

ENID BUCHANAN-HORTON, by and through her Husband, **STEPHEN HORTON**, Petitioner, v. **HIS HONOUR JAMES KENNEDY BELLEH**, Assigned Circuit Judge, Sixth Judicial Circuit, Montserrado County, **RAYMOND CONCRETE PILE**, represented by its Resident Business Agent, et al.,
Respondents.

APPEAL FROM THE RULING OF THE CHAMBER JUSTICE DENYING
THE PETITION FOR THE ISSUANCE OF A WRIT OF
PROHIBITION.

Heard: June 3, 1998. Decided: August 7, 1998.

1. Neither a concurrent nor a predecessor judge can review the acts and decisions of another concurrent or succeeding judge.
2. The judgment of the lower court can only be reviewed, reversed or modified by a higher judicial forum, namely, the Honourable Supreme Court of Liberia.
3. Every corporation shall have a qualified resident business agent, who is primarily designated for the service of process, which is the means used by the court to acquire or exercise its jurisdiction over a person or specified property. It is also the means whereby the court compels the appearance of a defendant before it or compliance with its demands.
4. The duties of the resident agent are limited to the forwarding of service of process or notice or demands to a corporation at its last known address.
5. An agent is not held responsible for the debts or acts of the person who hired him called the principal. It is the principal that is responsible and liable for his acts.
6. Where an obligation is that of the principal, a court cannot enforce the obligation against the agent as long as he is acting as agent.
7. Generally the statutory duties and responsibilities are satisfied when a resident business agent receives process from the court and ensures that the process is sent to the last known address of the principal corporation, and evidence of the mailing thereof is filed in the court issuing the process, because the object of the registered business agent's role is to ensure that the principal corporation, whether domestic, foreign and non-resident, is brought under the jurisdiction of the court.

8. A court's final judgment is enforceable against a dissolved corporation, where it is shown that the action against the corporation was pending prior to its dissolution.

9. After paying or adequately providing for the liabilities and obligations of the corporation, the directors, with the written consent of the holders of a majority of the outstanding shares of the corporation entitled to vote thereon, may sell the remaining assets or any parts thereof.

10. All corporations, whether they expire by their own limitations, or are otherwise dissolved, shall, nevertheless, be continued for the term of three years, from such expiration or dissolution, as bodies corporate, for the purpose of prosecuting and defending suits by or against them and to enable them to gradually settle and close their business, to dispose of and convey their property, and to divide their assets, but not for the purpose of continuing the business for which said corporations shall have been established.

11. Upon the dissolution of a corporation, or upon the expiration of the period of its corporate existence, limited by its certificate of incorporation, the directors shall be trustees thereof, with full power to settle the affairs, collect the outstanding debts, and to sell and convey the property, real and personal of the corporation.

12. The persons constituting trustees may sue for and recover the debts and property in the name of the trustees of the corporation, describing it by its corporate name, and shall be sued in the same name for the debts owed by such corporation at the time of its dissolution.

13. Where it can be shown that the resident business agent participated in dissolution activities where members of the board of directors who have become trustees by operation of law are domiciled in a foreign country or are non-residents, the resident business agent shall have a duty to ensure the satisfaction of the court's judgment.

In an action of damages for personal injury filed by petitioner/ plaintiff against Raymond Concrete Pile Company, defendant, in the Sixth Judicial Circuit, Montserrado County, during its December Term, A. D. 1983, the empaneled jury returned a unanimous verdict in favor of plaintiff, Enid Buchanan-Horton, awarding her the sum of 2.1 million dollars as general damages. The verdict of the jury was confirmed and affirmed by the trial judge. After the rendition of the final judgment, the bill of costs amounting to \$2,415,554.00 was issued by the clerk of court,

approved by the trial judge, and ordered placed in the hands of the sheriff for service on ITC, resident business agent for Raymond Concrete Pile. ITC then fled to the Supreme Court for a writ of prohibition to restrain and prohibit the co-respondent judge and sheriff of the Sixth Judicial Circuit Court from serving the bill of costs on it.

