

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN
ITS MARCH TERM, A.D. 2022

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR..... CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE..... ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH..... ASSOCIATE JUSTICE
BEFORE HER HONOR: JOSEPH N. NAGBE..... ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA..... ASSOCIATE JUSTICE

The Management of Firestone Liberia Inc., represented)
by its President and Managing Director, Mr. Edmundo)
Garcia and all corporate officers of Harbel, Margibi)
County Republic of Liberia1st Appellant)

And)

The National Social Security and Welfare Corporation)
(NASSCORP) 2nd Appellant)

Versus)

Appeal)

His Honor Koboi Nuta, Assigned Circuit Judge,)
Thirteenth Judicial Court, Margibi County, and Retirees)
of Firestone Liberia, represented by their spokesman, J.)
Feay Roberts, of Margibi County and other parts of the)
Republic of Liberia Appellees)

GROWING OUT OF THE CASE:)

The Retirees of Firestone Liberia, represented by their)
Spokesman, J. Feay Roberts, of Margibi County, and)
Other parts of the Republic of Liberia..... Petitioners)

Versus)

Petition for)
Declaratory)
Judgment)

The Management of Firestone Liberia Inc., represented)
by its President and Managing Director, Mr. Edmundo)
Garcia and all corporate officers of Harbel, Margibi)
County, Republic of Liberia 1st Respondent)

And)

The National Social Security and Welfare Corporation)
(NASSCORP) 2nd Respondent)

Heard: December 14, 2021

Decided: September 5, 2022

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

In a case decided during its October Term A.D. 2021, the Supreme Court was called upon to address an issue of the concurrent existence of two laws relating to

the legal entitlement of a retired employee, and which of the two laws was the applicable law given the facts and circumstances of that case. The two laws were the Labor Practices Law of Liberia (1961), Part V entitled *Social Welfare*, section 26, *Retirement Pensions, vis a vis* the National Social Security and Welfare Law (1980), Title 22(a), Liberian Code of Laws Revised. The present appeal to a certain extent, borders on the self-same issue.

The certified records show that the appellees herein are all retired workers of Firestone Liberia Inc., the 1st appellant; that on December 12, 2018, the 1st appellant published a memorandum informing its retirees of the commencement of a verification process to identify all those retirees whose files are dormant or inactive for four (4) or more years preceding the date of the indicated memorandum in order to remove those dormant or inactive retirees from the listing of the files of the pension scheme, and to avoid fraudulent payments. The December 12, 2018, memorandum is quoted *verbatim* below, to wit:

“To : All Retirees
From : Management
Date : December 12, 2018
Subject : Verification of Firestone Pensioners

It has come to the attention of the Management of Firestone Liberia that several pensioners’ files have been without activity for four or more years. These pensioners are supposedly within the limits of the Liberian border including Margibi where the company has its Pension Office. There is no reason for them not to appear or make representation more often.

Firestone Liberia wishes to announce that it will be conducting a SPECIAL VERIFICATION PROCESS during the next three months, December through February 2019 for pensioners who have not been verified for more than 12 months. During this time, all pensioners are encouraged to come to Firestone.

The generally accepted laws and practice regarding periodic verification is necessary to safeguard against fraud. In consideration of this, the Management of Firestone Liberia will implement the following policy to regulate payments.

Any Pensioner with a DORMANT file will forfeit any pensions that have not been collected for more than 2 months. This means that the maximum arrears any pensioner can receive at any one time is 12 months. All pensions more than 12 months will be forfeited.

This is similar to procedures used to other Pension Administration in Liberia.

Please contact our Human Resource office for any additional information or clarity on this issue.”

