

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.D. 2025

BEFORE H I S HONOR: YAMIE QUIQUI GBEISAY, SR..... CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE ASSOCIATE JUSTICE
BEFORE H I S HONOR: YUSSIF D. KABA ASSOCIATE JUSTICE
BEFORE HER HONOR: CEAINEH D. CLINTON-JOHNSON ASSOCIATE JUSTICE
BEFORE HIS HONOR: BOAKAI N. KANNEH ASSOCIATE JUSTICE

Peace Clinic of Louisiana, Montserrado)
County, Republic of Liberia)
.....Appellant)

Versus) APPEAL

Olivia Precious Cooper, by and thru her)
Attorney-In-Facts, Ms Sharon Wallace,)
Also of Montserrado County, Liberia)
.....Appellee)

GROWING OUT OF THE CASE:)

Peace Clinic of Louisiana, Montserrado)
County, Republic of Liberia)
.....Informant)

Versus) BILL OF INFORMATION

Olivia Precious Cooper, by and thru her)
Attorney-In-Fact, Ms Sharon Wallace,)
Also of Montserrado County, Liberia)
.....Respondent)

HEARD: November 19, 2025

DECIDED: December 18, 2025

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

The records before us revealed that a final judgment was rendered in favor of the appellee in the Civil Law Court, Sixth Judicial Circuit for Montserrado County, in which the court below granted unto the appellee a summary judgment, due to the defendant, Madam Justine Mutako's admission in her answer that the disputed property do not belong to her.

The facts as culled in this case revealed, that the appellee/plaintiff, Olivia Precious Cooper thru her Attorney-In-Fact, Ms. Sharon Wallace on May 22, 2019, filed with the Civil Law Court, Sixth Judicial Circuit for Montserrado County, an ejectment action for a 3.2 acres of land purchased from Sandy S. Roberts on September 10, 1999, which property is situated

on the Northern side of Caldwell-Louisiana Highway, Montserrado County, from the Western boundary of Randolph Miller, parallel with Caldwell-Louisiana highway, parallel with St. Paul River and also parallel to the place of commencement, and the appellee annexed to her complaint her title deed, power of attorney and the Liberia Land Authority (LLA) Comprehensive Survey Report emanating from the case between the appellee's Attorney-In-Fact and appellant's grantor, Daniel Barsigieh in a criminal charge of land conveyance.

The appellee in its complaint stated that the defendant, Justine Mutako unlawfully occupied her property without any color of right or legal title or justification whatever and began construction of houses and other structure(s) thereon; that the appellee's Attorney-In-Fact, Ms. Sharon Wallace in ascertaining the metes and bound of the disputed property, petitioned the Liberia Land Authority (LLA) to conduct an investigative survey in a land conveyance case between the appellee's Attorney-In-Fact and Daniel Barsigieh, which survey showed up in favor of the appellee as per the LLA's decision on April 8, 2019; that Madam Mutako denied the appellee her right to quiet and peaceful enjoyment of her property and prayed the court to award general damages in the amount of Two Hundred Fifty Thousand United States Dollars (US\$250,000.00) for the injury she had suffered, and to also oust and evict the defendant, Madam Justine Mutako from the subject property.

The defendant, Madam Justine Mutako, nine days after receipt of the appellee's writ of summons and complaint, on May 31, 2019, filed a seven count answer along with a motion to dismiss the appellee's complaint, and denied the appellee's ownership to the subject property and presented no evidence; that she, Mutako, does not own the real property claimed by the appellee; that she cannot be made a party to this action of ejectment; that in the motion to dismiss the appellees' complaint, defendant Mutako's averments are the same as contained in her answer; and that the trial court should dismiss this action of ejectment in favor of the appellant and compel the appellee to pay her lawyer's legal fees in the amount of Five Hundred United States Dollars US\$500.00.

