IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS MARCH TERM, A. D. 2026.

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

| | | |
|---|---|---|
| Jenneh Y. Lombeh by and thru her Attorney-in-fact Fumbah Lomeh City of Paynesville, Montserrado County, Republic of Liberia……..……Appellant | ) | |
| Versus | ) | Appeal |
| Mariam/Jenneh Y. Lombeh, Elijah G. Lombeh, Madam Tenneh Kamara, Ma Kissi Sheriff, Mr. Foster K. Boi, Mr. Sheriff Fahnbulleh, and all occupants under their control, all of the City of Paynes, Montserrad County, Republic of Liberia ……..…… Appellees | ) | |

GROWING OUT OF THE CASE:

| | | |
|---|---|---|
| Jenneh Y. Lombeh by and thru her Attorney-in-fact Fumbah Lomeh City of Paynesville, Montserrado County, Republic of Liberia…… Plaintiff | ) | |
| Versus | ) | Summary Proceedings to Recover Possession of Real Property |
| Mariam/Jenneh Y. Lombeh, Elijah G. Lombeh, Madam Tenneh Kamara, Ma Kissi Sheriff, Mr. Foster K. Boi, Mr. Sheriff Fahnbulleh, and all occupants under their control, all of the City of Paynes, Montserrad County, Republic of Liberia ……..…… Defendants | ) | |

Heard: June 29, 2026 Decided: August 27, 2026

## MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

The appellant/plaintiff, Jenneh Y. Lombeh, by and through her Attorney-in-Fact, Fumbah Lombeh, instituted an action for Summary Proceedings to Recover Possession of Real Property, consisting of four (4) counts, against Mariam/Jenneh Y. Lombeh, Elijah G. Lombeh, Madam Tenneh Kamara, Ma Kissi Sheriff, Mr. Foster K. Boi, Mr. Sheriff Fahnbulleh, et al., defendants/appellees, seeking to have them ousted from the property at issue in this dispute.

In her complaint, the appellant alleged that she is the lawful owner of two (2) lots of land located in Rehab, Paynesville, Montserrado County, Republic of Liberia. She further alleged that the appellees, without any

color of right, unlawfully and illegally entered upon, occupied, and encroached upon her property without her knowledge or consent. Accordingly, she prayed that the trial court order the appellees to be ousted and ejected from the premises and award her damages in the amount of US$20,000.00 (Twenty Thousand United States Dollars) for their alleged wrongful entry upon and unlawful withholding of the property.

In their answer, the appellees denied the complaint's material allegations and averred that the late Festus J. Lombeh purchased the disputed property in the name of his daughter, Jenneh Y. Lombeh, who is the property's titleholder. They contended that an action of summary proceedings to recover possession would not lie because the title to the property is vested in Jenneh Y. Lombeh. The appellees further alleged that the appellant is the grandmother of co-appellees Jenneh Y. Lombeh and Elijah G. Lombeh. In contrast, the appellant's Attorney-in-Fact, Fumbah Lombeh, is their paternal uncle. They asserted that, prior to the institution of the present action, Fumbah Lombeh had filed a similar action against them in the Paynesville Magisterial Court. Following a hearing, the Magisterial Court entered judgment in favor of the appellees.

The appellees also averred that the remaining defendants named in the complaint are tenants who have consistently paid rent. They alleged that after Magistrate Marvin S. Bah, Sr., placed co-appellees Jenneh Y. Lombeh and Elijah G. Lombeh in possession of the property, Fumbah Lombeh, now acting as Attorney-in-Fact for the appellant, instituted the present action to disinherit them and the other surviving children of the late Festus J. Lombeh, namely: Jenneh Y. Lombeh, Elijah G. Lombeh, Elisha F. Lombeh, Drucilla K. Lombeh, Theophilius S. Lombeh, Enoch Y. Lombeh, Theodosia M. Lombeh, Gabriel K. Lombeh, Priscilla M. Lombeh, and Olivia Y. Lombeh.

