THE MANAGEMENT OF BAO, Appellant, v. **BEYAN MULBAH** and The Hearing Officer,

ALSTON K. SIKELEY, Appellees.

APPEAL FROM THE NATIONAL LABOUR COURT.

Argued: June 7, 1989. Decided: July 14, 1989.

1. An employer, pursuant to Section 1508(3) of the Labor Law, may terminate the services of his employee by simply giving him notice or payment in lieu thereof, and without any cause for the dismissal.

2. Where a statute specifies the only manner in which an act is to be performed no court, including the Supreme Court, has any authority to extrapolate the intent of the Legislature beyond the specific wording of the statute.

3. Courts are not and should not be concerned with whether or not a piece of legislation is wise, unwise, oppressive, democratic or undemocratic, since the special function of the court is to interpret. If legislation is pernicious or unwise, it can be remedied by the people who, where the Legislature refuses to change the law, may change their representatives in the Legislature from time to time until such repugnant legislation is repealed.

4. When a statute is clear and unambiguous, the court should not and can do nothing but enforce it, unless it is unconstitutional.

In 1986, the management of BAO, now appellant, dismissed Beyan Mulbah, now co-appellee under section 1508(3) of the Labor Practices Law of Liberia and paid him his entitlement. Subsequently, the co-appellee filed a complaint at the Ministry of Labour, alleging that his dismissal was wrongful. The hearing officer ruled in favor of the co-appellee, awarding him eight months' salary at $500.00 per month, the same representing one month's salary for each year the co-appellee was employed with the appellant.

At the hearing of the petition for judicial review, the judge of the National Labour Court confirmed the ruling of the hearing officer, declaring that the Legislature could not have intended, under section 1508(3), to give an employer the right to summarily terminate the services of an employee without assigning any cause or ground.

From this judgment in the National Labour Court, the appellant appealed to the Supreme Court for review and final determination.

In passing on the issues raised by the appellees in support of the judgment of the Labour Court, the Supreme Court opined that section 1508(3) of the Labor Practices Law of Liberia was clear and unambiguous and no court, including the Supreme Court, had any authority to add to or subtract from the clear wordings of said legislation. The Supreme Court also ruled

that its opinion in *Firestone Plantations Company v. Berry,* 30 LLR 702 (1982), relied on by the appellee in support of the judgment of the National Labour Court in the instant case, was violative of the function of the Court and, therefore, was recalled. Accordingly, the judgment of the National Labour Court was reversed.

Brumskine and Associates appeared for the appellant. *J. Laveli Supuwood* appeared for the appellees.

MR. JUSTICE Kpomakpor delivered the opinion of the Court.

We will first state the facts of the case very briefly since they are not in dispute.

On May 31, 1986, Petitioner BAO (Liberia) Inc., now appellant, addressed the following letter to Respondent Beyan Mulbah, now co-appellee:

"Dear Mr. Mulbah:

We wish to inform you that management hereby avails itself of the rights under section 1508(3) of the

Labor Practices Law of Liberia and terminates your services as of May 31, 1986.

You will accordingly receive your final settlement representing your May 16-31, 1986 salary, one month pay in lieu of notice, and pay for accrued annual leave. .

In keeping with this letter of termination, appellant paid appellee his entitlement but, subsequently, co-appellee filed a complaint against appellant alleging therein that the dismissal was wrongful. The only authority cited and relied upon by appellee and the hearing officer of the Labour Ministry is the case *of Firestone Plantations Company v. Berry,* 30 LLR 702 (1982). The hearing officer awarded co-appellee eight (8) months salary, one month for each of the eight years he served, at the rate of $500.00 a month.

The National Labour Court judge, His Honour Arthur K. Williams affirmed the ruling of the hearing officer. The judge saw the only issue in the case as being: "This court really would like to know, whether the Legislature of this country intended to make a law that employer will, without cause and violation of the employment regulation of this country, dismiss an employee. This court does not think that this law was made with that intention. Since respondent served management for eight (8) consecutive years without warning or suspension, and the records in this proceeding having been void of any cause justifiable cause for the termination of the services of the complainant, it is the ruling of this court that besides the $990.00 paid to respondent by management, he should receive $4,000.00, representing one month pay for each year served ...."

According to the records certified to this Court, the hearing officer, while recognizing the right of the appellant to dismiss co-appellee under section 1508(3) of the Labor Practices

Law without assigning any cause, felt that the rule laid down by the *Firestone Plantations Company v. Berry* case, cited *supra,* precluded him from finding in favor of appellant. Apparently, Judge Williams did not see the *Firestone Plantations Company v. Berry* case as a problem. Even though the language of section 1508(3) is clear and unequivocal, however, he reached the conclusion that the Legislature did not intend, and could not have intended, under this section, to give the employer the right to summarily terminate the services of an employee without assigning any cause or ground. Just how the learned judge reached this conclusion bewilders this Court.

