

IN THE COURT OF APPEAL FOR SIERRA LEONE

CORAM:

Hon. Mr. Justice. Ken. E. O. Durling - J.A.  
Hon. Mr. Justice. S. T. Navo - J.A.  
Hon. Mr. Justice. M. S. Turay - J.A.

BETWEEN:

ADAMA MANSARAY - APPELLANT

AND

IBRAHIM MANSARAY - RESPONDENT

J.B. Jenkins-Johnston. Esq for Appellant

S.M. Touray Esq for Respondent was deputised  
by G.J. Betts Esq.

Ruling delivered this 4th day of March, 1982

Ken Durling J.A. This is an Appeal against the order of Johnson J in the High Court made on an application for stay of execution of Judgment delivered by the said Judge on the 28th of April 1981. Amongst other things ordered by Johnson J in his Judgment dated 28th April, 1981 were that the Appellant do execute a Conveyance of the Land and premises No. 12C and 12D Henessey Street Kingtom, Freetown to the Respondent withing 7 days and that if the Appellant fails to execute the Conveyance conveying the land and premises No. 12C and 12D Henessey Street ~~Kingtom~~ *Kingtom* to the Respondent within 7 days, then the Master and Registrar is ordered to execute the Conveyance assuming the land and premises situate lying and being and known as 12C, 12D Henessey Street Kingtom in the name of the Appellant and to the Respondent immediately thereafter. On the 29th of April, 1981 the Appellant Lodged an Appeal to this Court. The Appellant applies for stay of execution of the Judgment of the 28th

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of April, 1981 and the Learned Judge Johnson J amongst other things ordered that the Master and Registrar do execute the Conveyance pursuant to paragraph (three) (3) of this Judgment dated 28th April, 1981 forthwith and that after due registering of the said Conveyance by the Plaintiff Respondent, the said Conveyance be kept by the Master and Registrar, High Court, pending the determination of the Appeal to the Sierra Leone Court of Appeal".

Learned Counsel for the Appellant before us argued that the Order of 8th May, 1981 which purported to grant a stay of execution to the Appellant herein was not in law or in fact a stay of execution since it ordered compliance with the Judgment of the 28th of April, 1981 which was being appealed against. We do agree with Learned Counsel. The Learned Judge was in fact saying that the Appellant must do what he ordered regardless of the fact that an Appeal had been lodged and also the consent to the Affidavit evidence before him in support of the application for stay. We have read and considered the Affidavit in support of the application for stay and also the Affidavit in opposition and also considered what was argued by Counsel on either side and have come to the Conclusion that a stay ought to be granted and we on the 17th of July, 1982 accordingly set aside the Order of Johnson J made the 8th of May, 1982.

We are of the opinion that in cases where there is an order transferring Real property or an interest therein or thereunder by Deed of Conveyance or otherwise or Order for sale where an Appeal has been lodged our Courts should not readily refuse stay because the property or right thereunder or therein before the final determination of the Appeal might have passed to a bona fide purchaser for value who has no notice of an Appeal pending relating to such property. Perhaps the authorities concern might consider legislating that before execution of Judgment or Order relating to Real property by way of Deed of Conveyance, transfer of interest, or sale of the said property after such Judgments or Orders have been made by a Competent authority that a Memorial of Judgment should have been lodged with the Registrar-General and make it imperative on the part of anyone who would benefit by such Deed of Conveyance, transfer of interest or to search the Records containing Memorial of Judgment.

We ordered that the Master and Registrar of the High Court bring up for cancellation by court Registrar of the Court of Appeal Conveyance No. 596/C1 at page 16 of volume 329 and that the Registrar-General cancell the said Deed in his Book of Conveyances. We also ordered that the Appellant be restrained from parting with the property or any interest he may have thereunder. These orders we are of the opinion will safeguard

the interest of both parties until the  
final determination of the Appeal. We  
made no order as to Cost-

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Justice of the Appeal.

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Justice of the Appeal

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