Thereafter, on December 17, 2018, the 1st appellant published another memorandum informing its retirees that the 1st appellant will pay 40% of their last monthly salary as pension until the National Social Security & Welfare Corporation (NASSCORP) assumed the responsibility of paying the retirees their

retirement pension. According to the memorandum, in the event the NASSCORP payment is less than the 40%, the appellant will pay the remaining difference. This memorandum of December 17, 2018, is also quoted *verbatim* below, to wit:

“To : All Retirees
Date : December 17, 2018
Subject : RETIREES PENSIONS

Firestone Liberia is aware that the Pensions Policy of Firestone Liberia as well as the Letters of notice of retirement state as follows:

As a retiree the company shall pay you a monthly retirement pension calculated at 40% of your last monthly salary until such time when the National Social Security & Welfare Corporation shall assume the obligation and responsibility of paying retirement pension. In the event the National Social Security & Welfare Corporation payment is less than 40%, Firestone Liberia will pay the difference between the 40% and the percentage for any other benefits to which you may be entitled.

Therefore, in view of the above, the Management of Firestone Liberia will like to announce that considering the fact that the National Social Security & Welfare Corporation is fully administering the national pensions including that of the Civil Servants, effective March 1, 2016, it will commence payment of pensions as follows:

1. Current Firestone Liberia’s retirees who did not make a minimum of 100 contributions to NASSCORP and are not eligible for NASSCORP Pensions will continue to receive pensions from Firestone Liberia.
2. Current Firestone Liberia’s retirees, who have made 100 or more contributions to NASSCORP, will be paid Firestone pensions only in the difference between the 40% and the percentage they are eligible for at NASSCORP.
3. Current Firestone Liberia’s retirees who retired earlier than age 60, and have already made 100 contributions to NASSCORP, will begin receiving their pension from NASSCORP after the retiree reaches the age of 60 and Firestone Liberia will pay only the difference if any, of the 40%.

Please contact our Human Resource Office in person for any additional information or clarity on the retirement and pension issue call Tel. # 0776582729

Signed: Management”

On February 15, 2019, in response to the above quoted memorandum, and acting through their designated spokesman, J. Feay Roberts, the appellees filed a petition for declaratory judgment before the 13th Judicial Circuit Court, Margibi County, against the 1st appellant, requesting the trial court to declare that pursuant to

Section 2501 of the Labour Practices Law of Liberia (1961) and the National Social Security and Welfare Law (1980), they are entitled to receive retirement pension from both the 1st appellant, Firestone Liberia and the National Social Security Corporation, the 2nd appellant herein; that the 1st appellant has no legal basis to conduct a verification process or cause a forfeiture of retirees' salaries; and that the trial court issue an interim order prohibiting the 1st appellant from executing its directives in its memorandums of December 12, 2018, and December 17, 2018, respectively. The trial court presided over by His Honor, Judge Yamie Quiqui Gbeisay issued an interim order granting the appellees' request and ordered the appellant to halt the verification process and to continue with payments of retirement benefits to all of the retirees.

On February 25, 2019, the 1st appellant filed its returns along with a motion to dismiss and a motion to vacate the interim order, asserting that the 13th Judicial Circuit Court lacks original jurisdiction to hear labour related cases; that Co-appellee J. Feay Roberts did not show proof of his power-of-attorney from the remaining appellees for whom he claimed to be their spokesman and as such he lacked the capacity to sue on their behalf; and that pursuant to the National Social Security Corporation Law, the appellees are not entitled to receive retirement pension from both the 1st appellant and the 2nd appellant.

The trial judge listened to arguments on the 1st appellant's motion to dismiss and denied same. He also assigned the motion to vacate for hearing, listened to arguments thereon, and also denied the motion to vacate the interim order.

On April 13, 2019, the 1st appellant filed a petition for certiorari before the Justice presiding in Chambers of the Supreme Court, Mr. Justice Joseph Nagbe, to have the decision of Judge Gbeisay reviewed. The Justice in Chambers ordered the Clerk to issue the alternative writ of certiorari with a mandate instructing the appellees to file returns, to which mandate the appellee complied. Thereafter, he entertained oral arguments on the petition and returns thereto, and rendered a ruling in which he quashed the alternative writ he had ordered issued, on grounds that the appellant failed to timely apply for its petition for the writ of certiorari but had instead participated in subsequent proceedings by the trial court before its petition for the writ of certiorari, that is, hearing of the motion to vacate the interim order. The appellant appealed this ruling by the Justice in Chambers to the Supreme Court *en banc*.

