Sayeh's objection to the investigative survey report and ruled that the defendants were given twenty (20) days as of the date of the reading of the report to file a formal written objection.

On February 5, 2024, Anthony D. Toe, one of the appellants, upon whom the precept was served but did not file an answer to the complaint and who was ruled to bare denial, filed a formal objection to the investigative survey report and annexed a title deed in the name of Toe Blopleh. The appellee filed its resistance to the objection of the appellant, Anthony D. Toe, basically contending that the deed proffered by the appellant Anthony D. Toe was not his but rather that of Toe Blopleh and therefore, title to said deed not being vested in the appellant Anthony D. Toe, he lacks the legal capacity and standing to use said deed to challenge the investigative survey report.

The trial judge, on March 26, 2024, after entertaining arguments on the appellant Anthony D. Toe's objection and the resistance thereto, ruled that the appellant Anthony D. Toe, not having filed answer and so ruled to bare denial, the instrument considered during the investigative survey were those filed with the court and that the objection did not raise any substantial issue to warrant the investigative survey report being set aside. The trial judge ruled and denied and dismissed the objection and confirmed the investigative survey report, which ruling, the objector, the appellant Anthony D. Toe noted exception but took no further step.

Subsequent to the denial of the objection of defendant Anthony D. Toe, Patrick Toe, after obtaining letters of administration on April 24, 2024, to administer the Intestate Estate of Toe Blopleh, the appellant herein, filed a motion for joinder, basically contending that the precept

of the action of ejectment was never served on him, and he did not have knowledge of the proceedings and only came to know the pendency of the proceedings after the conduct of the investigative survey; and that the property subject of the action of ejectment was acquired by Toe Blopleh in 1963.

The appellee, on May 20, 2024, filed resistance to the motion for joinder, contending that the title deed attached to the motion for joinder was the identical deed that was attached to defendant Anthony D. Toe's objection to the investigative survey report and the appellant, not being in possession and occupancy of the property subject of the action of ejectment, the court should deny the motion for joinder without prejudice to the appellant consistent with Section 5.53 of the Civil Procedure Law as the appellant has adequate remedy at law.

The trial court, on August 21, 2024, entertained arguments for the motion to join and the resistance thereto, and entered ruling thereon denying and dismissing the motion for joinder on ground the appellant failed to show that he was the administrator of the intestate estate of Toe Blopleh at the time of the filing of the complaint and that the appellant was attempting to have the court reverse its earlier ruling confirming the survey report.

For the benefit of this opinion, we quote verbatim excerpts of the trial judge's ruling:

"The Movant in its motion to join is attempting to have this court reverse what has already been done. The letters of administration attached to the motion to join was issued on April 18, 2024, long after the issuance and service of the writ of summons in these proceedings. Based upon the information contained in the objection to the survey report, that Anthony D. Toe, one of the appellants who received the writ of summons along with Angel Toe, are descendants of the late Toe Blopleh who owned the property, subject of litigation, the motion to join is merely an attempt to reverse the ruling of this court, ruling the said defendants to bare denial.

This court says that the movant has not shown that he was the administrator of the Toe Blopleh's estate at the time of the filing of the action of ejectment. Further, the writ of summons was served on Anthony D. Toe and Angel Toe, who appeared, are descendants of the late Toe Blopleh, and perhaps, siblings or relatives of the Movant. This court says that based upon the records and the foregoing the intestate estate of Toe Blopleh, whose property is currently owned or occupied by the defendants, has been given due process by the service of the writ of summons on Anthony D. Toe (the objector to the survey report), and Angel M. Toe. Accordingly, there is absolutely no basis for making the said intestate estate a party defendant to these proceedings. The law in defense of his rights, the law does not give protection to him who abuses his rights. *Sheriff v. Pearson, et.al*, 35LLR 355, 1998.

Wherefore and in view of the foregoing, the said motion to join is hereby denied and dismissed and the resistance thereto upheld. AND IT IS HEREBY SO ORDERED".

