**RAD File / Dossier de la SAR : TC0-09304**

***Private Proceeding / Huis clos***

**Reasons and decision − Motifs et décision**

|  |  |  |
| --- | --- | --- |
| **Person who is the subject of the appeal** | John Joseph Kollie | **Personne en cause** |
|  |  |  |
| **Appeal considered / heard at** | Montreal | **Appel instruit / entendu à** |
|  |  |  |
| **Date of decision** | April 16, 2021 | **Date de la décision** |
|  |  |  |
| **Panel** | Me Martine Durocher | **Tribunal** |
|  |  |  |
| **Counsel for the person who is the subject of the appeal** | Arvin Afzali | **Conseil de la personne en cause** |
|  |  |  |
| **Designated representative** | N/A | **Représentant(e) désigné(e)** |
|  |  |  |
| **Counsel for the Minister** | N/A | **Conseil du ministre** |
|  |  |  |

**REASONS FOR DECISION**

**OVERVIEW**

1. XXXX XXXX XXXX (Appellant) is of Liberian nationality. He is submitting this appeal before the Refugee Appeal Division (RAD) against a decision issued by the Refugee Protection Division (RPD), that rejected his claim for refugee protection on June 22, 2020.
2. The Appellant alleges that he fears members of his family over the ownership of lands located in the Bong county, that belonged to his parents but that he administered after their death, to the disagreement of his uncles and cousins (agents of harm). The Appellant posits that he was attacked by the agents of harm on XXXX XXXX, 2016 as he was trying to survey the land to have it registered under his name. He was hospitalised as a result.
3. The Appellant left Liberia for the USA on XXXX XXXX, 2017 and was married with a cousin and friend on XXXX XXXX, 2017. His spouse filed an application to sponsor the Appellant so that he would become an American permanent resident, but the marriage fell apart and the application was withdrawn on September 13, 2019, prompting the rejection of his application on October 10, 2019. The Appellant entered Canada on XXXX XXXX, 2019 and asked for refugee protection upon his entry.
4. The determinative issues before the RPD were credibility and Internal Flight Alternative (IFA). Before the RAD, the determinative issues include credibility and prospective risk. I consider it unnecessary to address the issue of the IFA.
5. The claim was assessed under section 97 of the *Immigration and Refugee Protection Act* (IRPA), as since it is based on a land dispute, there is no nexus to the Convention.

**DECISION**

1. I dismiss the appeal. The RPD was correct in finding that the Appellant is neither a Convention refugee nor a person in need of protection.

**ROLE OF THE RAD**

1. The RAD reviews decisions of the RPD on a standard of correctness after conducting an independent assessment of the evidence before it.[[1]](#endnote-1) The exception to this rule is that the RAD may apply a deferential standard in some circumstances.[[2]](#endnote-2) I have conducted my own independent assessment of all of the evidence in this case, including the audio-recording of the hearing. Unless specifically stated and explained below, I have applied a correctness standard in this case.

**ANALYSIS**

1. In the context of this appeal, I will accept as established the alleged fact that the Appellant inherited the disputed land in Bong county at the death of his father in 2016 and that he was attacked by his family members on July 15, 2016, as alleged. I will therefore not address the Appellant’s appeal submissions regarding the credibility issues raised by the RPD in regards to those events.
2. Indeed, I find that the RPD erred in not considering the objective evidence that corroborates the Appellant’s claim. The National Documentation Package for Liberia (NDP) clearly indicates that land disputes are a live issue in Liberia that threatens its national security.[[3]](#endnote-3) The problem of land disputes is further analysed in the document from the Berghof Foundation entitled *Pragmatism and mistrust: The Interaction of dispute resolution mechanisms in Liberia*.[[4]](#endnote-4) This document explains: “Conflicts can arise, for instance, when tenants have been living at a property for many years but do not have a deed and someone purchases the land without their knowledge, or when families have disputes over inheritance.”[[5]](#endnote-5) Most relevant to this case, the same document states that “more central to the conflict was arguably the role that the youth played in terms of their perceived discrimination and lack of access to land within the customary system”. I understand from the Appellant’s narrative in his Basis of Claim (BOC), that his uncles believe him to be too young to administer the land and they see themselves as rightful owners in part because of their status as elders.