Additionally, the appellees alleged that during the lifetime of the late Festus J. Lombeh, Fumbah Lombeh attempted to persuade him to execute a Memorandum of Understanding (MOU) allowing the two brothers to administer Festus J. Lombeh's properties jointly. According to the appellees, Festus J. Lombeh rejected the proposal. They therefore maintained that the present action is part of Fumbah Lombeh's continuing

effort to disinherit the children of the late Festus J. Lombeh. The appellees concluded by asserting that the disputed property rightfully belongs to Jenneh Y. Lombeh, the daughter of the late Festus J. Lombeh, and prayed that the trial court deny and dismiss the appellant's complaint.

In her reply, the appellant reaffirmed the allegations in her complaint and further averred that the appellees failed to plead or produce any deed showing that the late Festus J. Lombeh had transferred the disputed property to co-appellee Jenneh Y. Lombeh. The appellant further asserted that Magistrate Marvin S. Bah, Sr.'s ruling resulted from a conference between the parties and did not constitute a judicial determination of title to the property. After the pleadings closed, the trial judge, sua sponte, elevated the action from summary proceedings to recover possession of real property to an action of ejectment, concluding that title to the property was genuinely in issue. Because neither party objected, the case proceeded to a full trial on the merits.

At trial, the appellant presented three (3) witnesses: Madam Elizabeth Lombeh, Dorothy Lombeh, and Fumbah Lombeh. In turn, the appellees produced four (4) witnesses: Frederick Lombeh, Festus Boi, Elijah Lombeh, and co-appellee Jenneh Y. Lombeh.

The appellant's first witness, Madam Elizabeth Lombeh, testified that she is the appellant's daughter and a niece of the appellees. She stated that the appellant is the owner of the disputed property, which Festus Lombeh and Fumbah Lombeh jointly purchased as a gift to their mother, the appellant. According to her testimony, the original deed was misplaced, and a photocopy was given to Festus Lombeh for lamination. She further testified that after Festus became ill, he wore a black bag around his neck containing the deed and other important documents. On one occasion, the bag fell, scattering its contents. She stated that the attending physician questioned Festus about carrying such important documents on his person, and Festus replied that he intended to return the deed to his mother after it had been laminated. She further testified that following Festus's death, the black bag came into the possession of his girlfriend and his younger brother, Frederick Lombeh.

The appellant's second witness, Dorothy Lombeh, testified that she is the daughter of the appellant's Attorney-in-Fact, Fumbah Lombeh. She corroborated testimony that Festus Lombeh and Fumbah Lombeh jointly purchased the land as a gift for the appellant. She further testified that both brothers jointly developed the property and equally shared the rental income until Festus Lombeh's death. According to her, the original deed remained in the appellees' possession.

The appellant's third witness, Fumbah Lombeh, testified that he and his late brother, Festus Lombeh, jointly purchased the property for their mother, the appellant. He stated that they both contributed to the property's development and shared the rental proceeds equally. He further testified that the original deed was entrusted to Festus Lombeh for lamination and was later found in the possession of Counselor A. Kanie Wesso, counsel for the appellees. During cross-examination, he stated that the suit is not intended to deny or evict the appellees from the property or deny them ownership, but rather to evict the tenants who are meddling in his family's affairs.

The appellees' first witness, Frederick Lombeh, testified that he is the brother of the late Festus Lombeh and Fumbah Lombeh. He stated that the owner of the disputed property is his niece, Jenneh Y. Lombeh, and that the late Festus Lombeh purchased the property in her name. He further testified that his late brother was a generous man who permitted his siblings to reside on the property following the 2003 civil conflict. According to the witness, Festus Lombeh alone developed the property and merely allowed Fumbah Lombeh to operate a small shop on the premises and collect the rental proceeds to support his scratch-card business. He further testified that Festus Lombeh maintained exclusive possession of the deed at all times. The witness also stated that on one occasion, he was shown a Memorandum of Understanding (MOU) prepared by Fumbah Lombeh proposing joint management of the property. He advised Festus not to execute the MOU and instead encouraged Fumbah to acquire and manage his own property rather than Festus's.