It was from this ruling of the trial judge denying the motion to join that the appellant noted exception and announced an appeal, filed approved bill of exceptions, approved appeal bond

and notice of completion of appeal, on the strength of which this case is on appeal before this Court.

In the bill of exceptions, the appellant basically alleged that the judge erred when she decided the matter against the movant based on perception that Anthony Toe is a descendant and beneficiary/owner of the land; that the movant's motion was intended to reverse what was already done instead of considering that it is movant's right to have his day in court; that the judge erred when she denied the movant's motion on ground that the movant's deed was not cleared; and that the judge erred when she dismissed the motion on ground that the movant did not allege that the defendant was not served with the summons.

From the bill of exceptions and the arguments advanced by counsels representing the parties, the issue presented to this court for determination is whether or not the trial judge erred when she denied the appellant's motion for joinder.

The law on joinder as per the *Civil Procedure Law Revised Code:1.5.51.1* captioned "Parties who should be joined", provides that persons (a) who ought to be parties to an action if complete relief is to be acquired between persons who are parties to such action or (b) who might be equitably affected by the judgment in such action shall be made plaintiffs or defendants therein."

From the herein-quoted provision of statute, we hold that either of the existing parties could or should have requested the court for the joinder of a third party who is not before court to be joined as party plaintiff or a party defendant. This law provides remedy to a third party who was not named as party and who ought to be made a party in a case pending before court. Further, Section 5. 61 of the said statute quoted above grants unto any person the right to intervene in an action pending in a court where the statute conferred on such person the unconditional right to intervene or where the representation of the party seeking to intervene interest by the existing part is or may be inadequate and such person may be bound by a judgment in the action or where the person is so situated as to be adversely affected by a distribution or other disposition of the property in the custody or subject to the control or disposition of the court or any officer of said court.

The law under *Civil Procedure Law, Rev. Code:1.5.54* captioned 'additional parties may be brought in' states that "parties may be added by order of any court except the Supreme Court on motion of any parties, or on its own initiative at any stage of the action on any terms that are just."

However the intent of the appellant to file the motion to join is placed in issue because he

claimed not to have known about the filing of the case but the very deed that is attached to his motion was the exact deed that was rejected by the trial court when presented by Anthony Toe, which was rejected on the ground that the deed was not in the name of the said Anthony Toe. Further the timing of the filing of the motion to join also raises concerns about the integrity of the trial because to allow joinder at any time or stage of a trial before judgment would be a floodgate to not ending any matter. Assuming that the motion for joinder was the proper remedy available to the appellant and as per the issue raised above, and considering that appellant strenuously argued that it was never served with precept and had no knowledge of the case until during the conduct of the investigative survey, and therefore should be allowed to join in order to accord it the opportunity to defend its property rights, this Court says that, from the record, it is a misrepresentation because a review of the records reveals that the complaint was filed on March 2, 2023, served on the defendants named in the action of ejectment including two (2) heirs of the appellant, namely, Anthony D. Toe (who had the deed in question in his possession) and Angel Toe. The law in this jurisdiction is that, “every person is entitled to take full advantage of the law in defense of his right, but the law gives no protection to him who abuses his own rights; that the unreasonable delay by a party in seeking redress in a cause amounts to laches, and the judgment resulting therefrom will not be disturbed, especially where the status quo cannot be restored”. *Sheriff v. Pearson et.al*, 35 LLR 355, 359 (1998).

In the instant case, the status quo cannot be restored; in that, to allow the appellant to be joined is to reverse the whole case to its original stage, starting all over to dispose of law issue, reverse the bare denial status of Anthony Toe and Angel Toe, the herein-mentioned defendants, Anthony D. Toe and Angel Toe, who stand to benefit but who did not file answer notwithstanding that the deed of the late Toe Blopleh was in their possession. The investigative survey was conducted on October 6, 2023, and a report submitted to the court below on November 21, 2023 (eight months after the complaint was served and returned served). This Court observed that it was after the reading of the investigative survey report that Anthony D. Toe filed an objection to the investigative survey report, attaching the deed of the appellant.

