



IN THE HIGH COURT OF SIERRA LEONE
LAND AND PROPERTY DIVISION

CC. 93/17

LEON JENKINS JOHNSTON & ANO.

APPLICANTS

AND

BETHEL CATHEDRAL & ORS.

RESPONDENTS

REPRESENTATION:

LEON JENKINS JOHNSTON ESQ.

THE 1st PLAINTIFF -IN-PERSON

ANSU LANSANA ESQ.

COUNSEL FOR THE DEFENDANT

BEFORE THE HON. MR. JUSTICE SENGU M. KOROMA JA.
RULING DELIVERED ON THE 19TH OCTOBER, 2017.

1. The Plaintiffs/Applicant (hereinafter referred to as the "Applicant") applied to this court by way of Notice of Motion dated 27th March, 2017 for the following Orders:-

1. That this Honourable Court do grant an injunction restraining the Defendants whether by themselves, their servants, agents, workmen or howsoever otherwise from remaining upon, constructing on or in any other way dealing with the Plaintiffs' land or any part thereof as delineated on Survey Plan No. LS No. 1256/15 covering an area of 0.1754 Acre pending the hearing and determination of this application.
2. Any further or other Order(s) that this Honourable Court may deem fit and just in the circumstances.
3. That the costs of this application shall be costs in the cause.

2. At the hearing of the Application, L. Jenkins-Johnston Esq. the 1st Plaintiff herein who appeared in person relied on his affidavit sworn to on the 22nd day of March, 2017 together with the exhibits attached thereto.

3. The 1st and 2nd Defendants/Respondents (hereinafter referred to as the "Respondents") opposed the application and relied on affidavit of Philip Kanu sworn to on the 30th March, 2017.

4. Mr. Jenkins Johnston in his submission relied on the entirety of the affidavit and the exhibits attached thereto. He contended that the rights of the Plaintiffs were about to be violated; rights which have been established by Exhibits "B and C" attached to the affidavit in support. He referred to

paragraph 8 of his affidavit in which he averred that attempts were made by the Respondents to forcible enter the land, demolish the fence and construct another thereon.

5. Mr. Jenkins-Johnston relied on the Annual Practice, 1999 Vol. 1 paragraph 29/L/3 at page 565 under the rubric “serious questions to be tried” and submitted that there were serious issues to be tried in this matter. He made the Application pursuant to Order 35 Rules 1 and 2 of the High Court Rules, 2007.

6. Mr. A. Lansana, Counsel for the Respondents relied on the dictum of Lord Diplock in the American Cyramid Case. He noted that the tests for the grant of an injunction were whether there were serious issues to be tried and whether damages will be sufficient.

7. Mr. Lansana submitted that there were no serious issues to be tried here. He challenged the veracity of the contents of the affidavit in support especially that aspect dealing with the Respondents’ trespass. On that note, he applied to cross examine the Deponent.

8. The cross examination revealed that the Plaintiffs had a Deed of Conveyance dated the 18th July, 2014 in respect of the land in dispute. And that he shares a common boundary with the Defendants and their respective lands were demarcated by a fence which had been in existence for the past five years to the knowledge of the Defendant and full view of the public. Mr. Jenkins-Johnston agreed that the Police stopped both parties from working on the disputed land.

9. The matter was then adjourned to Monday, 5th July, 2017 for the Respondent's Counsel, Mr. Ansu Lansana to respond. Before he could do so, the 1st Plaintiff raised preliminary objections on various grounds. These objections were overruled by this Court in a Ruling delivered on the 14th June, 2017.

10. On the 29th June, 2017, Mr. Ansu Lansana opposed the application. He submitted that the surveyor who went to the disputed land to determine the boundary did so with the knowledge of the Plaintiff as averred in paragraph 8 of the affidavit in opposition.

11. Mr. Ansu Lansana asked the Court to stand the matter over trial. In support of this, he cited the Supreme Court Annual Practice, 1999 paragraph 29/1A/27 thereof.

12. He finally submitted that the application be set aside on the ground that the Applicants had not made full and frank disclosure.

13. Mr. Jenkins-Johnston in reply prayed the Court to grant the application so that the status quo could be maintained. The land was already in their possession and so the grant of an injunction would not prejudice the Defendants in any way.

14. I have listened to Counsel's argument but before making any determination of the main issue in dispute here, I would want to address an issue raised by the Respondent's Counsel- that is, standing the application over to trial. This is a procedure by which the Court would adjourn an application for interlocutory injunction with the object of ensuring that

related proceedings between the parties are heard as Justice and convenience requires. As the authors of the English Annual Practice, 1999 put it in paragraph 29/1A/27.

15. “It would seem that the Court has a discretionary power, on the Plaintiff’s application to stand the motion or summons over to trial and this is the rule which the Court will follow on such terms as may be just, where in appropriate circumstances the Court finds it necessary to determine issues of fact and is unable to do so on affidavit evidence alone”. I will say with respect that there are no related proceedings between the parties. The application for an injunction arises out of the Writ of Summons issued in this action. It is to maintain the status quo. The determination of this application either way will not affect the eventual outcome of the matter.

16. Having dealt with the issue of standing over to trial, I shall now determine whether this is an appropriate matter in which to grant an injunction. Counsel on both sides cited the American Cyramid Case. It must be realised that the principles enunciated in this case are not rules of law but guidelines in determination whether an injunction would be an appropriate remedy in a given situation. It is not incumbent on the Court to apply them where the facts are so clear that refusal to grant an injunction could lead to injustice.

17. In the instant case, the Applicants were in possession of the land in dispute until the Respondents put claim to it. It would not be inconvenient for both parties if the status quo were to remain until the determination of this action.

18. In the circumstance, I order as follows:-

1. An interlocutory injunction is hereby granted restraining the Defendants whether by themselves, their servants, agents, workmen or howsoever otherwise from remaining upon, constructing on or in any other way dealing with and delineated on survey Plan No. LS 1257/15 covering an area of 0.854 acre pending the hearing and determination of this action
2. The parties herein shall not undertake any construction on the said piece of land described in paragraph 1 herein pending the hearing and determination of this action
3. That the Plaintiff/Applicant shall file a reply and close all pleadings within five (5) days from the date of this Order.



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Hon. Mr. Justice Sengu M. Koroma (J.A.)