

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2023

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

The Management of Ecobank (Liberia) Limited, represented by)
its Managing Director, Mr. Kola Adeleke of the City of Monrovia,)
Montserrado County, Republic of Liberia Appellant)
) Appeal

Versus)

Embassy Suite Corporation, represented by and thru its Director)
Ms. Sara Saoud of the City of Monrovia, Montserrado County,)
Republic of Liberia Appellee)

GROWING OUT OF THE CASE:)

Embassy Suite Corporation, represented by and thru its Director)
Ms. Sara Saoud of the City of Monrovia, Montserrado County,)
Republic of Liberia Plaintiff)

Versus)

The Management of Ecobank (Liberia) Limited, represented by)
its Managing Director, Mr. Kola Adeleke of the City of Monrovia,)
Montserrado County, Republic of Liberia Defendant)

) Action of
) Damages for
) Wrong

Heard: July 24, 2022

Decided: August 11, 2023

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

This appeal is from the final ruling of Mr. Justice Yussif D. Kaba, then Resident Circuit Judge of the Sixth Judicial Circuit, Civil Law Court, Montserrado County, and before his ascendancy as Associate Justice of the Supreme Court, wherein he affirmed the verdict of the jury awarding damages in the amount of One Million Five Hundred Thousand United States Dollars (US\$ 1,500,000.00) to the Embassy Suites Incorporated, the appellee herein, for acts allegedly perpetrated by the appellant herein, Ecobank Liberia Limited, against the Embassy Suites Sole Proprietorship, prior to the coming into existence of the Embassy Suites Incorporated.

The history of this case is traced to August 10, 2009, when the Liberia Resort Management Group Incorporated through its three shareholders, Mr. Winfred R. Gibson, Mr. Anwar Saoud, and Mr. Marina Nazarine/Vahagn Poghosyan, applied to the appellant, the Ecobank (Liberia) Limited, and subsequently obtained a loan in the amount of Five Hundred Thousand United States Dollars (US\$500,000.00) for the purpose of financing the renovation of a ten-bedroom hotel and the construction of a new building on the premises of the Liberia Resort Management Group Incorporated, located in Mamba Point.

In order to secure the loan from the appellant, the shareholders of the Liberia Resort Management Group Incorporated furnished the Bank with several collaterals including what it referred to as its VIP premises located in Mamba Point and further executed personal net worth statements, agreeing to be held jointly and severally liable in the event of any breach on the repayment of the loan. The shareholders also consented to repay the loan and its accrued interest thereon to the appellant within the timeframe of thirty-eight (38) months at a monthly repayment rate of US\$13,888.00 (Thirteen Thousand Eight Hundred Eighty-eight United States Dollars), commencing October 2009. Notwithstanding this arrangement, the Liberia Resort Management Group Incorporated and its shareholders defaulted in the repayment of the loan as well as failing to honor their obligations to the appellant.

The records show that on January 14, 2011, the shareholders of the Liberia Resort Management Group appended their signatures to an agreement wherein Mr. Saoud personally covenanted to make certain payments to individuals and businesses named therein and at paragraph 2(e), promised to assume all financial obligations of the Liberia Resort Management Group to the appellant. We quote verbatim the said agreement as follows, to wit:

“January 14, 2011

Be it known to all that VICMA, a duly registered corporation under the laws of the Republic of Liberia, has entered into an agreement with Mr. Anwar Saoud/GECCO to take over 100% of the shares of VICMA.

It is acknowledged that Mr. Anwar Saoud/GECCO has previously provided money and/or materials to Mr. Vic and Mr. Vioma. As a consequence of the above, the below listed are the amounts required by Mr. Anwar Saoud/GECCO to settle the full and final payment for the release of all claims:

- a. US Dollars 100,000 to be paid to Mr. Vic on or before May 15, 2011;
- b. US Dollars 25,000 to be paid to Mr. Winfred Gibson on or before April 15, 2011 and that Mr. Gibson will retain his room until the full amount is paid;
- c. US Dollars 30,000 to be paid to the Episcopal Church as annual rental fees by Mr. Anwar Saoud;
- d. That Mr. Anwar Saoud/GECCO will discuss,, renegotiate and pay the amount owed to the moneychangers by Mr. Vic;
- e. That Mr. Anwar Saoud will assume all financial obligations to Ecobank, with reference to VICMA and the Liberia Resort and Management Group.
- f. That GECCO/Mr. Anwar Saoud will assume all financial obligations due to Mr. Othello Wal Wick.

