accept plaintiff's evidence that he sold the car in its damaged condition for £140 and this I fix as the scrap value of the car. In the circumstances I award the plaintiff general damages of £260.

As regards special damages the plaintiff in his evidence in examination-in-chief deposed that he sold the car on August 22, 1961, and did not repair it before selling it. Under cross-examination he further deposed that he sold the car because of no parts being available to repair the car. It is, therefore, reasonable to say that at the very least he knew on August 22, 1961, that he was going to dispose of the car because of the reason he gave. In those circumstances I consider it unreasonable on his part for him to have waited for "about a month and two weeks" before the date he gave evidence before me, December 28, 1961, before purchasing another car. It should also be considered that, according to him, plaintiff had two weeks before the date of the accident sold the only other car he used in the course of his business. Plaintiff explained that he had no money to buy another vehicle; but according to him he was spending roughly £52 10s. 0d. a week on the hire of a car and purchase of petrol for a period of about 18 to 20 weeks before he purchased another car. This explanation I therefore do not accept. I consider the period of about 10 to 14 days after plaintiff sold the damaged car a reasonable period within which plaintiff could have bought another motor vehicle. I therefore award him as regards hiring of car £35 a week for 10 weeks from July 1, 1961. This works out at £350. I also allow plaintiff the amount spent for the examination report and estimate of cost of repairs which is £5 5s. 0d.

In the final result I award the plaintiff—

General damages		£260 0s. 0d.
Hiring of car		£350 0s. 0d.
Cost of report		£5 5s. 0d.
	Total ...	£615 5s. 0d.

There will, therefore, be judgment for the plaintiff for £615 5s. 0d. and, most reluctantly, his costs—such costs to be taxed.

[SUPREME COURT]

Freetown
March 9,
1962

Benka-Coker
C.J.

REGINA

v.

MEMBERS OF KHOLIFA CHIEFDOM NATIVE COURT . *Respondents*
EX PARTE ABU LAKOH . . . . . *Applicant*

[Misc.App. 34/61]

Procedure—Certiorari—Review of Native Court proceedings by Supreme Court—New judge substituted in middle of proceedings.

On April 14, 1961, Abu Lakoh was arrested, taken before the Kholifa Chiefdom Native Court and charged with taking part in convening a secret meeting without the consent and knowledge of the Paramount Chief contrary to customary law. The hearing of the charge was commenced the same day.

Evidence in support of the charge was given by three witnesses, and the defendant started giving evidence in his defence. The case was then adjourned to April 20, on which day Sorie Kamara, one of the court members, was ill and could not attend. His place was taken by one Lamina Bia and the hearing proceeded, although defendant protested against the substitution. Defendant was convicted and sentenced to six months' imprisonment. He applied to the Supreme Court for a review of the proceedings in the Native Court by writ of certiorari

Held, granting the application, that, when one judge is substituted for another in the middle of a trial, the trial is a nullity.

Macaulay & Co. for the applicant.
John H. Smythe (Solicitor-General) for the respondents.

BENKA-COKER C.J. This is an application by the applicant, one Abu Lakoh, a native of the Kholifa Chiefdom, Sierra Leone, against the Kholifa Chiefdom Native Court for an order to be made in certiorari proceedings instituted in this court that the conviction and sentence of imprisonment of the said Abu Lakoh by the said Kholifa Native Court on April 20, 1961, be quashed.

On April 14, 1961, the said Abu Lakoh was arrested on a warrant issued by the said Native Court, taken before the said court and charged with taking part in convening a secret meeting without the consent and knowledge of the Paramount Chief, which meeting was calculated to cause serious disturbances contrary to native laws and customs.

