

IN THE HIGH COURT OF SIERRA LEONE

BETWEEN:

MUCTARR RENNER -- PLAINTIFF

AND

BASIRU RENNER --

(ADMINISTRATOR OF THE ESTATE OF ABU BAKARR RENNER - (DECEASED)

AND

RAILAITU RENNER -- REpondents

Monday 10th
July 2006

Before the Hon. Mrs.
Justice A. Showers J.

Case Called
Same representation
Parties present

JUDGMENT

The Applicant is by Originating Summons dated 19th September 2005 seeking the following Orders:

That properties known as 12B city Road Wellington, 3 Brass Street, Freetown and I Lardner Street, Off Fourah Bay Road, Freetown be partitioned or in the alternative if partitioned or in the alternative if partitioning is not practicable then for a order that the properties be sold by private treaty or public auction and the net proceeds of sale be distributed among the beneficiaries thereof. Also for an order that the Master and Registrar of the High Court of Sierra Leone do execute the conveyance to the respective purchasers. Further for an order that Basiru Renner, the Administrator of the estate of Abu Bakarr Tejan Renner (Deceased) do render a just and true account of all rents collected in respect of the three properties since 11th December 2001 and that the costs of and incidental to this application be borne by the Estate.

In support of the application is the applicant's affidavit in which he deposed that he is a beneficiary of the estate of Abu Bakarr Tejan Renner (Deceased) who died on 8th May 1978 possessed of properties situate at 12B City Road Wellington, 3 Brass Street and I Lardner Street all in Freetown. His elder brother, Basiru Renner, one of the Respondents took out

Letters of Administration to his father's estate on 11th December 2001. He further deposed that both Basiru Renner and Railatu Renner the other Respondent herein are his half brother and half sister respectively and that they are both older than himself. He next deposed that after obtaining the grant of Letters of Administration, Basiru Renner forcibly evicted their stepmother, Mabinty Renner from premises situate at 12B City Road Wellington and had made four attempts to evict him from the said premises but had been prevented from doing so by the Court. He further deposed that the said Basiru Renner had since he obtained the grant of Letters of Administration been collecting rent from the said properties and has refused to give account of the rents so collected, and that each time he demanded the accounts, it would lead to quarrels or a fight. He stated that because of the deteriorating relationship between the parties the properties have not been maintained and are now in a very bad state and need urgent repairs. He further stated that the relationship between the families is such that there are fears and apprehension and he recalled an occasion when in his absence the said Bashiru Renner had entered his apartment and beat up his wife and children. As a result of all these circumstances he was praying for the orders already set out.

The Respondents opposed his application and Basiru Renner swore to an affidavit in opposition which is filed herein. In it he deposed that he and his sister Railatu Renner are the only two legitimate children of their father, and therefore they are the only beneficiaries entitled to the said estate of their father. He denied that the properties situate at 3 Brass Street and 1 Lardner Street belong to their father and exhibited a Deed of Gift of the property at 3 Brass Street by one Isatu Savage to Ramatu Savage and her children, Basiru Savage, Hassinatu Savage and Zainabu Savage. In respect of the property at 12^B City Road Wellington, he deposed that he had vested the said properties on himself and his sister Railatu Renner as the Lawful beneficiaries and the only persons entitled to the estate of their late father. The said Vesting Deed dated 8th October 1999 was exhibited to his said affidavit. He denied that he evicted their stepmother Mabinty Renner from the said premises at City Road Wellington and stated that she was evicted as a result of an order of Court, a copy of which order was exhibited to the said affidavit.

He finally deposed that as the premises at City Road Wellington was the only property in the estate of their late father it would not be in the interest of the beneficiaries if it were sold.

There is also another affidavit in support of the application sworn to by Mabinty Renner who stated that she is one of the wives of the late Abu Bakarr Renner and that he had another wife, Posseh Renner who was the mother of the applicant, Muctarr Renner. She deposed to the fact that the said Posseh Renner was lawfully married to Abu Bakarr Tejan Renner and that it was she who brought up the applicant as her own son as she had no children of her own. She swore to the said affidavit to attest that Basiru Renner and Railatu Renner are not the only two lawful children as alleged but that Muctarr Renner is also a lawful child of the said Abu Bakarr Renner.

