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It is obvious that I have come to the conclusion that corrupt practices extensively prevailed. But they prevailed only in one place, namely, the Gorama Mende chiefdom—the largest and decisive chiefdom in the constituency. The result in this chiefdom was as follows: Bavoray Gamanga 1,877 votes, the A.P.C. candidate 4,119 votes and the respondent 7,412 votes. The respondent scored the highest votes in the whole constituency in this chiefdom. How is it possible to say under these circumstances with certainty that the result was not affected by the corrupt practices of the paramount chief even though the result of the entire election produced a narrow majority of only 229 votes in the respondent's favour? Such a state of things having been proved, I find myself bound to say that the election is avoided on account of the corrupt practices of the paramount chief, A. K. Kanja. I accordingly declare that the respondent, J. M. Kamanda, was not duly returned or elected and that the election held on May 25, 1962, is void. The respondent is ordered to pay the costs of these proceedings.

Freetown
Oct. 5,
1962

Dobbs Ag.P.J.

[SUPREME COURT]

DORIS SPENCER Appellant

v.

V. B. GIBSON Respondent

[Mag.App. 44A/62]

Real Property—Landlord and tenant—Ejectment—Whether mother member of son's "family"—Whether mother engaged in son's "whole-time employment"—Rent Restriction Act (Cap. 52, Laws of Sierra Leone, 1960), s. 12 (1) (d)—Rent Restriction (Amendment) Act, 1961 (No. 27 of 1961), s. 7.
Appeals from Magistrates' Courts—Procedure where one or both parties attend—Appeals from Magistrates' Courts Act (Cap. 16, Laws of Sierra Leone, 1960), s. 18—Courts (Appeals) Act, 1960 (No. 18 of 1960), ss. 12, 30.

Appellant lived on the ground floor of No. 50, Campbell Street, Freetown, as the tenant of respondent. Respondent brought ejectment proceedings against appellant in the Police Magistrate's Court, relying on section 12 (1) (d) of the Rent Restriction Act, which provides:

"Where the rental value of any dwelling-house or shop has been determined under this [Act] . . . no order or judgment for . . . the ejectment of a tenant therefrom shall be made or given by any court unless— . . . (d) in the case of a dwelling-house, it is reasonably required by the landlord for occupation as a residence for himself or his family or for some person engaged in his whole-time employment."

Respondent testified that he lived at No. 50, Campbell Street and that he needed the ground floor for his mother who cooked for him and took care of his house. The trial magistrates gave judgment for respondent, holding that his mother was "engaged in his whole-time employment."

At the hearing of the appeal, appellant did not appear and was not represented by counsel. Respondent was represented by counsel and also appeared in person.

Held, dismissing the appeal, (1) that, in accordance with section 18 of the Appeals from Magistrates' Courts Act, the Supreme Court may hear an appeal from a Magistrate's Court in the absence of one party if adequate notice of the hearing was served on the absent party.

(2) That the magistrates' finding that respondent's mother was in his whole-time employment was warranted by the evidence; and

(3) That the word "family" in section 12 (1) (d) of the Rent Restriction Act includes a man's mother.

No appearance for the appellant.

Samuel Beccles-Davies for the respondent.

DOBBS AG.P.J. This is an appeal by one, Doris Spencer, who was the defendant in ejectment proceedings in the Police Magistrate's No. 4 at the suit of one, V. B. Gibson. On July 17, 1962, the trial magistrates, Mr. Metcalfe-Cole and Mr. Ethel Ashwood, both J.P.s, made an order against the appellant for her to give up possession of the ground floor of No. 50, Campbell Street, Freetown, on July 31, 1962.

At the hearing of the appeal the appellant was not present nor was Mr. N. A. P. Buck, the solicitor who lodged the petition of appeal, present or represented.

I am satisfied from the affidavit of service that notice of hearing was served at Mr. Buck's office on September 28, 1962, so that there was ample time for arrangements to be made for him to be represented.

