

SALEEBY BROTHERS, INC., Appellant, v.  
BARCLAY'S EXPORT FINANCE COMPANY,  
LTD., Appellee.

APPEAL FROM THE DEBT COURT, MONTSERRADO COUNTY.

Argued December 9, 1971. Decided December 22, 1971.

1. A letter from a nondomiciliary foreign corporation to a Liberian lawyer, requesting him to institute legal action on its behalf, is sufficient authority for the suit to be entertained by the courts of Liberia.
2. It is presumed, in the absence of challenge, that a lawyer will not make representations as to his authority to act for a client unless such authority actually exists.
3. Anything to the contrary notwithstanding, including section 2201 (4) of the Civil Procedure Law, L. 1963-64, ch. III, an application for trial by jury of the issues can be made at any time before testimony of witnesses begins at the trial.
4. A judge has committed error when he has failed to render judgment within fifteen days after the cause or matter is finally submitted to the court.

The appellee, a nondomiciliary foreign corporation, brought suit in the Debt Court and obtained a judgment. The defendant corporation appealed, contending that the plaintiff had no capacity to sue in the courts of Liberia, but could only do so through an agent to whom it had given a power of attorney for such purpose. It also argued that the trial court had been tardy in rendering judgment, exceeding the time allowed therefor, and it had been denied the right to a trial of the issues by jury because demand for a jury trial had not been made within ten days after service of a pleading. The Supreme Court held that plaintiff corporation was entitled to sue in its name through an attorney authorized by ordinary means to prosecute an action in its behalf, but the Court otherwise supported appellant's argument. *Judgment reversed, case remanded.*

*Lawrence Morgan and D. Caesar Harris* for appellant.  
*T. Gyibli Collins* for appellee.

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

Barclay's Export Finance Company of London brought an action of debt against Saleeby Brothers, Inc., to recover a certain sum of money alleged to be due as a result of some business transaction. They authorized the Barclay law firm in Monrovia by letter to institute action for the recovery of the debt from Saleeby Brothers, and suit was filed on December 2, 1968. The complaint shows that the amount due and sought to be collected was \$12,814.71, made up of two negotiable instruments.

In the answer which the defendant filed, it raised three main issues: (1) the Barclay Export Finance Company of London has no capacity to sue in the courts of Liberia, because it is a foreign company not registered in the Country, and therefore, can only sue through an agent or attorney in fact; (2) that the Barclay law firm which has sued on behalf of this foreign company does not hold a power of attorney authorizing them to act on behalf of the plaintiff; and (3) that it denies indebtedness to the plaintiff, because the "7 Up" plant referred to in plaintiff's complaint, which was supplied to defendant and for the cost of which this suit has been brought, is defective and has never given service, and plaintiff has been so informed. It says further, that plaintiff, in acknowledgement of the truthfulness of this allegation, sent an expert to Liberia to attempt to correct the faults in the machinery, but up to now these faults have not been corrected, and plaintiff has failed to take back the faulty machinery in keeping with defendant's request.

In the bill of exceptions filed by the defendant, it has complained that although it made request in the Debt Court to have its case tried by a jury, the judge denied them this right. It also says in the bill of exceptions that in violation of the statute which requires that "The decision of the court shall be rendered within fifteen days

after the cause or matter is finally submitted to the court." Civil Procedure Law, L. 1963-64, ch. III, § 2304, the court herein rendered final judgment in 24 days, on July 23. These are the issues which we have been called upon to determine.

Appellee has contended in its brief, as argued before this court, that a nondomiciliary corporation has capacity to sue and be sued in the courts of Liberia, either in person or through an agent. In the event of doing so through a law firm, there is no necessity for a power of attorney. It has cited Civil Procedure Law, L. 1963-64, ch. III, §§ 511(2)(3), 302, 303. In *Fazzah v. Rogers Brothers Shoes, Inc.*, 12 LLR 300 (1956), the Supreme Court held that a letter to a Liberian attorney at law from a foreign corporation, requesting the recipient to collect a claim, will be deemed to confer upon the recipient the powers of an attorney in fact for the purposes specified in the letter.

Common law authorities have generally held that lawyers may represent clients without showing authority to do so, unless request to show such authority is specifically made. It is presumed that a lawyer will not hold himself out as a representative of a party, unless properly and legally authorized to do so. It would be against the ethics of the profession for him to so represent himself without a proper attorney and client relationship having been established.

"Although it is necessary for an attorney to be specifically authorized to act for a client, his position as an officer of the court makes it unnecessary for him, in the ordinary case, to show his authority in any way, there being a firmly established presumption in favor of an attorney's authority to act for any client he professes to represent. It follows therefore, that he will not be required to show his authority unless it is properly called for." 4 CYC. 928,9.

"It is well established . . . that the appearance of

a regularly admitted attorney at law is presumptive evidence of his authority to represent the person for whom he appears. This rule applies whether the attorney appears for a natural person or for a corporation; in neither case is it necessary for him to show his authority in order to progress with the suit unless properly demanded." 5 AM. JUR., *Attorneys at Law*, § 80.

We, therefore, hold that unlike cases when laymen represent others under powers of attorney and such authority must be shown, probated and registered, a lawyer is not necessarily required to do so, unless there is doubt of the truthfulness of his claim to authorized representation. We doubt that any lawyer would take such a risk because, if discovered, he would be exposed to disbarment proceedings for unethical conduct.

Denial of the appellant's request for trial by jury in an action of debt, was error on the judge's part. The Constitution has quite clearly stated that "in all cases, not arising under martial law, or upon impeachment, the parties shall have a right to trial by jury, and to be heard in person or by counsel, or both." Article 1, Section 6th. Appellee has contended that because the application for a jury trial was not made within the time prescribed by section 2201 (2) of the Civil Procedure Law above cited, that is "at any time after the commencement of the action and not later than ten days after service of a pleading" the appellant waived such a trial, according to paragraph four of section 2201.

We find ourselves unable to agree with this contention, because we do not feel that any statutory requirement as to time of making the application can deprive a party of the constitutional right to a jury trial if in the party's views, a jury trial is necessary to the protection of his rights. Section 2201 (4) regards failure to apply later than ten days after service of a pleading in the case a waiver of the right to a jury trial, but this cannot and does

not outweigh the unequivocal commands of the Constitution, that, except in cases of impeachment and those arising under martial law, "the parties shall have a right to trial by jury." If section 2201 (4) is in conflict with the Constitution granting the appellant the right to jury trial, without reference to time, then we hold that the relevant text of the Constitution should be made applicable, and we interpret the text to mean that application for trial by jury can be made at any time before testimony of witnesses begins at the trial.

The law requires that judgment shall be rendered within fifteen days after submission of the case by both sides. "The decision of the court shall be rendered within fifteen days after the cause or matter is finally submitted to the court." § 2204 *supra*. The judge was, therefore, in the absence of any proof as to why he could not comply with the statute, without authority to have waited twenty-four days before rendering judgment. It was not within his discretion to render judgment when he pleased, the law gave him a yardstick by which to be governed, and not to have been governed by this yardstick was error on his part.

Because we are of the opinion that the circumstances in this case, as those circumstances have been related hereinabove, seem to require a remand to the trial court, we are remanding this case for it to be tried anew, in the light of what has been expressed in this opinion. We have, therefore, refrained from passing upon the other issues raised by the parties. Costs of these proceedings will abide final determination of the case.

*Reversed and remanded.*