The Supreme Court sitting en banc on appeal, heard the petition and ordered the issuance of the peremptory writ which prohibited the co-respondents from serving the bill of costs on ITC. Instead, it ordered that it be served on the attorney-in-fact for defendant, in person of Henry Reed Cooper, of the Cooper and Togbah Law Firm, and not on ITC. The trial court instead proceeded to serve the bill of costs on ITC for satisfaction of the judgment as resident business agent for the Raymond Concrete Pile Company. ITC requested and was granted time to contact Raymond Concrete Pile, its principal, in the United States. At the expiration of the time, ITC informed the court that it had complied with the statutory requirement affecting the duties and functions of a registered agent. In other words, it had notified its principal, Raymond Concrete Pile Company. ITC requested the trial court to relieve it of further answering to the matter, but the request was denied by the trial judge. The trial court ruled that Henry Reed Cooper, for Raymond International Builders, and the International Trust Company, for Raymond Concrete Pile, could not separate themselves from the case as they did not do so while the principals were around. They were therefore ordered to contact their principals to make payment of the amount due, or the resident agents would be held responsible to make settlement.

When the judge's term had expired, and a new judge had succeeded him and assumed jurisdiction, ITC again applied to the court for relief. The succeeding judge granted the application and discharged ITC from further answering on behalf of the principal. The plaintiff, now petitioner, excepted to the ruling and filed a petition for a writ of prohibition before the Chambers Justice who granted the petition, setting aside the ruling of the trial judge, His Honour James K. Belleh, who had reversed the decision of his predecessor by assignment, denying the agents' application for relief from the judgment. From the ruling of the Chamber Justice, granting the petition for a writ of prohibition, an appeal was announced to the Supreme Court en banc. The Supreme Court found that ITC, resident business agent for Raymond Concrete Pile, had gone beyond its statutory duty and had conducted itself in such a manner that had made it difficult to enforce the trial court's judgment. The specific conduct was that while the case was pending at the trial court, ITC accepted the additional agency to dissolve Raymond Concrete Pile but did not require Raymond Concrete Pile to comply with the provision of law to set aside assets to settle any adverse judgment from the case.

The Supreme Court therefore affirmed the ruling of the Chambers Justice, with the modification that ITC, resident business agent, shall not be required to satisfy the trial court's judgment, but that its resident business agency shall continue to exist until its principal, Raymond Concrete Pile Company, shall have made payment of 2.4 million dollars in favor of petitioner/plaintiff. The resident business agent was also required to ensure that the judgment was satisfied by its principal. The Court noted that while ordinarily, a resident business had responsibility only for receiving process on behalf of the principal, yet, if it participated in the dissolution of the principal, its agency continued with the trustees (directors) of the dissolved corporation until the judgment of the court was satisfied by the trustees. The Court therefore affirmed the ruling of the Chambers Justice granting the petition.

Pei Edwin Gausi appeared for petitioner. H. Varney G. Sherman appeared for respondent.

MADAM CHIEF JUSTICE SCOTT delivered the opinion of the Court.

This matter before this court en banc for the second time this time on appeal from the decision rendered by the then Chambers Justice, Associate Justice J. D. Baryogar Junius, in a petition for a writ of prohibition.

The records revealed that during the December A.D. 1983 term of the Sixth Judicial Circuit Court, the empaneled jury returned a unanimous verdict in favor of plaintiff, Enid Buchanan Horton, in an action of damages for personal injury and awarded the said plaintiff the sum of 2.1 million dollars as general damages against the defendant, Raymond Concrete Pile Company. The verdict of the jury was confirmed and affirmed by the trial judge, and after the rendition of final judgment, the bill of cost for \$2,415,554.00 was issued by the clerk of court, approved by the trial judge, and ordered placed in the hands of the sheriff for service on the International Trust Company, registered agent of Raymond Concrete Pile Company. ITC thereupon fled to the Supreme Court on a petition for a writ of prohibition praying the Supreme Court to restrain and prohibit the co-respondents judge and sheriff of the Sixth Judicial Circuit from serving the said bill of cost on ITC.

This Court sitting en banc on appeal, heard the petition and ordered the issuance of a peremptory writ which prohibited the said co-respondents from serving the bill of costs on ITC in its own name, but instead ordered that same be served on ITC, as resident business agent for the principal defendant and on Henry Reed Cooper of the Cooper and Togbah Law Firm as attorney-in-fact for Raymond International

Builders.

