Greaves-McCritty v Judge Holder [2012] LRSC 17 (25 August 2012)

Ethello Greaves-McCritty of the City of Monrovia, Liberia, Petitioner Versus **His Honor**, **Vinton Holder**, Judge Monthly and Probate Court for Montserrado County RESPONDENT.

PETITION FOR RE-ARGUMENT

HEARD: July 23, 2012 DECIDED: August 25, 2012

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

On March 13, 2012, the Supreme Court sat en bane to hear arguments of an appeal arising from the ruling of the Probate Court of Montserrado County, involving an objection to the probation and registration of the last will and testament of the late Ethel C.B. Greaves. The Court ruled on July 6, 2012, affirming the ruling of the Probate Court Judge with modification as follows:

a) the statement made by the Probate Court Judge in his ruling at the verdict of the jury is not supported by the weight of the evidence adduced at t:rial of the case being unwarranted and contrary to law, is ordered set aside;

b) the appointment of Ethello Greaves-McCritty as administratrix of the testate estate of the late Ethel C. B. Dunbar, not being in keeping with law is hereby reversed;

c) the monthly and Probate Court of Montserrado County is hereby mandated to grant Lisa Greaves, daughter of the late Waldron B. Greaves, who until his death, was executor of the testate estate of the· late Ethel C. B. Dunbar-Greaves letters of administration de bonis non cum testament annexo to enable her complete the administration of the testate estate of the late 'Ethel C. B. Dunbar-Greaves.

The petitioner herein, Ethello Greaves-McCritty, filed before us a petition for re-argument, alleging that the Supreme Court made palpable mistakes when it ruled as it did on July 6, 2012.

The Revised Rules of the Supreme Court on re-argument states:

Part 1. Permission for –For good cause shown to the Court by petition, a re-argument of a cause may be allowed only once when some palpable substantial mistake is made by inadvertently overlooking some facts, or point of law.

His Honour, Chief Justice Johnny N. Lewis, who concurred in the judgment of July 6, 2012, ordered that the re-argument be had and the case be re-docketed for rehearing.

We shall quote herein the petitioner's petition for re-argument and the respondent's returns thereto:

PETITIONER IN THE ABOVE ENTITLED caused of action, most respectfully prays Your Honors and this Honorable Court to grant her petition for re- argument in these proceedings for legal and factual reasons showeth the following to wit:

1. That Your Honors made palpable mistake when Your Honors, in quoting the testimony of the petitioner's witness, Counsellor Henry Reed Cooper, stated, as found on page 25 of Your Honors' ruling that Cllr. Cooper said, the documents presented to court for proving looked exactly like the Will he drafted. The correct statement by Cllr. Cooper is that, the document was almost word for word. Petitioner says that the statement almost u was the identical document that was drafted by Cllr. Henry Reed Cooper. The issue is, if the document was not the same, who prepared the document that was presented to the Court? Petitioner submits that the above statement supports the testimony of John Saah who testified to have typed the Will upon the orders of Waldron Greaves.

2. That Your Honors made palpable mistakes and inadvertently held that the testimony of John Dukuly was impeached only because the Clerk of the Probate Court testified to minutes of the Probate Court which purport to be the testimony of John Dukuly even though John Dukuly consistently denied that he never testified before the Probate Court. Petitioner says that the alleged 1995 hearing was an ex parte hearing. In this jurisdiction, witness do not provide any positive identification to testify. While the 1995 records carried John Dukuly name, Dukuly testified under oath that he never appeared before the Probate Court in connection to the subject Will. The Clerk who testified to the document was not the Clerk of the Court at the time, meaning that he could not say for sure whether the John Dukuly who testified in the instant case was actually the John Dukuly who appeared before the Probate Court in 1995. In keeping with chapter 25, section 25.6 of the Civil Procedure Law, the

best evidence relative to John Dukuly's 1995 testimony before the Probate Court will certainly be John Dululy. Dukuly admitted witnessing the Will. He told the court that when he saw the Will, the Testator's signature was not thereon. Your Honors inadvertently overlooked these facts and points of law for which the petitioner now prays for this re-argument.