At the hearing of the matter, Muctarr Renner was cross-examined on his affidavit. He confirmed that the property at City Road was burnt down during the war and that pan body structures have been built on the land one of which he now occupies. He claimed that the structures were erected by him and not Basiru Renner but that all the tenants were put there by Basiru who was collecting the rent.

These are the facts in the case. In his submission to the court, Counsel for the applicant stressed that the properties situate at City Road and Lardner Street form part of the estate of Abu Bakarr Tejan Renner. He stated that in the declaration of estate value submitted in the papers required for obtaining the grant of Letters of Administration the property at Lardner Street was the only property declared as being the estate of the late Mr Renner. He conceded that property at 3 Brass Street does not form part of the said deceased's estate. He submitted that the Respondent Basiru Renner had no authority to vest the property at City Road Wellington on himself and his sister without the consent of the other beneficiary to the estate. He further submitted that the applicant is a lawful child of the late Mr. Renner who being a Muslim was entitled to marry more than one wife and the children of those marriages were therefore lawful children. He therefore sought that the Orders prayed for be granted.

Counsel for the Respondent in his submission stated that the Respondents are the only lawful beneficiaries entitled to the estate of their late father and that it would not be in their interest for the property to be sold.

It seems to me that the first issue to be determined in this matter is the property constituting the estate of the late Abu Bakarr Tejan Renner. It is clear and indeed counsel for the applicant has conceded that the property situate at 3 Brass Street does not form part of the said estate. With

respect to the property situate at 1 Lardner Street, counsel for the applicant has stated that it is the only property declared in the declaration of estate value for the grant of Letters of Administration. Unfortunately that declaration is not before the court as it has not been exhibited. Nor is there a copy of the relevant title deeds of that property in evidence. It has therefore not been established that property situate at 1 Lardner Street forms part of the estate of the said deceased. There is however clear evidence that the property situate at 12B City Road Wellington, forms part of the estate of the said deceased as the title deeds are in evidence and there is no controversy about it being part of the said estate. However the next question that arises is whether the Vesting Deed made by Basiru Renner as Administrator of the said estate vesting the property in himself and his sister is legal and proper. Counsel for the applicant has stressed that it was made without the authority and consent of the other beneficiary to the estate. The evidence of Mabinty Renner that the mother of Muctarr Renner, the applicant was legally married to Abu Bakarr Tejan Renner has not been controverted or challenged. In the light of that evidence, Muctarr Renner must be regarded as a lawful child with as much right to the estate of his late father as Basiru Renner and Railatu Renner. He is therefore entitled to a share of his father's estate.

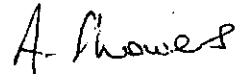
Counsel for the Respondents has submitted that the applicant has not given sufficient reasons for wanting the property partitioned or sold. I believe he has. He has stated that there is animosity in the family, that they live in fear and apprehension and he gave an instance in which his wife and children have been beaten up by the Respondent Basiru. Further he deposed that the Respondent has made several attempts to evict him from the premises. In these circumstances where these wranglings about property amongst family members cannot be settled amicably, the next best thing is for the property to be sold and the proceeds shared amongst the beneficiaries.

In the present case where there is only one property constituting the estate, there is no possibility of its partitioning. I therefore order that the property situate at 12B City Road Wellington be sold by private treaty or public auction with the beneficiaries having the first option of purchasing it and that the net proceeds of sale be distributed among the beneficiaries.

I also order that the Master and Registrar of the High Court of Sierra Leone do execute the said conveyance to the purchaser thereof.

I further order that Basiru Renner as Administrator of the estate of Abu Bakarr Tejan Renner do render a just and true account of all rents collected in respect of the property at 12B City Road Wellington since 11th December 2001.

The costs of this application to be borne out of the proceeds of sale assessed at Le5 million to each solicitor.



A. Showers J.

10/7/06