

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

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

Fred I. Sumo of Boys Town Community)
Marshall City, Margibi County Republic of)
Liberia.....Appellant)
)
Versus) APPEAL
)
Shekou Bongay and Assatta Bongay of Boys)
Town Community Marshall City, Margibi)
County Republic of Liberia.....Appellees)

GROWING OUT THE CASE:

Shekou Bongay and Assatta Bongay of Boys)
Town Community Marshall City, Margibi)
County Republic of Liberia.....Plaintiffs)
)
Versus) ACTION OF EJECTMENT
)
Fred I. Sumo of Boys Town Community)
Marshall City, Margibi County Republic of)
LiberiaDefendant)

Heard: November 18, 2025

Decided: February 12, 2026

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

This matter emanates from the ruling of the 13th Judicial Circuit Court for Margibi County in an action of ejectment in which the trial jury rendered a liable verdict which was confirmed by the trial court against the appellant on December 29, A.D. 2022, and the appellant noted exception to the said ruling and appealed to this Court *en banc*.

The records certified before this Court show that the appellees, Shekou Bongay and Assatta Bongay, filed an action of ejectment on March 18, 2019, against the appellant, Fred I. Sumo. In the said action of ejectment, the appellees stated that they are the biological children of the Late Fatu M. Bongay who died intestate on December 18, 2015; that after the demise of Fatu M. Bongay, Letters of Administration to administer the deceased's property was jointly acquired by the appellant and the appellees; that after a

period of time, the appellees acquired the second Letters of Administration exclusive of the appellant, upon noticed that the appellant was claiming the subject property for himself. The appellees alleged that prior to the death of Fatu M. Bongay, she acquired a parcel of land on July 21, 2007 measuring 2.2 lots described as lot No. 3 & 6 Block-B, a portion of 7.35 acres located in Schiefflin Township, Margibi County conveyed by her grantor, Myra Walker, on which property their late mother started the construction of a building thereon. Further, the appellees averred that after the death of their mother, they made efforts to search for the title deed for the subject property but to no avail; that after the appellant denied having knowledge of its location. As a consequence of this denial, the appellee on February 20, 2019 acquired a certified copy of the title deed from Liberia Land Authority (LLA). Following the demise of the appellees' mother, they asserted that the appellant moved and occupied the property, and out of good faith, the appellees interposed no objection. Additionally, the appellees further indicated that the appellant leased/sold portion of the property without the involvement of the appellees; that subsequently, the appellant claimed personal ownership to the same piece of property, from the same grantor, Myra Walker, on March 20, 2006, which is the same day and date on which Myra Walker allegedly transferred the property to the appellees' late mother; that due to the appellant's alleged claim of ownership to the property, he has refused to vacate the property; and that contrary to law, the two purported title deeds in the possession of the appellant were probated and registered in Montserrado County while the subject property is lying and located in Schiefflin Township Margibi County.

In the appellant's answer, he averred that he was legally married to the appellees' mother, the late Mrs. Fatu M. Massaquoi-Sumo on July 21, 2007; that the appellees have intended not to present the truthfulness and correctness of all the allegations levelled against the appellant but to mislead the trial Court. The appellant further claimed that he is the legitimate owner of the property and built a house thereon in 2008 during the life time of his wife; that the said land was honourably purchased from Myra Walker by the appellant, and a warranty deed was issued to him in 2006, that is to say, one year before the couple got wedded; that the said warranty deed was registered in the Probate Court for Montserrado County and filed at the Center for National Records and Documentation, Vol. 06-06, page 218-219

with the land capacity of 2.2 lots lying and situated at Boys Town Junction, Schiefflin Township, Lower Margibi County; that the appellees' deed is a product of fraud because the information on the purported certified transfer deed was extracted and transcribed from the appellant's deed; that the appellant has openly been and continuously in possession and occupancy of the property for a non-interrupted period of Nine (9) years prior to the death of his wife and has further remained thereon for a total of thirteen (13) years since he purchased said property; that the appellant requested and obtained a letter of confirmation from the Liberia Land Authority confirming the legality of appellant's warranty deed which was registered on July 16, 2013 in vol.11-2013, page 188872 and probated at the Monthly and Probate Court for Montserrado County, signed by His Honor J. Vinton Holder, Monthly and Probate Judge; that after the death of the appellant's wife, a complete inventory of all of the deceased's properties was taken excluding the disputed land and thereafter, the appellant, along with the appellees, were jointly appointed by the Monthly and Probate Court for Montserrado County, as Administrators and Administratrix to administer the intestate estate of Fatu M. Sumo; that at no time did his late wife purchase any property prior to her demise in December of 2015 and that at no time that the appellees have ever demanded the appellant to vacate the said property.

This Court observes from the records before it, that when pleadings rested, a notice of assignment was issued on November 12, 2020 for the disposition of law issue to be heard on the 18th day of November, 2020, but the appellant's counsel requested for a continuance through a letter on the 17th day of November 2020, and on the said date, that is, on November 18, 2020, His Honor, Joe Barkon, upon application made by the appellees in the absence of the appellant, the case was ruled to trial. Further, it is also observed from the certified records that after the disposition of law issues, trial commenced on March 30, 2021, four months after the disposition of law issues, under His Honor, Judge Nuta, who ruled and said:

“...Notation of representation is herein made of the plaintiffs and their counsel as well as the defendant who is not a lawyer knowing that he has an assignment served and returns served on him, and this is not the first nor the second and knowing that all of his lawyers have withdrawn from the case as far as record in the case file, and in the mind of the court, he has deliberately appeared in court to delay these

proceedings with a parade of [frivolous] excuses after having signed and received the assignment more than a week ago. In the interest of Justice these proceedings will be adjourned and the court is giving assignment on the record; assignment in these proceedings to commence on April 6, 2021 precisely 1:00pm as no excuse will be taken from him and it is so ordered.”

