

UNITED STATES TRADING COMPANY, represented by its General Manager,
J. W. MULDER, Informant, v. **UNITED STATES TRADING COMPANY**
REDUNDANT WORKERS OF MONROVIA, and **THE BOARD OF**
GENERAL APPEALS, MINISTRY OF LABOUR, Respondents.

PETITION FOR REARGUMENT

Heard: November 25, 1987. Decided: January 25, 1988.

1. Ordinarily, it is sound policy for courts to adhere to prior decisions under the principle of *stare decisis*. However, this practice has never been blind or inflexible and has never been thought to extend so far as to prevent the courts from correcting their own errors.
2. Re-argument will only be granted when it is shown that the Court made some palpable mistake in a prior decision in overlooking a salient point of law or fact raised at the prior hearing.
3. Re-argument or rehearing will be granted only when some decisive issue raised in the court of origin and argued at the prior hearing before the Supreme Court has been overlooked.
4. Re-argument may be granted on a showing of patent and prejudicial error or oversight by the Supreme Court or its officers.
5. In hearing a motion for re-argument, the Supreme Court is required to consider only such points of law as were raised in the original argument and overlooked by the Court.
6. Re-argument will be granted when an issue which has been overlooked by the Supreme Court involves an important principle and a serious doubt exists as to the correctness of the Court's decision.
7. Re-argument will be allowed when it is shown that in the opinion under consideration, the Supreme Court manifestly overlooked some facts or points of law.
8. When it is shown that points decisive of the case and duly raised by counsel have inadvertently been overlooked by the Supreme Court in arriving at an opinion, a motion for re-argument will be granted.

9. The Court has a special responsibility where questions of constitutional law are involved to review its decisions from time to time, and where compelling reasons present themselves to cause the Court to refuse to follow erroneous precedents.

10. It is essential to the validity of a judgment that it be based on, and be in conformity with recognized principles and fundamentals of law.

11. If the language used in a judgment is ambiguous, there is room for construction; however, if the language employed is plain and unambiguous, there is no room for construction or interpretation, and the effect thereof must be declared in the light of the literal meaning of the language used.

12. A court will not construe a judgment or decree in the absence of the assertion of some claim or right to be litigated in a proceeding over which the court has jurisdiction to determine, and in which the questioned meaning bears on the question to be determined.

13. A judgment must be read in its entirety and must be construed as a whole so as to bring all of its parts into harmony as far as this can be done by their fair and reasonable interpretation, and as would give effect to every word and part and, if possible, to effectuate the obvious intention and purposes of the court, consistent with the organic law.

14. Judgments should be liberally construed so as to make them serviceable instead of useless. However, in construing judgments, the adjudication should not extend beyond that which the language used fairly warrants since the purpose and function of construction is to give effect to that which is already latent in the judgment.

15. The court may not, by construction, add new provisions to a judgment which were omitted or withheld in the first instance.

16. In construing judgments, the legal effect rather than the mere language used must govern.

17. Doubtful or ambiguous judgments are to have reasonable intendment to do justice and avoid wrong.

18. Where a judgment is susceptible to two interpretations, that one will be adopted which renders it more reasonable, effective and constructive, and which makes the

judgment harmonious with the facts and the law of the case. If possible, that construction will be adopted which will support the judgment rather than one which will destroy it.

19. All presumptions are in support of a judgment, and nothing will be presumed against it.

20. A judgment must be construed in light of the situation of the court what was before it and the accompanying circumstances. In cases of ambiguity or doubt, the meaning of the judgment must be determined by that which proceeded it and that which it was intended to execute.

21. As a general rule, the meaning, effect, and legal consequences of a judgment must be ascertained from its own provisions and language, if possible. If, however, the judgment is ambiguous or obscure, or a satisfactory interpretation cannot be determined from the judgment itself, the entire judgment roll or record may be looked to, examined and considered for the purpose of interpreting the judgment and determining its operation and effect.