The orders of the Supreme Court were carried out, and thereafter the trial court proceeded to serve the bill of costs on ITC for satisfaction of the judgment. ITC, agent for the principal defendant, requested time to contact Raymond Concrete Pile Company in the United States of America. The trial court granted the time. At the expiration of the time granted by the trial court, ITC informed the court that they had complied with the statutory requirement of the duties and function of a registered agent by notifying their principal, Raymond Concrete Pile Company about the judgment. ITC then requested the trial court to relieve it from further answering in the matter; but the request was denied by the trial judge. The trial judge ruled, among other things, as follows:

"...it is therefore the ruling of this court that defendants Henry Reed Cooper for Raymond International Builders and the International Trust Company for Raymond Concrete Pile cannot separate themselves from this case when they did not do so while the principals were around. They are therefore ruled to get into immediate contact with their principals and have this amount, two million four hundred fifty thousand five hundred forty-seven dollars and fifty cents available at the office of the sheriff of this county not later than Monday ensuing, same being the 6th proximate at the precise hour of 10 o'clock in the morning, failing which said agents shall be held in contempt and be compelled to pay the amount. And it is hereby ordered.

Given under our hands in open Court this 29th day of April, A. D. 1985.

Frederick K. Tulay

Assigned Circuit Judge Presiding"

The judge who denied the request was Judge Tulay, whose term expired and Judge James K. Belleh succeeded him by assignment and assumed jurisdiction for the June A. D. 1985 Term. ITC once again applied to the trial court to be relieved, and the succeeding judge, His Honour James K. Belleh, granted the application/submission and ordered that ITC be relieved from further answering in this matter. Plaintiff, the judgment creditor, excepted to this ruling and filed a petition for the writ of prohibition before the Chambers Justice.

The Chambers Justice, on the 13th day of June, A.D. 1989, granted plaintiff's petition and ordered the issuance of a peremptory writ of prohibition setting aside the decision of the then assigned judge, His Honour James K. Belleh, which had reversed the decision of his predecessor by assignment denying ITC's application to be

relieved, after notification was made to its principal with regards to the trial court's judgment against the principal.

An appeal was announced from the ruling of the Chambers Justice. Hence, once again, this Court, sitting en banc, has been requested to hear his matter.

The two issues which decide this matter are: (1) whether or not a succeeding judge by assignment can review and reverse the decisions of his predecessor; and (2) What are the duties and functions of a registered agent?

This Court has held in countless opinions that neither a concurrent judge nor a succeeding judge can review the acts and decisions of the other concurrent or predecessor judge. This is an elementary principle of law that is hoary with age and need no explanation. *Sherman et al. v. Reeves*, 23 LLR 227 (1974); *Kanawaty et al. v. King*, 14 LLR 241(1960).

This principal is clear and straightforward. The ruling of His Honour Frederick K. Tulay presiding by assignment during the March, A. D. 1985 Term of the Sixth Judicial Circuit Court of Montserrado County can not be reviewed, reversed or modified by a succeeding judge. His Honour James K. Belleh, presiding by assignment during the June A.D. 1985 Term of the Sixth Judicial Circuit Court, Montserrado County, can not review, reverse or modify his predecessor. Judge Tulay's ruling could only be reviewed, reversed or modified by a higher judicial forum, namely, the Honourable Supreme Court. We therefore find that the ruling of Judge James K. Belleh was illegal and void ab initio.

We shall now proceed to examine the second issue, which is, what are the duties and responsibilities of a registered agent?

Section 44 of Liberian Corporation Law enacted in 1948, Chapter 1, section 2 (f), section 44 of the 1956 Liberian corporate law, and chapter 3, section 3.1 of the new Associations Law, Rev. Code 5:3.1, provide that every corporation shall have a qualified business resident agent. The law provides that the function of the business resident agent is primarily for the purpose of service of process. A process is defined by Black's Law Dictionary, 6th edition, as follows:

"...Any means used by court to acquire or exercise its jurisdiction over a person or specified property. *Austin Liquor Mart, Inc. v. Department of Revenue*, 18 Ill App. 3d 894 310 N.E. 2d 719, 728.

It is a means whereby court compels appearance of defendant before it or a compliance with its demands. *Dansby v. Dansby*, 222 6a 118, 149 S. E. 2d 252, 254.

The crux of this controversy is that ITC, co-respondent in this prohibition proceeding, contends that its duties and responsibilities as a resident business agent ended when it mailed the trial court's judgment to the last known address of defendants Raymond Concrete Pile and Raymond International Builders, and presented evidence thereof to the trial court. By this, Corespondent ITC argues that its responsibilities as a registered business agent ended, and that a resident business agent does not assume the obligations and liabilities of its principal.