Section 12 (1) of the Courts (Appeals) Act, 1960, provides for Rules of Court to be made to regulate the procedure on appeals.

Section 12 (2) of the same Act provides that until rules are made by virtue of this section, the procedure provided in the Appeals from Magistrates' Courts Act shall, notwithstanding the repeal of that Act by section 30 of this Act, continue to be observed in so far as it is not inconsistent with anything in this Act. So far as I am aware no rules have been made under section 12 (1).

Section 18 of the Appeals from Magistrates' Courts Act (Cap. 16) provides:

"If either or both parties appear the appeal court shall proceed to hear the appeal, and may deal with it on the evidence taken before the magistrate, or may examine all or any of the witnesses called before the magistrate or receive such other evidence as it thinks fit before dealing therewith. In either case the court shall have all the powers conferred upon it by section 19."

The respondent appeared and was represented by Mr. Beccles-Davies. The court, by virtue of section 18 of the Appeals from Magistrates' Courts Act, cited above, proceeded to hear the appeal.

There were numerous grounds of appeal but I do not propose to set them out. In my view, the only ground of substance is No. 4, which is as follows:

"That the learned trial magistrates were wrong in law in presuming that a mother is a member of her son's family and that a domestic casual help can be classed as being in full-time employment."

The respondent had admitted at the trial that the rent of the ground floor of No. 50, Campbell Street, Freetown, of which the appellant was his tenant, had been assessed in accordance with the Rent Restriction Act (Cap. 52).

Section 12 (1) of that Act provides: "Where the rental value of any dwelling-house or shop has been determined under this Act or is in course of being so determined no order or judgment for the recovery of possession of

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such dwelling-house or shop or the ejectment of a tenant therefrom shall be made or given by any court unless—. . . (d) in the case of a dwelling-house, it is reasonably required by the landlord for occupation as a residence for himself or his family or for some person engaged in his whole-time employment.”

The respondent gave evidence that he lived at No. 50, Campbell Street, Freetown, and that the appellant was his tenant of the ground floor or basement which he (the respondent) had previously made habitable. The respondent’s mother, whom he stated was dependent on him and who also cooked for him, was living at 69, Westmoreland Street, Freetown. She was not happy there and he decided to have her live at 50, Campbell Street, Freetown, in the basement then occupied by the appellant. He also stated that his mother took care of his house for him.

The respondent’s mother, Mrs. Yasso Gibson, gave evidence which substantially supported that of the respondent.

The trial magistrates stated in their judgment that they were of the opinion and regarded the duty of a cook and also the cleaning of the house as a whole-time employment. As respondent’s witness is the mother, the court felt she was the best person to be so employed under section 12 (d) of Cap. 52 of the Laws of Sierra Leone.

That is a finding of fact which, I think, was warranted by the evidence and I hold that the proviso (d) to section 12 (1) of Cap. 52 was satisfied.

In any event I do not think in this case it was necessary to show that the mother was employed by the respondent. Cap. 52 does not define the word “family.” In the Dictionary of English Law by Earl Jowitt, Vol. 1, there appears at page 784: “In English law the word ‘family’ is a popular and not a technical expression: *Burt v. Hellyar* (1872) L.R. 14 Eq. 160.”

I think the popular meaning of “family” includes a man’s mother and I hold that especially as mother and son would be occupying the same building the respondent had shown that the premises in question were reasonably required for occupation as a residence for his family.

I understand from respondent’s counsel that the order for possession has already been executed. I would draw the attention of the respondent to the provisions of the Rent Restriction (Amendment) Act, 1961, s. 7, which adds a further proviso to section 12 (1) (d) of the Rent Restriction Act, Cap. 52. If instead of having his mother to occupy the basement, he has relet it without the permission of the Rent Assessment Committee he may find himself in trouble.

I do not think there is any substance in the objections to the evidence of the notices served on the appellant. It was nowhere suggested that she had not been served with proper notices.

I accordingly dismiss the appeal with costs to the respondent to be taxed.