Petitioner/informant was defendant in an action commenced before the Ministry of Labour by the respondents for compensation and other benefits which the respondents alleged were due them by the petitioner/informant. Following a hearing, the hearing officer entered a ruling in favour of the respondents. On appeal to the Board of General Appeals, the intermediate and the Supreme Court, the ruling of the hearing officer was affirmed. The Supreme Court held, however, that as the informant had claimed that it had made payment to the respondents of certain of the amounts claimed by them as redundancy pay, that the case be remanded to the hearing officer for further evidence from the informant so that a correct calculation could be made as to the amount which the informant was to pay to the respondents. The Court also mandated that the hearing officer state in terms of dollars and cents the amounts due certain of the complaining workers and to deduct the redundancy pay allegedly received by them from the informant. In obedience to the Supreme Court's mandate, further evidence was received from the informant and a ruling made thereon. This ruling, not being satisfactory to the respondents, they announced an appeal to the Board of General Appeals.

The informant, believing the appeal to be a violation of the mandate of the Supreme Court, filed information before the Justice in Chambers. The Chambers Justice ruled

that it was improper for the respondents to appeal to the Board of General Appeals regarding the enforcement of the Supreme Court's mandate and that if any party was dissatisfied, the remedy was to proceed to the Supreme Court on information. He therefore ordered that there should be no further interference.

The matter having thereafter been taken to the full Court for confirmation of the ruling of the Justice in Chambers, the Court affirmed the said ruling, noting that the appeal by the respondents from the ruling of the hearing officer enforcing the mandate of the Supreme Court was tantamount to appealing from the decision of the Supreme Court. The Supreme Court stated that while all appeal is guaranteed to all aggrieved parties, no appeal could be taken from the decision of the Supreme Court. The Court therefore remanded the case to the hearing officer, but noted however that both the informant and the respondents be permitted to give evidence before the hearing officer. It was from this decision of the Supreme Court that petitioner/informant filed a petition for re-argument.

In the petition, the petitioner contended that the Supreme Court having affirmed the ruling of the Chambers Justice, it had inadvertently stated that the respondents be allowed to give evidence along with the informant. This, the petitioner said, was contradictory to the ruling of the Justice in Chambers who had ordered that there be no further interference with enforcement of the hearing officer' findings.

The Supreme Court granted the petition for re-argument, noting that in affirming in its previous decision the ruling of the Justice in Chambers which had ordered that the ruling of the hearing officer be enforced, the Court could not also direct that further evidence be allowed. This, the Court said, was contradictory and inconsistent. The Court noted that the judgment handed down in its first decision in which it had remanded the case for calculation was plain and unambiguous, and therefore did not need and was not susceptible to further interpretation. The Court opined that while it was ordinarily sound practice to adhere to the rule of stare decisis, where it considered that it had made an error, it would not hesitate to correct the error.

The Court observed that it had made an error in directing that additional evidence be allowed from the respondents. It therefore felt the need to *reaffirm* the ruling of the Justice in Chambers to *grant* the petition and to order that the calculations and findings of the hearing officer, done in obedience to the Supreme Court's mandate, be enforced without and further interference from any of the parties. To ensure compliance with its decision, the Court prohibited the Board of General Appeals from entertaining any further proceedings in the matter.

Horace and Horace Law Firm appeared for informant/ appellee. *Francis Y. S. Garlawolo, J. Edward Koenig* and *J. Laveli Supuwood* appeared for appellants.

MR. JUSTICE AZANGO delivered the opinion of the Court.

As per the records in these proceedings, this petition for re-argument was instituted by the United States Trading Company of Paynesville, represented by its general manager, *J. W. Mulder*, as petitioner, against the United States Trading Company Redundant Workers of Monrovia, Liberia, and the Board of General Appeals, Ministry of Labour, Republic of Liberia, as LIBERIAN LAW REPORTS respondents/appellants, and grows out of the case United States Trading Company of Paynesville, Liberia, represented by its general manager, *J. W. Mulder*, as informant/ appellee, versus the United States Trading Company Redundant Workers, etc., bill of information. The bill of information was also the outgrowth of the case the United States Trading Company Redundant Workers of Monrovia, Liberia, appellants, versus the United States Trading Company Management of Monrovia, Liberia, appellees, action of claims for compensation and unpaid benefits (Unfair Labor Practices).