On April 6, 2021, trial resumed and the appellant was represented by Attorney Garrison D. Yealue, Jr., who announced that he would be joined by Counsellor Morris Davis. Both counsels then made submissions which were heard and granted. The records also revealed that from April 6, 2021 to November 14, 2022, several notices of assignments were issued and motions made and determined, both under Judge Karboi Nuta and Judge Mardea T. Chenoweth. However, it was on November 14, 2022, under the gravamen of Judge J. Kennedy Peabody, that production of testimonies was set to commence with a notice of assignment issued, served and returned served. To this notice of assignment, Attorney Garrison D. Yealue, Jr. requested for a continuance for a week for November 24, 2022. When the case was called for hearing on November 16, 2022, the appellees' counsel by leave of court made a submission on the records of the court, invoking *the Civil Procedure Law, Rev. Code:1.41.1* of Liberia, praying for default judgment against the appellant. The court, having entertained the appellees counsel's submission, the court ruled that trial will commence on the 22nd day of November, 2022 and trial did commence on November 22, 2022, with the empanelling of the trial jury. During the trial, the appellees, in support of their complaint, produced five (5) witnesses.

On December 12, 2022, the appellees rested with the production of evidence; on the same day, when the appellant was requested to take the stand for the production of witnesses in support of his case, Attorney Garrison D. Yealue, Jr., requested for continuance for December 14, 2022, which was granted. On December 14, 2022, the appellant commenced with the production of witnesses and produced four (4) witnesses. However, after the testimonies of these four witnesses, the appellant's counsel requested the trial court through an application, to subpoena the Liberia Land Authority to testify in the case. The subpoena was issued but was not served at the first instance due to the failure of the appellant to superintend the process. Without any notice to the court, the appellant and his subpoenaed witnesses

failed to appear in court on December 17, 2022. The hearing was then rescheduled for Tuesday, December 20, 2022, at that hearing, the appellant's counsel, Attorney Garrison D. Yealue, Jr., was fined \$50.00 and advised to ensure that the subpoenas were served and to also ensure that the subpoenaed witnesses appear on December 22, 2022. Meanwhile, the Liberia Land Authority in its response to the request for subpoena informed the court that the Liberia Land Authority employee who earlier testified in the case was their technician and so they were unable able to send another technician to testify again.

At the hearing on December 22, 2022, the records further show that the appellant's counsel did not appear but wrote the court requesting for a continuance for January 4, 2023. This request was resisted by the appellees counsel on ground that the appellant's repeated requests for continuance were intended to delay and baffle the case.

We have deemed it appropriate to quote verbatim the trial judge's ruling on the issue of the continuance:

"... the court says the notice of assignment was issued on the 14th day of November, 2022 for [continuation of] trial in this case on the 16th day of November, 2022 at 12:00pm. On the 16th day of November, 2022, this court received a request for continuance from Attorney Garrison Yealue, counsel for defendant, informing the court that he is unable to come to trial on the 16th day of November, 2022 because he was suffering from Hypertension/Pressure for which his doctor has advised him to rest for a week, that request was resisted by the plaintiff's counsel on ground that Attorney Yearlue failed to attached a medical certificate as required by law to the request for continuance. This court ruled that this was a property case and since we were just about to start trial in the interest of justice and fair-play, the request was granted, and the court requested Attorney Yealue to appear on the 22nd day of November, at which time the case was rescheduled for trial and present to this court a medical certificate to substantiate his claim. Up to and including today's date, Attorney Yealue has not submitted that medical certificate. Other notices of assignment were issued for trial on the 22nd day of November, 2022, at which time the plaintiff started to produce witnesses and documentary evidence. The Plaintiff rested with the production of witnesses and evidence on the 12th day of December, A. D. 2022. On the same self-date, the defendant again, requested this court for a continuance so that he will adequately and sufficiently prepare his witnesses; and the case was assigned for the 14th day of December, 2022, and the defendant requested this court to qualify his first witness, Mr. Fred I Sumo; at that time again, the defendant counsel requested for a continuance and also made application to subpoena one Sis. Jenneh, Benedict Archiepon, Edward

N. Boakai and Cllr. Kulah Jackson, claiming that these subpoena witnesses should appear on Saturday, same being the 17th day of December, 2022, at 9:00am. This Court granted the application for subpoena Witnesses and modified the time of appearance from 9:am to 10:am on Saturday, the 17th day of December, 2022. Unfortunately, this court, the jurors and the plaintiff's counsel were in court for trial on the 17th day of December, 2022, at 10:am but the defendant counsel who requested for the subpoena failed, refused and neglected to appear for trial on that date. It was observed from the records of the case that the defendant's counsel did not superintend the precept to serve on the subpoena witnesses and made no effort to either communicate with his colleague lawyer or the court as to the reason why he could not be here on the 17th day of December, 2022 for trial. However, another notice of assignment was issued out [of this court] for the continuation of trial on the 20th day of December, 2022. This time around, the defendant's counsel was present in court and made an application to qualify three of his witnesses namely, Mr. Henry G. Smith, Edward Boakai and Catherine G. Johnson. The defendant's counsel rested with these witnesses and again made an application for subpoena for Commissioner Kulah Jackson from the land Authority, Sis. Jeneh and Benedict Archiepon for them to appear on today's date for the continuation of this trial. At the call of the case on today's date, this court again received request for continuance from the defendant's counsel; that he is suffering from Hypertension/pressure and his doctor has advised him to rest for one week, and that on Thursday, January 4, 2023, he will be available to produce evidence. It is this request that the plaintiff's counsel has requested this court to deny and proceed with this trial. Having said that, we will now call the sheriff to read the returns as to the manner of service on the various subpoena witnesses before we can make a determination on the application filed by the counsel".