Be it known that all these terms and conditions are binding on all the below signatories, their heirs, and successors in office.

Signed:

Mr. Vahagn Poghosyan/VICMA
Mr. Winfred Gibson
Mr. Anwar Saoud /GECCO.”

According to our observation, the appellant was served with the quoted agreement, an indication that Mr. Anwar Saoud assumed all the financial obligations of the Liberia Resort Management Group to the appellant. Subsequently, that is, on September 16, 2011, Mr. Anwar Saoud established the Embassy Suites Sole Proprietorship utilizing the same premises as the Liberia Resort Management Group situated at Mamba Point for the purpose of providing short-term accommodation. The records are however void of the status of the Liberia Resort Management Group as to a dissolution or otherwise.

The appellant has contended in its brief and oral argument before this Court that during the process of establishing the Embassy Suites Sole Proprietorship, Mr. Anwar Saoud changed the name of the VIP premises, one of the collaterals pledged to the Bank for the loan obtained, to the name Embassy Suites Sole Proprietorship. This allegation was never denied or rebutted by the appellee. Under our law, allegations not denied are deemed admitted. *Munnah et al v RL*, 35 LLR 40 (1988); *RL v Tolbert et al.*, 36 LLR 739 (1990); *TIC v MOJ et al.*, 42 LLR 174 (2004). This

Court says that it considers the appellee's failure to refute the allegation that it changed the name of the VIP premises pledged to the Bank as collateral an admission that indeed the name of the VIP premises located in Mamba Point, was changed to the Embassy Suites Sole Proprietorship, without notice to the appellant Bank which retained custody of the collateral.

A further review of the records shows no date on which Mr. Anwar Saoud should have begun repayment of the loan under the said agreement. Notwithstanding, what we see in the records is that Mr. Anwar Saoud failed to honor his obligations to the appellant under the agreement, prompting the appellant to file an action of debt by attachment and garnishment on October 4, 2013, against the Liberia Resort Management Group, Embassy Suite Sole Proprietorship and Mr. Anwar Saoud at the Commercial Court for US\$1,084, 595.62 (One Million Eighty-four Thousand Five Hundred Ninety-five United States Dollars Sixty-two Cents), representing the principal of the loan and accrued interest thereon.

The appellant has maintained that the principal reason for jointly and severally instituting the action of debt against the Liberia Resort Management Group, Embassy Suite Sole Proprietorship and Mr. Anwar Saoud is that the Embassy Suites Sole Proprietorship is the personal business of Mr. Anwar Saoud who assumed all financial obligations to the Bank under the January 14, 2011, agreement and as such he was legally joined to enable the appellant Bank fully recover the debt owed by the Liberia Resort Management Group and Embassy Suites Sole Proprietorship. It is the law that "all persons may be joined in one action as defendants against whom there is asserted jointly, severally, or in the alternative any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences if any question of law or fact common to all of them would arise in the action." *Civil Procedure Law, Rev.1:5.55(2)*.

Having reviewed the complaint filed by the appellant as plaintiff in the trial court, the Commercial Court duly issued a writ of attachment and garnishment, ordering the Sheriff to attach the Embassy Suites Sole Proprietorship and garnish its depository accounts at various local commercial banks.

Following the attachment of the Embassy Suite Sole Proprietorship and the garnishment of its depository accounts, on January 4, 2014, Miss Sara Saoud, the daughter of Mr. Anwar Saoud and General Manager of the present appellee Embassy Suite Incorporated, wrote a communication to the appellant wherein she

acknowledged the sole indebtedness of her father as regards the loan and requested the Bank's consent to a proposed loan settlement agreement, wherein she promised to pay 25 percent down and the remaining balance to be paid within twenty-four (24) months from the date of the first payment. For the benefit of this Opinion, we reproduce the said letter verbatim:

“Re: Proposal for Payment

Dear Mr. Adeleke,

I hope you had a Happy New Year. I am reaching out to you with the hope that we come to a mutual understanding regarding this matter. I have been here for a little over a year as the Managing Director of the Embassy Suites Sole Proprietorship and as you know I opened the place in August 2012 and since then became aware of this outstanding issue between Ecobank, GEECO and the Liberia Resort Management Group.

I want to take the opportunity to engage myself directly with the hope of reaching an amicable solution. I want to stress that the overarching purpose of this letter is to open the door for an actionable negotiation in order to avoid expensive litigation and reach an amicable solution for both of us. As a startup proposal, I will pay 25% of the principal and distribute the remaining agreed upon amount over 2 years from the date of the first payment.