The hearing of the charge was commenced on the same day before the said court made up of the following court members: Sorie Kamara, Morlai Sere, Allie Lakoh, Foday Kamara, Alpha Sesay. Evidence in support of the charge was given by three witnesses, and the accused started giving evidence in his defence. As the case could not be concluded on the same day, the further hearing of the case was adjourned. On April 20, 1961, the hearing was resumed, and as Sorie Kamara, one of the members constituting the court on April 14, was ill and could not now attend, one Lamina Bia was substituted for Sorie Kamara in the court. The newly constituted court, consisting of Lamina Bia (the added member), Morlai Sere, Allie Lakoh, Foday Kamara and Alpha Sesay, continued the hearing of the case in the absence of Sorie Kamara, instead of either starting the case de novo or continuing the hearing with only the remaining members of those who had constituted the court on April 14. The applicant protested against the substitution of Lamina Bia for Sorie Kamara on the court, but without any avail, and the newly constituted court continued the hearing of the case and, at the close of the case for the defence, convicted the applicant of the charge and sentenced him to six months' imprisonment.

The applicant has moved in this court to set aside those proceedings before the Native Court resulting in his conviction and sentence on the grounds that they were abortive, void and a nullity and contrary to the principles of natural justice.

The Solicitor-General, who has appeared before me in these proceedings for the respondents, has not sought to support the conviction and sentence nor attempted to oppose this application, and he has admitted the facts as set out above and agreed that the purported trial by the said Native Court was a nullity. After reading the record of the hearing before the Native Court and hearing counsel on both sides, I am satisfied that the facts are correctly stated,

and I hold that the trial before the said Native Court was a nullity. I hereby quash the conviction and sentence of the applicant by the said Native Court and order that the records of the said Native Court be altered accordingly.

It seems to me that this is a proper case in which to order the respondents to pay the costs of the applicant.

The applicant protested at the time against the substitution of Lamina Bia on the court and told the court members that he had previously been told by a District Commissioner that a member of court who had not sat at the beginning of the hearing of a case should not join the court after the hearing had started. One, John Kamara, a Native Administration clerk, who was present at the trial, also told the court that this was the law, but, notwithstanding this, the court members continued the hearing with the said Lamina Bia. This is most deliberate, and the applicant has been compelled to come to this court by the obstinacy of the members of the Native Court.

I order the respondents to pay the applicant's taxed costs in these proceedings before me.

[SUPREME COURT]

Freetown
March 28, 1962
Bankole Jones Ag.C.J.

BAIMBA TURAY . . . . . *Plaintiff*

v.

SOCIETE COMMERCIALE DE L'OUEST AFRICAIN . . *Defendants*

[C.C. 212/61]

Contract—Sale of goods—Warranty—Implied condition that goods fit for particular purpose—Sale of Goods Ordinance (*Cap.* 225, *Laws of Sierra Leone*, 1960), *s.* 16.

Contract—Sale of goods—Vendee illiterate—Vendee's agent signed debit note stating "Second-hand car sold with no guarantee"—Whether contents of note brought to vendee's attention—Illiterates Protection Ordinance (*Cap.* 104, *Laws of Sierra Leone*, 1960), *s.* 2.

Plaintiff purchased a second-hand car from defendant for £300. When plaintiff paid for the car, a debit note was made out which stated inter alia, "Second-hand car sold with no guarantee." Plaintiff, an illiterate, did not sign the note himself, but procured someone to sign it for him. When plaintiff took delivery of the car, he discovered that the chassis was broken in two places near the suspension. When plaintiff requested that defendants repair the car, they refused to do so unless plaintiff paid an additional £90. When defendants also refused to return the purchase price, plaintiff brought suit.

Held, for the plaintiff, (1) since plaintiff made known to defendants the particular purpose for which the car was required and relied on defendants' skill and judgment, there was an implied condition that the goods should be reasonably fit for such purpose.

(2) There was no evidence that the contents of the debit note were brought to plaintiff's attention.

The court also said, obiter, that, even if the contents of the debit note had been brought to the notice of the plaintiff, the defendants might still be liable, because (quoting Halsbury's Laws of England, Hailsham ed., Vol. 29, p. 66,