THE COURT: Sheriff Returns having been read in open court which says that Commissioner Kulah Jackson was served the Writ of Subpoena and that Benedict Archiepon was not serve; and the fact that the Counsel for Defendant, who made said request is not in court, which supports that he may have told the witnesses not to appear since himself refused to come on today's date. Therefore, we will proceed on the application filed by the Plaintiff's Counsel.

As already stated herein above, this court says the essence of [representation] of a client by a lawyer is not to ensure that the client wins the case, but rather it is for the purpose of ensuring that he/she has his day in court. Lawyering is an honourable Profession; therefore, all lawyers who appear before the Court must [be] honest and do everything legal in the interest of their client because if they failed to do so their action may cause the client to be sentenced to death, loss of property or may be held liable to make restitution at the neglect of a lawyer. Lawyering is not by playing trick or baffling a case or delaying a case in order to deny the adversary party from meeting the end of justice. In the instance case, it is clear from the start of the trial that the defense counsel is in the habit of requesting for continuance making an application for subpoena, refusing to superintend said subpoena

and refusing to attend the trial and ensure that his witnesses appear in Court. It is the defense today's application to subpoena his witnesses to appear December 22, 2022 after having produced four witnesses already, the defense counsel again neglected to ensure the subpoena witnesses appear for the hearing today. Interestingly, the same self-defense counsel who requested for subpoena witness to appear today has now sent a request for continuance in these proceedings for the 4th day of January, 2023. Under Our law, for motion for Continuance and or request for continuance to be granted, said application, must be accompanied by a medical certificate or a communication from the doctor who examined the applicant. In the instance case, the defense counsel neglected to attach said certificate from the doctor who advise him to rest for one week but rather he has informed this Court that he will produce a medical certificate on the 4th day of January, 2023. Lest we forget, this is a jury trial which has a time limit attached to it, and today's date is the 29th Day Jury Sitting by the time we reach January 4th 2023, this court may have been out of term time; and this court believes that the counsel for the defendant is aware of this. Additionally, Counsel of the Defendant is also aware that the presiding Judge is also presiding over two counties that is to say, Margibi County and Grand Bassa County. In the mind of this court, the intent of the defense counsel is not in good faith, it is intended to baffle and delay the trial in order to deny the parties their rights under our law. The Supreme Court has said and I quote "Once a case has not been completed and the counsel of records is bound to honor all assignments issued and served on him until the case finally decided or he will be presumed to have abandoned the case. That is, the Supreme Court opinion in the Case The Intestate Estate of Massaquoi Versus AME Church, supreme Court Opinion October, 2014.

This Court has observed that one of the Subpoenaed witnesses, Cllr. Kulah L. Jackson Communicated with the court today informing the court that this court has earlier sent a subpoena to the Chairman of the Land Authority on November 22, 2022 to appear on December 6, 2022 to testify in the same case at bar. By that, the Chairman of the Land Authority designated its Assistant Registrar for Deed and Records Mrs. Jenney Mitchell to testify for and on behalf of the Land Authority which assignment she performed. Based on the fact that Madam Mitchel appeared and testified in the matter, he as Commissioner for Land Policy and Planning cannot testify on the land administration matter. Besides, the Liberia Land Authority is a single entity.

This court further says that the defendant's subpoenaed witness, having clarified by a way of Communication to this court, said communication will form a part of the records of this court.

Further to the above, the motion for continuance is at the discretion of the court depending on the circumstances in the case; therefore, the failure of the defense Counsel to attach a medical certificate and of the above reasons stated, the application for continuance is DENIED and the resistance thereto SUSTAINED; and this Case is ordered proceeded with and the evidence produced by the Defense Counsel, that is to say, D/1 in bulk and the testimonies of the defendant's four

witnesses are hereby admitted to from a cogent part of the records of this case; and the plaintiff may proceed to argue his side of the case and instruct the Jury as so desire. And So Ordered.”

The appellee’s counsel complied with the said order and subsequently thereafter, a liable verdict was returned by the trial jury and Counsellor Deddeh Jomah Wilson, court’s appointed counsel noted exceptions to the jury verdict on behalf of the appellant, and thereafter, the jury was disbanded and the court’s final ruling was assigned for December 29, 2022.

The final ruling of His Honor J. Kennedy Peabody was delivered, which we also find expedient to quote verbatim due to the nature and conduct of this case:

“The record showed that the plaintiffs filed an action of ejectment before this court, for property lying and situated at Marshall Junction, Margibi County, Plaintiffs complaint that their late mother Fatu Bongay bought the subject property, in 2006 under her name. According to the Plaintiffs, [the] Defendant, their stepfather, is claiming ownership of their late mother’s property in his own name. The Plaintiffs, further informed this court that the Defendant’s deed is a product of fraud.

On the other hand, the Defendant contended that the subject property that the Plaintiffs are complaining of is his personal purchase in his own name in 2006.