The appellees' second witness, Festus Boi, testified that he is the oldest tenant of the subject property and a close friend of the late Festus Lombeh.

He stated that he operates a business in Zuba Town, where the disputed property is located. According to his testimony, he once observed a deed in a bag bearing the name Jenneh Lombeh and asked Festus who she was. Festus reportedly told him she was his daughter. When the witness further asked why the deed had been issued in her name rather than his, Festus explained that Jenneh was his only daughter. The witness identified the deed when it was presented during the trial.

The appellees' third witness, Elijah Lombeh, testified that he is the elder brother of co-appellee Jenneh Y. Lombeh and the grandson of the appellant. He further testified that the appellant also bears the name Jenneh Y. Lombeh. According to his testimony, the disputed property was developed solely by his father, Festus Lombeh, and the rental income from it was used to support both the appellant and Festus's children. He stated that when his father became seriously ill, he showed the deed to the property to both him and his sister, Jenneh Lombeh, and informed them that the property belonged to Jenneh. He further testified that their father entrusted Jenneh with the key to the container that held the deed. As his father's illness worsened, they delivered the deed to their uncle, Counselor A. Kanie Wesso, for safekeeping.

The witness further testified that immediately after the death of Festus Lombeh, Fumbah Lombeh and other relatives began searching for the deed. Fearing it might be taken from them, they concealed its location. He also testified that during a family meeting, the children of the late Festus Lombeh selected Pastor Albert to administer their father's estate. Pastor Albert declined, stating that he feared for his life due to the tension within the family. According to the witness, Fumbah Lombeh subsequently took control of the property, collected the rental income, and deprived the children of the late Festus Lombeh of financial support, causing some to discontinue their education. He further testified that Fumbah Lombeh later instituted proceedings against them in the Paynesville Magisterial Court, where judgment was entered in favor of the children of the late Festus Lombeh, restoring possession of the property to them. He concluded that the present action was instituted by Fumbah Lombeh and the appellant only after they were unsuccessful in the Magisterial Court.

The appellees' fourth witness, Jenneh Y. Lombeh, testified that she was named after her grandmother, the appellant, Jenneh Y. Lombeh. She stated that she and her siblings were minors when their father, Festus Lombeh, took them to live on the disputed property. According to her testimony, their father developed the property by constructing several shops and a gas station. She further testified that their mother managed the gas station until she died in 2014, after which their father managed it until he died in 2022. The witness further testified that when their father became seriously ill, he showed both her and her brother, Elijah Lombeh, the deed to the disputed property and informed them that the property belonged to her. She stated that their father instructed them that, should anything happen to him, they were to manage the property and apply the rental proceeds toward their education and general welfare.

She also testified that her father entrusted her with the key to the cabinet in which the original deed was kept. As his illness worsened, she and her brother delivered the deed to their uncle, Counselor A. Kanie Wesso, for safekeeping. Following their father's death, they appointed their uncle, Albert Lombeh, to manage the property on their behalf. However, according to the witness, Albert Lombeh declined the appointment, stating that he feared for his life because of pressure allegedly exerted by their uncle, Fumbah Lombeh. The witness further testified that Fumbah Lombeh thereafter assumed control of the property, collected the rental income, and deprived the children of the late Festus Lombeh of the proceeds intended for their support. She concluded by stating that Fumbah Lombeh subsequently instituted an action in the Paynesville Magisterial Court against them, seeking their eviction from the property. The Magisterial Court, however, ruled in their favor. Thereafter, according to the witness, Fumbah Lombeh instituted the present action before the trial court.

