

Memo

To: Dr. John Bruce
From: Caleb Stevens
CC:
Date: 1/23/12
Re: Abandonment under Liberian Law

I. Question

What has the Supreme Court said about abandonment of real property?

II. Analysis

The Liberian Supreme Court has only recognized the doctrine of abandonment of property while addressing the issue of abandonment of a claim or defense in a judicial proceeding. That is, the Court's recognition of abandonment of property is dicta.

Liberian Supreme Court has said abandonment of property requires: (1) voluntary relinquishment of all rights, title, claim, and possession, (2) without vesting the property in any person or persons, (3) with the intention of terminating ownership and not reclaiming it. This last element is essential to a finding of abandonment¹ for "intention is the first and paramount object of inquiry" in determining whether property rights have been abandoned.²

Three other cases mention abandonment of real property but by quoting secondary sources as support for a finding on abandonment of a claim or defense.

In *Cole v. Industrial Building Contractors* the issue was whether the defendant's failure to appear in court as ordered was an abandonment of his defense. The dissent inferred from Bouvier's Law

¹ *Ezzedine v. Saif*, 33 LLR 27-28 (1985) ("Abandonment is the surrender, relinquishment, disclaimer, or cession of property or of rights. It is the voluntary relinquishment of all rights, title, claim and possession, with the intention of not reclaiming it. It is also the giving up of a thing absolutely without reference to any particular person or purpose, as vacating property with the intention of not returning, so that it may be appropriated by the next comer or finder. The intention to forsake or relinquish the thing is an essential element of abandonment to be proved by visible acts. It is the voluntary relinquishment of possession of a thing by the owner with the intention of terminating his ownership, but without vesting it in any person or persons.").

² *Wallace v. Wallace*, 30 LLR 522 (1982) (finding that abandonment is "the relinquishment of all rights with the intention of not reclaiming them. It includes both the intention to abandon and the external act by which the intention is carried into effect. In determining whether or not one has abandoned his rights, intention is the first and paramount object of inquiry; for there can be no abandonment without the intention to abandon.").

Dictionary and American Law Reports, which address abandonment of property, that abandonment of a defense requires an overt act to coalesce with the “animus non revertendi.”³

Similarly, in *Sherman v. Reeves-Chenoweth*, the Court quoted a secondary source addressing abandonment generally, without reference to property, for support in a case concerning abandonment of a claim.⁴ The quote came from American Jurisprudence:

“In order to establish an abandonment . . . actual acts of relinquishment accompanied by intention to abandon must be shown. The primary elements are the intention to abandon and the external acts by which that intention is carried into effect. While an abandonment may arise from a single act or from a series of acts, the intent to abandon and the act of abandonment must conjoin and operate together, or in the very nature of things there can be no abandonment. The intent to abandon is considered the first and paramount inquiry.”⁵

The pattern continued with *Liberia Overseas Ventures Corp. v. Yancy*, concerning abandonment of a defense, where the court cited Black’s Law Dictionary’s definition of abandonment, “the voluntary relinquishment of one’s possession or right to a thing, leaving it to itself with intention of terminating the possessor’s ownership or right but without vesting it in any other person.”⁶

³ *Cole v. Industrial Building Contractors*, 17 LLR 492-93 (1966) (Simpson, J. dissenting).

⁴ *Sherman v. Reeves-Chenoweth*, 24 LLR 202 (1975).

⁵ *Id.*

⁶ *Liberia Overseas Ventures Corp. v. Yancy*, 30 LLR 235 (1982).