During the trial, the Plaintiffs produced four witnesses as follows: Two direct witnesses Sekou Bongay and Assata Bongay, and two subpoena witnesses Jenny Mitchell and Ebenezer A. Borbor. The Plaintiffs testified that their late mother Fatu Bongay, bought the subject property in 2006 and erected buildings upon it before she got married to the Defendant Fred Sumo. According to the Plaintiffs, upon the death of their late mother, they, along with the defendant applied for a letter of administration to administer the intestate Estate of their late mother, which they did not have a problem doing so. The Plaintiffs further testified that they observed that the Defendant has leased the subject property to a tenant in his own name and when they made an inquiry, the Defendant informed them that the property was his personal property bought by him in 2006 before he married their late mother, Fatu Bongay.

The Plaintiff’s subpoena witness Jenny Mitchell, from the Liberia Land Authority, testified that the Defendant’s deed was not registered with the National Achieves, as the volume and pages numbers on the Defendant’s deed belong to the lease agreement of another person. The Plaintiff’s second subpoena witness, Ebenezer A. Borbor, from the national Achieves, testified and produced a copy of the Ledger for registration at the National Achieves, which duplicated that Defendant’s deed was never registered in said Ledger.

The Plaintiffs admitted into evidence P/1 to P/5 containing receipts issued to the plaintiffs by the Liberia Land Authority, A certified copy of a warranty deed issued by the Liberia Land Authority, letters of administration, and a warranty deed from Walker to Fatu M. Bongay, a copy of the Ledger from National Achieves, the Lease Agreement between Fatu Bongay and total Liberia Inc., letter of conformation issued by the Liberia land Authority, and Liberia Land Authority form.

The Defendant, on the other hand, produced four witnesses, two direct witnesses as follows: Fred I Sumo, Henry Smith, and two expert witness Edward Boakai, and Catherine Johnson. The Defendant Fred Sumo's testimony implies that he bought the subject property in 2006, long time before he married the late Fatu Bongay. Henry Smith testified that he was once issued a survey notice for the subject property, but he has never seen the deed to know the actual owner of the property. Catherine Johnson testified basically on the process for obtaining a letter of administration. While the Defendant fourth witness, Edward Boakai, in his testimony informed the court that he did not know the procedure for obtaining a Letter of Administration or anything pertaining to probate matters.

During the trial, the Defendant requested a subpoena for three other witnesses which was granted but the Defendant refused to underwrite the cost of service for the subpoena witnesses to appear and testify for and on his behalf. A second subpoena request was made and granted by the Court, however, on the date of appearance and hearing of the case, the defense lawyer wrote a letter requesting for a continuance up to and including the 4th day of January 2023, which request was denied and the case ordered proceeded with.

The Defendant's documentary evidence testified to as D/1 in bulk including a warranty deed from Myra Walker to Fred Isaac Sumo, a letter of confirmation from the Liberia Land Authority, a certificate of Marriage, a letter of complaint of Isatta B. Tolbert and letters of administration.

The issue for the determination of this case are: 1. Whether or not a deed probated and not registered in the National Achieves is recognized as a legal title? 2. Whether or not the refusal of the Defendant's lawyer to appear for trial after having issued a subpoena and a notice of assignment for trial served and return served is an abandonment and therefore, this court may not set aside a jury verdict.

In discussing the first issue, whether or not a deed probated and not registered in the National Achieves is recognized as a legal title? This court answered in the negative. the burden of proof is the responsibility of the party who alleges an allegation except that when the subject matters of a negative averment lie peculiarly within the knowledge of the other party, the averment is taken as true unless disproved by that party. In the instant case, the parties needed to prove to this court and jury that they have a legal title to the subject property unaided by defects to establish by the preponderance of the evidence. By doing so, both parties' title deeds must be probated and registered to establish legal title. The Supreme Court said in numerous cases that there should be some title if interest, in law or in equity, in the grantor

to enable him convey, and a deed from a person not in possession, or not shown to be the owner, establishes no title. *Mary F. Kpoto v. Percy Williams*, Supreme Court Opinion, March Term A.D 2012.

Secondly, it has been established that for a title deed to be legal, it must be probated and registered within four months after issuance. Under our law, where there is a failure to comply with the statutes relative to probation and registration of a transfer deed, if any person shall fail to have any instrument relating to real estate probated and registered, as herein provided, within four months after its execution, his title to such real property shall be null and void as against any party holding a subsequent instrument relating to such property, which is duly probated and registered. *Salifu v Lassannah* 5LLR 152. The testimonies of witnesses before court clearly revealed that though defendant's deed was probated but it was not registered according to law. Therefore, the Defendant's deed is null and void as against the Plaintiffs' deed which was probated and registered according to law.

In addressing the second issue, whether or not the refusal of the Defendant's lawyer to appear for trial after having issued subpoena and a notice of assignment was served and return served is abandonment, and therefore, this court may not set aside the jury verdict? This Court also notes the manner and form the Defendant and his lawyer have behaved and continue to absent themselves from court without excuse even though all of the assignments have been served on Defendant's lawyer and returns served. This cannot be used as an excuse that he did not have his day in court, by his action, Defendant has abandoned the case. The Supreme Court has said that "once a case has not been completed, the counsel of record is bound to honor all assignments issued and served on him until the case is finally decided, or he will be presumed to have abandoned the case. *Vijayaraman et al., v Xoanon Liberia Ltd.* 42 LLR 47, 56 (2004), *Intestate Estate of Masaquoi v. The A.M.E Church*, Supreme Court Opinion, October Term A.D. 2014. The court will not do for party litigants what they ought to do for themselves.