On March 18, 2020, the Supreme Court entertained oral arguments *pro et con* on the appellant's appeal, and on September 3, 2020 rendered its Opinion and Judgment. The Court agreed with the Justice in Chambers that as to that aspect of the appeal relating to the appellant's motion to dismiss filed before the trial court, the Justice in Chambers rightly ruled that, "a notice of assignment having been issued, served and returned served for the hearing of the [1st appellant's] motion to vacate, and hearing had thereon, the ruling on the motion to dismiss was no longer within the reach of the remedial process of certiorari" and that the Justice in Chambers rightly denied the peremptory writ and ordered the alternative writ quashed and vacated. However, as regards that aspect of the 1st appellant's petition

for a review of the trial judge's ruling denying its motion to vacate the interim order, the Court determined that it was inadvertence by the Justice in Chambers when he overlooked this part of the appellant's petition for the writ of certiorari. The Court then opined that the trial court's denial of the motion to vacate the interim order was arbitrary as same was contrary to the mandatory pre-requisite for the granting of an interim order as required by the Civil Procedure Law Rev Code 1:7.63(3), and affirmed the alternative writ and ordered issued the peremptory writ of certiorari as regards the appellant's motion to vacate the interim order. *The Management of Firestone v. Associate Justice Joseph N. Nagbe*, Supreme Court Opinion, March Term, A.D. 2020.

The parties returned to the trial court and on November 9, 2020, the 1st appellant filed a motion to join the 2nd appellant, NASSCORP, to the petition for declaratory judgment as party respondent to ensure that complete relief is accorded to all affected parties. There being no resistance by the appellees to this motion, same was granted, and the 2nd appellant filed its returns asserting that the appellees cannot receive retirement pension concurrently from the 1st appellant and the 2nd appellant.

On June 16, 2021, His Honor Korboi K. Nuta, the Judge presiding by assignment over the May A.D. 2021 Term of the 13th Judicial Circuit Court, Margibi County, listened to arguments on the petition for declaratory judgment and the returns thereto and thereafter rendered ruling on June 22, 2021, wherein he granted the petition for declaratory judgment. Judge Nuta stated in his ruling that the appellees are entitled to receive their pension from both the 1st appellant and the 2nd appellant concomitantly since the appellees were retired under section 2501 of the Labour Practices Law, and the 1st appellant having commenced payment under the said Law must continue making payment to the appellees. Judge Nuta also stated that the 1st appellant and the 2nd appellant lack the authority to carry on the verification exercise, or set conditions for the forfeiture of retirement pension as same violates the Decent Work Act of 2015. Relevant excerpts from Judge Karboi K. Nuta's ruling are quoted below, to wit:

“...The parties are in agreement that the Petitioners were all retired under Section 2501 of the Labor Law of Liberia and the said Section 2501 of the Labor Law of Liberia clearly provides that an employer is required to pay a retirement pension of an employee that retires from its employ at the age of sixty (60) if the employee has completed fifteen (15) years of continued service or at any age, the employee has completed twenty-five (25) years of continued service with the employer; and such retirement pension is calculated at forty percent (40%) of the monthly average earning of the employee over the last five (5) years of employment and pay in equal monthly installments until the death of the employee. It is also undisputed that the Co-Respondent Firestone Liberia retired the petitioners and paid them retirement compensation in keeping with Section 2501 of the Labor Law of Liberia up to and including March 1, 2016. So, if Respondent argument is that PRC Decree No. 1 and its Appendix 14-1 (1980) repealed Section 2501 of the Labor Law of Liberia, then the Co-Respondent Firestone Liberia should not have retired the petitioners under Section 2501 of the Labor Law of Liberia and commenced paying them

