The Management of Paynesville City Corporation (PCC) Montserrado County, Republic of Liberia APPELLANT Versus **The Aggrieved Workers of Paynesville City Corporation (PCC)** Montserrado County, Republic of Liberia APPELLEE

LRSC 50

APPEAL

HEARD: July 8, 2013 DECIDED: August 2, 2013

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT.

As far back as 1908, the Supreme Court under the gavel of Chief Justice Zachariah Roberts held that, jurisdiction in legal parlance means the power of the court and, authority given by law to courts over persons or things in question before it. Maurice v. Diggs, 2 LLR 3, 4 (1908). In 1949 the Court through Mr. Justice Davies espoused that a court has jurisdiction of any subject matter, if by the law of its organization, it has authority to take cognizance of, try, and determine cases of that description Phillips v Freeman, 10 LLR 134, 144 (1949). Also in 1989 Mr. Justice Azango speaking for this Court, confirmed the position of his predecessors by defining jurisdiction as the right of a court to exercise its power in causes of a certain class or the right of a tribunal to exercise its power with respect to a particular matter. He further opined that, jurisdiction is the power of a court to hear and determine a cause of action presented to it, the power of a court to adjudicate the kind of cases before it. Crabbe v. Bailey, 36 LLR 371,380 (1989). Being the legal guardian of our own records and master of the pract1ce of law, we do hereby re-affirm and confirm the holdings of our distinguished champions.

We have taken great effort to painstakingly give a chronicle on the definition of jurisdiction because the appeal before this Bench is one of the same that our predecessors were obligated by law to address.

The crust of this appeal originated from the Ministry of Labor. The certified records before us revealed that, the appellees by a letter dated July 9, 2009, which was addressed to the Minister of Labor, complained the appellant of illegally dismissing them between November 30th 2008 and January 2009.

The records further show that the appellant made no appearances before the Ministry of Labor throughout the entire proceedings, which were conducted over a period of five months, with the exception of two letters sent informing the hearing officer that its lawyer was out of the country and requesting for an unspecified time for continuance.

On November 3, 2009, the appellees made a submission requesting for the entry of a default judgment and to be allowed to introduce evidence so as to make said imperfect judgment perfect. The appellees' submission was granted by the hearing officer, who relied on Civil

Procedure Law Rev. Code 1:42.1 which provide that if a defendant who has failed to appear, plead or proceed to trial, or if the court orders a default for any other failure to proceed, the plaintiff may seek a default judgment against him.

Thereafter, the appellees produced two (2) witnesses in persons of William Akoi Eesiah and Alfred Miller, two of the eight complainants. For the purpose of this opinion we quote witness William Akoi Eesiah's testimony, which we believe is relevant to the issue of jurisdiction.

Witness William Akoi Eesiah testified as follow:

On April 10, 2007 I, William Akoi Eesiah was employed by the Minister of internal Affair. (our emphasis) Hon. Ambulai B. Johnson subsequently assigned me to the Paynesville City Corporation as Inspector General responsible to oversee and monitor the sale of Public and Private land, sanitation, squatter rights, as well as Beach toll. On December 30th, I was placed in charge of all financial managements of the city Corporation of Paynesville along with my fellow staff. On October 2008, Hon. Howard (the Acting City Mayor then) stopped payment of my allowances and salary up to today's date. Other employees along with me were dismissed by the City Corporation without due regards to the Labor Laws See minutes of court, Tuesday, November 3, sheet 25.

The testimony of Mr. Eesiah, alluding to the fact that he was employed by the Ministry of Internal Affairs, should have immediately put the hearing officer on notice of the Ministry of Labor jurisdiction to hear and determine the case.

The issue of jurisdiction was also squarely raised by the appellant when it first appeared before the National Labor Court in its returns to the appellees' petition for enforcement of the final ruling from the hearing officer. For the benefit of this opinion, we quote hereunder, counts 2, 3, 4 and 6 of the appellant returns which we deem pertinent to the issue before us.

The returns read thus:

2. Because as to count (1) of the Petition, Respondent denies that the Petitioner were ever in its employ, as can be more fully shown by the employment letter of the Mr. William Akoi Eesiah (Petitioner first witness and Chief spokesman) marked as Exhibit RR/1 to form cogent part of this Returns.

3. Further to count two (2) above, Respondent says and submit that the Petitioners are transferred employees from the Ministry of Internal Affairs who were on Government payroll up to and including the time of the termination of their services have no standing or the legal capacity as a matter of law to bring this cause of action

either before a hearing officer at the Labor Ministry or the National Labor Court. Your Honor is respectfully requested to take judicial notice of the case file.