Accordingly, Section 62.1 of the Civil Procedure Law of Liberia, states "Any person who is rightfully entitled to the possession of the 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. The action of the defendant and his lawyer abandoning the trial, presupposes that Defendant was illegally withholding Plaintiff's property and therefore, this Action of Ejectment is justified in order for Plaintiffs to repossess their property.

This Court has observed from the record and found that based on the documentary evidence and oral evidence and the judge having legally and properly charged and directed the Jury, the jury was persuaded to bring a verdict of liable against the Defendant, therefore the verdict was not against the evidence based on a misdirected and charged as contemplated by the law.

In this, the jurors considered all the evidence in determining the fact and thereafter applied the law to those facts that were proved in

reaching their verdict. The Supreme Court held that the Jury is the exclusive judge of the evidence and must in reason be the exclusive judge as to what constitutes the preponderance of the evidence where the jury has reached a conclusion, after having given consideration of the evidence which is sufficient to support the verdict, the same should not be disturbed by the Court. Richards v Barclay 42LLRr page 296.

To the mind of this Court, the only institution is competent to reevaluate and reweight the evidence as was adduced during the trial and or re-determine the credibility to be attached to the witnesses that appear before this court and testified is the Supreme Court of Liberia. Therefore, from a careful review of the evidence was available to the Jurors, based upon which they legally made a determination in reaching a verdict. This Court, therefore, sees no justification whatsoever to disturb the unanimous verdict of the jurors. This court hereby affirms and confirms the Verdict as returned by the Trial of Fact.

Wherefore, and in view of the foregoing laws, facts and circumstances, the verdict of the Jurors is hereby incorporated herein to form a cogent part of this final judgement. This court hereby adjudged the Defendant liable in the ejectment Action to Plaintiffs.

The Clerk of this Court is hereby ordered to issue out a writ of possession and have it placed in the hands of the Sheriff of this court to have Defendant ousted, evicted, ejected and removed from the property subject of the main suit and have the Plaintiff possess thereof unrestricted according to the metes and bounds of the Plaintiffs' deed. The Clerk is further ordered to issue out a bill of cost and have same tax by the Counsel of Defendant and place same in the hands of the Sheriff and thereafter have the Defendant to satisfy same, failure of each execution must be issued. The cost of these proceeding is ruled against the Defendant. AND IT I HEREBY SO ORDERED.”

As a sequel of this ruling, the court's appointed counsel, Counsellor Deddeh Jomah Wilson noted exception to the trial court's final ruling and appealed to the Honourable Supreme Court *en banc* and thereafter, the appellant aware of the trial court's final ruling did not take advantage of the post-trial motion, filed a bill of exceptions on January 10, 2023, which we also quote verbatim:

“ 1. The defendant submit that Your Honor committed reversible error when you confirmed a verdict of the petit Jury on December 22, 2022, which is contrary to the weight of the evidence adduced at trial.

2. That Your Honor also erred when you sustained the uncorroborated statement of plaintiff's first witness Mr. Sekou Bangay as to the year of which they received their letter of administration as found on Tuesday, November 22, 2022, Sheet 6, which contrary to law in this jurisdiction.

3. That Your Honor further erred when you admitted into evidence plaintiff's letters of administration which was probated in another jurisdiction instead of Margibi County, which the said property in dispute is brought before this Honorable Court for trial.

4. Your Honor also erred when the jury was instructed to their room of deliberation in the absence of the Defendant's legal memorandum which is also meant to instruct the empaneled jury and to inform this Honorable Court the defendant legal reliance of the said case.

5. Your Honor continue erred when you also instructed the jury to their room of deliberation knowing fully well the defendant's counsel did not rest with the production of both documentary and oral evidence which is contrary to law in our jurisdiction.

6. Your Honor committed to reversible error when indeed and in fact the purported plaintiffs' witness from the Liberia Land Authority did not identify herself as to her status and no designated authorization informing this Honorable Court that said individual was from that entity of government.

7. That Your Honor erred when the case was assigned for trial on December 22, 2022, not for final argument, because on said date the defendant counsel invoked this Honorable court of poor health issues for which he requested for continuance on same date and that medical report was to be brought to show that he was incapacitated for the continuation of the trial. However, you erred by assigning the case to final argument in absence of defendant's counsel, resting of both documentary and oral evidence and his legal memorandum.

8. That Your Honor committed reversible error when you denied defendant's request to subpoena Madam Asata B. Tolbert to produce the original deed of Mr. Fred Isaac Sumo, which she confirmed in a letter written by Atty. Tarlo N. Wehyee that the instrument (title deed) bearing the name of Fred I. Sumo, was in her possession as found on Sheet 1, Tuesday, December 20, 2022.

9. That Your Honor continued to commit reversible error when that jasmine letter was not placed on the record of this Honorable Court, and when the Plaintiff's witness, Asata Tolbert took the witness' stand, she confirmed and affirmed that it was her lawyer (Atty. Tarlo N. Wehyee) who wrote said letter to the defendant, Fred i. Sumo, based on what she explained that she was in possession of the said title deed in the name of the defendant only.

10. That Your Honor committed reversible error when you ignore that conference letter to be admitted into evidence for what none of plaintiff's witnesses able to rebut to the confirmation and affirmation of Madam Tolbert having possession of the said title deed in the name of defendant Mr. Fred I Sumo.

11. That the various errors committing herein above by Your Honor are enough to trigger the exception to Your Honor's ruling, and as such the approval of same for the Supreme Court's review.