The records further reveal that on the 28th day of January A. D. 1986, the informant filed a bill of information in the Chambers of Mr. Justice Elwood L. Jangaba against the respondents, with supporting exhibits, for a judicial review of an action of claim for compensation and unpaid benefits (Unfair Labor Practices). The bill of information consisted of seven (7) counts, and had attached thereto photocopies of the minutes taken before the hearing officer during investigations held in 1985, receipts, payrolls, checks paid to the redundant workers of U.S.T.C., findings of the hearing officer, submission by counsel for defendant management, formula from the defendant management indicating the hourly rates for 1980, gross balance due each worker (subject to taxes to be paid), calculation of entitlement for the eighteen (18) USTC redundant workers, and general manager's letter of November 20, 1985, indicating a willingness to comply with the Supreme Court's mandate.

A five (5) count returns was filed in response to the bill of information on the 7th day of February, 1986, by the Minister of Justice, on behalf of the Ministry of Labour. Attached to the returns were copies of the minutes of the hearing officer dated September 24, 1985, and the redundant workers' (appellant) submission taking exceptions to the hearing officer's alleged arbitrary and prejudicial ruling on the enforcement of the Supreme Court's mandate, handed down on the 21st day of June,

A. D. 1985. Additionally, a four-count returns was filed by Counsellors J. Edward Koenig, Laveli Supuwood and Francis Y. S. Garlawolo, for and on behalf of the respondents indicating why the bill of information filed by the informant should be dismissed.

Arguments having been heard on the said bill of information, His Honour Elwood L. Jangaba ruled *inter alia* as follow:

"RULING:

The United States Trading Company (U.S.T.C.) brought this information to the knowledge of the Court, that respondents have been unduly interfering with a mandate of this Court requiring the Ministry of Labour to resume jurisdiction and to effect certain clarifications that would enhance a just resolution of the case of some redundant U.S.T.C. workers, respondents in this case.

The mandate of this Court which is the subject of this litigation was handed down at the end of its March Term, A. D. 1984. We will quote said mandate below for clarification; and it states:

In view of all that we have narrated herein above, it is our considered opinion that the judgment of the court below dismissing the claim of the redundant workers should be and the same is hereby reversed and the case is remanded to the Ministry of Labour to resume jurisdiction and make clear the following so as to make the decision of the Board of General Appeals awarding those claims enforceable".

1. To state in terms of dollars and cents the total amounts which each of the fourteen workers and the four workers respectively, listed in the decision, are entitled to for the three years and five years salaries, respectively, and show by calculation the balance due the workers.

2. To receive evidence of payment by the management of the notice pay and the redundancy pay respectively, as claimed by management and denied by the workers.

AND IT IS HEREBY SO ORDERED".

Counsel for the informant in the bill of information maintained that the hearing officer charged with investigating and forwarding of the needed information had complied with the mandate, given the due cooperation of said informant, but that the respondents herein had appealed from the findings of the hearing officer for a review of his findings, contrary to the mandate of this Court. The informant contended further that any review of said findings by the Board of General Appeals was tantamount to a deviation from the Supreme Court's mandate and hence the

information. The informant closed on the note that if the respondents found any anomaly in the way said mandate was being enforced, their remedy was not an appeal to the Board, but a bill of information before this Court and a prayer for enforcement in line with the said mandate.

The respondents maintained to the contrary that the mandate referred to desired that both parties cooperate in making possible its enforcement and that the mandate was not limited to the hearing officer. They argued that the hearing officer had refused to require the informant to produce the relevant payrolls that would have properly ascertained the needed facts, and that he had further illegally threatened to forward one of the redundant employees to the National Security Agency (NSA) to obtain the truth from him about the matter. Consequently, they say, they had appealed to the Board of General Appeals from the findings of the hearing officer, as required by law.

From the foregoing, there is only one issue cognizable at this stage, and that is whether or not an appeal to the Board from the ruling of the hearing officer was the best procedure open to the co-respondents in this case.

