JALLOH *v.* REGINAM

WEST AFRICAN COURT OF APPEAL (Coussey, P., Luke, Ag. C.J. (Sierra Leone) and Verity, Ag. J.A.): March 20th, 1957
(W.A.C.A. Cr. App. No. 3/57)

[1] **Administrative Law—land disputes—jurisdiction—district commissioner's jurisdiction in Protectorate absolute irrespective of parties and urgency of matter—unaffected by parallel jurisdiction of Supreme Court:** The jurisdiction conferred by s.39 of the Protectorate Ordinance (*cap.* 185) upon a district commissioner to decide a land dispute is absolute and unaffected by the general jurisdiction of the Supreme Court; he may decide land disputes between natives or between a native and a non-native irrespective of any question of urgency (page 3, lines 1–14; page 3, lines 20–34).

The appellant was charged in the Supreme Court with disregarding a decision of a district commissioner made in a land dispute.

The appellant, a native, had a land dispute with a non-native in the Protectorate. The district commissioner after an inquiry ordered the appellant to quit the land upon payment of compensation and the order was confirmed by the provincial commissioner. The appellant refused to accept the compensation or to leave the disputed land and was prosecuted. The Supreme Court convicted him of disregarding the district commissioner's decision.

The appellant appealed against his conviction on the grounds (a) that the district commissioner had no jurisdiction under s.39 of the Protectorate Ordinance (*cap.* 185) to decide a dispute between a native and non-native and (b) the jurisdiction of a district commissioner can only be exercised when it is shown that if not promptly settled the matter might lead to a breach of the peace.

Legislation construed:

Protectorate Ordinance (Laws of Sierra Leone, 1946, *cap.* 185), s.39(1):

> "A District Commissioner shall have power and authority to inquire into and decide as hereafter provided any matters within his district which have their origin in poro laws, native rites or customs, land disputes, including land disputes arising between paramount chiefs, or any other disputes which, if not promptly settled, might lead to breaches of the peace."

Beoku-Betts for the appellant;
Smythe, Crown Counsel, for the Crown.

VERITY, Ag. J.A., delivering the judgment of the court:

This is an appeal from a conviction in the Supreme Court on a charge of disregarding a decision of a district commissioner made in a land dispute, contrary to s.39(8) of the Protectorate Ordinance (*cap.* 185).

The dispute arose out of the failure of the appellant to quit certain land leased to the Ahmadiyya Mission by the Paramount Chief of the Kakua Chiefdom in the Bo District in the Protectorate. The appellant is a native of the Protectorate and the Mission a non-native organisation represented at the inquiry by a non-native.

The assistant district commissioner, having made with an assessor due inquiry into the dispute, ordered the payment of compensation to the appellant who was to leave the land leased within seven days of such payment. This decision was confirmed by the provincial commissioner upon review. The compensation was tendered to the appellant and upon his refusal to accept it the amount was paid into the Native Administration Treasury in his name in accordance with the order of the district commissioner. The appellant nevertheless refused to leave the land. He was thereupon prosecuted, convicted and sentenced and from this conviction he has appealed.

Three grounds of appeal were filed, the first two being to the effect that the district commissioner had no jurisdiction under s.39 of the Protectorate Ordinance to hold an inquiry into a dispute between a native and a non-native, and in support thereof counsel submitted that the Protectorate Ordinance must be read in conjunction with the Courts Ordinance (*cap.* 50), whereby jurisdiction is conferred upon the Supreme Court in land cases other than those exclusively between natives (s.11). Counsel referred also to the Native Courts Ordinance (*cap.* 149), relating to the trial of land disputes between natives. Although we found the trend of counsel's argument difficult to follow, he appeared to contend that by the general jurisdiction conferred upon the Supreme Court in land causes other than those exclusively between natives the jurisdiction of the district commissioner in such cases is ousted. Counsel did not, as we understood, pursue this contention to what would appear to be its logical conclusion in regard to the jurisdiction of native courts in disputes between natives, perhaps for the reason that this conclusion would have been to oust the district commissioner's jurisdiction in all cases and thus render s.39 of the Protectorate Ordinance of no effect. We see no reason, however, why the contention should apply in one instance and not in the other; but on the other hand

we see no reason why it should apply to either. The purpose of the relevant section of the Protectorate Ordinance is shown clearly by its terms to provide for the settlement of a variety of disputes summarily by the district commissioner when such disputes arise within the Protectorate; and to hold that the general jurisdiction of the Supreme Court in certain of such matters deprives the district commissioner of his special jurisdiction in such cases would be to defeat the purpose of the statute in relation thereto. In the absence of express provision excluding such cases from the jurisdiction of the district commissioner we are of the opinion that his powers under the Ordinance are sufficiently wide to enable him to hold an inquiry into any land dispute within the Protectorate irrespective of the status of the parties thereto. We think therefore, that the first and second grounds of appeal failed.

The third ground of appeal is to the effect that the jurisdiction of the district commissioner can only be exercised when it is shown that, if the matter is not promptly settled, it might lead to a breach of the peace. This question was fully argued before the learned trial judge and dealt with at length in his ruling on counsel's submission in this regard. It is, we think, sufficient to say now that we are in agreement with the learned trial judge's view that the limiting words of the section "which if not promptly settled might lead to a breach of the peace" are related solely to disputes other than those in regard to which jurisdiction is specifically conferred upon the district commissioner, that is to say—". . . poro laws, native rites or customs, land disputes, including land disputes arising between paramount chiefs. . . ." In these matters absolute jurisdiction is conferred upon the district commissioner by the section, which however proceeds to confer upon him jurisdiction also in "other disputes which, if not promptly settled, might lead to breaches of the peace." These last words confer jurisdiction in regard to disputes of any nature but only where a breach of the peace might ensue if they were not promptly settled. This ground also failed, in our opinion, and we therefore dismissed the appeal.

Appeal dismissed.