Wherefore, and in view of the foregoing, defendant most respectfully tenders his bill of exceptions to you for your refusal to adhere to the defendant notice for continuance on the trial date which allows defendant to suffer at a high level of the trial and that Your Honor to approve its bill of exceptions in order to give effect to the notice of

completion of appeal process, for the Supreme Court of Liberia to review Your Honor's ruling on December 27, 2023".

While party litigants may have the energy and endurance to raise numerous issues in support of their respective claims, this Court had always been consistent in its wisdom to address only issues that are germane to a justiciable determination of cases before it. *JUPICA et al v. NEC et al* [2014] LRSC 62 (13 December 2014); *Knuckles v. Tradevco*, 40LLR 49,53 (2000). Therefore, a perusal of the appellant's eleven counts bill of exceptions shows that the main contention of this appeal is focused on the appellant's allegation of the denial of his due process rights. Culled from the contentions of the parties, this Court believes that the determination of this case is pillared on a single issue; which is:

Whether or not the trial court judge violated the appellant's right to due process when he denied the appellant's request for continuance and instructed the trial jury to proceed to make a determination of the matter in the absence of the appellant and his counsel.

To determine whether or not the appellant's constitutional rights to due process were violated during the trial, we take recourse to the 1986 constitution of the Republic of Liberia which provides that the Supreme Court of Liberia, is the only arbiter of constitutional matters in this jurisdiction. This Court has consistently been reluctant to ignore any allegation involving the violation of any provision of the Constitution. We therefore quote herein the constitutional provisions on the right to due process:

"No person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions laid down in this Constitution and in accordance with due process of law..." Article 20(a) Liberian Constitution (1986).

The Supreme Court has opined and confirmed that this provision of the Constitution on due process has always been the accepted standard of due process stated in the famous case: *Wolo v Wolo* 5 LLR 423, 428, 429 (1937). Mr. Chief Justice Grimes, speaking for the Court, defined the various contexts of due process and said:

1. "The term due process of law is synonymous with 'law of the land.' The constitution contains no description of those processes which it was intended to allow or forbid, and it does not even declare what

principles are to be applied to ascertain whether it be due process. But clearly it was not left to the legislative power to enact any process which might be devised.”

2. 'Due process of law' does not mean the general body of the law, common and statute, as it was at the time the constitution took effect. It means certain fundamental rights, which our system of jurisprudence has always recognized.
3. The constitutional provisions that no person shall be deprived of life, liberty, or property without due process of law extend to every governmental proceeding which may interfere with personal or property rights, whether the proceeding be legislative, judicial, administrative, or executive, and relate to that class of rights the protection of which is peculiarly within the province of the judicial branch of the government.
4. The term 'due process of law,' when applied to judicial proceedings, means that there must be a competent tribunal to pass on the subject matter; notice actual or constructive, an opportunity to appear and produce evidence, to be heard in person or by counsel...;

Mr. Justice Grimes continued to further expound that:

"The essential elements of due process of law are notice, and an opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case. In fact one of the most famous and perhaps the most often quoted definition of due process of law is that of Daniel Webster in his argument in the Dartmouth College case, in which he declared that by due process of law was meant 'a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial.' Somewhat similar is the statement that it is a rule as old as the law that no one shall be personally bound until he has had his day in court, by which is meant, until he has been duly cited to appear, and has been afforded an opportunity to be heard..."

These contextual applications of this provision of the Constitution, both then and now, have been maintained and served as the standard of measurement for due process which the appellant is before this Bench to prove that these processes laid down were not followed by the trial judge in this case.

For the appellant counsel's contention of not having his day in court, the records must show that the issue of jurisdiction of the court was raised and determined that the court did not have jurisdiction over the subject matter. This was not the case, as the 13th Judicial Circuit Court for Margibi County is a competent court to try all matters/dispute on land located in Margibi County.

The second component of due process, which is notice, actual or constructive, the records show that this case began on March 18, 2019 and ended December 29, 2022. The records before this Court is void of any evidence to show that assignment(s) was not served and the trial court proceeded to hold a hearing under the gavel of four judges. Therefore, the second component of due process was fully complied with in this case.

The last contextual component of due process is an opportunity to appear and produce evidence, to be heard in person or by counsel. The records show that every opportunity was afforded the appellant to appear and produce evidence. The appellant appeared and produced four (4) witnesses and then requested a subpoena for LLA, an entity that had earlier testified in this case. This Court says that the appellant, on the day of the appearance of the subpoena witnesses failed to appear for the hearing of the case. This Court wonders how could the appellant contends of not having his day in court when the records before this Court show that the appellant was given all opportunities to present its side of his case but waived those opportunities.

Owing to the facts and circumstances as revealed in the records certified before this Court for review, we digress here to state that, the length of time this case has remained on the docket of the trial court and has proceeded under four judges, with multitudes of assignments and continuances has claimed the attention of this Court. This Court says that the trial court was under an obligation to have limited the time of the trial; and we wondered why a pre-trial conference would not have been utilized to narrow down or lessen the time and expense of litigation by simplifying the issues by obtaining admissions of fact and documents to avoid unnecessary proof, limit the number of witnesses, dispose of pending motions, and etc., which is the requirement of law. *Civil Procedure Law, Rev. Code:1.12.1.1*

This Court maintains that had the trial court ordered a pre-trial conference, it would have been noticed that the particulars of the two title deeds that are the crux of this ejectment action were different and that the probate matter of the two deeds would have settled and or ended this case because the appellees' deed for their late mother was signed by her grantor, Myra Walker on March 20, 2006, and probated on March 24, 2006 in Margibi County and said land is situated in Schiefflin Township, Margibi County, while the

appellant's deed was issued in 2006, probated and registered in 2006 in Montserrado County, even though the land is located and situated in Margibi County. The pretrial conference could have established that the appellant's deed is not probated and registered according to law and as such cannot defeat the appellee's deed because the property is located in Schiefflin Township, Margibi County, and is probated and registered in Montserrado County, instead of being probated and registered in Margibi County.