Following the filing of the defendant's answer, the appellee filed its reply along with its resistance to the defendant's motion to dismiss and stated that the defendant's admission that she does not own the appellee's real property confirmed the appellee's assertion in her complaint for the wrongful withholding of the said property; that further, the averment in the appellee's resistance are the same as contained in its reply; that she cannot be held

responsible to pay legal fees for Justine Mutako and thereby denied paying any fee for the defendant's lawyer and prayed the trial court to deny and dismiss the motion to dismiss.

The trial court heard arguments on the motion to dismiss the appellee's complaint on January 27, 2020, and on the same day, the trial judge denied and dismissed defendant Mutako's motion to dismiss the complaint due the defendant's claim that she does not own the disputed property, and that, the said denial is not one of those legal grounds for the dismissal of the cause of action under the *Civil Procedure Law, Rev. Code: 1.11.2*.

Predicated upon the said admission by the defendant that she does not own the disputed property, the appellee filed a motion for summary judgment on January 28, 2020; that there exist no factual issue to be decided by the court because defendant Justine Mutako had admitted both in her answer and motion to dismiss that she does not own the subject property. The defendant on February 12, 2020, filed its resistance to the said motion, challenging such motion in an ejectment action; that whereas, in an ejectment action, it is the contest of title and whether one has title is an issue of facts that must go to the jury; that a motion for summary judgment seek the determination of a question of law, not fact; and that an ejectment action cannot be determined by a motion for summary judgment. The trial court issued the notice of assignment for the hearing of the motion for summary judgment on September 1, 2020, and said motion was argued by the parties pro et con and thereafter, on September 22, 2020, ruled granting the motion for summary judgment, relying on the *Civil Procedure Law, Rev. Code:1.11.3* on the basis that the appellant lacked title to the subject property, since title was not in issue, and also ordered the clerk to issue the writ of possession and bill of cost to be served on the defendant, failure of which an execution will be issued.

Six days after the trial court's ruling on the summary judgment, the defendant, Justine Mutako filed a motion for relief from judgment on September 28, 2020, contending that a summary judgment was granted in an ejectment action without a jury; that no trial was held and the trial court ruled that there exist no issue of material facts involved. The appellee also filed its resistance to the appellant's motion for relief from judgment on same October 28, 2020, along with a motion to dismiss, strongly contending that defendant Mutako's admission, that the property does not belong to her, indicated that there exist no factual issue to be decided by the trial court; that a jury trial was required where there exist factual issues in the case; that the appellee's title deed which was not challenged by the appellant was attached to the appellee's complaint as its evidence; and that summary judgment was in conformity with the law.

The appellee, on October 28, 2020, filed a motion to dismiss the defendant Mutako's appeal contending that the defendant Mutako announced an appeal to the trial court's ruling on September 22, 2020, and the appellant has neither filed its bill of exceptions nor taken any mandatory statutory requirements in the perfection of her appeal; that the appellee on October 4, 2020, obtained a clerk certificate evidencing that a bill of exception was not filed in statutory period; and that the said motion was served on the defendant, she failed to file any resistance, but rather chose to file a motion for relief from judgment. The trial judge on January 26, 2021, ruled dismissing the defendant Mutako's appeal.

When the motion to dismiss the appeal was granted by the trial court, surprisingly, this time, on March 24, 2021, the appellant, Peace Clinic came into the case by way of bill of information that it is a registered corporation, birthed under the name Sister Chantal Memorial Foundation and obtained eleven (11) lots of land from the administrators of the Intestate Estate of Sarah Roberts Davis. The appellant annexed to its bill of information a title deed from Daniel Barsigieh and Archie Worjleh and an Articles of Incorporation in the name of Sister Chantal Memorial Foundation; that the ejectment action filed against the defendant, Justine Mutako, the appellant, Peace Clinic was never made a party to that suit or brought under the jurisdiction of the court but was served with the writ of possession; and that on March 24, 2021, the court's Sheriff attempted or began to evict the appellant from their premises, hence, information will lie.

