

FRED V. B. SMITH et al., Trustees of the Bassa Brotherhood Industrial & Benefit Society, Movants, v. **THE MINISTER OF JUSTICE**, Republic of Liberia, and **HARRY T. WILLIAMS et al.**, Purported Chairman and Members of the Board of Trustees of the Bassa Brotherhood Industrial & Benefit Society, Respondents.

MOTION TO VACATE JUDGMENT AND GRANT RELIEF.

Heard: November 13, 1989. Decided: January 9, 1990.

1. The Supreme Court is the court of last resort and its judgments are final.
2. Where the Supreme Court has decided a case and a mandate sent down to the lower court to resume jurisdiction, the Supreme Court loses jurisdiction and it cannot thereafter entertain any request or prayer in respect of that matter.
3. A motion to vacate judgment and to grant relief therefrom is not a proceeding cognizable before the Supreme Court of Liberia. After the Supreme Court has rendered a judgment, the only remedy available to any person who feels aggrieved by that judgment is a petition or motion for the Supreme Court to reconsider its judgment and said motion is granted only when filed within the period prescribed by law and only when some material issue of fact or law, which would otherwise affect the outcome of the case, was overlooked in the previous opinion.

Quo warranto proceedings were entertained by the Supreme Court and a judgment rendered at the end of its October A.D. 1982 Term in favor of the respondents herein and against the movants. As no motion was filed for reargument, a mandate was sent to the lower court to enforce the judgment of the Supreme Court. After several years, movants, who had apparently been removed from office pursuant to the enforcement of the judgment in the quo warranto proceeding, filed a motion before the Supreme Court to vacate judgment in the quo warranto proceeding and grant relief. Respondents filed their resistance and the case was heard by the Court.

The Supreme Court heard and denied the motion for lack of jurisdiction over the parties and the subject matter of the action. The Supreme Court ruled that the case has long been settled, the rights of the parties decided on its merits, and the respondents put in possession of the property involved. There was nothing before the Supreme Court from which judgment could be vacated or any other relief granted. The motion was therefore *denied*.

Alfred B. Flomo for movants. *Solicitor-General McDonald J. Krakue, Lawrence A. Morgan,* and *John H Mathies* for respondents.

MR. JUSTICE JUNIUS delivered the opinion of the Court.

Movants have filed a ten-count motion to vacate judgment and grant relief before this Honourable Court in a quo warranto proceeding, that was decided by this very Court during its October Term, A. D. 1982, specifically on December 17, 1986. The resistance to the said motion contains four (4) counts. When this case was heard the Republic of Liberia, through the Ministry of Justice, filed a brief which contained five issues and asked us to deny the said motion.

Our law reports being filled with many opinions delivered by this Honourable Court on the Bassa community land issue, which is the focal subject of dispute between the parties, we have decided not to burden this opinion by reciting the genesis of this case. The crux of this matter, even though presented in the briefs, movants' motion and respondents' resistance, is more scientifically presented by the respondent's resistance and arguments; therefore we present, hereinbelow, the substance of resistance as determined by the Court:

1. Respondents submit that the Honourable Supreme Court, having regularly convened within term time, with a quorum, and having jurisdiction over the subject-matter and the parties, rendered a judgment in this case after a regular hearing. Said judgment became final and is forever binding on all the world. For reliance, see Article 66, Constitution of Liberia; *Green v. Brumskine*, 2 LLR 202 (1915).
2. That the said case was brought to an end, a mandate sent to the trial court to enforce the judgment of the Supreme Court; and as of that moment, the Supreme Court lost jurisdiction and that the matter became *res judicata*. *Bestman v. Dunbar*, 19 LLR 207 (1969).
3. That under the laws of Liberia the Supreme Court exercises appellate jurisdiction and therefore the movants may not introduce the subject matter of his application in the Supreme Court by motion.
4. That Fred Smith et al., movants, are no representatives of the Bassa Brotherhood Industrial and Benefit Society and may not contest or prosecute the judgment already rendered by this Honourable Court.

5. That the proceedings herein, aside from being novel, strange and without any legal authority, are designed to belittle this Honourable Court, defeat the ends of justice and calculated to bring injury and loss to the respondents.

"In determining which case it may properly adjudicate, this Honourable Court relies on the defined concept of justiciability. This concept concerns itself principally with the substantive content of issues appropriate for judicial resolution. Broadly viewed, justiciability forms the judicially perceived limits of the functional competence of the court. This functional aspect of justiciability seeks to satisfy the fundamental needs of a judicial tribunal, the potential of effective resolution.