It should be recalled that we said this is the second time this matter has come to this Court on petition for a writ of prohibition. The first opinion of this Court ordered that the bill of costs shall be taxed by the counsel and not by the respondents herein. The Chambers Justice confirmed this and proceeded thus:

"The Honourable Supreme Court's mandate that the bill of costs should not be served on ITC does not dissolve the agency relationship between ITC and Raymond International Builders, neither exonerates Raymond International Builders which ITC represents."

Respondents announced an appeal from this ruling of the then Chamber Justice, His Honour J. D. Baryougar Junius. Corespondent International Trust Company, in its written argument or brief, argued:

"Judge Belleh ruled that ITC, as statutory registered agent, and in keeping with Judge Tulay's ruling, had posted the bill of costs to Raymond Concrete Pile Company, and that having done so, ITC had met the statutory requirement, and therefore was discharged from "all obligations., liabilities arising from the case as the result of its position as the registered agent of Raymond Concrete Pile Company".

Appellant ITC submits that both the order and the ruling of the two judges are consistent with the Supreme Court's mandate since ITC was not a party to the suit but only the registered agent of Raymond Concrete Pile Company. ITC also respectfully request that, to clear up this matter, your Honours state which of the several rulings correctly reflect the Supreme Court's mandate.

Affirming the ruling would be against the intent of the Legislature because the duties

of the registered agent are limited to the forwarding of service of process, notice or demand to a corporation at its last known address. The duties and obligations of such agents are defined by statute and are limited to the forwarding of service of process, notice or demand. It is not a general agency where the agent acts in all matters in which the principal is involved. Therefore, ITC can not be held responsible to carry out further duties and cannot be held liable for the acts of its principal. "An agent is not held responsible for debts or acts of the person who hired him or his principal". It is the principal who is still responsible and liable for his own acts. Judge Tulay's ruling and Judge Junius' ruling in effect reversed this principle. Even if the contractual agency relationship as registered agent between ITC and Raymond Concrete Pile Company is held not to have terminated, as noted in the Supreme Court's decision of 1985, this does not mean that ITC should be held liable on the judgment brought against Raymond Concrete Pile Company, especially since there is no causal connection between ITC and the injury sustained by petitioner".

Where an obligation is that of the principal, a court can not enforce the obligation against the agent as long as he is acting as agent. ITC took no action as an agent on behalf of Raymond Concrete Pile Company Ltd., other than as a registered business agent for service of process. This Court agrees with the argument of Co-respondent ITC that generally the statutory duties and responsibilities are satisfied when a resident business agent receives process from a court and ensures that the process is sent to the last known address of the Principal Corporation and evidence of the mailing thereof is filed in the court issuing the process. We confirm that the object of the role of a resident business agent is to ensure that the principal corporation, whether domestic, foreign and non-resident, is brought under the jurisdiction of the court. This is in the normal course of things. Notwithstanding, we find that the duties and responsibilities are extended where it becomes clear that the resident business agent is so situated that privileged information is available to the resident business agent and not to persons seeking redress for a wrong against the principal corporation in a court of law and by act of the resident business agent and his principal, the defendant, the trial court's judgment becomes unenforceable. Also, when the counsel for the resident business agent is counsel for the principal corporation in an action of damages for personal injury, the same said counsel handles legal documents and matters dissolving the principal corporation (defendant in a pending case), especially so where the acts of the resident business agent and counsel would render any judgment determined by the court unenforceable, then the general rule that the agent is not responsible for the obligations of the principal would not strictly apply.

Respondents vehemently denied the allegations of conduct tending to make the trial court's judgment unenforceable and requested that the prayer of petitioner be denied.

We decided to scrutinize all the records in this controversy, which reveal:

1. The Henries Law Firm filed a document captioned Defendant's Special Appearance on February 23, 1972 in the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, Republic of Liberia, informing that court of their representation of defendant Raymond Concrete Pile Company of Liberia. In other words counsel for Co-respondent ITC is also counsel of record in this matter from the commencement of this action.

2. The International Trust Company, through the Henries Law Firm offered into probate at the Monthly and Probate Court of Montserrado County, Republic of Liberia, the Certificate of Dissolution of Raymond Concrete Pile Company Ltd. of Liberia, and same was probated on the 26th day of January, A. D. 1973, and registered according to law in volume 53-72 pages 263-268 by the Registrar of Montserrado County. The Consent of Shareholders document filed with the dissolution papers read:

CONSENT OF SOLE STOCKHOLDER TO DISSOLUTION OF RAYMOND CONCRETE PILE COMPANY LTD. OF LIBERIA.