Considering the pleadings and the parties' testimony, the determinative question before us is: (1) whether the appellant established a superior title to the disputed property sufficient to recover possession in an action of ejectment; stated differently, whether the pleadings and evidence presented by the parties sufficiently framed the issues to permit a fair adjudication of the controversy.

We shall now proceed to address the issue presented.

The undisputed facts drawn from the records show that the appellant initially filed this action as a Summary Proceedings to Recover Possession of Real Property, asserting that she was the undisputed owner of the premises and that the appellees had unlawfully entered and occupied her property. Once the appellees filed their answer, which disputed the appellant's ownership and asserted title in co-appellee Jenneh Y. Lombeh, the controversy shifted from mere possession to title to real property. Recognizing this, the trial court, *sua sponte*, properly converted the proceedings into an action of ejectment. Neither party objected to that ruling. Consequently, the case proceeded under the substantive and evidentiary rules governing actions of ejectment.

The law governing ejectment actions in this jurisdiction is firmly settled. Section 62.1 of the Civil Procedure Law authorizes an action of ejectment whenever title to real property and the right to possession are disputed. Equally settled is the principle that a plaintiff in ejectment must prevail solely upon the strength of his or her own title and not upon the weakness or deficiencies of the defendant's title. Dasusea et al. v. Coleman, 36 LLR 102 (1989). Thus, in every ejectment suit, before considering the evidence offered by the defendant, the court must first determine whether the plaintiff has established a legal title sufficient to warrant recovery. If the plaintiff fails to do so, the inquiry ends, and judgment must ordinarily be entered for the defendant.

In the present case, the appellant relied primarily on an Administrator's Deed executed by Edina Mathis, conveying two (2) lots of land to Jenneh Y. Lombeh, together with a Power of Attorney authorizing Fumbah Lombeh to administer the property on her behalf. The appellant's theory throughout the proceedings was that the property was purchased jointly by Festus Lombeh and Fumbah Lombeh as a gift to their mother, the appellant, Jenneh Y. Lombeh.

However, the mere assertion that the property was intended as a gift did not, standing alone, establish that the grantee named in the deed was, in fact, the appellant rather than co-appellee Jenneh Y. Lombeh, who bears

the identical name and is the appellant's granddaughter. The identity of the grantee became the central factual issue upon which the title depended.

Although the appellant produced witnesses who testified that Festus Lombeh and Fumbah Lombeh purchased the property for their mother, none of those witnesses participated in the original conveyance except Fumbah Lombeh. More importantly, none of the individuals who executed or witnessed the deed, including the grantor or any of the subscribing witnesses, was called to testify about the intended grantee or the property. Those individuals constituted the best available evidence regarding the circumstances surrounding the conveyance and the identity of the person to whom title was conveyed. Their absence left the jury with conflicting testimonial evidence, unsupported by direct proof identifying the grantee named in the deed.

While the law recognizes that every competent witness may testify to facts within their personal knowledge, the trier of fact retains the exclusive authority to determine witness credibility and the weight to be accorded their testimony. The jury evidently concluded that the appellant's evidence failed to establish, by a preponderance of the evidence, that she was the Jenneh Y. Lombeh named in the deed. This Court cannot say that such a finding was unsupported by the evidence presented.

The testimony of the appellant's principal witness, Fumbah Lombeh, further weakened the appellant's theory of the case. In open court, he testified that the purpose of the present action was not to remove the Co-appellees/children of the late Festus Lombeh from the property because they, too, were entitled to an interest therein. Rather, he asserted that the suit was intended only to remove the tenants occupying the premises. This testimony materially departed from the allegations in both the complaint and the reply, in which the appellant sought to oust all named defendants, including Jenneh Y. Lombeh and Elijah Lombeh, from the disputed property. The legal significance of this testimony cannot be ignored. A party is ordinarily bound by the material allegations in his pleadings and may not, during trial, advance an entirely different theory inconsistent with those pleadings. By conceding that the children of the late Festus Lombeh possessed rights in the property, Fumbah Lombeh substantially

undermined the appellant's assertion of exclusive ownership and introduced uncertainty regarding the very relief sought in the action.