Here was a judge who took recourse to the law controlling this matter, but flagrantly disregarded it. The statute is written in very simple language and understandable by even the layman, and yet the judge misapplied the law and found the dismissal wrongful.

The case presents one fundamental question for our determination: May an employer terminate the services of his employee by simply giving him notice or payment in lieu thereof, and without assigning any cause for the dismissal? Section 1508(3) of the Labor Practices Law answers this question in the affirmative. It reads as follows:

"Dismissal of Employees

3. Where the contract is concluded between the employer and the employee for an indefinite period, the employer shall have the right to dismiss the employee on condition that he gives him two weeks written notice in the case of non-salaried employee and four weeks written notice in the case of salaried employee or payment in lieu of such notice."

The language of this provision of the statute is so clear on its face that neither construction nor interpretation was required.. The counsel for the appellee had no problem with the section. In his brief argued before us, he agreed that section 508(3) does give an employer the right to terminate the services of his employee provided that notice is given the employee or, in the alternative, he is paid in lieu of such notice. He argued, however, that this Court has in 1982 construed section 1508 in the *Firestone Plantations Company v. Berry* case to include one month's salary for each year served, and that since that case has not been overruled it is binding on the parties and the courts.

The contention of the appellees is that the act of the appellant in terminating the services of appellee without assigning a cause or causes is in harmony with section 1508(3), but the interpretation placed on the section by this Court in the *Firestone Plantations Company v. Berry* case compels a contrary result.

The appellant, on the other hand, has questioned the right of this Court to promulgate a new rule of law which has a contrary effect on the express wording of section 1508(3) as enunciated in the case.

We will now review the facts and holding of *Firestone Plantations Company v. Berry* before addressing the issue as to whether that case should be overruled as urged upon us by the appellant. One thing which needs to be pointed out at the onset is the fact that section 1508(3) was never squarely raised as an issue in the *Firestone Plantations Company v. Berry* case; it is in the instant case.

In his complaint in the *Firestone* case, Joseph Berry charged Firestone with "unfair labor practice" in that the latter had employed him from the 3rd day of March, 1958 to 1967 as a cadet on a part-time basis, and as a full-time employee from 1967 to March 1979 when he was retired on medical grounds. Berry was paid $613.00 as severance pay which represented the aggregate of 15 years of service, or one month for each of the last 15 years.

The parties were in complete agreement that Berry served the company during the first 6 years as a cadet and the last 15 years as a full-time employee. The basic contention of Berry was simply that his severance pay should have covered the entire 21 years, the first 6 years as a part-time employee and the last 15 years as a full-time employee. For its part, Firestone maintained that the first 6 years could not and should not be considered for severance purposes, since compensation was calculated on the basis of one month for each full year of service. In short, the position of Firestone was that Berry was only entitled to 15 years severance pay, the period he worked full-time, and not 21 years. This Court in 1982 sustained the contention of Berry that although he was a part-time employee for the first six years, he was entitled to all benefits for the 21 years he served the company, including severance pay.

The Court saw three issues which it summarized as follows: "Is a cadet or a part-time worker entitled to the same legal rights and privileges as a full-time employee?" The court held that even though Berry was "designated a cadet for administrative purposes, he was to all intents and purposes a full-time, permanent employee; judging from the length of time he served appellant as a cadet."

The Court could not have reached this result, i.e., awarding Berry severance pay covering 21 years, without going any further or without using the sweeping language it employed in achieving its desire. The appellant in the instant case has described the Court's ruling in the *Firestone Plantations Company v. Berry* case as promulgating a new rule of law contrary to the express wordings of the Labor Practices Law, Lib. Code 18-A: 1508(3).

In their brief argued before us in the instant case, the appellees acknowledged the right of appellant to terminate the services of appellee under a contract of indefinite duration by simply giving him two weeks notice in the case of non-salaried employee and four weeks notice in the case of salaried employee, without assigning any cause or ground for the termination. However, appellees maintained that he relied upon the *Firestone Plantations Company v. Berry* case in which this Court construed section 1508(3) "to include one month's

salary for each year served." Appellees also contend that since the *Firestone Plantations Company v, Berry* decision has not been disturbed it remains binding on all lower courts. The decision of the National Labour Court in awarding severance pay in utter disregard for section 1508(3) appears to have been deliberate. For example, Judge Williams held: "This Court really would like to know, whether the Legislature of this country intended to make a law that an employer will, without cause or any violation of the employment regulation of this country, dismiss an employee. This Court does not think that this law is made with that intention." In actuality, Judge Williams was saying in the instant case, as did this Court in the *Firestone Plantations Company v. Berry* case, that he understood very clearly the meaning of the statute but that he did not like the provision, at least insofar as it gives the employer the right to terminate the services of the employee by giving notice or payment in lieu of notice. In other words, the National Labour Court, and to some extent by this Court's decision in the *Firestone Plantations Company v. Berry* case, held that it would not be bound bisection 1508(3).