The undersigned, Raymond International Inc. (New Jersey Corporation), by its President and Secretary thereunto duly authorized, being the sole stockholder of all of the outstanding shares of Raymond Concrete Pile Company Ltd. of Liberia, a corporation created and existing under and by virtue of the laws of the Republic of Liberia, deeming it advisable and most for the benefit of the corporation that the same should be forthwith dissolved, does hereby consent to the dissolution of said corporation as provided by Section 37 of the Corporation Act of the Republic of Liberia, and signs this consent to the end that it may be filed in the office of the Secretary of State of the Republic of Liberia, as provided by law.

IN WITNESS WHEREOF, said Raymond International Inc. has caused this consent to be signed by its President and the corporate seal affixed hereto and attested by its Secretary by order of the Board of Directors, this 15th day of November, 1972. ' RAYMOND INTERNATIONAL INC.

By _____

President Attest:

Secretary

This Court is of the opinion that Raymond Concrete Pile, defendant, after coming under the jurisdiction of the trial court and commencing a defense in the action filed against it by petitioner went into dissolution after obtaining the consent of the sole stockholder Raymond International Builders. We find that the resident business agent, from the interaction with defendant principal corporation the said resident business agent, had knowledge of the pendency of the action of damages for personal injury against defendant principal corporation and knowledge of the dissolution of defendant principal corporation.

The question is does this knowledge of the pendency of a suit against a principal corporation and the participation of a resident business agent in the dissolution of the said principal corporation makes the resident business agent liable for the acts and liabilities of the principal corporation? We think not. However, we believe under the circumstances, the resident business agent's duties and responsibilities will terminate only after the satisfaction of the judgment which resulted from actions pending in a court of law and the resident business agent participated in activities that would tend to render the court's final judgment unenforceable. In other words, this Court finds that under the circumstances where the interactions between a resident business agent and a principal corporation go beyond the statutory objective of a resident business agent, the resident business agent by these actions creates a duty to ensure the satisfaction of the court's final judgment. Still better said, where a resident business agent is aware of the pendency of an action against the principal corporation and the resident business agent has knowledge of and participates in activities of dissolution of the defendant principal corporation, the resident business agent's duties and responsibilities are extended and will not cease until the resident business agent ensures the satisfaction of the court's judgment.

We therefore confirm the holding of the Chambers Justice that the duties and responsibilities of the respondent registered business agent, ITC, were not terminated during the pendency of this action. This action ends upon the satisfaction of the court's final judgment.

The records in this action also reveal that during the June A. D. 1983 Term of the Sixth Judicial Circuit Civil Law Court, Raymond International Builders Inc., by and through its attorney-in-fact, Henry Reed Cooper, by and through its counsel, Cooper

and Togbah Law Offices, filed a bill of information and we shall quote counts 3, 4, 5 and 6.

3. That your informant is not and has never been a party to the said action of damages filed against Raymond Concrete Pile Company Ltd. filed by plaintiff, Enid J. Buchanan-Horton.

4. That as far as your informant is aware, Raymond Concrete Pile Company Ltd. of Liberia was on the 15th day of November, 1972 dissolved and completed winding up its affairs three years in accordance with the law, thus becoming legally dead. The Dissolution Certificate was filed in the Office of the Minister of Foreign Affairs on the 29th day of December, 1972, signed by the Minister of Foreign Affairs January 8, 1973, and the Certificate of Dissolution was probated and registered on the 26th day of January, 1973 and registered according to law in Volume 53-72, pages 263-268. Copy of the Certificate of Dissolution is hereto attached and marked Exhibit "B" to form a cogent part of this bill of information.

5. That Raymond Concrete Pile Company Ltd. being legally dead, all matters against it abated upon its dissolution and therefore any judgment against Raymond Concrete Pile Company Ltd. would be void and unenforceable.

6. That in such case, the proper course of action is for Your Honour to dismiss the suit against Raymond Concrete Pile Company Ltd.

The question is whether a court's final judgment is enforceable against a dissolved corporation beyond the statutory period provided for the purpose of prosecuting and defending suits and settling claims? This Court holds that a court's final judgment is enforceable against a dissolved corporation where it is shown that the action against the corporation was pending prior to its dissolution.