4. That the entire amount or award is unenforceable because "in any monetary award of the Ministry of Labor arising from a complaint in a Labor matter, the amount should be clear, specific and definite or the award will be declared unenforceable and the law remanded for a new trial. 28 LLR, p. 14, Syl. 6, Bong Mining Company, Appellant v. Rudolph A. McDowald and Rusha Karnga, Chairman, Board of General Appeals, Ministry of Labour, Youth and Sports, Appellees.

6. Further to count four (4) above, the Petitioner complainants in their testimony in chief did not show or give any proof of employment with the Respondent nor their individual salaries as claimed. Your Honor is respectfully requested to take judicial notice of the November 3, 2009 minutes of the hearing, p.5&6"

Attached to appellant's returns was an employment letter from the Ministry of Internal Affairs addressed to appellees' witness Mr. William Akoi Eesiah. Because the letter is also germane to the finality of these proceedings we have thought it wise to quote the letter in this opinion. The letter reads thus:

April 10, 2007
Mr. William Akoi Eesiah
Paynesville City
Republic of Liberia

I am pleased to appoint you as Inspector for Paynesville City Corporation within Montserrado County with a salary of Twenty Seven Thousand Liberian Dollars (LD$ 27, 000.00) per annum.

Please be advised that your appointment takes immediate effect upon the receipt of this communication.

You are hereby directed to report the superintendent of Montserrado County, Honorable Nyeneken B.S. Barcon for details of your assignment.

Meanwhile, your Term of Reference shall include but not limited to the following:

Motoring the sale of private and public land within the city limit of Paynesville City.

Supervision of Squatter rights;

Supervision of sanitation; and

Supervision of cemetery

While extending warmest congratulations to you for your preferment, it is my ardent hope that you will perform your duties with honesty, integrity, commitment and diligence.

Kindest Regards.

Ambulai B. Johnson
Minister"

The judge of the National Labor Court, Her Honor Comfort C. Natt heard the petition to enforce judgment and ruled on July 5, 2010, in favor of the appellees. In her ruling she commented on the attitude of the appellant in ignoring numerous notices of assignment and had now appeared before the court to contest the ruling of the hearing officer. Judge Natt then opined that the hearing officer did not err in granting the default judgment against the appellant; and that the National Labor Court, upon proper petition, has the statutory mandate to enforce the ruling of the hearing officer which is not clothed with the authority to enforce its own judgment. Judge Natt concluded her decision by ruling as follows:

"WHEREFORE, and in view of the foregoing, petitioner's counsel having failed, neglected and refused to attend the hearing without any request for continuance, where all opportunities were afforded him to defend his client's interest, the ruling of the hearing officer of December 11, A.D 2009, holding Defendant/Management liable to Petitioners/Complainants for UNFAIR LABOR PRACTICES [perpetrated] against the Petitioners/Complainants in the total sum of LD$ 309, 400.00 (Three Hundred Nine Thousand Four Hundred Dollars) plus USD$ 3, 120.00 (Three Thousand One Hundred Twenty United States Dollars), is hereby affirmed." See minutes of court, July 5, 2010, sheet 57.

We hold that Her Honor Judge Comfort C. Natt erred by confirming the ruling of the hearing officer which we believed was made mainly out of disgust for the appellant's blatant defiance in ignoring the numerous precepts from the hearing officer. Judge Natt seemed to have been of the belief that if the appellant had appeared before that investigative administrative forum, it would have avail itself of the opportunity to be heard were it could have raised the issue of the jurisdiction of the Ministry of Labor; but having failed to appear for the hearing before the hearing officer, the appellant had now appeared before the National Labor Court only for the purpose of preventing the enforcement of the hearing officer's ruling.

While this Court can understand the frustration of Judge Natt, we have to disagree with her for ignoring the issue of jurisdiction raised by the appellant in its returns, and which, by virtue of her office she was legally bound to pass upon. This Court cannot set a precedent where judges render decisions out of anger towards lawyers and party litigants who attempt to stall and delay justice to their personal aggrandizement. If the wheels of justice were allowed to turn on our individual frustrations, the outcome could be the total collapse of law and order, the very foundation upon which every society is built.