The fundamental question presented in the case at bar is, therefore, whether the courts, including the Supreme Court, have the discretion to select the law or statute it will uphold and the one it will ignore, not on constitutional grounds, but simply because the court does not like such a law. Under our system of jurisprudence no court, including the Supreme Court, has this power.

It is abundantly clear that in the *Firestone Plantations Company v. Berry* case the Court legislated, a role reserved to the Legislature. Stated in other words, the opinion in the *Firestone Plantations Company v. Berry* case is in fact a usurpation of the role of the Legislature, the law-making body.

In *George v. Republic,* 14 LLR 158 (1960), this Court held that where a statute specifies the only manner in which an act is to be performed no court, including the Supreme Court, has the authority to extrapolate the intent of the Legislature beyond the specific wording of the statute. See also *Ayad v. Dennis,* 23 LLR 165 (1974), where this Court ruled that under the doctrine of separation of powers, none of the three branches of government can usurp the functions of any of the other two. This means that this Court, as the judicial branch of government, cannot usurp the function of the legislative branch by making laws.

Forty-two years ago, Mr. Justice Russell, speaking for this Court, held that this Court has always emphasized the principle that courts are not and should not be concerned with whether or not a piece of legislation is wise, unwise, oppressive, democratic or undemocratic, since the special function of the courts is to interpret the law. If a legislation is considered pernicious or unwise it can be remedied by the people who, where the Legislature refused to change the law, may change their representatives in the Legislature from time to time until such repugnant legislation is repealed. *Harris v. Harris and Williams,* 9 LLR 344 (1947).

We are quite aware of the fact that section 1508(3) of the Labor Practices Law seems harsh and arbitrary and may be subject to abuse by unscrupulous employers but, be that as it may, in our opinion the courts are not the proper fora to correct what appears to be today an anti-labor legislation. As we stated earlier in this opinion, the legislative branch of government, by virtue of the power allocated to it by the Constitution, is in a better position to address the issue posed by the subsection. For instance, that body could hold hearings and debate with labor, management and others, and, if necessary, repeal or amend section 1508(3). When a statute is clear and unambiguous, as in the instant case, this Court can do nothing but enforce it, unless it is unconstitutional. The appellees have strenuously argued that the judgment of the trial court should be affirmed on the ground that our decision in the *Firestone Plantations Company v. Berry* case has not been overturned. We are not convinced that this contention of the appellees is legally sound. The Court held in *Firestone Plantations Company v. Berry* that effective as of the date of that decision an employer may not terminate the services of his employee who has served him for two or more years, without assigning a cause or causes. Here is what the Court said in the opinion: "This Court, therefore, feels that the time has come now for a definite rule to be laid down as a legal guidance in the disposition of labor disputes of this nature. This Court, now, therefore, declares that the present practice and policy of the Ministry of Labour that "an employee who serves his or her employer for a long time should not have his or her services terminated by simply giving him or her one month salary just to satisfy the provisions of section 1508 of the Labor Practices Law, but rather that the employee should be compensated by receiving an aggregate *sum representing one month for each of the years served"* (emphasis supplied), is sound and fully supported by this Court as a means of bringing about social justice to the working masses of our nation. In other words, the yardstick from now onwards is that the employer will have to pay his or her employee one month salary for each year he or she served his or her employer at the time of such termination.

Along with this holding, this Court suggests that in order for an employee to benefit under the principle of law just pronounced, upon termination, such employee must have served his or her employer for a minimum period of not less than two years, that is to say, 24 calendar months of unbroken services. *In laying down this rule, we are in no way assuming legislative functions but rather giving a fair and reasonable interpretation of the law as contemplated and anticipated by our lawmakers, which function constitutionally belongs to the judiciary."* (emphasis supplied.)

The reliance placed upon *Firestone Plantations Company v. Berry* is misplaced, to say the least, as there was no statutory authority for the Court's position in that case and definitely there is none today. As a consequence of this fact, we hereby overrule that position of the *Firestone Plantations Company v. Berry* opinion insofar as it prescribed, in violation of section 1508(3), that as a prerequisite to dismissing an employee, the employer must assign a cause or causes. In 1982, when the *Firestone Plantations Company v. Berry* case was heard the relevant statute

found in the Labor Practices Law was section 1508(3). Today, the statute word is still the same; it has not been repealed, or even amended. Although the facts and circumstances in the *Firestone Plantations Company v. Berry* case and these in the case at bar are clearly distinguishable, we must overrule the former, because we wish that trial judges and others will guide against reliance being placed upon it in the future.

We have no alternative, therefore, but to reverse the judgment of the trial court and order the court below to resume jurisdiction and dismiss the case. Costs are disallowed. And it is so ordered.

Judgment reversed