Even though movants have filed before this Honourable Court a ten-count motion to vacate judgment and grant relief, the argument presented by movants to substantiate the motion is more squarely stated in the prayer, as follows:

"WHEREFORE, and in view of these factual, cogent, tangible and legal reasons, and in the interest of justice, equity and fairness, your humble movants most respectfully pray that Your Honours, realizing these many patent prejudicial errors, and inadvertence were committed, coupled with the fact that the petition for quo warranto was filed *ultra vires* will be graciously moved by the spirit of justice, righteousness and truth, which alone "exalted a nation", to recall, vacate, set aside and reverse the final judgment of the former Bench aforesaid, restore movants to their offices in the Society until new elections are held and reinstate the decisions of this Honourable Court in the actions of ejection and bill of information, and grant unto your distressed movants, such other legal relief with all costs of these proceedings ruled against relators/respondents herein,"

The prayer of the motion effectively calls on this Honorable Court to reverse the decision made in 1982 in the quo warranto proceeding and all other subsequent decisions for that matter, which were rendered by previous Benches of this Honourable Court. In response to this prayer, counsel for the respondents submitted the following arguments:

1. That this Supreme Court is the court of last resort by virtue of the Constitution and not statute;
2. That by law all judgments that have been entered by this Honourable Court stand in its entirety to be considered as the final judgments in all cases except somewhere in rendering a judgment some pertinent legal issues are overlooked;

3. That before a case may be considered for re-argument a concurrent justice must affix his or her signature to the motion for re-argument ordering the Clerk of this Court to have same re-docketed; and

4. That the process for obtaining re-argument of a case should be done within three days after the rendition of the judgment of this Honourable Court.

From a perusal of the records, we see that the movants are asking this Honourable Court to vacate judgment and grant relief from a judgment in the quo warranto proceedings rendered during the October Term, A. D. 1982. Firstly, when the Supreme Court rendered its judgment in the quo warrant proceeding back in 1982, no motion was filed for re-argument. A mandate was sent to the lower court instructing that said judgment be enforced; and that judgment has been enforced. There is nothing now before this Honourable Court to be vacated. The motion to vacate judgment and grant relief therefore has no basis in law; it therefore cannot be sustained.

In essence, the motion has been filed only for the mere purpose of delay and for this Court to repudiate its own judgments without the application of law. Movants having failed to take advantage of the statute governing re-argument, the judgment is forever binding on all parties as in keeping with Article 66 of the Constitution, which provides that:

"The Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact except cases involving ambassadors, ministers, or cases in which a county is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the powers granted herein."

The Constitution as well as the statutory laws of the Republic of Liberia, has laid down procedure by which cases should be prosecuted, and any procedure which tends to deviate is intangible. This Honourable Court is the Court of last resort. Since 1847, when this Court was established with His Honour Stephen Benedict as its first Chief Justice and down to the present with His Honour Emmanuel N. Gbalazeh as Chief Justice, nowhere in the history of this Honourable Court has a judgment of this

Honourable Court been vacated under a motion to vacate judgment and grant relief. Motions to vacate judgment and grant relief are filed in the subordinate courts and not the Court of last resort. The framers of the Constitution of 1847, as well as framers of the Constitution of 1986 well considered that in permitting this Court to do such, that is, to vacate its own judgment and grant relief from a decision rendered by this Court of last resort, will be placing this Honourable Court in disrepute. Further, nowhere in our statutory law can we find a supporting statute to condone such. The Court, through its inherent and constitutional power to adopt rules for its governance and to regulate how cases may be brought before it, found it necessary to promulgate rules by which means this Court can review its own judgments without placing it in disrepute. Rule XXII, Parts 1-3, Revised Rules of the Supreme Court.

Movants have cited the common law, and have also attempted to rely upon the statute, as follows: Civil Procedure Law, Revised Code 1:16.31-16.37, governing quo warranto; Judiciary Law, Revised Code 17:2.7; and 46 AM. JUR. 2d., *Judgment*. None of these legal authorities have any bearing to this motion to vacate judgment and grant relief. When questioned on the legal basis for the motion, counsel for the movants submitted that the granting of the motion was based upon the statute but he failed to cite the specific statute and, instead, concluded by saying that the granting of the motion is within the discretionary power of this Honorable Court.

From the foregoing, we are convinced that movants' sole aim for filing the motion to vacate judgment and grant relief is merely to delay justice. The entire motion and the arguments presented to us have no legal merit. This Court lacks jurisdiction over the person and over the subject matter of the action. This case has been settled long ago to all intents and purposes; the legal rights of the parties have long been settled on the merits; and respondents have been put in possession of the property involved. The motion is therefore denied And it is hereby so ordered.

Motion denied.