I hope that we recognize that the opportunity here is too vast to ignore. Once this is behind us, I will look forward to a wonderful, prosperous working relationship with the Bank. I await your response to meet and discuss.

Regards,

Sara Saoud

Managing Director, Embassy Suites Hotel & Restaurant.”

Despite this communication to the appellant, the record is again void as to the consummation of any agreement between the Ecobank and the Embassy Suites Sole Proprietorship as to the manner of repayment of the debt as was proposed by Sara Saoud, daughter of Mr. Anwar Saoud.

Subsequently, on January 6, 2014, the Embassy Suites Sole Proprietorship filed a motion to be dropped from the action of debt by attachment and garnishment at the

Commercial Court on grounds that it was an improper party. The Commercial Court, having served the parties notice of assignment for the hearing of the motion on January 11, 2014, granted the motion to drop the Embassy Suites Sole Proprietorship due to the failure of the appellant's counsel to appear for the hearing of the motion, leaving the Liberia Resort Management Group and Mr. Anwar Saoud as defendants before the Commercial Court.

On January 17, 2014, Abdallah Saoud, Jamilee Saoud, Sara Saoud, and Berna Saoud the wife and children of Mr. Anwar Saoud established the Embassy Suites Incorporated also utilizing the selfsame premises previously used or occupied by the Liberia Resort Management Group and the Embassy Suites Sole Proprietorship, respectively.

The records show that following the dropping of the Embassy Suites Sole Proprietorship from the action of debt by attachment and garnishment, and while the matter was still pending final determination at the Commercial Court, on February 7, 2014, the Embassy Suites Incorporated, the newly formed corporation, filed an action of damages for wrong before the Six Judicial Circuit, Civil Law Court, Montserrado County against the appellant, alleging that it suffered injuries growing out of the action of debt by attachment and garnishment filed by the appellant against the Liberia Resort Management Group, the Embassy Suites Sole Proprietorship and Mr. Anwar Saoud, and praying for the award of damages in the amount of Three Million Five Hundred Seventy-Two Thousand One Hundred Fifty-Two United States Dollars(US\$3,572,152.00) representing Three Million Five Hundred Thousand (US\$3,500,000.00) in general damages and Seventy-Two Thousand One Hundred Fifty-Two United States Dollars (US\$72,152.00) in specific damages. We quote the relevant counts describing the alleged damages, as follows:

6. Plaintiff further complains and says that on the 4th day of October, A.D. 2013, the defendant Bank herein, instituted an action of debt by attachment and garnishment against the Liberia Resort Management Group, before the Commercial Court, and named the plaintiff herein as co-defendant in the action. Copy of the writ of summons is hereto attached and marked as Plaintiff's Exhibit "P-4 to form a cogent part of this complaint.

7. Plaintiff says that as a consequence of the defendant Bank's action, the entire premises of the plaintiff was closed down on two separate

occasions, first on October 5, 2013 and December 24, 2013, respectively. Copies of the closure orders from the court are hereto attached as Plaintiff's Exhibit "P-5" to form a cogent part of this complaint.

8. Plaintiff further complains and says that as a result of the first closure on October 5, 2013, all the guests that were in the hotel had to leave and the plaintiff had to reimburse the total of US\$ 30,000.00 (Thirty Thousand United States Dollars) to guests who had made advance payment for said period. Copy of the reimbursement statement is hereto attached as Plaintiff's Exhibit "P-6" to form a part of the complaint.

9. Plaintiff says further that when the defendant caused the plaintiff to be closed, the Plaintiff had a Korean delegation in all of its 25 rooms with two months reservation which had to be cancelled causing the plaintiff US\$ 42,152.00 (Forty-Two Thousand One Hundred Fifty-Two Dollars in loss income. A copy of the statement of profit and loss is hereto attached as Plaintiff's Exhibit "P-7".

10. Plaintiff also complains and says that as a result of the action by the defendant on December 24, 2013, all of the international clients of the plaintiff cancelled their reservation with the plaintiff especially during the Christmas season, all to the damage of the plaintiff. For example, copy of the cancellation communication from the US Embassy is hereto attached and marked as Plaintiff's Exhibit "P-9".

11. Plaintiff complains that each time the defendant Bank came along with court officers to close its premises, the defendant was told that the Embassy Suites Sole Proprietorship is not a party to the Liberia Resort Management Group loan agreement nor one of its shareholders and this information was ignored by the defendant and its lawyers.