retirement pension consistent with said law. Moreover, Chapter 22 of the Decent Work Act, 2015, captioned ‘Social Welfare’ at Section 22.1, ‘Scope’ provides that said provision would not be applicable to an employer who (I.) fulfill a comparable obligation under a pension scheme administered by the National Social Security and Welfare Corporation Law as amended; (II.) registered with NASSCORP and (III.) complied with the obligation under regulations relating to a pension scheme administered by NASSCORP. Notwithstanding this provision of the Decent Work Act (2015), the said Decent Work Act (2015) under the selfsame Chapter 22 at Section 22.2 captioned ‘Employer to pay pension to employee’ requires employers not complying with Section 21.1 mentioned herein to pay retirement pension to employees that retired from their employment at the age of sixty (60) if the employee has completed at least fifteen (15) years of continuous service at the employer or at any age if the employee has completed at least twenty five (25) years of continuous service with the employer.

Accordingly, the argument of Respondents that PRC Decree No. 1 and its Appendix 14-1 (1980) repealed Section 2501 of the Labor Law of Liberia and that the National Pension Scheme of Co-Respondent NASSCORP superseded, supplanted and substituted the Pension Scheme of the Labor Law is untenable.

As to the argument of the Respondents that Section 2501 and the National Social Security and Welfare Corporation Act are inconsistent and contradictory with each other in terms of requirements, and also in terms of benefit and that under law, if an act is so repugnant to, or contradictory with and irreconcilably in conflict with a prior act and that the two (2) acts cannot be harmonized in order to effect the purpose of their enactment and the latter act operates without any repealing clause as a repeal of the first to the extent of the irreconcilably inconsistency, this Court says that the Respondents had remedy under the law to have the Court declare what the law is based on the perceived inconsistency and contradiction of the law as alleged by the Respondents. This Court is in agreement with the Petitioners that under Article twenty (20) “A” of the 1986 Constitution of Liberia, they cannot be deprived of their rights to receive pension from Co-Respondent Firestone Liberia until death without a hearing judgment consistent with due process of law. This Court says that even after the enactment of the Decent Work Act, 2015, Co-Respondent Firestone Liberia continued to pay each of the Petitioners their retirement pension under Section 2501 of the Labor Law of Liberia up to March 1, 2016. Accordingly, Co-Respondent Firestone Liberia cannot discontinue its obligations to pay retirement pension to the Petitioners without a court declaration.

The Co-Respondent Firestone Liberia contends that the argument of Petitioners that the Decent Work Act, 2015 cannot be applicable to Petitioners under the doctrine *ipso facto* law is absurd on reason that Chapter 26 of the Labor Law was repealed in 1980 by PRC Decree No. 1 and its Appendix 14-1.

This court disagrees with Co-Respondent Firestone Liberia for reason already stated hereinabove. More besides, the Decent Work Act, 2015 clearly provides that said Act would take effect immediately upon publication into hand bills. This Court says that the Decent Work Act, 2015 came into effect on June 26, 2015 at the hour of 3:30 P.M., when same was approved by the President of the Republic and therefore, consistent with Article 21 “A” of the Constitution of

Liberia against [*ex post facto* law], that is to say, laws cannot have retroactive effect. So, assuming that the Decent Work Act, 2015 repealed Section 2501 of the Labor Law of Liberia, which is not the case as indicated hereinabove, it would not have been applicable to the Petitioners.

This Court observed that the Co-Respondent Firestone Liberia's letters of retirement to the Petitioners has two (2) different contents. To some of the Petitioners, Respondent indicated in their letters of retirement that Respondent will pay a monthly retirement pension, calculated at 40% of their last monthly salary and that since Respondent had made contribution to the pension scheme of Co-Respondent NASSCORP, the said Petitioners were also entitled to receive retirement pension and/or such benefits as defined by the rules and regulations and policy of NASSCORP; to other petitioners, the Respondent indicated in their letters of retirement that they will be paid monthly retirement pension calculated at 40% of their last monthly salary until such time when Co-Respondent NASSCORP assumes the obligation and responsibility of paying retirement pension; and in the event Co-Respondent NASSCORP's payment is less than 40% Co-Respondent Firestone Liberia would pay the difference between the 40% and the percentage for any other benefit to which they may be entitled. This Court says that this conduct of the Co-Respondent Firestone Liberia in retiring Petitioners under two (2) different terms and conditions amounts to discrimination at work place in violation of both the Constitution of Liberia and the Labor Law.