The status quo in this case is where the case was when the motion to join was filed; so the status quo cannot be restored if the trial court grants the motion; rather it would take the case to the very beginning, making the provision of the law that provides for bare denial inoperable. This Court wonders why Anthony D. Toe, one of whom the complaint was served on and who was in possession of the appellant’s title deed did not file an answer to proffer said deed and or a motion to have the intestate estate of the Toe Blopleh made a party defendant, but rather

decided to annex Toe Blopleh's deed as the basis of his objection to the surveyor's report, knowing fully well that Toe Blopleh was not named a defendant.

Further, the letters of administration issued to Patrick Toe Blopleh on April 18, 2024 to administer the intestate estate of Toe Blopleh, was after the trial court had denied the deed of Toe Blopleh to form the bases for allowing the appellant to be joined as the records certified before this Court show that the complaint and the writ of summons were served and returned served on Anthony D. Toe and Angel M. Toe, who are allegedly descendants of Toe Blopleh, who attached a title deed to their objection to the survey report.

We therefore disagree with the appellant that it had no knowledge of the pendency of the case and obtain knowledge of the case after the conduct of the investigative survey. The evidence as quoted above clearly indicate and substantiate that two (2) of the heirs of the appellant had knowledge of the action of ejectment, they having been served the precept, thereby bringing them under the jurisdiction of the court and having used the same deed both in the objection and in the motion to join. Further, the two heirs, Anthony Toe and Angel Toe, when placed on bare denial, knew that they could only cross-examine the appellee's witness but could not plead any affirmative plea, which they sought to reverse by having Patrick Toe Blopleh to obtain Letters of administration for the Intestate Estate of Toe Blopleh after they were denied the opportunity to use the same deed in both instances. .

It is the law in this jurisdiction that "every person is entitled to take full advantage of the law in defense of his right, but the law gives no protection to him who abuses his own rights; that the unreasonable delay by a party in seeking redress in a cause amounts to laches, and the judgment resulting therefrom will not be disturbed, especially where the status quo cannot be restored". *Sheriff v. Pearson et.al*, 35 LLR 355, 359 (1998). In support of this principle of law, the Supreme Court has also held that "courts of justice cannot do for litigants that which they ought to do for themselves, otherwise, they will cease to exist as the goddess of justice and the pillar of neutrality." *LAMCO J. V. Operating Co. v. Azam et.al*, 31 LLR 668, (1983). We must emphasize that the records show that the complaint was filed on March 2, 2023, and that on April 30, 2024, a motion for joiner was filed by Patrick Toe Blopleh more than a year after the said complaint was filed. It is in furtherance of this, that this Court says that the appellant suffers laches for his failure to timely take full advantage of the law in the defense of his rights because of the untimeliness of Patrick Toe coming to court to be joined.

Further, the denial to join by the trial judge does not terminate the ejectment action; the parties, including the two heirs of the Late Toe Blopleh, Anthony Toe and Angel Toe, must go to trial because the denial did not bring the case to finality.

This conclusion, however, does not ipso facto relinquish the right of the appellant to pursue other appropriate remedy against the appellee, in so far as it was never served with precepts from the trial court and not brought under its jurisdiction; hence, cannot be bound by its judgment because the law hoary with age in this jurisdiction is that “the right of no one shall be concluded by a judgment rendered in a suit to which he is not a party, and a party cannot be bound by a judgment without being allowed his day in court”. *Abraham K. Sales et.al v. the Intestate Estate of Arthur and Reuben Hart*, Supreme Court Opinion, March Term, A.D. 2025; *LIDC V. Thorpe*, 31 LLR 714, 718 (1984); *Keturah Tengbeh et.al v. the Intestate Estate of Samuel B. Cole*, Supreme Court Opinion, October Term, A.D. 2024.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the ruling of the trial court denying and dismissing the appellant’s motion for joinder is hereby affirmed. The Clerk of this Court is ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and give effect to the Judgment of this Opinion. Costs are ruled against the appellant. And it is hereby so ordered.

Affirmed

When this case was called for hearing, Counsellor Jimmy Saah Bombo, Sr., appeared for the appellant. Counsellor J. Johnny Momoh appeared for the appellee.