

Messrs. **David Wrupue, et. al.** of the City of Monrovia, Liberia  
Appellees/Movants versus The **Management of the Liberia Produce  
Marketing Corporation (LPMC)** Appellant/Respondent

APPEAL FROM THE NATIONAL LABOR COURT, MONTSEERRADO  
COUNTY.

Heard: 3 April 2007 Decided: 11 May 2007

MR. CHIEF JUSTICE LEWIS DELIVERED THE OPINION OF THE  
COURT.

On 12 September 2000, the appellees/movants, all former employees of the Liberia Produce Marketing Corporation (LPMC), filed an action of unfair labor practice with the Ministry of Labor against the appellant/respondent, in which they claimed that they had been declared redundant by the appellant/respondent without adequate financial benefits. The matter was assigned to G. Rudolphus Brown, Assistant Minister/Hearing Officer, who issued a citation to the appellant/respondent for a pre-trial conference. At the pre-trial conference held with the parties, appellant/respondent admitted liability for some of the financial benefits claimed, but stated that the failure to pay was due to serious financial constraints facing the corporation. The appellant/respondent objected to the computation of the financial benefits which had been prepared by the appellees/movants, and outrightly rejected some of the claims. As a consequence of the impasse, a full scale investigation was had.

On 10 January 2001, at the request of appellees/movants, a default judgment against the appellant/respondent was prayed for and granted. The appellee/movants thereupon presented evidence, through the testimonies of witnesses, in support of their action. At the conclusion of the presentation of evidence, the Hearing Officer rendered a final ruling on 18 April 2001, awarding the appellees/movants "their full and just entitlements in the total amount of

three hundred fifty-three thousand one hundred seventy-two [United States] dollars and seventy-one cents [US\$353,172.71], being the US\$ component of their entitlements, and one million forty-six thousand eight hundred eighty-two dollars [Liberian] dollars and sixty-six cents [LD\$1,046,882.66], being the Liberian Dollar component, all of which is in keeping with regulation no. 8, section 1-5, and the Labor Practices Laws of Liberia, inclusive of salaries (*sic*) arrears, accrued annual leave, providence funds, etc., as contained in the breakdown as attached hereto."

On 12 September 2001, appellees/movants, as petitioners, filed with the National Labor Court a six-count petition to enforce the ruling of Hearing Officer Brown. The basis of petitioners' petition was that since Hearing Officer Brown's ruling on 18 April 2001, the appellant/respondent, respondent therein, "had not filed a petition for judicial review nor made use of the law as provided." Petitioners attached to their petition a copy each of the Clerk's Certificate of the National Labor Court, and of the Division of Labor Standards, Ministry of Labor.

The respondent, in a thirteen-count resistance maintained, *inter alia*, that the petition should be denied because, as of the date of filing of the petition, the Hearing Officer had not served respondent with a copy of said ruling, so as to enable respondent to except to the ruling, and announce an appeal to the National Labor Court.

The petition to enforce the ruling of Hearing Officer Brown and the resistance were heard by Her Honor Comfort S. Natt, Judge of the National Labor Court, who, by judgment dated 11 June 2004, granted the petition, and confirmed and affirmed the default judgment of Hearing Officer Brown. The respondent noted exceptions to the final judgment, and announced an appeal to this Court.

On 18 February 2005, appellees/movants filed a four-count motion to dismiss the appellant/respondent's appeal before this Court. Appellees/movants maintain in their motion that "although the appellant/respondent excepted to the final judgment of the National Labor Court, announced an appeal to the Honorable

Supreme Court and filed an eight-count bill of exceptions within ten days of the date of the final judgment; yet, the appellant/respondent has not filed its appeal bond as required by statute within sixty days." Appellees/movants submitted that failure of an appealing party to file an appeal bond renders an appeal defective and dismissible, and requested this Court to dismiss the appeal, and confirm the final judgment of the National Labor Court.

On 31 March 2005, appellants/respondents filed a seven-count resistance to the appellees/movants' motion, maintaining that the motion should be dismissed as a matter of law; for, under the Civil Procedure Law, 1 L.C.L.Rev., tit. 1, § 63.8 ( 1973), "a wholly-owned government corporation, such as the Liberia Produce Marketing Corporation, is not required to post a bond in any matter."