All of the Petitioners were retired under Section 2501 of the Labor Law of Liberia and the content of the retirement letters to each of the petitioners was required to be the same and identical in terms and conditions. It is the law that determines the compensation and who should make the compensation with respect to retirement payment. Retirement payment is not left to the whims and caprices of the employer.

With regards to issue number two (2), this Court says that both the Labor Law of Liberia and the Decent Work Act, 2015 insist that the worker's right to receive payment of retirement pension cannot be assigned, transferred, hypothecated, encumbered, commuted or anticipated and it is exempt from execution, garnishment and other process for the collection of indebtedness, provided that an employer may deduct sums of money lawfully owe to the employer by the employee. Accordingly, the Memorandum issued by Co-Respondent Firestone Liberia to the effect that after March 1, 2019, all files not verified for more than twelve (12) months will be considered dormant and that any pensioner with a dormant file will forfeit pension not collected for more than two (2) years is in gross violation of the Labor Law of Liberia and its succeeding Decent Work Act, 2015. It is not within the province of the employer to set a condition for forfeiture of retirement pension.

Wherefore and in view of the foregoing, this Court declares as follows:-

- I. That the Memoranda dated December 12, 2018 and December 17, 2018 captioned 'Verification of Firestone Pensioners' and 'Retirees Pensions' are hereby declared null and void and of no legal effect;

II. That Petitioners are entitled to receive their full retirement pension from Co-Respondent Firestone Liberia and accordingly, Co-Respondent Firestone Liberia is ordered to resume the payment of petitioners' retirement pension retroactive as of March 1, 2016;

III. That Petitioners can under no condition forfeit their retirement pension;..."

The appellants noted exceptions to Judge Nuta's ruling, announced an appeal to the Supreme Court and filed their respective bill of exceptions, basically alleging that Judge Nuta overlooked the fact that PRC Decree No.14 and the NASSCORP Act repealed Section 2501 of the Labour Law(1961), and that it was a reversible error on the part of Judge Nuta to rely on Section 2501 of the said Labour Law and Section 22.1 and 22.2 of the Decent Work Act as a basis for ordering the appellant to continue paying retirement benefits to the appellees, when at the same time receiving retirement payment from the NASSCORP.

Given the challenges raised in the respective bill of exceptions, the salient issue this Court must dispose of is whether the 1st appellant is compelled to continue paying the appellees their entire 40% retirement pension, while the appellees, on the other hand, are receiving pension from the 2nd appellant. In other words, can a retiree receive pension under the Sections 89.20 and 89.21 of the NASSCORP Act and at the same time receive pension from his/her employer under Section 2501 of the Labour Practices Law or Chapter 22 of Decent Work Act of 2015?

This Court stated earlier herein that the present case to a certain extent borders on the issue in the case, *The Management of the Liberia Coca-Cola Bottling Company v. Nat and Doweh*, Supreme Court Opinion, October Term A.D. 2021, regarding the concurrent existence of two laws addressing the same subject matter of the pension entitlement of a retired employee, and which of the two laws was the applicable law given the facts and circumstances of the case.

The facts in the *Coca-Cola case* revealed that Ezekiel Doweh was retired from the Liberia Coca-Cola Bottling Company and was instructed to proceed to the National Social Security and Welfare Corporation (NASSCORP) to receive his retirement pension. Doweh objected and filed a complaint to the Ministry of Labour to compel the Liberia Coca-Cola Bottling Company to pay his retirement pension pursuant to Section 2501 of the Labour Law in addition to his NASSCORP pension. The Ministry of Labour conducted a hearing into the complaint and ruled in favor of Doweh stating *inter alia* that Doweh was entitled to receive retirement pension from the Liberia Coca-Cola Bottling Company pursuant to Section 2501 of the Labour Practice Law. The Liberia Coca-Cola Bottling Company filed a petition for judicial review before Judge Comfort Natt of the National Labour Court but same was heard and denied on the basis that Doweh was entitled to receive pension from his employer as well as the NASSCORP. The Liberia Coca-Cola Bottling Company noted exceptions and appealed from this ruling of Judge Natt to the Supreme Court.