We hold that in this jurisdiction, where a mandate of this Court of last resort is being wrongly or erroneously enforced, the course opened to a party dissatisfied thereby is a bill of information for the Court's knowledge and action rather than to take an appeal. *Massaquoi-Fabnbulleh*

v. Urey, 25 LLR 432 (1977); *Barbour-Tarpeh v. Dennis*, 25 LLR 468 (1977); *Raymond International (Liberia) Limited v. Dennis*, 25 LLR 131 (1976).

The mandate cited earlier certainly required the Ministry of Labour to fulfill a task that would have made enforcement of the ruling of the Board of General Appeals in said case easier. That means that the said mandate did not contemplate another litigation below from which an appeal would lie; rather, it desired that certain affairs be explained in order to make the ruling of the Board of General Appeals enforceable. It was therefore improper for the respondents to appeal from the findings of the hearing officer to the Board whose ruling was sought to be enforced. Consequently, where the respondents were dissatisfied with said enforcement, as is the case herein with the informant, an information to this Court was their sole remedy.

THEREFORE, in view of the law on the issue, it is the ruling of this Court that the parties in this case be returned to the Ministry of Labour which is hereby mandated

to resume jurisdiction. The Clerk of this Court is hereby ordered to send a mandate to the Ministry of Labour to enforce the mandate which is the cause of this information without further interference by either party in this case".

GIVEN UNDER MY HAND IN OPEN COURT THIS 6th DAY OF
MAY, A. D. 1986.

Sgd: Elwood L. Jangaba

ASSOCIATE JUSTICE PRESIDING IN CHAMBERS"

On the 5th day of July, A. D. 1986, the informant/appellee filed a four-count bill of information setting forth reasons why the bill of information should be granted, and prayed that this Honourable Court will uphold the ruling of the Justice in Chambers and direct the Ministry of Labour to enforce the calculations and findings of the hearing officers as shown by exhibits "E" and "C", attached to the bill of information. The informant prayed that the mandate of the Supreme Court, dated June 21, 1985, be enforced within fifteen (15) days after the rendition of final judgment hereon and that this Court grants unto the informant/appellee such other and further relief as law and justice doth appertain".

The information having been heard by this Court, we rendered judgment as follows:

"RULING AFFIRMED

During the March A. D. 1985 Term of this Honourable Court, a decision was rendered on June 21, 1985, growing out of which a mandate was sent to the Ministry of Labour, the relevant portion of which reads as follows:

1. To state in terms of dollars and cents the total amount which each of the fourteen workers and the four workers respectively, listed in the decision, are entitled to for the three years and five years' salaries, respectively, and deduct the redundancy pay allegedly received and show by calculation the balance due the workers.
2. To receive evidence of payment by the management of the notice pay and the redundancy pay respectively as claimed by management and denied by the workers. And it is hereby so ordered.'

The Ministry of Labour having received the mandate, referred same to the hearing officer for the purpose of carrying out its contents. During the exercise in the hearing officer's office, the appellants contended that they were not afforded the opportunity

to present evidence that they were not paid the amounts which management contended it had paid them. Although the hearing officer received evidence from management/appellee regarding how the appellants were paid, yet the appellants were not permitted to verify as to what amount management said they were entitled to and received. Because of the hearing officer's refusal to admit evidence from appellants the said appellants appealed to the Board of General Appeals for its intervention into the manner in which the hearing officer was carrying out the letter of the mandate, particularly with respect to the receiving of evidence so as to 'show by calculation the balance due the workers'. Because of the appeal filed before the Board of General Appeals, appellee filed a bill of information before the Justice presiding in Chambers, His Honour Elwood L. Jangaba".

In count 4 of appellee's brief, it is therein stated in part that 'while the right of appeal is guaranteed to every person against whom a final judgment is rendered, it is also true that a decision of the Supreme Court of Liberia is absolute and final, and that no appeal can be taken therefrom'. We do agree with this assertion. Appealing from the hearing officer to the Board of General Appeals in that connection amounted to an appeal from the mandate of the Supreme Court. We also, however, believe that in carrying out the mandate, evidence should have been received from both sides since the nature of the case makes that necessary. (*See* 16 U. S. Sup. Ct. Digest, § 1754 to Date, at 61-483)".