The trial court's records reveal that the injury complained of occurred in 1968 and petitioner, as plaintiff, filed her action of damages for personal injury in 1972, and that the principal defendant corporation, while in the process of defending itself in the trial court went into dissolution in 1973, and filed its Certificate of Dissolution with the Minister of Foreign Affairs (Secretary of State) on January 26, 1973.

What does the law provide to ensure the protection of claims which persons or entities may have against the dissolved corporation or which the dissolved corporation may have against other persons or entities, and the disposal of its assets.

The Liberian Corporation Law of 1956 which governs this controversy provides, as follows:

Section 37 paragraph 4: ...After paying or adequately providing for the liabilities and obligations of the corporation, the directors with the written consent of the holders of a majority of the outstanding shares of the corporation entitled to vote thereon, may sell the remaining assets or any parts thereof...

Section 38: Continuation of Corporation after dissolution for purpose of suit. All corporations, whether they expire by their own limitations, or are otherwise dissolved, shall nevertheless be continued for the term of three years from such expiration or dissolution as bodies corporate for the purpose of prosecuting and defending suits by or against them and of enabling them gradually to settle and close their business, to dispose of and convey their property, and to divide their assets, but not for the purpose of continuing the business for which said corporations shall have been established.

Section 39: Trustees under dissolution. Upon the dissolution of any corporation, or upon the expiration of the period of its corporate existence, limited by its certificate of incorporation, the directors shall be trustees thereof, with full power to settle the affairs, collect the outstanding debts, sell and convey the property, real and personal, as may be required by the laws of the country where situated, and divide the money and other property among the stockholders, after paying or adequately providing for payment of its liabilities and obligations, subject to the provisions of section 37.

Section 40: Trustees under dissolution: Powers and liabilities. The persons constituted trustees, as provided in Section 39, may sue and recover the debts and property, by the name of the trustees of such corporation, describing it by its corporate name, and shall be suable by the same name for the debts owing by such corporation at the time of its dissolution, and shall be responsible for such debts, to the amounts of the money and property of such corporation which shall come into their hands or possession."

Section 39 clearly provides that either upon the dissolution or upon the expiration of the period of its corporate existence the directors of the corporation shall be trustees with full powers to continue to conduct and settle all affairs of the corporation in dissolution or the non-existent corporation. The fact that this action was commenced in 1972 and defendant principal corporation proceeded to retain counsel who defended it prior to the dissolution of defendant principal corporation,

this Court believes that the trustees of defendant principal corporation provided for the outcome of this cause of action no matter the length of time it takes to obtain a court's final judgment. The final judgment of the action pending prior to dissolution is enforceable against the trustees of the non-existent corporation.

This calls into play the extended role of a resident business agent of a foreign non-resident corporation. The role of a resident business agent under the circumstances has to be more than a perfunctory act of receiving court process on behalf of its principal, the defendant non-existent corporation. The 1956 Code provides:

Section 44: Principal Office and Resident Agent. Every corporation shall have a place of business in this Republic and shall have a qualified resident business agent. When a corporation does not have an operating office in the Republic the qualified resident business agent shall be any incorporated domestic bank or trust company with a paid in capital of not less than fifty thousand dollars which is authorized by the Legislature of the Republic to act as resident agent for corporations. Such resident business agent shall, within ten days after acceptance of an appointment as such, file a certificate showing the location of such office, in the office of the Department of State; and a certified copy of such certificate shall be sufficient evidence that the corporation filing the same is the agent for the service of process upon the corporation until another certificate has been filed.

The legislative intent in section 44 is to ensure the continuous maintenance of an avenue to secure the appearance of corporations in the courts of Liberia. This provision sets qualifications and standards for business entities who may be appointed as resident business agents. It is our view that the Legislature did not only intend that a means exist to ensure that corporation, domestic, foreign and non-resident, are brought under the jurisdiction of the courts, but that judgments determined by courts in the Republic of Liberia are enforceable against foreign and non-resident corporations.

It is in this view that we confirm and affirm the ruling of the trial judge when he denied and dismissed the bill of information aforementioned filed by Raymond International Business Inc., and reasoned, among other things:

"If movant herein is not the real defendant, why ask to dismiss the action?"

If movant prayed to be exonerated from the assignment it has no business asking or

praying for relief, such as that the court recognize the legal dissolution of Raymond Concrete Pile and that because of that dissolution all matters against said Raymond Concrete Pile should be abated. The International Trust Company of Liberia is the resident business agent of Raymond Concrete Pile Company defendant in this damage suit.

