

Cc 371/16

2016

A.

No. 12

**IN THE HIGH COURT OF SIERRA LEONE**  
**(LAND AND PROPERTY DIVISION)**

**BETWEEN:**

CLAUDIA AINA R. ANTHONY  
Off Kamara Street  
Peninsular Circular Road  
Goderich  
Freetown

-

Plaintiff

AND

KONA SHEGUREH  
Kamara Street  
Off Peninsular Circular Road  
Goderich  
Freetown.

-

Defendant

Counsel:

I P Mammie Esq -  
D. J. Lavally Esq -

for the Plaintiff  
for the Defendant

**JUDGMENT DELIVERED THIS** 9<sup>th</sup> **DAY OF** October **2023**

On the 15<sup>th</sup> of November 2016 the Plaintiff filed a Writ of Summons praying for the following reliefs:

1. A declaration that the Plaintiff is the fee simple owner and person entitled to a piece and parcel of land situate lying and being at Peninsula Circular Road, Goderich in the Western Area Rural District of the Republic of Sierra Leone measuring 0.1825 Acres.

2. Immediate recovery of possession of the said land at Peninsula Circular Road in the Western Area Rural District of the Republic of Sierra Leone.
3. Cancellation of any purported document which the Defendant may have made in relation to the Plaintiff's land.
4. Damages for trespass.
5. An injunction restraining the Defendant, their servants, privies, agents from entering or interfering with the Plaintiff's land.
6. Cost.

On the 10<sup>th</sup> of May 2017 an application of Summons for Directions and the Orders prayed for were granted. The hearing of the action commenced on 2<sup>nd</sup> October 2017 and was completed on the 7<sup>th</sup> of February 2020.

Oral and documentary evidence were adduced by both parties. The Plaintiff and Defendant both gave evidence in chief and were cross-examined. The Plaintiff called two (2) witnesses which included a surveyor/expert witness and the Defendant called one (1).

#### Summary of Facts of the Case

The Plaintiff, Claudia Anthony, a Consultant Journalist testified that she bought a piece of land measuring 0.1825 acres on Peninsula Road, Goderich, Freetown in the Western Area of the Republic of Sierra Leone delineated on survey plan no. LS 3146/13. She commenced payment for the said land to a Hamidu Turay, also known as Pa Alimamy Turay AKA "Koifoir" or Pa Alimamy Turay (deceased intestate) and completed payment to his daughter Fatmata Turay and son, Saidu Turay. She did not say when these payments were made.



The said Hamidu Turay (supra) did not give her a receipt(s) nor did he furnish her with the size or measurement of the land he was selling to her. When he died before they could complete the purchase agreement, his administrators (who are his children), Fatmata Turay and Saidu Turay executed a conveyance in her name. She registered the said conveyance at the Administrator and Registrar-General's Office.

Whilst all this transaction was taking place, the Defendant, Kona Shegureh, a Petty Trader, was residing on the estate, a portion of the said land. The Plaintiff said that, the Defendant was a caretaker, whilst the Defendant testified that she was a wife of the landowner/ vendor, Hamidu Turay. Several notices to quit were sent to the Defendant, Kona Shegureh but she refused to vacate.

The said defendant described the Plaintiff as her neighbour living next to her compound with a fence as the demarcation and which was erected by the Plaintiff before the death of her husband, the vendor Pa Alimamy Turay also known as "Kafoir" and Hamidu Turay. The defendant said that the vendor gave her a portion of the land as a gift. She said that he executed a deed of gift which was witnessed by 3 witnesses including the local headman. She said that her portion of land measured 0.0863 acre as delineated on Survey Plan no. L.S. 2284/13.

I have considered all the oral and documentary evidence adduced before the court including the plaintiff's surveyor's report and his oral testimony.

### Findings

I find that:

(a) the deceased intestate land owner, Pa Alimamy Turay, also known as "Kafoir or Pa Hamidu Turay" did not issue a receipt for the first and subsequent payments made to him by the Plaintiff, Ms Anthony, nor did he furnish her with a survey plan of the piece of land he was selling



to her which would have shown the dimensions/measurements. This would have brought some certainty and specificity of what was being sold. The Court was only furnished with the receipts of payments made to the Administrators of the estate by the Plaintiff; and the conveyance of sale covering the land occupied at present by the plaintiff together with the land occupied by the defendant.

(b) No evidence has been adduced to show that the original deceased intestate vendor notified the Defendant of his intention to sell the piece of land occupied by her nor is there evidence to show that he brought it to the attention of the Plaintiff that the defendant was a caretaker. Instead, he allowed her to erect a fence giving the impression that she had only paid for that portion that she now resides on, i.e., the Plaintiff. The reasons given by the Plaintiff for erecting the fence is not persuasive. Furthermore, the evidence of the Plaintiff's surveyor stating inter alia that, "the defendant's property exists on an access road, with no direction as to whether it was leading to Peninsular Road.....," does not take away the original landowner's intention of creating a piece of land which was occupied by the defendant.

(c) The defendant admitted that she payed Le30,000 as rent to the vendor briefly, for the use of the land occupied by the Plaintiff, for agricultural purposes; and stopped paying when the Plaintiff was given that portion of land.

(d) I am doubtful as to whether the deceased Intestate vendor got to the point of executing a deed of gift to the defendant or inform her that the land she was occupying had been sold to the Plaintiff. It is also my view that, a conveyance confers title upon a purchaser whereas a person can be in possession without title. Moreover, it is not unusual for a person to acquire a piece of land at a specified date and then cause a conveyance to be prepared after a considerable length of time; Baxter v Wilson, 1970-71 ALR S.L. 351. I believe the evidence of the defendant that she had been in possession of the portion of land complained of since 2005.

(e) Both counsel were supposed to agree on an independent surveyor and report to the court. This did not materialise.

Having accepted the evidence of the defendant and her witnesses, that she had been in possession of the portion of land since 2005 and that when the plaintiff purchased, she, Ms. Anthony, erected a fence on her portion of land, a writ issued on the 15<sup>th</sup> of November 2016, in my view cannot disturb the possession of the defendant.

In the circumstances, the plaintiff's claims are dismissed.  
Judgment is HEREBY ENTERED FOR THE DEFENDANT.

I make no order as to costs.

Signed:  9/10/2023  
Hon. Mrs. Justice Fatmatta Bintu Alhadi J.A.  
(Sitting as a High Court Judge)