According to paragraph 2 of the mandate, the hearing officer was to receive 'evidence of payment'. This means that both sides should have been involved, especially since it was the issue related to calculations of payment which appellants were disputing. The taking of evidence referred to by the mandate does not mean reopening the case but that such evidence, as mentioned in the mandate relates to the payment of the amount actually due and payable to the workers".

In view of the foregoing and in the interest of fair play, it is the opinion of this Court that the ruling of the Chambers Justice be, and the same is hereby affirmed. The appellants should be allowed to give evidence together with the appellee as required by the mandate.

The Clerk of this Court is hereby instructed to send a mandate to the Ministry of Labour ordering the hearing officer to carry out the terms of the mandate as in keeping with this opinion. Cost to abide final determination. AND IT HEREBY SO ORDERED".

From this judgment, the informant/appellee petitioned this Court for re-argument. We herewith quote the petition which was succinctly stated and argued before us:

1. That although it is clearly stated in the Court's decision, rendered in the instant case on the 1st day of August, 1986, that the ruling of the Chambers Justice which itself was rendered on the 8th day of May, A. D. 1986 by His Honour Elwood L. Jangaba be, and the same is hereby affirmed, yet this Court inadvertently went on to state, in again remanding the case to the Ministry of Labour, that "The appellants should be allowed to give evidence together with the appellee as required by the mandate". However, it should be observed that this contradicts the holding of the aforesaid ruling of the Justice in Chambers to the effect that the case be remanded to the Ministry of Labour to enforce the mandate which is the cause of this information without further interference by either party in this case. Informant asserted that had the Court not inadvertently overlooked the ruling of the Chambers Justice, which the Court expressly affirmed, then the Court would have remanded the case to the Ministry of Labour for enforcement of the findings and calculations of the hearing officer, which were done in accordance with the mandate of this Honourable Court as contained in its decision of June 21, 1985.

Informant request the court to take judicial notice of the proceedings before the hearing officer on remand, same being exhibits "B", "C °", and "A" respectively, of petitioner's bill of information, filed January 28, 1986. And further emphasized that had not this Court inadvertently omit consideration of this most important fact of the holding, as contained in the aforesaid ruling of the Chambers Justice, which was affirmed by this Court, its conclusions might have been different.

2. That the aforesaid ruling of the Chambers Justice is in consonance with the aforesaid June 21, 1986 mandate of this Honourable Court and the law extant which requires that mandates of this Honourable Court which are clear and unequivocal on their fact be strictly construed and complied with. That recourse to the mandate, as set forth in the June 21, 1985 decision of this Honourable Court should indicate that the only reliable repository of the evidence required to be received by said mandate had to have been petitioner, the United States Trading Company, former employer of the redundant workers which had exclusive custody of their personal files, as would have been expected, said files containing the complete records of said workers salaries and wages, dates of employment, dates of termination, payments made to them on being declared redundant, and the categories of said payments. Petitioner/informant further alleged that all of these evidence were dutifully submitted by petitioner and received by the hearing officer in strict compliance with the

aforesaid mandates of this Honourable Court, as is clearly evidenced by the minutes of the proceedings before the hearing officer mentioned *supra*. Petitioner therefore averred that had this Court not inadvertently overlooked the important fact of the actual evidence presented and the procedure employed, as set forth and contained in the minutes of the proceedings before the hearing officer, at which incidentally counsel and/or representatives of the redundant workers were always present and the applicable legal requirements that the mandate of this Honourable Court be strictly construed and complied with, this Court's decision in the instant case may have been different.