This Court has said in numerous opinions that "once jurisdiction has been challenged, the court must stop all other proceedings in the case and determine its own jurisdiction. In fact, the law imposes that duty on the court even if none of the parties raises the issue, that is, the court, of its own motion or initiative has the duty to first determine its own jurisdiction over the subject matter before it can proceed to entertain the matter and render a ruling therein. SCANSHIP v Flomo, 41 LLR 181, 188 (2002). Also, a court must of necessity, and if need be, upon its own motion always consider the question of its jurisdiction primarily over any issue brought before it, since it is bound to take notice of the limits of its authority. K. Rasamny Bros. v Burnet, 21 LLR 271, 277 (1972). Even further, it is essential to the proper rendition of a judgment that the court has jurisdiction over the subject matter. A judgment rendered without jurisdiction is not affected by the judicial discretion of a court. In order to confer jurisdiction on a court, the subject matter must be presented for its consideration in some mode sanctioned by law. Where judicial tribunals have no jurisdiction of the subject matter on which they assumed to act, their proceedings are absolutely void in the strictest sense of the term. A court must recognize want of jurisdiction over the subject matter of a case even if no objection is made by any of the parties. Therefore whenever a want of jurisdiction is suggested by the courts for the examination of the case, or otherwise, it is the duty of the court to consider it, for if the court is without jurisdiction it is powerless to act in the case." The Intestate Estate of the late Chief Murphey-Vey John et al. v The Intestate Estate of the late Bendu Kaidii et al. 41 LLR 277, 282 (2002).

From the judgment of Her Honor Judge Comfort S. Natt, the appellant excepted, announced and perfected an appeal to the Honorable Supreme Court. As a Court of appellate review we have deemed it wise to quote counts 2, 3, 4 and 9 of appellant's bill of exceptions which again raised the issue of jurisdiction. The said counts read thus:

2. That Your honor failed and neglected to take judicial notice of the submission of the Petitioner/Defendant and erroneously and inadvertently ruled contrary to the facts and evidence adduced specifically that the Respondent/Complainants have no standing or the legal capacity as a matter of law to institute this action either before a Hearing Officer or the National Labor Court as they presented no evidence of employment.

3. That contrary to our law, practice and procedure in this jurisdiction, your Honor proceeded to rule in favor of the Respondents/Complaints when the subject matter was not cognizable before the Ministry of Labor and without the showing of any evidence or proof of direct employment with the Petitioner/Defendant that would have warranted the institution of the action.

4. That contrary to the records, the weight of the evidence and the facts presented, your Honor, on July 5, 2010, entered final judgment in the above cause of action confirming

and affirming the awards of the amounts of LD$ 309,400.00 and USD$3,120.00 to the Respondent/Complaints.

9. That your Honor erroneously affirmed and confirmed the Hearing Officer's final awards contrary to our law that provides that a default judgment must be perfected and, also because the awards are speculative and not supported by the records.

From the contentions raised supra by the appellant in its bill of exceptions and the arguments of the parties before this Court, we have determined that the sole issue this Court must pass upon is whether or not both the Ministry of Labor and the National Labor Court had jurisdiction over the persons of the appellee? We hold in the negative.

To address this issue, we take recourse to the certified records and the controlling statute(s) in order to reach a logical finality consistent with law. The records reveal that the appellant, in its returns to the petition to enforce judgment, contended that one of the appellees in person of William Akoi Eesiah was employed by the Ministry of Internal Affairs and substantiated its contention by proffering Mr. Eesiah employment letter. The records also show that Mr. William Akoi Eesiah, upon taking the witness stand on November 3, 2009, admitted to his employment with the Ministry of Internal Affairs. By this we are convinced that Mr. William Akoi Eesiah was never an employee of the Paynesville City Corporation. Hence, he should not have been seeking redress from the Labor Ministry because that forum lacked jurisdiction over him. Based on the foregoing, the Labor Court Judge should have recognized that the Ministry of Labor lacked jurisdiction of the subject matter and that therefore it could not entertain the petition on the merits of the case.

We note that the complaint alone gave sufficient notice to the Ministry of Labor and subsequently the National Labor Court on the issue of jurisdiction. The appellees' averment of being in the employ of the Paynesville City Corporation was adequate to appraise the Ministry of Labor that appellees were not subject to the Ministry and it should have declined jurisdiction as any decision from the Ministry was going to be a nullity. Our Labor Law provides that, "the jurisdiction of the Labor [Commissioner] Courts shall be confined to causes arising under Chapter II of this Title to which employers, workmen, and/or employees other than government employees are parties; it is also stipulated that, the provisions of this Chapter shall not apply to (a) public employees to the extent that their wages and other working conditions are by budgetary appropriation or by other statutes rules or regulations. Labor Law, Rev. Code 18:121; Id §21.