For the purpose of this opinion, we quote counts three, four and five of the appellant/respondent's brief:

"Respondent filed a thirteen-count returns to the movants/petitioners' petition on 24 September 2001. Although respondent's counsel of record before the National Labor Court was Pierre, Tweh & Associates, notices of assignment issued by the National Labor Court were served on Counselor Isaac Nyenplu, respondent's in-house legal counsel. Unfortunately and surprisingly, Counselor Nyenplu failed to contact Pierre, Tweh & Associates or to appear in person to honor the assignments. On 3 June 2004, after several unexcused absences by Counselor Nyenplu, the Court heard the petition and reserved its ruling. Quite surprisingly, the notice of assignment for the rendition of the National Labor Court's final ruling was served on Pierre, Tweh & Associates, and not on Counselor Nyenplu. Counselor Nyenplu excepted to the adverse ruling and announced an appeal to this Honorable Court.

"Respondent says that the appeal was from the National Labor Court's ruling ordering the enforcement of the Hearing Officer's ruling and not on the merits of

the case. Due to the precarious financial situation facing respondent, it could not find funds to post an appeal bond.

"Relying on section 63.8 of our Civil Procedure Law, respondent proceeded to complete its appeal without posting an appeal bond. Movants filed a motion to dismiss the appeal on grounds that respondent had failed to file an approved appeal bond with the trial court."

We have been unable to comprehend what the appellant/respondent was attempting to convey in these counts of his brief. One thing we are sure of, however, is that Counselor Isaac Nyenplu, in-house counsel of the appellant/respondent, was most negligent in the handling of his client's legal interest, and we wonder whether he is still retained in-house counsel of the Liberia Produce Marketing Corporation.

The one issue determinative of the motion to dismiss and the resistance is whether the Liberia Produce Marketing Corporation, a wholly-owned government corporation, is excluded from posting an appeal bond to perfect its appeal from the adverse ruling of the National Labor Court.

Civil Procedure Law, 1 L.C.L.Rev., tit. 1, § 63.8 (1973), titled "Bond by Republic municipal corporation, or public officer," provides:

"Any provision of statute or rule of court authorizing or requiring a bond to be given by a party shall, unless the contrary is clearly expressed, be construed as excluding the Republic, or a domestic municipal corporation, or a public officer or agency in behalf of the Republic or of such a corporation."

We hold that this provision of the Civil Procedure Law is applicable only where the party is the Republic, a *domestic municipal corporation*, or public officer of the Republic or of the *domestic municipal corporation*. The Liberia Marketing Corporation, although wholly-owned by the Liberian Government, is not a *domestic municipal*

*corporation*. Civil Procedure Law, 1 L.C.L.Rev., tit. 1, § 63.8 (1973), is therefore not applicable to the appellant/respondent.

In *Liberia Electricity Corporation v. Lloyd*, 41 LLR 348, 352 (2003), this Court had occasion to pass upon the identical issue being decided today. While we concur that the Liberia Electricity Corporation, a wholly-owned Government corporation, as is the Liberia Produce Marketing Corporation, is not excluded from posting an appeal bond, we differ with the Court's rationale in that case when it held:

"The Civil Procedure Law, 1 L.C.L.Rev., tit. 1, § 51.8 [(1973)], states . . . that *ye/very appellant* shall give an appeal bond in an amount to be fixed by the court, with two or more legally qualified sureties, to the effect that he will indemnify the appellee from all costs or injury arising from the appeal, if unsuccessful, and that he will comply with the judgment of the appellate court or of any other court to which the case is removed. The appellant shall secure the approval of the bond by the trial judge and shall file it with the clerk of the court within sixty days after rendition of judgment. Notice of the filing shall be served on opposing counsel. A failure to file a sufficient appeal bond within the specified time shall be a ground for dismissal of the appeal; provided, however, that an insufficient bond may be made sufficient at any time during the period before the trial court loses jurisdiction of the action.'

"We note that the language of this section commences with the word *every* which, when read in conjunction with the rest of the words, clearly conveys the meaning that the framers of this section of the Civil Procedure Law intended that the section should apply to every appellant without exception. . . . (emphasis provided by the Court)."

We hold that Civil Procedure Law, 1 L.C.L.Rev., tit. 1, § 63.8 (1973) is an exception to Civil Procedure Law, 1 L.C.L.Rev., tit. 1, § 51.8 (1973), and that where the party is the Republic, a domestic municipal corporation, or public

officer of the Republic or of the domestic municipal corporation, it is excluded from posting an appeal bond. In accord: *Republic of Liberia v. Collins*, 13 LLR 457, 461 (1960); *Ankra v. The Liberia Federation of Labor Unions (LFLU)*, 36 LLR 343, 347 (1989).

In view of the foregoing, the appellees/movants' motion to dismiss is hereby granted. The Clerk of this Court is ordered to send a mandate to the judge of the National Labor Court, Montserrado Court, to resume jurisdiction over this case and to give effect to this judgment. It is so ordered.

*Motion to dismiss granted; appeal dismissed.*