3. Petitioner also argued that this Court appeared to have inadvertently concluded that the mandate of this Honourable Court as contained in its decision of June 21, 1985, which required that calculations be done to determine the balance due the workers referred to all of the redundant workers, when in fact the above quoted reference in said mandate covered only eighteen (18) long service workers who had been granted special awards of three years and five years respectively. The second part of the Supreme Court's mandate of June 21, 1985 only provided that evidence of payment to the redundant workers be attained by the Ministry of Labour and not that the whole exercise of calculations be done with respect to all of the redundant workers. Petitioner maintained that had this Honourable Court not inadvertently missed this important distinction, this Honourable Court's conclusion in the case may have been different.

4. Petitioner therefore insistently argued and contended that there being substantial variance between the opinion of this court and the ruling of the Chambers Justice, in that while the Chambers Justice's ruling remanded the case to the Ministry of Labour "TO ENFORCE THE MANDATE WHICH IS THE CAUSE OF THIS INFORMATION WITHOUT FURTHER INTERFERENCE BY EITHER PARTY IN THE CASE", the opinion of this Honourable Court which confirmed the said ruling of the Chambers Justice said that "THE APPELLANTS SHOULD BE ALLOWED TO GIVE EVIDENCE TOGETHER WITH THE APPELLEE AS REQUIRED BY THE MANDATE". Petitioner prayed this Court would grant unto it the petition for re-argument of case so that consideration may be given to the above stated important issues of law and facts raised in the case, but which were inadvertently omitted in this Court's consideration and which, had they been considered, this Court may have reached a different conclusion; and that in considering said matters, this Court will remand the case to the Ministry of Labour to enforce the mandate of this Court as contained in its decision of June 21, 1985, to the extent that said mandate has been carried out by the hearing officer, and contained in

their findings and calculation, same being exhibits "B" and "C" of petitioner's bill of information filed on January 28, 1986, without further interference by either party.

Opposing the petitioner/informant's argument and the contention raised in its brief, pleadings and bill of information as against the ruling/decision made by this Court, respondents' counsel argued and contended the following:

1. That the petition suggests, by inference, that this Court, sitting in its March Term, A. D. 1986, contravened its decision affirming the ruling of the Justice in Chambers, by opining that the appellants be allowed to give evidence before the Ministry of Labour. The appellants therefore submitted that it was no error of law or departure from any principle of law for this Court to affirm the ruling of the lower court, with modification as the Court may deem proper and conducive to the end of justice. They submitted further that in fact the opinion of this Court was not at variance with that which was entered originally remanding the case to the Board of General Appeals for determination of appellants' entitlement by calculation for reasons that this Court is unequivocally authorized, in accordance with practice and procedure hoary with age, to afford the person against whom the evidence is produced to traverse and refute the same, if he so elects. The respondents further averred that the appellate Court is authorized to render whatever judgment the court below should have rendered; and that by the tenure of the opinion, this Court did not overlook the law when it confirmed the ruling of the Chambers Justice. with the slight modification that evidenced be adduced to substantiate partial payment of the claim.

2. That this Honourable Court never contravened its original opinion which provided for the adducing of evidence, which this Honourable Court upheld in its March Term, 1986 opinion. Hence, they say, the judgment should remain undisturbed to all intents and purposes. The appellants further submitted that it could not be rationally deduced that this Court, in remanding the case, contemplated that the appellants could not traverse any species of evidence produced against them by management simply because the management is the custodian of its employees records; for, to so reason, could imply a denial of appellants' day in court, quite repugnant to law and practice. Hence, the Court's decision should not be shifted to sanction the appellee's design to baffle this case.

They prayed that the petition should not be granted as same is only filed with this Honourable Court to cause unusual delay, and thereby deny to respondents their just and equitable benefit.

Ordinarily, it is sound policy for courts to adhere to prior decisions, under the principle of *stare decisis*. However, this practice has never been blind or inflexible, and has never been thought to extend so far as to prevent the courts from correcting their own errors. This is why both our statutes and case laws have provided for and allowed a party to file a petition for re-argument so that the Court has a second chance of looking into a matter which it omitted addressing in a prior opinion, and which may be decisive to the outcome of the case.