On appeal, the Supreme Court reversed Judge Comfort Natt's final ruling and held that the intent of the Legislature in passing PRC Decree No.14 which established

the NASSCORP was to prevent an employee from receiving retirement pension from his/her employer under Section 2501 of the Labour Law and at the same time receiving pension from the NASSCORP pursuant to Sections 89.20 and 89.21 of the NASSCORP Act in the absence of a provident/gratuity fund. The Court in addressing the conflicting view posed by Section 2501 and Sections 89.20 and 89.21 of the NASSCORP Act regarding retirement and the payment of pension opined thus:

“...Section 2501 of the Labor Law which provides for retirement pension was enacted to cover employees who worked for an entity consecutively for 25 years and have retired or who worked for a consecutive period of 15 years and attained the age of 60. It is a matter of public knowledge that the Labor Law was enacted on June 6, 1961, and it is a general law which addresses variety of employer-employee related issues including: wrongful dismissal, work schedule, annual leave, redundancy, as well as retirement pension. There is also no dispute that at the time of the enactment of the Labor Law and up to July of 1980, a period of approximately twenty (20) years, the National Social Security and Welfare Corporation had not been established thereby all Labor related issues were governed by the Labor Law (1961), including retirement pension.

It was not until July 1, 1980 that the Legislature enacted PRC Decree No. 14 establishing the National Social Security and Welfare Corporation and included therein, sections 89.20 and 89.21 which provide for the requirement of pension and the minimum rate of retirement pension for different categories of employees as was done in the Labor Law. The National Social Security and Welfare Act (1980) being [more recent and] specific on the subject of retirement pension as compared to the Labor Law which is more general of the holistic working conditions between an employer and an employee, the National Social Security and Welfare Act (1980) is the governing law. It is a principle of law that where two legislative acts are in conflict with each other, the last one enacted will govern, control or prevail and supersede and impliedly repeal the earlier act although it contains no repealing clause. Hence, Sections 89.20 and 89.21 of the NASSCORP Act of 1980 being the most recent law will govern retirement pension”.

Speaking to the issue of pension plan, gratuity, provident fund or other special arrangement between an employer and an employee, the Court also opined as follows:

“...where there exists an expressed pension plan, gratuity or provident fund between the employer and the employee, the employee is entitled to payment under such a scheme and payment under the NASSCORP Act. And, it does not and cannot refer to section 2501 of the Labor Law as same is inapplicable under the principles of law discussed herein. Rather, it refers to those pension plans, gratuity agreements or provident funds arrangements as may be voluntarily established between an employer and employee.”

We confirm the holdings of the Supreme Court in the *Coca-Cola case* and herein hold that absent a pension plan, gratuity, provident fund or other special arrangement between an employer and an employee, a retiree who receives pension under Sections 89.20 and 89.21 of the NASSCORP Act cannot receive

pension from his/her employer under Section 2501 of the repealed Labour Practices Law (1961) or Chapter 22 of the Decent Work Act of 2015. This position of the Court is supported by Section 22.1 of the Decent Work Act of 2015 which clearly excludes employers who have fulfilled a comparable obligation under the pension scheme administered by the NASSCORP, or registered with the NASSCORP, or in compliance with their obligations under the regulations relating to a pension scheme administered by the NASSCORP. Chapter 22.1 of the Decent Work Act states thus:

“... This Chapter does not apply to an employer who is or who becomes: (a) Required to fulfill a comparable obligation under a pension scheme administered by the National Social Security and Welfare Corporation (NASSCORP) under the National Social Security and Welfare Law as amended; and (b) Registered with the NASSCORP; and (c) compliant with their obligations under regulations relating to a pension scheme administered by NASSCORP...”

