

ERNEST FAHNBULLEH and THE BOARD OF GENERAL APPEALS, MINISTRY OF LABOUR, Appellants/Respondents, *v.* **LAMCO J. V. OPERATING COMPANY**, by and thru its General Manager, Appellee/Petitioner.

APPEAL FROM THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT,
MONTSERRADO COUNTY.

Argued April 27, 28, 1984. Decided: May 10, 1984.

1. Every person against whom any final judgment is rendered shall have the right to appeal from the judgment of the court, except that of the Supreme Court. The decision of the Supreme Court shall be absolute and final.
2. There is final judgment when the rights of the parties have been adjudicated. A final judgment has accordingly been defined as one which determines and disposes of the whole merits of the cause before the court by declaring that the plaintiff either is or is not entitled to recovery by the remedy chosen, or completely and finally disposes of a branch of the cause which is separate and distinct from other parts thereof.
3. An interlocutory judgment is one which is made before a final decision for the purpose of ascertaining a matter of law or fact preparatory to a final judgment, or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties or finally put the case out of court.
4. An appeal from an interlocutory judgment will not lie as the appellate court cannot review cases by piecemeal.
5. The circuit court cannot review a decision in a labor case until the Board of General Appeals has finally disposed of it in accordance with its powers under the statutes creating it.
6. Only the Board of General Appeals is empowered to make awards in matters concerning illegal or wrongful dismissals.

ordered the appellant reinstated or compensated, especially since the appellant had been absolved of all criminal charges levied against him in a separate but related criminal matter. The Board then mandated the parties to return on March 24, 1983 with evidence regarding the appellant's salary, length of service, etc., to facilitate determination of the appellant's entitlements. Instead, the defendant/appellee petitioned the Sixth Judicial Circuit Court of Montserrado County to review the Board's decision. The plaintiff/appellant thereupon appealed to the Supreme Court, contending that the defendant/appellee had no basis for an appeal considering that the decision of the Board was an interlocutory one and not a final judgment. The Supreme Court agreed with plaintiff/appellant's contention and accordingly reversed the judgment and remanded the case.

Joseph P. Findley appeared for appellant. *B. Mulbah Togbah* appeared for appellee.

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

From the records certified to the Supreme Court on this matter, there are basically two issues to be determined: (1) when does an appeal lie in this jurisdiction? (2) Whether or not the ruling made by the Board of General Appeals, which declared the appellee's dismissal illegal and required the parties to reappear in order to determine the appellee's entitlements, was a final one.

In an effort to resolve said issues, it is necessary that we take a glance at the statute governing appeals in Liberia. According to the Liberian Code of Laws Revised, "every person against whom any final judgment is rendered shall have the right to appeal from the judgment of the court except from that of the Supreme Court. The decision of the Supreme Court shall be absolute and final." Civil Procedure Law, Rev. Code I:51.2, *Judgments Subject to Review*. From the foregoing, it is clear that appeals can only be taken from final judgment. However, the statutes do not state what constitutes a final judgment from which one could properly appeal to a higher tribunal.

To fill this gap, we will have to resort to the common law and our case law to determine what constitutes a final judgment from which one can appeal. Fortunately, there is a large body of Liberian case laws on the subject. Additionally, the American Jurisprudence makes a brilliant expose of what at common law amounts to a final judgment and goes further to distinguish it from an interlocutory judgment.

separate and distinct from other parts thereof. To distinguish a particular judgment from a final one, the term “interlocutory” judgment is applied. An interlocutory judgment is one which is made before a final decision for the purpose of ascertaining a matter of law or fact preparatory to a final judgment, or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties or finally put the case out of court. To determine whether a judgment is final or interlocutory, its substance rather than its form or name should be considered; that the judgment is denominated interlocutory is not conclusive. In some cases, a judgment is held not to be final if the damages awarded by it are unliquidated. 30 AM. JUR., *Judgment*, § 121.

In the case *Cooper v. McGill et al.*, reported in 1 LLR 93 (1878), this Court held that appeal cannot lie from an interlocutory judgment since the appellate court cannot review cases by piecemeal. It defined a final judgment as that which puts an end to the matter in controversy, in so far as the same is within the purview of the court. The case emphasized that no appeal can be taken until final judgment. However, it maintained that an adjudication of a case is not final as long as a question which was one of the objects of the suit to determine remains un-determined and the rights of the parties thereto remain preserved for the adjudication.

In both *Williams v. McGill et al.* 1 LLR 96 (1878) and *Tuning v. Morel*, 1 LLR 235 (1891), respectively, the Court reemphasized the rule that there can be no appeal before the rendition of a final judgment. In another case, *Halaby v. Farhart*, 7 LLR 124 (1940), His Honour Chief Justice Grimes made a clear distinction between a final judgment and an interlocutory judgment. He held that there is a final judgment when the ultimate rights of the parties have been adjudicated, while an interlocutory judgment does not achieve the same.

In order to determine whether the Board of General Appeals has power to render a final judgment from which an appeal can be taken, it is important to take a critical look also at the statute creating the Board, and in this connection, the relevant portion is as follows:

“Disposition of Board of General Appeals.

The Board of General Appeals may affirm, reverse or modify the determination made by the hearing officer in any matter upon appeal before it, or it may remand the matter to the Minister of Labour

has no alternative but to render the dismissal wrongful and to order the reinstatement or compensation of the appellee, including his salary which has been withheld and all accrued benefits in accordance with section 9 of the Labor Practices Law. The appellee's length of service, salary, salary withheld, accrued benefits not being known, the Board of General Appeals is mandating both parties to be present on March 24, 1983, before us to produce this evidence. No notice of assignment is necessary. And it is so ordered."

From the foregoing excerpt of the Board's ruling, it is obvious that the position of the Board was inconclusive and that no final judgment was reached. Where there is no final judgment, an appeal will not lie. The Board had yet to decide on the amount and nature of compensation to be awarded. It also had to determine other benefits to which the appellee was entitled by virtue of the controlling statutes. In fact, the Board specifically ordered the parties to reappear before it on a specified date, which it would not have done if its ruling was final. Therefore, until their reappearance before the Board, the parties had nothing definitive from which they could appeal since indeed an appeal presupposes a final judgment. The dismissal was declared by the Board to be illegal, but that was all it said. If a party appealed therefrom, it could not have been shown what would result if the illegal dismissal ruling was upheld by the circuit court. This means that the winning party would have nothing beyond the declaration of illegal dismissal. Only the Board of General Appeals is empowered to make awards upon the finding of illegal or wrongful dismissals. Therefore, even if a higher body were to affirm the ruling of illegal dismissal, the matter would have to be returned to the Board to rule on the amount of compensation relative to the type of illegal dismissal.

Because the Board's ruling was not a final judgment, we are therefore of the opinion that the appellee could not have successfully appealed to the circuit court until the Board had finally decided the matter by awarding the compensation due to the appellant for his illegal dismissal. There cannot properly be a petition to the circuit court for a review in a labor case until the Board has finally disposed of it in accordance with its powers under the statute creating it, and it is only then that the circuit court can have the power of review. In other words, a judgment that is incomplete is unenforceable and, consequently, a legal nullity.

In view of all we have said herein above, and the legal authorities cited, we are of the considered opinion that the judgment of the court below should therefore be and same is hereby reversed, and