***The Appellant is expected to give up his land to ensure his security***

1. The Appellant submits that the RPD erred in formulating his claim as one revolving around the issue of livelihood regarding the ownership of the disputed land. Rather, the record indicates that the Appellant fears being harmed or subjected to cruel and unusual punishment by his family members because he is the only man heir carrying the family name.[[6]](#endnote-6) He argues that the RPD erroneously applied *Sanchez* as the facts of this instant case are distinguishable. He insists that even after ceding the land to his uncle, he would still be targeted because seen as a threat.
2. At the hearing, when questioned by the member about the expected consequences of giving up the land to the agents of harm, the Appellant clearly stated his position that the land was his “inheritance”, his “family property” and that his family livelihood depended on it. He then added that he was the one carrying the family name and that the agents of harm see him as a threat to their property to which he has a right. Answering his counsel’s similar question, the Appellant reiterated that he was the only male survivor carrying the family name and that the agents of harm would see him as a threat as long as he is alive because he could protest against them to recuperate what they took from him. He argues that they would get rid of him just like they did to his father and use unknown intermediaries to attack him and kill him.[[7]](#endnote-7)
3. I believe that the RPD correctly applied the rational of the *Sanchez* judgement to this case. Contrary to the Appellant’s arguments, I find that the case revolves around a land dispute. The Appellant opines that this land is his birth right, and therefore should not be given away to the agents of harm who are currently selling parts of it away. As well analysed by the RPD and not contested on appeal, the Appellant’s livelihood does not depend on this land, as he has other business ventures and would be able to find gainful employment in Liberia. The right to own property does not constitute an internationally recognised human right.[[8]](#endnote-8) In application to the reasoning in the *Sanchez* case, the Appellant is expected to make choices that will free him of the risk of harm, which in this case translates to *formally* ceding the rights to administer the land to the benefit of the agents of harm and thereby preventing that they will try to “get him out of the way.”[[9]](#endnote-9)
4. I note, in particular, the Appellant’s sister Mary’s affidavit, in which she reports the threat uttered by their cousin Emmanuel, the email read: “you see what we did to your brother*,* ***tell him to turn over the documents or else***, he won’t survive the next one, we are coming for him.” This demonstrates that a formal and legal transfer of the right of administration of the land to the agents of harm will likely remove the potential threat that the Appellant could incur upon his return to Liberia. I understand that this scenario would be difficult for the Appellant as he perceives the administration of the land as his birth right. However, the rules applicable to the sections 96 and 97 of IRPA are clear: the right of property inheritance does not constitute a protected human right and that the Appellant is expected to make the difficult choice to let go of the land to the benefit of his security and the one of his family.
5. The Appellant argues that he fears violent repercussions upon his return, because he will still be a threat for the agent of harm. However, as per his testimony, his opinion is based on: (i) his right to the land and the possibility that his uncles could still see him as a threat who could attack them to recuperate his land; and (ii) his suspicions that his father was in fact attacked and killed by the agents of harm in 2016.[[10]](#endnote-10)
6. In my view, his suspicions regarding the cause of death of his father remain speculative, as the link between the unknown attackers and the family member has not been established, on a balance of probabilities. In any event, it cannot serve as a valid precedent in the instant case, as he is expected to formally transfer the right of administration of the land to the agents of harms to ensure his own security, an act that his father did not seemingly undertake.
7. I am sensitive to the Appellant’s difficult situation. However, as pointed out by the RPD, and elaborated in the NDP, he can also resort to the efficient dispute mechanism in place that deals with such disputes that was not previously used by the Appellant:

According to one paramount chief, the customary method of solving a land dispute doesn’t differ dramatically from the resolution of other types of conflict, although the features he described resembled arbitration much more than mediation: listening to the two parties, having a type of “hearing” with questions and answers, visiting the site of the land dispute, doing an investigation, visiting the town chief and the elders in the area in order to get an explanation, deciding “who is right and who is wrong”, and then ultimately passing a ruling (Interview: 11.9.15).[[11]](#endnote-11)

1. I understand that the Liberian land property system seems riddled with uncertainty, but I note that the Appellant is aware of the legal processes in place to administer the land, as he explained in his BOC that he assisted his father in surveying the land and selling parts of it. He is therefore in a position to proceed with the valid and legal transfer of the title, as it was aggressively demanded by his cousin. In this perspective, and after having considered the totality of the evidence adduced by the Appellant, including the affidavits of his friends and sister, I consider that he failed to establish that after transferring the land to the agents of harm in a clear and formal manner, he would still be at risk of harm or subjected to cruel and unusual punishment by his family members. Alternatively, it would be expected of him to use the traditional dispute resolution mechanism in place to solve the problem, if he so desires.
2. Consequently, I conclude that the RPD was correct when it ruled that the Appellant had not established that he faced a serious possibility of persecution pursuant to section 96 of IRPA or that he qualified as a person in need of protection as per subsection 97(1) of IRPA.

**CONCLUSION**

1. I dismiss the appeal and confirm the decision of the RPD that the Appellant is neither a Convention refugee nor a person in need of protection.

|  |  |
| --- | --- |
| (*signed*) | Me Martine Durocher |
|  | **Me Martine Durocher** |
|  | **April 16, 2021** |
|  | **Date** |

MD/dd

1. *Canada (Citizenship and Immigration)*v.*Huruglica*, [2016 FCA 93](https://www.canlii.org/en/ca/fca/doc/2016/2016fca93/2016fca93.html). [↑](#endnote-ref-1)
2. *Rozas Del Solar*v. *Canada (Citizenship and Immigration),*[2018 FC 1145](https://www.canlii.org/en/ca/fct/doc/2018/2018fc1145/2018fc1145.html). [↑](#endnote-ref-2)
3. Archive - National Documentation Package, Liberia, 31 March 2020, tab 4.5: ​Liberia: Political Transition and U.S. Relations. United States. Congressional Research Service. Nicolas Cook. 15 May 2018, p. 17; National Documentation Package, Liberia, 29 January 2021, tab 4.1: ​Liberia: Political Transition and U.S. Relations. United States. Congressional Research Service. Nicolas Cook. 15 May 2018. [↑](#endnote-ref-3)
4. Archive - National Documentation Package, Liberia, 31 March 2020, tab 9.2: ​Pragmatism and mistrust: The interaction of dispute resolution mechanisms in Liberia. Berghof Foundation. 1 August 2016; National Documentation Package, Liberia, 29 January 2021, tab 9.2: ​Pragmatism and mistrust: The interaction of dispute resolution mechanisms in Liberia. Berghof Foundation. 1 August 2016. [↑](#endnote-ref-4)
5. *Ibid*, p. 41. [↑](#endnote-ref-5)
6. Appeal memorandum, para. 43. [↑](#endnote-ref-6)
7. Hearing, from 2 :03 to 2 :07, approximately. [↑](#endnote-ref-7)
8. *Molefe v. Canada (Citizenship and Immigration)*, 2015 FC 317 (CanLII), par. 35. [↑](#endnote-ref-8)
9. Hearing at 2 :06. [↑](#endnote-ref-9)
10. Hearing, at 2 :07. [↑](#endnote-ref-10)
11. *Ibid*, p. 43. [↑](#endnote-ref-11)