Following that, on April 8, 2021, the appellee filed resistance to the said bill of information and averred that she is not aware of the appellant's ownership to the subject property; that in August 2017, a complaint was filed with the Liberia Land Authority (LLA) against the appellant's grantor, the appellee and appellant's grantor were invited and the grantor admitted that the subject property was sold to the defendant, Justine Mutako and the said grantor stated that he was going to relocate defendant Mutako but the said grantor, Daniel Barsigieh sold the property on September 17, 2017, while the investigation was still on-going at the LLA; that thereafter, a criminal trespass charge was filed against Madam Justine Mutako, the magistrate allegedly dismissed the case without defendant Mutako showing a title deed; that the defendant, Justine Mutako and her lawyer are founding members of the appellant's entity and had knowledge from 2016 that the property was in dispute and going through litigation; and that investigation conducted and findings in the report of April 8, 2019, were in the appellee's favor.

The trial court, following arguments, ruled on April 28, 2022, denying and dismissing the appellant's bill of information that the owners mentioned in the article incorporation were in the know of the ejectment action including one of the appellant's counsels and the Sister Chantal Memorial Foundation, and they should have taken step to intervene but failed and neglected to do so. The trial judge further emphasized that it was after the dismissal of the defendant Justine Mutako's appeal that the appellant, Peace Clinic evolved. The appellant noted exception to the ruling and appealed to this Court *en banc*. The appellant filed its bill of exceptions to the final ruling of the trial judge on the bill of information on May 13, 2022; and that on June 10, 2022, the appellant also filed a motion to rescind the ruling on the bill of information challenging Counsellor James N. Kumeh that he was not a licensed lawyer when he appeared in court on April 20, 2022. The appellant filed with the trial court its appeal bond on July 4, 2022, along with the notice of completion of appeal.

The law in this practice allows a party who has ownership to real property to take steps in defending, ousting and evicting the adverse party who is wrongfully withholding its real property. Considering the factual circumstances of this case, relative to the contentions as advanced by the parties, the issues which we deem necessary in deciding this litigation are as follow:

1. Whether or not the trial judge err when he granted the motion for summary judgment in an ejectment action.
2. Whether or not a bill of information was the appropriate remedy sought by the appellant who is not a party to the ejectment action in the lower court.

Before we delve into the issues in the ordered as presented, we shall digress for a moment to make a few observations on the facts of this case before delving into the merits of the contentions and the arguments of the parties herein.

We observe, from the records certified before us, that the appellee instituted an action of ejectment against Justine Mutako, who in her answer, admitted that the land in question was not owned by her but neglected to at least inform the court as to who put her on the property. It is a universal principle of law, espoused in the litany of cases of the Supreme Court that all admissions of a party or its agent are admissible against the person who admits to a fact.

We also observed that when the trial court rendered the summary judgment, Justine Mutako announced an appeal. As is evidenced by the Judge's ruling and the clerk's certificate that Justine Mutako did not file the bill of exception within the 10 days allowed by law, the

appellee herein filed a motion to dismiss the appeal, relying on the *Civil Procedure Law, Rev. Code:1.51.16* which states that an appeal may be dismissed by the trial court on motion to dismiss for the failure of the appealing party to file a bill of exception within 10 days.

We further observed that Justine Mutako did not file a resistance to the motion to dismiss and Justine Mutako's lawyer was present in court and received the ruling dismissing the motion to dismiss her appeal. Even after receiving the ruling, Justine Mutako elected to file an eight count motion for relief from judgment.

Following these observations, we shall now delve into the issues as presented. On the issue as to whether or not the trial judge erred when he granted the motion for summary judgment, we answered in the negative.

Article 20(a) of the 1986 Constitution of Liberia guarantees trial by jury; however, the statute also further clarifies that jurors are the trial of facts. In the instant case, an action of ejectment, a jury trial would have been necessary if there was a contest of issues of fact. Also, the fact that jurors are triers of facts and the records show that there was no factual issue placed before the trial judge, for which, though no jury was requested by Justine Mutako, except that Justine Mutako expressly informed the trial court that she was not the owner of the property before the court, therefore, there was no contestable issue of fact. We see no reason for a jury trial because the basis of a jury trial is to determine the factual issue where there is contest of facts and there must exist an issue of fact which is in dispute between the parties.