3. That, Your Honors made palpable mistakes when Your Honors gave credence to the testimony of Lisa Greaves although by her own admission, her testimony was based upon hearsay as found in count one' of the petitioner's Bill of Exception and page 20 of January 3rd sitting of the Court. This Court, in the case: Carner (Lib.) Inc. vs. Tarpeh, 32LLR page 127 syl. 1 held that, testimony of witness based on written information of past incident to which he was not a party is hearsay and therefore inadmissible.

4. That Your Honors made palpable mistake when Your Honors inadvertently concluded, on page 17 of Your ruling that Judge Kaba dismissed the petitioner motion for new trial. Petitioner submits and says that Judge Kaba refused jurisdiction to hear the motion for new trial on grounds that the motion was filed before the Monthly and Probate Court. The petitioner had argued before Judge Kaba that the petitioner was left with no alternative but to file the motion for a new trial before the Probate Court because Judge Kaba had relieved himself of jurisdiction over the subject matter when he ruled, immediately following the jury verdict in the following words:

The Clerk of this Court is ordered to have recorded the verdict as returned by the jurors and thereafter the Sheriff is ordered to disband the said panel with thanks of this Court. This Court hereby orders the Clerk of this Court to have transmitted to the Monthly and Probate Court of Montserrado Court, the entire records of these proceedings as heard in this Court along with the records that was transmitted from the said Probate Court to proceed in keeping with law.

Petitioner submits and says that, normally, when a jury verdict is returned, the court orders the verdict recorded and the losing party enters an exception. The court then notes the exception and suspends the matter pending the filing and hearing of a motion for new trial. Besides, the records that were made, Judge Kaba said in open court, as far as he was concern, the role of the Civil law Court ended once a verdict was brought. In view of the above, and considering that a motion for new trial is a pre-requisite to final judgment in a

jury trial to be delivered by the Probate Court, the motion for new trial had to be filed before the Probate Court.

5. That Your Honors made palpable mistake when Your Honors described the testimony of Charles Bright, a personal friend of the late Waldron Greaves, in the following words: of all the witnesses, who testified, witness Charles Bright gave the best description of the state of mind of the late Ethel C. B. Dunbar-Greaves when he said for her age, Ethel C. B. Dunbar was very, very clear that there was no wavering in her conversation, Your Honors' conclusion attempts to treat Charles Bright's testimony as an expert testimony when he is not. All that he was doing was to support a dear friend's children. Charles Bright did not testify as an expert witness during the trial. His testimony could not have been given special consideration in the determination of the case. Petitioner submits that more than four witnesses who testified for the petitioner were consistent in describing the physical state of the late Ethel C.B. Dunbar few days before her death. Generally, the witnesses confirmed that Ethel C. B. Dunbar was weak and could not do anything for herself, unable to hold a glass. How could she have signed a signature on a Will barely days before her death? Her lawyer, Counsellor Henry Reed Cooper did not believe that she could have signed any signature in the state she was. This argument pointed to the testimony of one of the petitioner's witnesses that the signature was placed on the purported Will by a third party which should have been considered by Your Honors.

6. That, Your Honors made palpable mistake and inadvertently over looked the testimony of Cllr. Henry Reed Cooper to the effect that the late Waldron Greaves destroyed the draft Will that was on a plain paper prepared by him. This clearly suggests that the instrument that was admitted into evidence on legal ruled paper was not the identical Will that was drafted by Cllr. Cooper.

Petition submits that if Cllr. Cooper's draft was on plain paper and no evidence was introduced by the respondent that another lawyer handled the draft Will, it goes without saying that the Will that was presented was different from that which was prepared by Cllr. Cooper, which points to the allegation of fraud, the typing of Will by John Saah and the signing by a third party, as alleged in the testimony of the witness. Petitioner says that if the Will that was submitted was not the identical Will that was prepared by Cllr. Cooper, whatever replacement that was submitted into evidence did not meet the standard of a valid Will.