Now, applying the above quoted laws to the present case, it is undisputed that Section 22.1 of the Decent Work Act of 2015 exempts the 1st appellant, Firestone from paying pension to the appellees as it has fulfilled its comparable obligation under the pension scheme administered by the 2nd appellant, NASSCORP; that the 1st appellant is registered with the 2nd appellant, and that the 1st appellant is also in compliance with their obligations under the regulations relating to a pension scheme administered by the 2nd appellant.

Notwithstanding this clear language of the Decent Work Act of 2015, and Sections 89.20 and 89.21 of the NASSCORP Act of 1980, the trial court however adopted a contrary position by ruling that the 1st appellant is still required to pay the appellees' pension since the appellees were retired under Section 2501 of the Labor Law (1961); and that the Decent Work Act of 2015 cannot be applied retroactively to the appellees who are still receiving their pension from the 1st appellant and the 2nd appellant even after the enactment of the Decent Work Act of 2015. We disagree.

Firstly, the trial court inadvertently overlooked the fact that the NASSCORP Act of 1980 is more recent and specific on the subject of retirement pension as compared to the Labour Law of 1961. In such instances, it is the law extant, that where two legislative acts are repugnant to, or in conflict with each other, as in the case of the Labor Practices Law of Liberia (1961) and the NASSCORP Act (1980), the latter is the governing law and supersedes and impliedly repeals the former act, although containing no repealing clause, and we so hold.

Secondly, the exemption clause in Section 22.1 of the Decent Work Act of 2015 is applicable to the appellees' retirement pension because all the appellees were retired after the passage of the NASSCORP Act of 1980; that the 1st appellant in keeping with the NASSCORP Act of 1980 registered with the 2nd appellant and is in compliance with its obligations under the pension scheme administered by the

2nd appellant. In view of this, the ruling of the trial court violates the law, in that the 1st appellant is being compelled to comply with both Sections 89.20 and 89.21 of the NASSCORP Act of 1980, and Section 22.1 of the Decent Work Act of 2015 which exempt employers that are registered with and in compliance with the 2nd appellant's regulations.

This Court says having already recognized and acknowledged that Sections 89.20 and 89.21 of the NASSCORP Act of 1980 as the governing law regarding retirement pension we hold that the appellant is not obligated to continue paying the appellees their 40% retirement benefits while they, the appellees, are receiving pension benefits from the 2nd appellant pursuant to the laws herein stated. Hence, the appellees that are eligible under the NASSCORP Act should proceed to the offices of the NASSCORP to receive their pension payments.

There is however, an aspect of the present case that was not seen in the *Coca Cola Case* and this is with regards to the commitment made by the 1st appellant in its memorandums of December 12, 2018 and December 17, 2018, respectively. In the subject memorandums, the 1st appellant on its own, bound and committed itself and agreed to pay whatever difference the 2nd appellant is unable to pay regarding the appellees' 40% pension benefit.

Similarly, as in the case of retirees noted *supra*, the 1st appellant also committed itself under the Memorandum of December 12, 2018, to continue to pay pension benefits, calculated at 40% of their last salary, to current Firestone retirees, who did not meet the minimum 100 contributions requirement of NASSCORP and hence, are not eligible for the NASSCORP's pension benefits.

These commitments by the 1st appellant, although appear to be in nature, are however valid and binding on the 1st appellant pursuant to Section 89.9 of the NASSCORP Act of 1980 and the principle enounced in the case: *The Management of the Liberia Coca-Cola Bottling Company v. Nat and Doweh*, Supreme Court Opinion, October Term A.D. 2021. In interpreting section 89.9 of the NASSCORP Act, this Court in the *Coca-Cola case* opined that a gratuity arrangement between an employer and an employee like the one stated in the memoranda of December 12, 2018 and December 17, 2018, respectively, is enforceable. Hence we hold that pursuant to the 1st appellant's memoranda of December 12, 2018, and December 17, 2018, respectively, the 1st appellant is obligated to pay whatever difference the NASSCORP pays if less than the 40% of the current eligible appellees' pension benefits paid by Firestone. Additionally, Firestone is to pay the full retirement benefits to current Firestone retirees who are not eligible for the NASSCORP pension.