Therefore where there is no issue of fact in dispute, the law in this jurisdiction is that "the court shall grant summary judgment if it is satisfied that there is no genuine issue as to any material fact and that the party in whose favor judgment is granted is entitled to it as a matter of law. When a motion for summary judgment is made and supported as provided in this section, the adverse party may not rest on mere allegations or denials of his pleading, but his response by affidavits or as otherwise provided in this section must set forth specific facts showing that there is a genuine issue for trial; if he does not so respond, summary judgment, if appropriate, shall be entered against him." *Civil Procedure Law, Rev. Code:11.3.3*.

The records certified before this Court revealed that in defendant Mutako's answer to the appellee's ejectment complaint, the defendant admitted having no claim to the subject property, which counts 2 & 6 we quote verbatim:

- 2 “As to count two of the complaint, the defendant says that she does not own the property described.”
- 6 “Defendant not having or claiming title to the subject property; nor having been shown by any evidence to have or to have claimed title to the subject; the defendant cannot be made party to the said action of ejectment, nor can said action of ejectment be sustained against defendant.”

This answer therefore showed no contestable issue in the action of ejectment as the appellee had averred that the basis of a jury trial is to determine the factual issues where there is a contest of facts; there must exist an issue of fact which is in dispute between the parties. The law provides that “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 the title to real property as well as the right to possession thereof is disputed...” *Civil Procedure Law, Rev. Code: 1.62.1*. The appellee, having exercised this right under the law, a duty was imposed on Justine Mutako to have set forth specific facts showing that there is a genuine issue for trial; if she does not so respond, summary judgment, if appropriate, shall be entered against her.” *Civil Procedure Law, Rev. Code:1.11.3.3* Had she proffered a deed and or some response that would indicate a contest, then there would have been a basis for a trial because the basis of a jury trial is to determine the factual issues where there is a contest of facts; there must exist an issue of fact which is in dispute between the parties; the appellee having exercise her rights as stated *supra*, that had Justine Mutako known that she has been placed on the property in issue by another person, it would have only be prudent to give that information to the court. The law is clear that the court shall consider the pleadings, affidavits, depositions, admissions, and documentary evidence submitted by the parties. Supporting and resisting affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supported or opposed by depositions or by further affidavits. *Civil Procedure Law, Rev. Code:1.11.3.8*

In furtherance of the above, this Court stated that when plaintiff in an ejectment action has shown a valid and legal title to a property, he or she is rightfully entitled to recover the said property in dispute upon the strength of his/her title. *Tulay v. Salvation Army (Lib.) Inc.*, 41 LLR 262 (2002). The appellee, having proffered a deed that was not challenged and in consonance with the admission made by defendant Mutako, that she does not possess title

to the disputed property, left the trial court to have no genuine issue of facts for trial and upon the filing of the appropriate motion, which the appellee took advantage of, it is therefore our holding that defendant Mutako having failed to produce title in defence of the disputed property, the granting of summary judgment by the trial judge was in consonance with law.

With respect to the second (2nd) issue, as to whether or not a bill of information was the appropriate remedy sought by the appellant who is not a party to the ejectment action in the lower court. We answer this question also in the negative.

We wonder how Peace Clinic, the appellant, come into this case wherein, the trial judge had ruled in favor of the appellee, denying the motion to dismiss Justine Mutako's appeal when she failed to file her bill of exceptions within 10 days, considering that Peace Clinic was not a party to the ejectment action.