In a pretrial conference, while the disposition of law issues was on going, the issue of jurisdiction which is a matter of law, would have also avoided this prolonged trial because the court would have determined that the law on probation of deeds states that: "All persons acquiring any interest affecting or relating to real property shall appear in person or by attorney-at-law before the Probate Court for the County or territory in which such real property is situated...." *Property Law, Rev. Code: 29.2.*

Further to the concept of pre-trial conference, the trial court could have ascertained the necessity of the number of witnesses to avoid the contention of the parties on the testimony of the witnesses from the LLA in that the records show that the LLA sent one of their technicians who testified in the case when the appellees were still on the witness' stand. Had the trial judge called for a pre-trial conference, the need for the LLA to send another technician to again testify in the same case would not have become a necessary contention for the appellant to request a subpoena for a different technician to testify on the side of the appellant, especially so when it had to do with the deeds to the property in question.

This failure of the trial judge to have used pretrial conference procedure to limit the time of trial, which is one of the tenets of due process as laid down in the rules of courts in this jurisdiction, has necessitated this Court to put its emphasis on the crux of this appeal, which is the appellant's contention that he was not afforded due process when the trial court denied his for continuance and proceeded with the trial without giving him the opportunity to rest in toto, have a closing argument, charge the jury but instead, concluded the matter in his absence.

In this jurisdiction, when issues of facts are disputed in a court of law during jury trial, the only fact finders are the trial jury; and whenever this Court, in

its wisdom realizes that the facts found are consistent with law, it has always been the decision of this Court not to disturb same, unless it is manifestly and palpably against the weight of the evidence... *Ledlow et al. v. Republic* 2 LLR 569, 581-582 (1925). However, such verdict must be obtained through a trial procedure as prescribed by the rules of court and the law.

The law extant in this jurisdiction is that the tenets of due process demands that all judicial proceedings must have a competent tribunal to pass on the subject matter, proper notice, actual or constructive and an opportunity to appear and produce evidence in an orderly proceeding adopted to the nature of the case. *Metco v Chase Manhattan Bank*, 34 LLR, 419, 430 (1987)

In the instant case, the trial judge, in the exercise of his discretion, properly ruled when he gave the condition of denying the continuance because the appellant's counsel did not give justifiable reason for the granting of a continuance; the trial judge properly denied the appellant's prayer for continuance on grounds that the appellant's counsel had asked for multiple continuances and did not attach any medical report. This Court says that the granting of continuance is premised on the condition that the cause of the request is based on it being beyond the control of the requesting party. *RL v Poboie et al* [2007] LRSC 28 (21 December 2007).

To show that the condition was beyond the control of the appellant's counsel, a medical report, if attached to the request for continuance would have indicated the appellant's counsel ability to appear or not to appear, absence which the trial judge in the exercise of his discretion had the authority and did exercise such authority to deny the request for continuance because it is a trite law that a request must be granted to make it legitimate; that is to say, the appellant counsel did not have the right to absent himself from trial without the showing that his absence was due to circumstance beyond his control. Rule 6 of the Revised Ruled of the Circuit Courts provides that:

"...A failure to file a motion for continuance or to appear for trial after return by the Sheriff of a written assignment, shall be sufficient indication of the party's abandonment of a defense in the said case, in which instance the court may proceed to hear the plaintiff's side of the case and decide thereon or, dismiss the case against the defendant, and rule the plaintiff to cost, according to the party failing to appear..."

Hence, we hold that given the attendant circumstances of the multiple requests for continuance, the trial judge did not err in the exercise of his sound discretion by denying the appellant's counsel the opportunity to proceed with trial. This Court says, continuance is intended to avoid miscarriage of justice, and to ensure that justice is served, but if it is used to baffle and delay justice, then it is fit for denial and falls into the discretion of trial judge. Furthermore, this Court has opined in litany of cases, that parties desiring continuance or postponement of their cases should first move the court. Such motion should set forth therein legal grounds, be properly filed, and served on the opposite party; the moving party must specifically state that such continuance is not sought for the mere purpose of delay. *Appleby v. Freeman*, 2 LLR 271; *Burney v. C. F. Wilhelm Jantzen*, 4 LLR 322; *Togba v. Republic*, 12 LLR 218; *Massaquoi v. Republic*, 14 LLR 372.

The Civil Procedure Law, Rev. Code:1.26.3 provides that at any time during the trial, the Court, on motion of any party, may order continuance in the interest of justice on such terms as may be prescribed.

This Court notes and places emphasis on the conduct of the appellant's lawyer, Attorney Garrison D. Yealue, Jr. on his serious breach of professional responsibility and an affront to the orderly administration of justice. When counsel repeatedly seeks continuances without compelling justification, especially after trial has commenced, such behavior reasonably supports an inference of intent to frustrate the ends of justice, rather than to advance a legitimate defense. Courts are not merely venues for advocacy rather, they are institutions whose dignity must be preserved through discipline, preparedness, and respect for judicial time. Habitual absence, lateness, or tactical delay by counsel undermines public confidence in the legal system, inconveniences jurors and witnesses, and places an unfair burden on opposing parties. Where a trial judge's patience is strained by such conduct of the lawyer, the resulting firm disposition of the case is not an expression of bias, but a lawful response to counsel's own disregard for procedural order and ethical restraint.