The appellant/plaintiff filed its answer along with a motion to dismiss, the latter which was denied by the trial judge. The trial continued and upon hearing the evidence in the case, the jury returned with a verdict of liable against the appellant and awarded damages in the amount of One Million Five Hundred Thousand United States Dollars (US\$1,500,000.00) which was subsequently affirmed by the trial judge.

We quote below pertinent excerpts from the final ruling of the trial judge, to wit:

“...The next issue to claim the attention of this court is whether the verdict as returned by the petit jury is defective because it fails to award special damages with certainty? According to the movant Ecobank, “the Petit Jury returned an ambiguous and defective verdict” by awarding the respondent Embassy Suites Inc. a lump-sum of US\$1.5 Million without stating with particularity the amount awarded for specific and general damages. This, in the mind of the movant Ecobank, renders the verdict defective and therefore constitutes a ground for setting aside the verdict. In countering this averment, the respondent Embassy Suites Incorporated argued that the amount awarded by the Petit Jury was certain and therefore any defect therein should be left to the appellate court for correction.

To begin, the court says that the petit jury did award an amount certain when in their verdict they awarded damages in the amount of One Million Five Hundred Thousand United States Dollars (US\$1,500,000.00). The court notes that this award by the Petit Jury did not specify whether that amount represents special or general damages or whether the amount represents a combination of these two damages. In the case: Republic of Liberia versus Judge Kaba decided January 18, 2015, the Supreme Court held that “it is a settled question that no judge should disturb a verdict reached by a trial jury, exercising its authority within the acceptable legal perimeter and after the said jury have taken due consideration of the evidence presented during trial.” In the case cited supra, the Supreme Court reasoned that “in instances where the form rather than the substance is defective, the court was duty bound to instruct the jury on the defect and allow them to correct any such defect.” According to the spirit of the said Opinion, the award of new trial based upon such defect will be a piece meal review of the action which is frowned upon by the Supreme Court in several of its Opinions. This court sets as a rationale for this rule the need to avoid delay in the disposition of cases that are begging for disposition by the court. The court therefore says that since the verdict did not specify whether the damages as awarded by the trial of fact is special or general damages or whether the said damages is a combination of both and because this issue was not brought to the attention of the court at the time the verdict was returned and considering that the substance of the verdict conformed with the intent of the law-that is to say the determination of the controversy- it becomes a legal question therefore determining whether the said damages should be considered special or general or a combination of the two. The court therefore hereby refused to disturb the verdict of the jury on the above ground.

On the last issue of the whether or not the verdict conforms with the evidence adduced at trial, this court says that it is the office of the petit jury to determine the weight to be attached to the evidence and the credibility of the witnesses that appear before the court. It is the office

of the court to determine the sufficiency of the evidence. Where the evidence is sufficient to support the verdict, the trial court lacks the legal competence to determine whether or not the jury weighted the evidence correctly or determined the credibility of the witnesses testifying before the court. In a case heard by a jury, the trial court is impotent to pass upon the strength of the evidence. It is the appellate court that may review the evidence and determine whether or not the jurors correctly determined the facts, or whether the jurors correctly applied the laws to the facts in reaching their verdict. The court says that when a verdict is challenged as being contrary to the evidence, the court does not reweight the evidence or pass on the credibility of the witnesses. If the evidence, when considered in light not favorable to the prevailing party, supports the verdict, the trial court should not intervene.

A review of the evidence in this matter shows that there exists sufficient basis upon which this matter should be determined by the triers of fact. Two cardinal factual issues were made controlling in this matter. Those issues are as follows:

1. Was there other legally controlling interest in Embassy Suites Sole Proprietorship for which that institution should not be considered as one and the same with its Sole Proprietor, Mr. Anwar Saoud?
2. Was there evidence to establish that the assets and liabilities of the Embassy Suites Sole Proprietorship was transferred to the Embassy Suites Incorporated such that the Embassy Suites Incorporated was bestowed the right to institute this action of damages for wrong allegedly suffered by Embassy Suites Sole Proprietorship?

As stated hereinabove, the undisputed evidence clearly shows that Embassy Suites Sole Proprietorship was a business entity registered under the law of Liberia as a sole proprietorship with Mr. Anwar Saoud named as the sole proprietor. The respondent's evidence tends to establish that this sole proprietorship business was sponsored by funds from family members of Mr. Anwar Saoud without any showing that this information was communicated to the general public. The question that claims this court's attention is: did this set of fact create a protection for Embassy Suites Sole Proprietorship such that it could not be held for the liability of Mr. Anwar Saoud, its sole proprietor? The verdict answers this question in the affirmative. Can this court review this finding of the trier of fact? The court is reluctant to so do especially considering that the previous holding of this court in the motion to dismiss as affirmed by the holding in the motion for summary judgment left this issue to the trier of facts to determine. Whether or not the conclusion of the petit jury should be maintained becomes a question to be left to a tribunal higher than the trial court to determine.