This Court decided in numerous opinions, however that re-argument will only be granted when it is shown that the Court made some palpable mistake in a prior decision in overlooking a salient point of law or fact raised at the prior hearing. *West African Trading Corporation v. Alrine (Liberia) Ltd.*, 25 LLR 3 (1976). Also, re-argument or rehearing will be granted only when some decisive issue raised in the court of origin and argued at the prior hearing has been overlooked. *King v. Cole et. al.*, 15 LLR 15 (1962). We have also said that re-argument may be granted on a showing of patent and prejudicial error or oversight by the Supreme Court or its officers. *Williams v. Republic*, 14 LLR 602 (1961). Moreover, re-argument will be granted when an issue which has been overlooked by the Supreme Court involves an important principle and a serious doubt exists as to the correctness of the Court's decision. *Union National Bank v. MCC*, 22 LLR 32 (1973). On such a petition for re-argument, the Supreme Court is required to consider only such points of law as were raised on the original argument and overlooked by the court. *Hill v. Hill*, 13 LLR 392 (1959).

Again, re-argument will be allowed when it is shown that in the opinion under consideration, the Supreme Court manifestly overlooked some facts or points of *law*. *Bryant et. al. v. Harmon and Oost Afrikaansche Compagnie*, 12 LLR 405 (1957). When it is shown that points decisive of the case duly raised by counsel, have inadvertently been overlooked by the Supreme Court in arriving at an opinion, a petition for reargument will be granted. *Liberia Trading Corporation v. Cole*, 20 LLR 413 (1971).

As we attempt to resolve the issues raised in the pleadings and briefs of the parties, we think it proper to remark that "ordinarily it is sound policy to adhere to prior decisions, but this practice has quite properly never been a blind, inflexible rule. Courts are not omniscient; like other human agency, for they too can profit from trial and error, from experience and reflection". As others have demonstrated, the principle commonly referred to as *stare decisis* has never been thought to extend so far as to prevent the courts from correcting their own errors. Accordingly, this Court has time and time again, from the very beginning reconsidered the merits of its earlier decisions, even though they claimed great longevity and repeated reaffirmation.

Indeed, the Court has a special responsibility where questions of constitutional law are involved to review its decisions from time to time, and where compelling reasons present themselves to cause the courts to refuse to follow erroneous precedents; otherwise, its mistakes in interpreting the Constitution become extremely difficult to alleviate and needlessly so. (See *Green v. U S.*, 350 U.S. 165, 195(1958). This has great support in the syllabi outlined at the beginning of this opinion.

Moreover, it is essential to the validity of a judgment that it be based on, and be in conformity with, recognized principles and fundamentals of law. 49 C. J. S., *Judgments*, § 13.

Further, it is a cardinal and universal principle of law that the legal operation and effect of a judgment must be ascertained by construction and interpretation of its terms, and this presents a question of law for the court. If the language used in a judgment is ambiguous, there is room for construction, but if the language employed is plain and unambiguous, there is no room for construction or interpretation, and the effect thereof must be declared in the light of the literal meaning of the language used. A Court will not construe a judgment or decree in the absence of the assertion of some claim or right to be litigated in a proceeding over which the court has jurisdiction to determine, and in which the questioned meaning bears on the question to be determined.

The general rules of construction of written instruments have been held to apply to the construction of judgments. The intention of the court must be determined from all parts of the instruments, and words and clauses thereof should be construed according to their natural and legal import. The judgment must be read in its entirety and it must be construed as a whole so as to bring all of its parts into harmony as far as this can be done by their fair and reasonable interpretation and so as to give effect to every word and part, and if possible to effectuate the obvious intention and purposes of the court, consistent with the provisions of the organic law.