7. That Your Honors made palpable mistake and inadvertently held, as found on page 11 of Your Honors' ruling, that the late Ethel C. **B.** Dunbar gave all of her other children properties while she was alive including the DITCO building on Randall Street. Petitioner submits and avers that on page 241 of the Transcribed records, it was clearly established that the DITCO building was not the property that was given to Callista but part of the DITCO building. Specifically, the witness said I know it part of DITCO building. Petitioner submits that this answer was not conclusive that the DITCO building was owned by the late Ethel C. B. Dunbar to form the basis of Your Honors' conclusion that the other children were given property and Waldron was not to create empathy for the children of Waldron to take over the subject property to the exclusion of other grandchildren of the late Ethel C. B. Dunbar.

8. That, Your Honors advertently overlooked the fact that the late Ethel C. **B.** Dunbar left several grandchildren who tend to be beneficiaries of the subject properties besides the petitioner in these proceedings as indirectly confirmed by witness Lisa Greaves when she said on the cross,(page244 Transcribed Record) unless I count, I really would not know the amount of grandchildren she had. I can't answer that question.

Petitioner submits that the records clearly show that the late Ethel C. B. Dunbar left several grandchildren. The fact that she gave a building to the petitioner herein cannot be a basis to declare the purported Will valid in the midst of all of the unanswered questions surrounding the Will which were not taken into consideration by Your Honors.

9. That, Your Honors made palpable mistake and inadvertently overlooked the facts that none of the witnesses that were produced by the respondent was present when the Will was allegedly signed by the late Ethel C. B. Dunbar except John Dukuly who was brought forward by the petitioner. No one else saw Mr. Dukuly when he signed the Will. However, Mr. Dukuly testified under oath regarding the Will. You cannot accept the fact that Mr. Dukuly admission that he signed the Will is correct but ignore his testimony that he did not at any time past, appear to testify before the Monthly and Probate Court. The question is, is it possible, in an ex parte case, that someone who did not appear name could be used in a record? Considering some of the weaknesses of our system, this cannot be ignored and that Your Honors needed to accept Dukuly's testimony as the best evidence in this case.

WHEREFORE AND IN VIEW OF THE FOREGOING, petitioner most respectfully prays Your Honors and this Honorable Court to grant this petitioner's petition for re-argument so that Your Honors can consider the palpable mistakes and the inadvertent overlooked of facts and points of law mentioned in this petitioner's petition and to also grant unto the petitioner, all further relief that Your Honors will deem just, legal and equitable.

The respondent filed these returns to the petition:

"Respondent prays Your Honors to deny and dismiss the Petitioner's Petition for re-argument and showeth the following legal and factual reasons, to wit:

1. That as to the entire petition, respondent submits that the law on re- argument of a case is very clear and concise. Rule IX. Part 1 of the Revised Rules of the Supreme Court provides that for good cause shown to the court by petition, a re-argument of a cause may be allowed only once when some palpable substantial mistake is made by inadvertently overlooking some fact, or point of law. Respondent submits that Your Honors did not overlook any salient points of law or fact which were argued by the parties during oral argument. All the points of fact or law detailed in the petitioner's petition as the legal basis for seeking re-argument were argued before Your Honors and passed upon by Your Honors in the Court's unanimous Opinion of July 6, 2012. Hence, the petitioner's petition for re-argument should be denied and dismissed as a matter of law.

2. That the purpose of a petition for re-argument is not to challenge the Opinion and Judgment or the Supreme Court simply because the party seeking re-argument disagrees with such Opinion. Re-argument is intended to call the Court's attention to points of law or facts raised in the Brief for argument which, if the Court had not inadvertently over-looked, would have changed the outcome of the case. The petition, as filed by the petitioner, is simply a disagreement with the Opinion of the Court by the petitioner and not because the Court over-looked any facts or point of law.

