

**THE MANAGEMENT OF MEZBAU (LIBERIA) INC.,** Petitioner, v. **CHARLES UMEHAI** and **JOSEPH F. KPUKUYU,** Hearing Officer, Ministry of Labor,  
Respondents.

PETITION FOR REARGUMENT

Heard: April 17, 1989. Decided: July 14, 1989.

1. A petition for review by the National Labour Court or a debt court of a hearing officer's ruling should be filed within ten (10) days after the rendition of the ruling by the hearing officer and not within thirty (30) days as was required before the creation of the National Labour Court.
2. The court must have jurisdiction over the person and the subject matter in order to render a binding judgment; otherwise, the judgment is void and of no effect.
3. It has always been the practice of the Supreme Court to pass upon those issues it deems meritorious or worthy of notice; and it needs not pass on every issue raised in the bill of exceptions or the brief.
4. A petition for re-argument may only be granted by the Supreme Court when it is shown that the points of law or fact, decisive of the case and duly raised by counsel, have inadvertently been overlooked by the Supreme Court in arriving at a decision.

A commission sales promotion agent, Charles Umehai, filed claims before a hearing officer of the Ministry of Labour against the management of Mezbau (Liberia) Inc. for the payment of commissions he had allegedly earned while serving as sales promotion agent for said Mezbau (Liberia) Inc. Although Mezbau denied the claim in its answer, the claim was upheld by the hearing officer following the conclusion of a hearing. Mezbau excepted to the ruling of the hearing officer and petitioned the National Labor Court of Liberia for judicial review of the hearing officer's ruling. To this petition, Charles Umehai filed a resistance, contending that Mezbau had filed the petition for judicial review out of statutory time that is about thirty days after the hearing officer had rendered his ruling, instead of within ten days. The court overruled the resistance and entertained the hearing of the petition. At the conclusion of the hearing of the petition, the court reversed the ruling of the hearing officer and dismissed the claims of Charles Umehai, who appealed therefrom to the Supreme Court for a final determination.

The appeal was heard during the October, 1988 Term, of the Supreme Court, when the Supreme Court held that the judge of the National Labour Court committed a reversible error when he granted the petition for judicial review and denied the claims of Mr. Charles Umehai as being barred by the statute of limitations. In reversing the judgment of the National Labour Court, the Supreme Court held that a petition for review of a hearing officer in labor matters before the labor court or the debt court should be filed within ten

days after rendition of the ruling of the former, and not within thirty days as was formerly required for a petition for a review of a hearing officer before the defunct Board of General Appeals of the Ministry of Labour and prior to the creation of the National Labour Court. The Supreme Court also ruled that as Mezbau had filed its petition far beyond the ten day limit, the judge should have refused jurisdiction and ordered the enforcement of the hearing officer's ruling. The Supreme Court held further that although the appellant had brought his claim seven years after resigning from the appellee company, the agreement between the two creating the right to a commission for appellant extended that right or the right to a claim to future dates which, when taken into consideration, left appellant amply within the requirements of the statute.

Three days after the Supreme Court handed down its opinion on December 30, 1988, appellee Mezbau filed a petition for re-argument, contending that the Supreme Court made palpable mistakes by inadvertently overlooking certain material facts and points of law on the matter, including the release signed by Charles Umehai on March 16, 1978 for salary received for the months of January, February and March, 1978, and commission payments, stating that the appellee had thereby been discharged from any and all further obligations in connection with his employment and assessment of commission.

After entertaining arguments *pro et con*, the Supreme Court denied the petition for re-argument and confirmed its opinion of December 30, 1988, noting that it had not overlooked any factual matter or point of law.

*No one* appeared for the petitioner. *S. Edward Carlor* appeared for the respondents.

MR. CHIEF JUSTICE GBALAZEH delivered the opinion of the Court.

Charles Umehai, a commission sales promotion agent, filed claims before Joseph Kpukuyu, a hearing officer of the Ministry of Labor, against the Management of Mezbau (Liberia) Inc., for the payment of commissions he had allegedly earned while formerly serving as Sales Promotion Agent for the latter. Mezbau answered denying the claims, and after due hearing, the claims were upheld by the hearing officer. Whereupon, Mezbau excepted and about thirty days after that ruling filed a petition before the National Labour Court of Liberia for a judicial review of the hearing officer's ruling.

Charles Umehai thereupon filed a resistance contending that Mezbau had filed the petition for judicial review late and out of statutory time. Therefore, he said, the court should refuse jurisdiction over the petition. He specifically contended that the petition for review of the ruling of the hearing officer was filed thirty days after the said ruling was rendered when legally such petition should have been filed within ten days.

The National Labour Court denied the resistance and sustained the petition of Mezbau and, after delving into the merits of the matter, the judge reversed the hearing officer and

dismissed the claims of Umehai. The trial judge maintained that the petition was timely filed and that whatever claims Umehai had against Mezbau had in fact been settled earlier and the said matter closed finally. From the foregoing ruling, Mr. Umehai noted exceptions and appealed to this Court to review the judgment of the National Labour Court.