We, however, fail to uphold that portion of the decision that Raymond International Builders, informant, became a co-defendant in this controversy.

It is also because of this view that we confirm and affirm the decision of the Chambers Justice, His Honor J.D. Baryougar Junius, with the modification that the resident business agency shall survive the dissolution of defendant principal corporation in all actions pending prior to the commencement of the dissolution activities. Where it can be shown that the resident business agent participated in the dissolution activities where members of the board of directors, who have become trustees by operation of law, are domiciled in a foreign country or are nonresidents, the resident business agent shall have a duty to ensure the satisfaction of the court's judgment. The resident business agent is not liable for the liabilities of its principal defendant corporation. However it is the considered opinion of this Court that under the facts and circumstances which obtain in this case, International Trust Company of Liberia's contractual agency as resident business agent for the principal defendant, Raymond Concrete Pile Company, will terminate after the said resident business agent has ensured the satisfaction of the court's final judgment against the trustees of dissolved and non-existent principal defendant corporation. Though the resident business agent's fees are paid by the principal corporation, the resident business agent also has a duty to the courts.

We have taken this time to delve into this matter because this simple petition for a writ of prohibition to prohibit and restrain the trial judge from proceeding illegally has presented some novel issues.

1. Does the contractual agency relationship between a resident business agency survive the dissolution of the principal corporation?
2. Can a resident business agent who participates in the dissolution of the principal corporation while in full knowledge of the pendency of an action or suit against the said principal corporation, be said to have a duty to ensure the satisfaction of the court's final judgment, especially where the principal corporation is foreign and non-resident and its board of directors, who by law have become trustees, are also

non-domiciles or non-residents.

We have answered in the affirmative these two issues in our forgoing discussions.

We shall now discuss issues that have had an impact on the trial of this case and attempts by the court to enforce its judgment. The two letters quoted hereunder speak for themselves and will give you an indication of the interests this case generated and the interferences in its determination.

The Executive Mansion

Office of the Head of State

Monrovia, Liberia

HO S -VUVD-1/258/' 85 July 15, 1985

Mr. Acting Chief Justice:

I have received a communication from the President of the International Trust Company of Liberia, (ITC) informing me of her compliance with the mandate of the Supreme Court by identifying Raymond International Inc., in the United States, in the case of Enid Buchanan versus Raymond Concrete Pile of Liberia, action of damages.

When ITC appealed to me to intercede so as to avert the service of the writ of execution on the Company, I inquired from His Honour, the Chief Justice as to what ITC was being required to do. The Chief Justice informed me that ITC was only required to identify Raymond International, her principal, so that ITC could be discharged.

If this information is true that ITC has complied with the mandate of the Supreme Court, which is to bring that aspect of the case against ITC to a close, it is my honest opinion and decision that you promptly have Judge Belleh to cite the parties and discharge ITC of all responsibilities in this case.

IN THE CAUSE OF THE PEOPLE, THE STRUGGLE CONTINUES!

Cordially yours, CIC Samuel K. Doe

HEAD OF STATE AND PRESIDENT

INTERIM NATIONAL ASSEMBLY THE INTERNATIONAL TRUST

COMPANY OF LIBERIA, MONROVIA, LIBERIA

POST OFFICE 292 CABLE ADDRESS

LIBTRUST MONROVIA

June 18, 1985

Honourable J. Bernard Blamo
Minister of State for Presidential Affairs
Ministry of State for Presidential Affairs
Executive Mansion,
Capitol Hill
Monrovia, Liberia

RE: ENID BUCHANAN v. RAYMOND CONCRETE PILE COMPANY
LIMITED

Your letter HOSNUM/549/'85 dated June 10th 1985 in which you state that, by directive of the Head of State and President of the Interim National Assembly, CIC, Dr. Samuel K. Doe, you were to inform us that senior officials of the People's Supreme Court contend that ITC must either identify its principal in the case Enid Buchanan Horton v. Raymond Concrete Pile Company, or honor the judgment of the Court has been received.

In response to the suggestion in the above mentioned letter we are. pleased to forward you herewith a copy of a self-explanatory which we have sent to Raymond International Inc. for their urgent attention. As you know we previously communicated to Raymond International, Inc., the judgment of His Honour Judge Tulay in the case. In addition to writing and despatching the enclosed letter, our U.S. Attorney has stressed to Raymond International, Inc. the seriousness which is attached by senior officials of the People's Supreme Court to the settlement of this matter.