3. Respondent submits further that while it is true that a re-argument may be granted, the prevailing law in this jurisdiction is that the basis for re-argument must clearly be shown in the petition. It must b e shown that palpable mistakes were made and that the Court inadvertently over-looked some facts and points of law. Respondent respectfully requests Your Honors to take judicial notice that the petitioner has not shown any palpable mistakes that were made by the Court in the unanimous Opinion. On the contrary, the

Opinion extensively dealt with all of the factual issues that were raised in petitioner's brief as well as the law issues raised. The argument presented in the petitioner's petition is simply that the petitioner disagrees with the Opinion of the Court. In Garnett Heirs et al vs. Harry Allison, 37 LLR. 795. text at page 799 (1995), the Supreme Court held that "re-argument is not intended to challenge the Opinion and Judgment of the Supreme Court simply because the party seeking re-argument disagrees with such opinion." The entire petition filed by the petitioner simply challenges the Court and expresses a disagreement with the Opinion which is not a ground for the granting of the petition.

4. Still further to the entire petition, respondent says a petition for re-argument is not intended to challenge the opinion and judgment of the Supreme Court on points of law and facts raised and already decided by the Court simply because the petitioner is of the opinion that the Court is wrong in its conclusion on the law and facts. Re- argument is intended to call the Court's attention to the points of law and fact previously raised in the argument and which the Court inadvertently overlooked to pass upon. Instrusco Corporation vs. Tulay, 32 LLR, 47 (1984). Respondent submits that all the points raised in the petition were argued, duly noted and fully addressed in the opinion. Hence, re-argument will not lie.

5. As to count 1 of the petition, respondent says Your Honors did not make any palpable mistake or inadvertently overlook any salient facts in Counsellor Henry Reed Cooper's testimony. In summarizing Cllr. Cooper's testimony, Your Honors stated "Counsellor said the document presented to court for proving looked exactly like the will he drafted for Mrs. Ethel C.B. Dunbar-Greaves. He said the document was almost word for word his drafting; that he thought that was what she wanted. But he said he was not sure whether the will he drafted was on a legal paper and he was not present when it was signed." See page 11 of the Opinion. Respondent says further, Your Honors correctly summarized the testimony of Cllr. Cooper and therefore did not overlook any salient or material fact in his testimony.

Respondent submits that Cllr. Cooper was a material witness for the Objector in this contested will case; therefore his testimony that the will presented to court was what he had drafted for the testator, except that he was not

sure whether it was on a legal paper, obviously contradicted the Objector's testimony and validated the will for all intents and purposes. Cllr. Cooper's testimony was thoroughly reviewed and summarized by Your Honors in the opinion. Nowhere in the Opinion did Your Honors inadvertently overlook any fact which was testified to by Cllr. Cooper. The Court's summary and analysis of each witness's testimony was consistent with the certified records of the trial; the petitioner has failed to state exactly what facts or law Your Honors inadvertently overlooked from Counsellor Cooper's testimony. Respondent says Your Honors were satisfied that what was brought to court for proving was the will he had drafted for the testator. Your Honors even correctly concluded that Cllr. Cooper's testimony sharply contradicted the testimonies of the Objector and some of her other witnesses.

6. Still further to count 5 above, respondent says in a contested will case, the court's duty is to determine from the records, whether the evidence presented by the objector invalidated the will or not. In the instant case, it is obvious that Cllr. Cooper's testimony not only contradicted the testimonies and contentions of Objector and John Saah, but it also validated and sustained the document presented to court as the valid and legitimate Last Will and Testament of the Late Ethel C. B. Dunbar Greaves.

7. As to count 2 of the Petition, Respondent says the office of re-argument is not to question or challenge the wisdom of the Court's conclusion on any issue of fact, but to clearly point out any salient points of law or fact that were argued before the Court, but which were inadvertently overlooked by the court in its opinion. Respondent says the issue of John Dukuly's testimony before the Civil Law Court in 2011 and that of his 1995 testimony before the Probate Court were meticulously argued before Your Honors and passed upon in the Court's unanimous opinion. Your Honors correctly concluded that John Dukuly was not a reliable and trustworthy witness that he either lied when he appeared before the Probate Court in 1995 in support of the will, or he lied when he testified for Objector in 2011 against the will. Your Honors' conclusion that John Dukuly was successfully impeached by the December 18, 1995 Minutes of the Probate Court is consistent with and fully supported by the certified records of the trial court.