Notwithstanding the deficiencies in the appellant's proof, the appellees likewise failed to maintain a consistent theory of ownership of the disputed property. In their answer, they alleged that the property was purchased by the late Festus Lombeh in the name of his daughter, co-appellee Jenneh Y. Lombeh, thereby asserting that title vested exclusively in her. Yet elsewhere in their pleadings and throughout the testimony of several witnesses, they maintained that the property formed part of the estate of the late Festus Lombeh and was held for the benefit of all his surviving children. These positions are legally inconsistent. Property owned exclusively by one individual cannot simultaneously constitute property of an intestate estate subject to inheritance by multiple heirs unless facts establishing such legal interest are specifically pleaded and proved. No such facts were pleaded or proved at trial. Consequently, the appellees' own theory of ownership remained uncertain and internally contradictory.

The uncertainty was compounded by the evidence presented at trial. Some of the appellees' witnesses testified that the property belonged exclusively to Jenneh Y. Lombeh, while others stated that it belonged to all of the children of the late Festus Lombeh. Similarly, although the appellees relied on the deed bearing the name Jenneh Y. Lombeh, they also defended the action on the premise that the property should remain under the collective control of Festus Lombeh's children. These inconsistent positions prevented the ownership issues from being clearly defined.

The function of pleadings is to present with certainty the issues upon which the parties seek judicial determination. When pleadings fail to perform that function and the issues remain uncertain, neither the trial court nor an appellate court can fairly determine the parties' rights. This Court has long adhered to the rule that when pleadings are inconsistent or fail to clearly present the issues for adjudication, the proper remedy is to reverse the judgment and remand the cause with instructions to permit the parties to replead. Lamco J.V. Co. v. Rogers, 24 LLR 314 (1975); McGill v. Mobil Oil Corporation, 26 LLR 135 (1977).

The record before us presents precisely that circumstance. The appellant instituted the action claiming exclusive ownership of the property but later abandoned that theory through the testimony of her Attorney-in-Fact, Fumbah Lombeh. Conversely, the appellees defended the action by alternately asserting that the property belonged exclusively to Jenneh Y. Lombeh and that it formed part of the intestate estate of the late Festus Lombeh for the benefit of all his children. Thus, neither party consistently maintained the theory pleaded. As a consequence, the jury was required to resolve ownership issues that were never clearly framed by the pleadings.

Although the appellant failed to establish a superior title sufficient to prevail in ejectment, this Court is equally satisfied that the pleadings and evidence presented by both parties failed to define the controversy with the certainty required by law. Under these circumstances, substantial justice requires that the judgment be vacated and that the parties be afforded an opportunity to properly frame the issues before the trial court.

In the instant case, the pleadings of the parties being ambiguous coupled with the fact that not only did both parties produce self-serving witnesses, but also the testimonies of the witnesses on both sides are self-contradictory, equity and justice require that the parties be afforded a fair chance to properly present their respective side of the case for an informed determination.

Accordingly, the judgment of the trial court is reversed. The jury's verdict is vacated; the pleadings are stricken from the record as if no complaint had been filed; and the cause is remanded to the trial court, with leave to the parties to replead, should they so desire. In the interim, the parties shall maintain the status *quo ante* regarding possession of the disputed property.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the final ruling of the trial court confirming the verdict of the jury is hereby reversed, and the case remanded for the parties to replead. The Clerk of this Court is hereby ordered to send a mandate to the court below, commanding the judge therein presiding to resume jurisdiction over the case and give effect to the judgment of this Opinion. Costs disallowed.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELOR ELISHA T.J. FORKEYOH APPEARED FOR THE APPELLANT. COUNSELOR BOB B. LAYWHYEE APPEARED FOR THE APPELLEES.