ITC having demonstrated by the foregoing actions its willingness to render assistance to the Court for a dissolved corporation, for which the Ministry of Foreign Affairs is current statutory agent, shall be greatly obliged to you if you were to explain this situation to the Head of State so that he may cause the proper judicial authorities to apply the Associations Law, Rev. Code 5:3.1 and 3.2., according to which ITC, in the light of what it has done, is now entitled to be legally relieved from further obligation in this matter. Very truly yours,

J. Harrington
Senior Vice President-Adm. & Treasurer

Respondent ITC had now proceeded to plead its case before the office of the Head of State, Head of the Executive Branch of Government. We at this time sound a strong warning to all party litigants who in the future may attempt to violate the constitutional principle of separation of power. This Court will promptly and conclusively deal with party litigants who violate this principle.

During arguments of this matter when it was called for hearing by this Court, counsel for petitioner/plaintiff informed us that during the civil crisis, between 1993-1995, she filed an action in the United States District Court for the District of Maryland, U.S.A. against the Insurance Company of North America, insurers of Raymond International Builders. Petitioner/plaintiff revealed her efforts to obtain enforcement of the trial court's judgment was obstructed by counsellors who practice law in the courts of this jurisdiction. To support this argument counsel for petitioner/plaintiff presented alleged documentary proof and we will quote the relevant portions.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND
ENID BUCHANAN HORTON,
PLAINTIFF

Versus. Civil Action No.

94-2758(MJG)

INSURANCE COMPANY

OF NORTH AMERICA, DEFENDANT

DEFENDANT'S DESIGNATION OF EXPERT WITNESS Insurance Company of North America, Defendant, pursuant to this Court's current Scheduling Order, hereby designates the experts that it presently intends to use as witnesses at trial:

2. Philip Banks, Esquire. Mr. Banks is expected to testify that at the time the plaintiff obtained her judgment, the Liberian judicial system did not provide for impartial tribunals or procedures compatible with the requirements of due process of law. Liberia, at that point in time, was ruled by a military dictatorship led by President Samuel Doe. His military regime controlled and manipulated all branches of government, including the Judiciary. As a consequence, the Liberian judicial system did not provide for the fair and impartial adjudication of legal disputes. A report and curriculum vitae have been requested, and will be forwarded to opposing counsel upon receipt.

3. David A. B. Jallah, Esquire, P.O. Box 4069, Johnson & Broad Streets, Monrovia,

Liberia. Mr. Jallah is expected to testify that: (1) the Liberian judgment received by the plaintiff was entered by the Liberian court in Liberian dollars, not American dollars; (2) under Liberian law, no post judgment interest accumulates on a Liberian judgment; (3) the Liberian court did not obtain jurisdiction over Raymond International; and (4) the amount of the verdict was grossly disproportionate to any reasonable evaluation of the plaintiff's personal injury claim. Mr. Jallah may also comment on the current enforceability of the plaintiff's judgment in Liberia. A report and curriculum vitae have been requested, and will be provided to opposing counsel upon receipt.

This Court, by its own rules and procedures, does not permit issues being raised for the first time at the appellate level or take evidence. Notwithstanding, we have taken an interest in the allegation and have decided to ascertain the truth or falsity and the circumstances of this allegation.

We find it interesting in that Counsellor Philip A. Z. Banks during the mid 1980's became a partner/associate of the Tubman Law Firm, also a counsel of record for the International Trust Company, co-respondent herein, which company, as you have heard, took this matter to the Executive Mansion.

Also, that Counsellor David A. B. Jallah is counsel of record for Henry Reed Cooper, attorney-in-fact, who acted on behalf of Raymond International Builders, but decided not to partake in these proceedings. We need a better understanding of this allegation and therefore order the Grievance and Ethics Committee to conduct an investigation into this matter and report to the Supreme Court within six (6) weeks as of the rendition date of the opinion.

Wherefore and in view of the foregoing, it is the considered opinion of this Court that the ruling of the Chambers Justice is hereby affirmed with the modification that the co-respondent resident business agent shall not satisfy the trial court's judgment but that its business resident agency shall exist until the said corespondent resident business agent, International Trust Company, ensures that the trial court's judgment of 2.4 million dollars in favor of petitioner/plaintiff is satisfied by Raymond Concrete Pile Company, defendant, as required by law. And it is hereby so ordered.

Judgment affirmed with modification.