The mere fact that petitioner is not satisfied with Your Honors' conclusion on the issue of Mr. Dukuly's untrustworthiness as a witness does not in any manner or form constitute a ground for re-argument. It is settled law

that a re-argument of a case will be denied by the Supreme Court where it is not shown that the Court overlooked any salient fact or point or law raised in a prior hearing. Rizzo and Richards vs. Metzger, 38 LLR 476 (1997). Respondent submits as a matter of fact that Your Honors did not overlook any fact or point of law concerning the testimony of Mr. Dukuly. As such, re-argument will not lie. Petitioner's petition should and must be denied as a matter of law. And Respondent so prays.

8. As to count 3 of the Petition, Respondent says Your Honors did not decide this case solely on the testimony of any particular witness. Rather, Your Honors decided the case on the totality of the evidence presented by each side. One of the issues Your Honors deemed germane, crucial and determinative in deciding this case is whether the jury verdict is supported by the evidence adduced at the trial.

In deciding this issue, Your Honors carefully summarized and analyzed the evidence presented by both Petitioner/Objector and Usa Greaves, and correctly concluded that Objector failed to produce any evidence during trial to prove that: (1) The signature appearing on the will was not the signature of the testator; and (2) the testator did not have the mental capacity to execute a valid will.

Your Honors unanimously concluded that the evidence presented by Objector was contradictory, inconsistent and un-corroborative and therefore insufficient to invalidate and/or set aside the jury verdict and the trial court's final judgment growing therefrom.

Lisa Greaves' testimony was not dispositive in this case, as she did not carry the burden of proving that the will was not the valid and genuine will of the testator. Her testimony in support of the will is consistent with and fully supported by the records of the trial court.

The purpose of re-argument is not to question the Court's wisdom in giving or not giving, credence to the testimony of any particular witness. Your Honors did not overlook any fact or point of law in concluding that the evidence presented by Lisa Greaves was consistent, credible, cogent and corroborative.

9. As to count 4 of the Petitioner's Petition, Respondent says the contention raised therein is absolutely irrelevant and immaterial, as this case was not decided on the question of whether Judge Kaba dismissed the Petitioner's motion for new trial or simply refused jurisdiction over the motion. This case was decided by Your Honors on two basis issues that the Court deemed determinative in this case, namely: (1) Whether the verdict of the empanelled jury was in harmony with and supported by the evidence adduced at the trial, and (2) Whether having declared the estate of the late Ethel C.B. Dunbar-Greaves, a testate estate, the Probate Court Judge committed reversible error by appointing Ethello Greaves McCritty as administratrix to administer said testate estate.

The question of whether Judge Kaba dismissed the motion for new trial, or simply refused jurisdiction is not and can form the factual basis for a re-argument, as same was not a contentious issue during the hearing before this Court. Additionally, Petitioner was neither prevented nor prohibited from filing her motion for new trial before the Civil Law Court. Even if Judge Kaba refused jurisdiction over the motion as opposed to he dismissing same, how can this issue constitute a ground for re-argument of the case? Respondent says since this issue was not raised in Petitioner's Brief and argued before this Court, it is not and cannot constitute a ground for re-argument.

10. As to count 5 of the Petition respondent says Your Honors' conclusion that Mr. Charles Bright's testimony best described the state of mind of the testator when he visited her at the 5. D. A. Cooper Hospital did not confer the status of expert witness upon Mr. Charles Bright. The issue of the testator's state of mind or mental capacity at the time she signed the will was one of the grounds for the Objector challenging the will.

Respondent says the issue of the testator's state of mind was argued during oral argument and adequately passed upon in the Court's Opinion. (See pages 22 and 23 of the Opinion). Your Honors meticulously summarized the testimonies of the various witnesses who testified to the state of mind of the testator and concluded that Mr. Bright's testimony best described the state of mind of the testator. Nowhere in the opinion did Your Honors confer expert witness status on Mr. Bright. All that Your Honors said is that Mr. Bright's testimony best described the state of mind of the testator at the time she was admitted at the hospital. The wisdom of Your Honor's conclusion on a factual issue is not a ground for re-argument. Respondent says

further that the issue of the mental state of the testator, having been argued and passed upon by Your Honors' cannot constitute a ground for re-argument.