The appeal was heard last October 1988 and we concluded that the judge of the trial court had committed a reversible error when he granted the belated petition for judicial review and denied the claims of Umehai as being barred by the statute of limitations. Particularly, we followed the ruling in the case *The Liberian Bank for Development & Investment and Brown v. York*, 35 LLR 159 (1988), holding that a petition for review of a hearing officer's ruling in labor matters before the National Labour Court or the debt court should be filed within ten days after the rendition of the ruling of the former, and not within thirty days as was formerly required for a petition for a review of a hearing officer's ruling by the defunct Board of General Appeals of the Ministry of Labour. The thirty days requirement, we noted, existed prior to the creation of the National Labour Court, and no longer applied following the creation of that court. We also held that as Mezbau had filed its petition beyond the ten days limit allowed by this Court, it was only fair to hold that the judge should have refused jurisdiction over the case and ordered the enforcement of the hearing officer's decision, and not to open the records at all.

We further decided that the claims of Co-respondent Umehai were not barred by the statute of limitations. We held that although co-respondent Umehai had brought his claims seven years after resigning from the petitioner company, the agreement between the two creating the right to a commission for the corespondent extended that right or the right to assert his claims to future dates which, when taken into consideration, left the corespondent amply within the requirements of the statute.

Three days after the said opinion, Mezbau filed this petition for a re-argument contending, among other things, that this Honourable Court in its opinion and judgment delivered in the said cause on December 30, 1988, made a palpable mistake by inadvertently overlooking certain material facts and points of law on the matter, including the release signed by Co-respondent Charles Umehai on March 16, 1978, when he received his salary for the months of January, February and March of 1978, in the sum of \$1,666.52, and commission payments in the sum of \$4,431.56. The release, according to petitioner, discharged it from any and all further obligations in connection with the corespondent's employment and the assessment of the sum of the alleged commission payment calculated by the hearing officer.

Petitioner further contended that the above issues were strongly argued before this Honourable Court but that they were inadvertently overlooked in the opinion and judgment delivered on the case. It therefore prayed this Court to grant the petition for re-argument in the interest of fairness and impartial justice.

Respondents, on the other hand, maintained that the re-argument should be denied since this Court had not inadvertently overlooked any material issue worthy of determination. They further maintained that a contention to hear the case on its merits does not preclude the raising of jurisdictional issues. They strongly argued that in this case, the jurisdictional question was the decisive issue on the appeal before this Court and that this Court had indeed fully discussed same.

We are in agreement with the contentions of the respondents to the effect that in our opinion of December 30, 1988, we did not make any "palpable mistake by inadvertently overlooking some facts or points of law." *See Rule IX, Part 1, Revised Rules of the Supreme Court*, July 1972.

In our previous opinion, we pointed out that all the issues on appeal were effectively dominated by the questions of jurisdiction, which were (a) whether or not the co-respondent was barred by the statute of limitations; and (b) whether or not the judge of the National Labour Court could lawfully entertain a petition for judicial review of a hearing officer's ruling when the petition was filed thirty days after the ruling sought to be reviewed.

We consolidated all the points raised in said appeal into two issues and answered them in the negative. We held that the corespondent was not barred by the statute of limitations and that the judge could not lawfully entertain the petition for review, both for reasons fully expounded therein. Consequently we had no further reason in said opinion to review the complaint itself and the resistance because the court must have jurisdiction over the person and the subject matter in order to render a binding judgment; otherwise, the judgment is void and of no effect. *Lee v. Republic*, 1 LLR 184 (1884).

With regard to the contention that several issues were raised but not passed upon, it has always been the practice of this Court to pass upon those issues it deems meritorious or worthy of its consideration. It need not pass on every issue raised in the bill of exceptions or in the brief. In this case the Court acted in keeping with practice and precedent when it decided to ignore the other issues raised and to only address itself to the jurisdictional question. *Lamco J V. Operating Company v. Verdier*, 26 LLR 445 (1978).

There is a line of opinions of this Court in tune with the rules of the granting of re-arguments to the effect that "re-argument may be allowed only when some palpable mistake has been made by the Court inadvertently overlooking some fact or point of law. *Webster et al. v. Freeman et al.*, 16 LLR 209 (1965); *Daniels v. Daniels*, 17 LLR 53 (1965); *West African Trading Corporation v. Alraine (Liberia) Ltd.*, 25 LLR 3 (1976). Having carefully examined the points raised in the petition for re-argument, petitioner's brief, and the opinion out of which the request grew, this Court has not been able to discover any issue contained therein and worthy of consideration which was inadvertently overlooked in its last decision in this case, handed down on December 30, 1988.

We therefore re-emphasize that re-argument may only be granted by this Court when it is shown that points of law or facts decisive of the case and duly raised by counsel have inadvertently been overlooked by the Supreme Court in arriving at a decision. That condition has not been shown to obtain in this petition for reargument as same was lately conceded by counsel for petitioner who did not, in fact, appear when the petition was called for hearing. Consequently, the petition is denied with costs against petitioner.

Despite the concession made by the petitioner's counsel, coupled with his nonappearance at the call of this case, our distinguished colleague, Mr. Justice Kpomakpor, who had earlier signed the re-argument order, disagreed with our conclusion and therefore has dissented.

Editor's Note: In disagreeing with the Supreme Court's decision, Mr. Justice Kpomakpor merely abstained from signing the judgment of the majority; he did not file a formal dissenting opinion.