

A. B. DIALLO, Appellant, *v.* LA FOUNDIARIA
INSURANCE CO., Appellee.

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

Argued October 29, 1975. Decided January 2, 1976.

1. A judgment will be reversed and the case remanded to the lower court when a notice of assignment has not been served on counsel for a hearing at which a judgment is rendered against counsel's client.

A proceeding in the lower court was called for the second time without any notice of assignment being served upon counsel in the case. The judge dismissed the complaint and the plaintiff appealed from the judgment.

The Supreme Court held that the procedure was improper. The judgment was *reversed* and the case *remanded*, with instructions to the lower court to resolve first the issues of law.

M. Fahnbulleh Jones for appellant. The *Maxwell law firm* for appellee.

MR. JUSTICE WARDSWORTH delivered the opinion of the Court.

The above entitled cause of action for breach of contract was instituted in the Civil Law Court, Sixth Judicial Circuit, Montserrat County, on February 21, 1973. Pleadings progressed as far as the plaintiff's reply.

The court's ruling on issues of law was rendered on November 19, 1973, in which plaintiff's action was dismissed, based on the agreement for arbitration transcending all issues.

At the time of argument before us, counsel for appel-

lant contended that no notice of assignment of the case had ever been given to him for the hearing at which the complaint was dismissed. Appellee conceded the correctness of this contention.

Appellee has admitted the fact that there was no assignment issued and served on the parties for the determination of this case in the court below, which evidently confirms the fact that the issues of law were not disposed of by the trial judge, as counsel for appellee again agreed. We have no alternative but to reverse the judgment of the lower court and remand the case for retrial commencing with a ruling on the issues of law involved, costs to abide final judgment. And it is hereby so ordered.

Reversed and remanded.