11. As to count 6 of the Petition, Respondent says the issue raised therein was adequately argued before this Court, considered, and passed upon by Your Honors in this Court's unanimous Opinion of July 6th. Counsellor Cooper's testimony that he was not sure the draft will he prepared was on legal rule was firstly considered by the empanelled Jury, subsequently argued, carefully considered, and passed upon by Your Honors in the Opinion. Hence, this issue can not constitute a ground for re-argument as this Court did not overlook that portion of Cllr. Cooper's testimony.

Your Honors even went to the extent of showing the contradictions and inconsistencies between Cllr. Cooper's testimony and those of Objector and her other witnesses. Cllr. Cooper admitted that what was presented to him in court is exactly what he had drafted for the testator; he testified that he thought the content of the will was what the testator wanted. Having established the genuineness, validity and authenticity of the will, Cllr. Cooper's testified that he was not sure if the draft will was on legal rule could not and did not invalidate the will. Clearly, Your Honors did not overlook this point in Your Honors' Opinion.

12. As to count 7 of the Petition, Respondent submits that Your Honors neither made any mistakes nor did Your Honors inadvertently hold as alleged. On the contrary, respondent submits that the statement referred to by Petitioner in said count was merely a summary of Lisa Greaves' testimony and not a holding of the Court. Nowhere in the opinion did Your Honors conclude that the DITCO Building was given to Callista. Hence, this issue is irrelevant and does not constitute a ground for re-argument.

13. That as to count 8 of the Petition, Respondent says the issue raised therein is absolutely irrelevant in determining the validity of the testator's will. The fact that the testator left several grandchildren is not material in a contested will case. That which is important is whether a deceased left a valid will and how the deceased wanted his/her properties to be disposed of.

14. As to count 9 of the Petitioner's Petition, Respondent says the contention raised therein was argued during oral argument, considered and passed upon in the opinion. Hence, same does not constitute a ground for re-argument.

15. Respondent denies all and singular the issue of facts and law raised in the Petitioner's Petition which were not specifically traversed in these Returns.

WHEREFORE, and in view of the foregoing, Respondent prays Your Honors to deny and dismiss Petitioner's Petition for Re-argument, order the Court's Judgment enforced, and grant unto Respondent any and all further relief that may be deemed just and legal."

Counsel for the petitioner in his brief and argument before us stated that the Honorable Supreme Court did not take into account or gave the correct meaning to the testimonies of her prime witness Counsellor Henry Reed Cooper, who was legal counsel for the late Ethel C. B. Dunbar for over thirty (30) years; that the court also mistakenly and inadvertently failed to give credence to John Dukuly's testimony that he never, in 1995, appeared before the Probate Court to testify and that the best evidence would be John Dukuly not the clerk who testified to the records as he was not clerk at the time John Dukuly was said to have testified. The testimony of John Dukuly ought to have been considered in view of the fact that the alleged hearing was an ex parte hearing and that there is no positive identification requirement under our law for anyone who is produced as a witness to be identified, especially so in an ex parte matter; that the Court mistakenly overlooked the testimony of John Saah which was never rebutted to the effect that he typed the will upon the order of the late Waldron Greaves.

The petitioner further alleged, that as a matter of law, this Court inadvertently and mistakenly overlooked points of law which would have yielded different results had those point of law been taken into consideration; that the testimonies of almost all of the witnesses that were produced by the respondent were based upon hearsay which by operation of the rule of evidence are inadmissible.

Having heard the petition for re-argument, the sole question to be determined by Court is whether the petitioner in her petition for re-argument before us showed any palpable substantive mistake that was made in our ruling of July 6, 2012, and/or whether this Court overlooked some facts or points of law in the said ruling?

We fail to see that the petitioner has cited any fact or law that was overlooked by this Court. Petitioner has not allege that this court fail to consider in its ruling the testimonies of Counsellor Henry Reed Cooper which she refers to as her prime witness; the testimony of John Dukuly that in 1995 he did not appear

before the Probate Court to testify; or the testimony of John Saah, that he typed the will upon the order of the late Waldron Greaves. What the petitioner sought from this re-argument is to further review the ruling of this court made on July 6, 2012, accusing the court of having failed to give the correct meaning to the interpretation of the witnesses' testimonies and insinuating that the petitioner has a better meaning than that given by this Bench.