From the records certified before us, it is shown that after the motion to dismiss the appeal of Justine Mutako for failing to file her bill of exceptions within the statutory period allowed by law was granted on March 2, 2021, the appellant herein, filed a bill of information on March 24, 2021 in which the appellant averred that, it owned eleven (11) lots of land from the intestate estate of the late Sarah Roberts Davis thru its administrators; that respondent filed an ejectment against Mr. Justine Mutako and it was never made a party to the suit or brought under the jurisdiction of the court; that surprisingly, Sheriffs from the Civil Law Court went to evict them from their legitimate property, even though they were not brought under the jurisdiction of the court and have not had their day in court; and that bill of information will lie to inform the court that it was wrongfully evicted from its legitimate property. It was when the writ of execution against Justine Mutako was served by the sheriff that the appellant filed a bill of information, claiming that it did not have its day in court. The summary of the trial judge's ruling in the bill of information is basically that, defendant Mutako and lawyer who had prior knowledge of the ejectment action and are all founding members of Peace Clinic, appellant, failed to intervene and took no action until the court ruled against Justine Mutako, and as such, cannot claim that they did not have their day in court when they could have taken action to defend their property's rights, hence, the bill of information is not the appropriate remedy to be sought. This Court, in an analogous case, *Kpoto v Kpoto*, 34 LLR 371, 377 (1987) Mr. Justice Jangaba, speaking for the Court, in the *Kpoto's* which was further explained by Mr. Justice Janneh, in the *Kindii et al v Foster et al* [2010] LRSC 23 (29 June 2010), said:

"...a bill of information is usually a special proceeding in the form of a complaint before a court where a matter is pending, or before a court which had earlier adjudicated a cause, invariably informing said court of a failure to do what it was ordered to be done, or of something which ought to be done or undone for one who is a party, or for one who was a party in, or otherwise affected by a cause already adjudicated."

"....the office of a bill of information, the Supreme Court proceeded to hold in the following words: "A bill of information.....is not a remedial writ which seeks the review of the acts of a court or its officials, as other writs are available for that purpose. A bill of information is [also] not the proper course open to one who alleges that he had not had his day in court."

The Court observes from the records that defendant Justine Mutako who claimed in her answer that she did not own the disputed property, filed along with her answer a motion to dismiss the appellee's complaint. This Court, wonders how could defendant Justine Mutako, who claimed not having knowledge of the ownership to the disputed property claimed by the appellee, take further steps in filing a motion to dismiss the appellee's complaint, filed resistance to the appellee's motion for summary judgment, and also filed a motion for relief from judgment for a property she claimed she did not own. This Court sees this as a means on the part of defendant Mutako and the appellant to defeat the ends of justice which must be discouraged. This Court also says that, it is a clever attempt on the part of defendant Mutako and the appellant to see this litigation lingering in the corridors of the courts so as to delay and or deny the appellee the desire justice being sought.

Further, we must emphasize also, that this matter had been in the trial court since May 22, 2019 up to January 26, 2021, after which the appellant surface with the bill of information that it was never made a party to this case but was served with a writ of possession. We hold that a party who has the right to defend its interest in a real property, though in the know of such controversy over the said property, made a denial to its ownership to the property and took steps in filing resistance and motion papers, thereafter, a ruling emanating therefrom, should not be set aside.

For the appellant to benefit under a bill of information, the appellant must show that its bill of information is a special proceeding in the form of a complaint before a court where a matter is pending, or before a court which had earlier adjudicated a cause, invariably informing said

court of a failure to do what it was ordered to be done, or of something which ought to be done or undone for one who is a party, or for one who was a party in, or otherwise affected by a cause already adjudicated; and where the appellant is not a party to the matter adjudicated by the trial court, the appellant lacks the standing or capacity to file a bill of information; and more besides, the records having established that Justine Mutako is a member of the board of the appellant, Peace Clinic, and was the defendant in the previous action, the appellant had adequate notice to assert their rights to the property, and their failure to so do they suffer waiver and lashes.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the trial judge's denying the bill of information is hereby affirmed. The Clerk of this Court is hereby ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction and enforce the Judgment of this Opinion. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.

Affirmed.

When this case was called for hearing, Counsellors Benjamin B. Stewart, Jr. and Mack. A. Kollie appeared for the appellant. Counsellor James N. Kumeh appeared for the appellee.