A trial court is therefore justified, indeed obligated, to frown upon and sanction conduct that erodes these foundational principles. Lawyers are duty-bound to be present, punctual, and prepared when matters are

assigned or called for hearing, and failure to do so without good cause constitutes professional misconduct. Under Liberian practice, the court possesses inherent authority to protect its proceedings from abuse, including the power to reprimand, fine, or otherwise discipline counsel whose actions obstruct justice. The imposition of fines or other sanctions serves not as punishment alone, but as a deterrent aimed at preserving respect for the court and ensuring the efficient resolution of disputes. By enforcing these standards firmly and consistently, the court affirms that advocacy must be exercised within the bounds of responsibility, and that the right to be heard does not include the right to delay, disrupt, or demean the judicial process.

The conduct of Attorney Yealue warrants stern judicial condemnation, as it represents a flagrant disregard for both professional ethics and the authority of the court. His persistent dilatory tactics and failure to proceed with due diligence transcended mere inconvenience and rose to the level of obstructing the administration of justice. Such behavior not only squandered judicial time, resources and disrespected the dignity of the trial process, but also imperiled the substantive rights and interests of his own client, who is entitled to competent, timely, and faithful representation. *Rule 11 of the Code of Moral and Professional Ethics* states: “A lawyer should endeavor to obtain full knowledge of his client’s cause before advising thereon, and he is bound to give a candid opinion on the merits and probable result of pending contemplated litigation. Whenever the controversy will not admit of fair judgment, the client should be advised to avoid or to end litigation and it is unprofessional for a lawyer to advise the institution or continuation of an unmeritorious suit.” Therefore, the appropriate and proportionate remedy for such a behavior by a lawyer is conditional suspension from the practice of law or a fine.

It is our opinion that the failure of a lawyer to properly advise his client is a serious breach of his moral and ethical duty; the seriousness of which this Court views as a conduct which frustrates the ends of justice and serves as a necessary deterrent to similar misconduct by members of the Bar. This directive reaffirms the principle that justice delayed is justice denied, and that courts must act decisively to restore momentum, protect litigants’ rights, and reinforce public confidence in the judicial system. We so hold.

Further, the Supreme Court, speaking through Mr. Justice Nyeplu, in the case, *Ezziedine v Saif*, 33 LLR 21 (1985), stated that “Lawyers must at all times stand in readiness unreservedly to superintend their clients interest, and thereby conserve the protection of life and property for which courts are instituted”. In time past, this Court has been very consistent and remain consistent in upholding this principle because courts will not do for party litigants that which they have an obligation or ought to do for themselves.” *Jappeh v. Thian*, 35 LLR 82 (1988); *Sio v. Sio*, 35 LLR 92 (1988).

The sum total of all of the contentions of the appellant as contained in his bill of exceptions is to have us remand this case. However, this Court sees no justifiable reasons to remand this case. Firstly, the appellant’s counsel had reason to know that right after the filing of the reply, the deed attached to appellant’s answer was not a legitimate deed because the deed proffered by the appellant should have been registered by law in Margibi County, and as such, the appellant’s counsel should have advised his client accordingly but choose to stir up litigation. Secondly, the appellant’s counsel knowing that the Liberia land Authority had earlier sent its technician who testimony the appellant’s counsel, on the cross could have obtain the desire information but failed to use the opportunity on the cross but rather while on the stand with the production of evidence, the appellant’s counsel requested the court for another subpoena, this time, for the Commissioner for Land Use and Planning to appear and testify, which subpoena, the LLA informed the court that they have already testified through their earlier technician. Instead of proceeding with the trial, he again requested for another continuance, which this Court views as an attempt to continue to drag the trial. Thirdly, the multiple continuances under the gavel of four (4) judges from 2019 to 2022, demonstrates the appellant’s counsel attempts to baffle the trial while the appellant enjoy the use of the property in dispute. Lastly, the failure of the appellant’s counsel appear in court to take both the jury verdict and the final ruling on his behalf, coupled with the fact that the appellant’s counsel did not take advantage of the post-trial motion, the ruling of the trial judge should not be disturbed.

This Court says that given all of these attendant circumstances, to remand this case will only serve to further prevent the appellees from the quiet

enjoyment of their late mother's estate because the deed of the appellant will not change in remand.

This Court holds that it having been established by the evidence that the appellant elected to probate his property in Montserrado County rather than Margibi County where the property is located, the verdict returned by the jury is supported by law.

This Court further holds that the records having shown the appellant's counsel repeated requests for continuance, was intended to frustrate the trial and defeat the ends of justice; hence, the trial judge's denial of such request was justified and the action of the appellant counsel was unethical.

WHEREFORE, AND IN VIEW OF THE FOREGOING, it is the opinion of this Court that the ruling of the trial court is hereby affirmed and the appellant's lawyer, Counsellor Garrison D. Yealue, Jr. is hereby suspended from the practice of law for the period of ninety (90) days and ordered to attend the Judicial Institute (JI) for the period of one (1) month for ethics training. The Clerk of this Court is mandated to send a mandate to the 13th Judicial Circuit Court for Margibi County mandating the judge presiding therein to resume jurisdiction over this matter and give effect to the Judgment of this opinion, AND IT IS HEREBY SO ORDERED.

Affirmed.

When this case was called for hearing, Counsellor Garrison Doldeh Yealue, Jr. appeared for the appellant. Counsellor T. Emmanuel Tomah appeared for the appellee.