The petitioner in these proceedings rejected the purported will of her mother, Ethel C. B. Dunbar Greaves. Her objection was based on the ground that the late Ethel C.B. Greaves was ill and helpless and not of a disposing mind to have signed a will while she was at the Cooper's Clinic.

The law recognizes that one must possess a testamentary capacity when he or she executes a will. Thus our law, Decedent Estates Law, Section 2.1 states: "Every person eighteen (18) years of age or over, of sound mind and memory, may by will dispose of real and personal property and exercise a power to appoint such property."

The petitioner, contesting the will was therefore required to prove that her mother was not of unsound mind, lacked the general ability to understand the act of writing a will, and did not sign the will.

As it is required under our law, based on the objection, the Probate Court had the matter referred to the Civil Law Court for proving of the will, where both parties presented evidence before a sitting jury that is clothed with the responsibility to determine the issues of facts and make a ruling thereon on the basis of weight and sufficiency of evidence. After the presentation of evidence by the parties, the jury unanimously brought a verdict in favor of the respondent. This Court reviewed the evidence presented and ruled that it found no reason to overturn the jury's findings, and therefore affirmed the judgment.

The following question was among those posed to the counsel during the hearing for re-argument:

Ques: What law did the Court overlook?

Ans: 32 LLR text at page 127 syl. 1, the case, Camer (Lib) Inc. vs. Tarpeh, held that testimony of a witness based on written information of past incident to which he was not a party is hearsay and therefore inadmissible.

By this answer, petitioner was questioning the wisdom of the court in its consideration of the testimonies of witnesses for the respondent, Lisa Greaves?

We must emphasize that the office of the re-argument is not to question or challenge the wisdom of the Court's conclusion on any issue of law or fact, but is restricted in scope and function to salient points of law and fact raised at prior hearing of the Supreme Court which was inadvertently overlooked by the Court in its decision and which the Court is confined to dispose of. The filing of a petition for re-argument should therefore be with no intend to challenge the opinion and judgment of the Supreme Court on points of law and fact raised and already decided by the Court simply because the petitioner believes the Court's conclusion is wrong. This court in its opinion, USTC v. Wray & Williams, 37LLR, 649 (1994) succinctly elaborated on this point when it wrote:

"The Court would be setting a very ugly precedent, detrimental to its dignity and repugnant to good society, if it would permit parties to a suit before it to determine the relevancy of laws controlling the case. As the determination and interpretation of the law is for the Court, to permit a party to a case before the Court to determine the relevancy of the law would amount to a surrender of the important office of the Court to the whims and notions of such party.

If no omission or new authorities on points of law or facts are shown, the appellate Court will seldom permit a re-hearing simply for the purpose of obtaining a re-argument on, and a re-consideration of, points, authorities, and matters which have already been fully considered by the Court, on the assertion of counsel, that, notwithstanding the Court fully considered everything wished to be argued on the re-hearing, it reached the wrong conclusion."

This Court having thoroughly scrutinized the points raised in the petition for re-argument, and found that those points raised in the petition were delved into and considered in the Court's ruling of July 6, 2012, and finding no issue contained in the petitioner's petition that was inadvertently overlooked in the ruling of July 6, 2012, that would warrant the granting of the petition for re-argument, the petition for re-argument is hereby denied. AND IT IS HEREBY SO ORDERED.

The petitioner was represented by Counsellor Cooper W. Kruah of the Henries Law Firm in association with the Wright, Jangaba & Associates and Counsellor Sayma Julius Syrenius Cephus, and the respondent was represented by Counsellors Stephen B. Dunbar, Jr. And Scheaplor R. Dunbar, of the Dunbar

& Dunbar Law Offices; Counsellor William A. N. Gbaintor, of the Gbaintor & Associates Law Firm; and the Pierre, Tweh & Associates Law Firm.