In concluding this Opinion, we unequivocally state here, that pension payments to the appellees cannot be carried out year after year without a verification process, as by the dictates of the law, pensions are paid up to the date of death of a retiree. Moreover, Section 89.3(c) of the NASSCORP Act of 1980 provides that "the function of the 2nd appellant shall include but not limited to design and maintain

the mechanism to collect the appropriate current information necessary for present and future operating efficiency...” [Note our emphasis] In our minds, this provision of the law grants unto the 2nd appellant the right to conduct verification exercise and which should be done in consonance with the 1st appellant, the latter being the originator and custodian of the records of the names and other relevant information of its retirees. The verification process is to purge the scheme of possible ghost names or prevent fraud, and this is provided for in Sections 89.44 and 89.47 of the NASSCORP Act which states, to wit:

“The National Social Security and Welfare inspectors shall be empowered:

- a) To enter upon the premises or place of business of an employer at all reasonable times to examine, enquire or obtain information from the employer for the purpose of this Decree.
- b) To enter the premises or place of business of an employer and require the production of documents and other records relating to the appointment, attendance, remunerations, contributions or liability to contribute by or on behalf of the workers, for his inspection on the premises and to take copies or extracts therefrom.
- c) To require from an employer the production of documents and records relating to past transactions at the office of the inspector or any other government office or at any other place required by the inspector.

And, any employer who:

- a) With intent to evade payment of any contribution or any other amount under this Decree or Regulations promulgated by the Director General, knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in any particular; or
- b) In order to benefit himself or some other person or persons, knowingly makes any false statement or representation, or produces or furnishes, or causes to be produced or furnished, any document or information which he knows to be false in any particular; or
- c) Misrepresents or fails to disclose any material facts; or
- d) Fails to pay to the Fund within such period as may be prescribed, any amount which he is liable to pay under this Decree or the Regulations; or
- e) Obstructs any inspector, officer or servants or the Fund in the discharge of his duties as such; or
- f) Fails to comply with any Regulations made under this Decree; or
- g) Commits any other offense or defaults under this Decree or Regulations issued by the Director General; shall be guilty of a misdemeanor and, upon conviction, punishable as follows:

i) In case of an employer, by a fine of not less than \$500, nor more than \$2,000, or by imprisonment not exceeding one year.

ii) In case of an employee, by a fine of not less than \$25.00 nor more than \$200.00 or by imprisonment not exceeding six months...”

Given the above quoted provisions of the NASSCORP Act we disagree with Judge Nuta that the 1st appellant and the 2nd appellant are prohibited from carrying out a verification exercise when the law clearly mandates that same is of grave necessity to avoid fraud, waste, and abuse of the pension scheme. We therefore hold that pursuant to sections 89.44 and 89.47 of the NASSCORP Act, the NASSCORP and Firestone are to conduct verification exercises of all retirees meeting the 100 contribution requirement; and the appellees who are eligible under the NASSCORP Act should proceed to the offices of the NASSCORP to receive their pension payments.

WHEREFORE AND IN VIEW OF THE FOREGOING, the 1st and 2nd appellants’ appeal is granted and the final ruling of the 13th Judicial Circuit Court, Margibi County is reversed. The Clerk of this Court is ordered to send a mandate to the trial court commanding the judge presiding therein to resume jurisdiction over this case and give effect to the Judgment of this Opinion. Costs are ruled against the appellees. IT IS HEREBY SO ORDERED.

Appeal granted.

When this case called for hearing, Counsellor Betty Lamin-Blamo of Lex Group LLC appeared for the appellant. Counsellors Michael V. Suah and Dennise S. Sokan of Jones and Jones Law Firm appeared for NASSCORP. Counsellor J. Johnny Momoh of J. Johnny Momoh and Associates appeared for the appellees.