In our jurisdiction all government employees receiving fixed salary that are not exempted by the Civil Service Act are considered civil servants; Executive Law, Rev. Code 12:66.14 provides, except as hereinafter provided, in section 66.15, this Act shall be applicable to all officials and employees in the employ of the Liberian Government, or hereafter created, of whatever function or designation compensated by fixed salary. A careful review of

Executive Law, Rev. Code 12:66.15 reveals that appellees are civil servants because they do not fall within the classification of those employees of Government that are exempted from the Civil Service Act and, secondly, city corporations are not public corporations which generate and manage their own income. Id. § 66.15 provides inter alia:

Those exempted from the Civil Service Agency Act are as follows:

a) Members of the Legislature

b) Other elected official

c) Justices of the Supreme Court

d) Judges of Subordinate courts

e) All appointed members of boards and commission

f) Cabinet ministers

g) Deputy cabinet minister

h) Assistant cabinet minister

i) Heads of autonomous agency and bureau

j) Ambassadors

k) County superintendent

I) Territorial Superintendent

m) County territorial and other commissioner

n) Sheriffs

o) All commissioned and non-commissioned officers and enlisted of the regular armed forces

p) Law enforcement and security officers

q) All contract employees of governments

We have also reviewed the Act creating the Paynesville City Corporation and have found same devoid of a provision relative to the source of salary to its employees. However this Court takes judicial notice of the well-known fact that, municipal corporations employees' salaries are derived from budgetary allocation. Therefore, the appellees being civil servants, the National Labor Court and the Ministry of Labor should have dismissed the case and refer the parties to the appropriate forum for redress.

To conclude this opinion, we take recourse to the records of the case file and in particular, count nine (9) of the appellant's bill of exceptions with respect to the principle of law on perfecting default judgment. In the case, LTC v. Former Managers of LTC, Supreme Court Opinion, October Term 2011 the facts show that upon obtaining a default judgment in its favor, the appellees were awarded USD$ 456,500.0 (Four Hundred Fifty Six Thousand Five Hundred United States Dollars) instead of USD$ 445, 200.00 (Forty Four Thousand Two Hundred United States Dollars) as initially prayed for in the complaint. The appellant challenged the judgment in the Labor Court and on appeal before the Honorable Supreme Court on the basis that it was not supported by evidence and, that default judgment does not entitle any party to an automatic judgment. In addressing this issue, the Honorable Supreme Court agreed with the contention of the appellant by denying the petition for the enforcement of judgment. The records before us in the instant case confirms the appellant's allegation that the default judgment was not perfected by the appellees and although we are granting the appeal based on the lack of jurisdiction by both the National Labor Court and the Ministry of Labor, we must confirm and re-affirm the holdings of this court as enunciated in numerous cases that a default judgment must be supported by clear and convincing evidence, and not pieces of paper not testified to and admitted into evidence. Interim National Assembly Decree # 21 section 8; LTC v. Former Managers of LTC Supreme Court Opinion, October Term 2011; Knuckles v. the Liberian Trading & Development Bank 40 LLR 511, 525 (2001); The Management of the United States Trading Company v. Richards and Brown, 41 LLR 205, 211 (2002); In re Petition of Massaquoi & Gibson 40 LLR 698, 704 (2001). However, some legal practitioners, be it judges or lawyers, have refused to learn from opinions and rulings of this Honorable Supreme Court hence, they are condemned to repeat the mistakes of the past. What is more disheartening is the fact that it is the party litigants who suffer the pains of these ineptitudes; the responsibility has once again been placed upon this Court to reiterate and expound on these elementary principles and practice of law within this jurisdiction. Let it be known that this Court is weary of warning lawyers and judges to adhere and apply trite laws, this Court as final arbiter and regulator of the practice of law will not hesitate to apply the necessary sanctions if such an issue should come before us again.

WHEREFORE AND INVIEW OF THE FOREGOING, and without prejudice to the appellees, this Court hereby grants this appeal on the basis that the Ministry of Labor and the National Labor Court lack jurisdiction over civil servants of the classification as the appellees herein. The appellees are at liberty to re-file their grievances at the appropriate forum if they so desire. Costs are disallowed.

And it is so ordered.

COUNSELLOR SAYMA S. CEPHUS OF THE KEMP & ASSOCIATES LAW FIRM APPEARED FOR THE APPELLANT. COUNSELLOR VIAMA J. BLAMA APPEARED FOR THE APPELLEES.