Judgments should be liberally construed so as to make them serviceable instead of useless. Their necessary legal implications are generally included although not expressed in terms. In construing a judgment however, the adjudication should not extend beyond that which the language used fairly warrants since the purpose and function of construction is to give effect to that which is already latent in the judgment; and the court may not by construction add new provisions to a judgment which were omitted or withheld in the first instance. In construing judgments, the legal effect rather than the mere language used must govern. Doubtful or ambiguous

judgments are to have reasonable intendment to do justice and avoid wrong. Where a judgment is susceptible to two interpretations, that one will be adopted which renders it the more reasonable, effective, and conclusive and which makes the judgment harmonious with the facts and the law of the case, and be such as ought to have been rendered. If possible, that construction will be adopted which will support the judgment, rather than one which will destroy it. All presumptions are in support of the judgment, and nothing will be presumed against it. A judgment must be construed in light of the situation of the court, what was before it, and the accompanying circumstances. In cases of ambiguity or doubt, the meaning of the judgment must be determined by that which proceeded it and that which it was intended to execute.

As a general rule, the meaning, effect, and legal consequences of a judgment must be ascertained from its own provisions and language, if possible. If, however, the judgment is ambiguous or obscure or a satisfactory interpretation cannot be detained from the judgment itself, the entire judgment roll or record may be looked to, examined, and considered for the purpose of interpreting the judgment and determining its operation and effect. A judgment, plain and unambiguous, is diminished by reference to the opinion or decision of the court; but it is generally held that the opinion may be considered on the question of the construction and effect of the judgment, and the judgment may be construed in the light of the opinion, although its intent and effect are not to be determined from isolated passages in the opinion. 49 C.J.S., *Judgments*, § 436, at 862-869.

We find it very difficult to understand the judgment of this Court dated August 1, 1986, which had confirmed and affirmed the ruling of His Honour Elwood L. Jangaba, Justice in Chambers. The Chambers Justice's ruling was to the effect that the informant/appellee return to the Ministry of Labour so as to state in terms of dollars and cents the total amount which each of the fourteen workers and the four workers respectively, listed in the decision, were entitled to for the three years and five years salaries, respectively, and to deduct the redundancy pay allegedly received and show by calculation the balance due the workers; but at the same time state that the hearing officer should receive evidence of payment by the management of the notice pay and the redundancy pay respectively, as claimed by management and denied by the workers and to enforce the mandate which is the cause of the information WITHOUT FURTHER INTERFERENCE BY EITHER PARTY IN THIS CASE". Yet in the majority opinion, the court held that, "according to paragraph 2 of the mandate, the terms, "to receive evidence of payment" meant "that both sides, appellant and appellee, should have been involved, especially since it was the issue

related to calculation of payment which appellants were disputing. The taking of evidence referred to by the mandate does not mean reopening the case but only such evidence mentioned in the mandate as relates to the payment of the amount actually due and payable to the workers". That "in view of the foregoing and in the interest of fair play, it is the opinion of this Court that the ruling of the Chambers Justice be, and the same is hereby affirmed. The appellants should be allowed to give evidence together with the appellee as required by the mandate." We regard this position of the Court to be inconsistent and contradictory, and it therefore cannot be upheld by us, especially when the language and words used in the June 21, 1985 decision/judgment and the holding of the ruling of the Chambers Justice are plain, clear, unambiguous.

Therefore, there was no room for construction and interpretation. We also find it difficult to understand why our predecessors did not observe the general principles and rules governing construction and operation of judgment and their conclusions, conflicting judgments, or condition and alternative provisions etc. before arriving at the conclusion on August 1, 1986 .

We therefore conclude that the petition be, and the same is hereby granted and the ruling of the Chambers Justice be, and the same is hereby confirmed and affirmed to all intents and purposes, and that the Ministry of Labour is directed to enforce the calculations and findings of the hearing officer as shown by exhibits "B" and "C", attached to the bill of information filed by the informant/appellee, and to make returns to this Honourable Court as to the manner of carrying out the enforcement of the mandate of the Supreme Court dated June 21, 1985, and to do so within ten (10) days after rendition of this judgment. We further prohibit any further proceedings in the matter by the Board of General Appeals except to establish the modalities for satisfaction and settlement of the aforesaid awards in keeping with the findings and calculation of the hearing officer. Costs are ruled against the appellants. The Clerk of this Court is hereby ordered to send a mandate from this Honourable Court to the court below, instructing the judge presiding therein to resume jurisdiction and enforce the mandate. And it is hereby so ordered.

Petition for re-argument granted