On a second issue, the undisputed evidence is that Embassy Suites Sole Proprietorship was created in 2012 by Mr. Anwar Saoud as a sole proprietorship under the laws of Liberia, with Mr. Saoud named as the sole proprietor. It was this Embassy Suites Sole Proprietorship that was made one of the parties in the debt action before the Commercial Court. Moreover, it was after the occurrence of the acts allegedly perpetrated by the Ecobank against the Embassy Suites Sole Proprietorship that the Embassy Suites Incorporated was established 2014 as a corporate entity. A close perusal of the instruments establishing these two entities reveal the following:

1. Mr. Anwar Saoud was the only named owner of Embassy Suites Sole Proprietorship;
2. The name shareholders of Embassy Suites Incorporated are: Abdallah Saoud, Jamilee Saoud, Sara Saoud, and Berna Saoud;

More besides, no evidence was produced showing any transfer of assets and/or liabilities from the Embassy Suites Sole Proprietorship to the Embassy Suites Incorporated. The jury verdict tends to indicate a finding that Embassy Suites Incorporated was a successor of the Embassy Suites Sole Proprietorship. Again for reason stated above, this issue is one to be decided by a tribunal higher than this court. This court says that assuming that the verdict as returned by the trier of facts does not conform with the evidence in this case, nevertheless considering that sufficient evidence was available to enter a proper verdict, it will be dilatory if this court was to set aside the entire evidence and call for a new trial which will only result in the reproduction of the same set of evidence, especially in light of the fact that the appellate court reserves the right under the law to affirm, reverse or modify any ruling or judgment enter based upon the said verdict. This court therefore is of the opinion that in the face of the sufficiency of the evidence it will be an abuse of description and delay in the determination of this matter should this court proceed to set aside the said verdict and award a new trial.”

The appellant noted exceptions to the ruling of the trial judge and announced an appeal to this Court, filing a 13-count bill of exceptions for this Court’s review and determination. However, it being the law that the Supreme Court is not bound to pass on every issue raised by the parties, or address every issue presented in the bill of exceptions except those germane to the determination of the case, we shall limit our review to counts 2, 3, 4, and 6, same being reflective of the appellant’s basic contentions in order to bring finality to this case. *Lamco J. V. Operating Company*

v. Verdier, 26 LLR 445 (1978); *The Liberia Company (UBCO) v. Collins*, 36 LLR 828, 831 (1990); *The Management of United States Trading Company v. Morris et al*, 41LLR 191, 203-4 (2002); *CBL v. TRADEVCO*, Supreme Court Opinion October Term 2012; *Tehquah v His Honor Paye and RL*, Supreme Court Opinion, March Term, 2014.

In count 2, the appellant alleged that the trial judge erred in affirming the verdict of the jury that awarded One Million Five Hundred Thousand United States Dollars (US\$ 1,500,000.00) in damages against the appellant for the action(s) of the sheriff and bailiffs of the Commercial Court, when the appellee was in fact not in existence during the occurrence of the acts complained of. To this contention, the trial judge agreed that although the evidence showed that the appellee was non-existent when the acts complained of were done, the verdict of the jury could not be disturbed by the trial court for what was referred to as being within the purview of a “tribunal higher than the trial court” which has the legal authority to affirm, reverse or modify the final ruling based a verdict.

In addressing the issue regarding the lack of standing of the appellee to institute the action of damages for wrong, due to it being non-existent at the time of the alleged acts constituting damages were done, we review relevant portion of the testimony of Ms. Sara Saoud, General Manager of the appellee and daughter of Mr. Anwar Saoud, during cross-examination, to wit:

Q. Madam Witness, you spoke about the establishment of the Embassy Suites Sole Proprietorship in 2012. Is that correct?

A. Yes, the opening.

Q. Am I correct to say that it is a sole proprietorship?

A. Yes

Q. So Embassy Suites Sole Proprietorship upon its establishment was a sole proprietorship wholly owned by your father. Is that correct?

A. Yes

Q. In 2013, at the time the case was filed at the Commercial Court, am I correct to say that the Embassy Suites was still a sole proprietorship wholly owned by your father Anwar Saoud?

A. Yes

Q. Madam witness, during your testimony in chief you spoke about the creation of the Embassy Suites Incorporated, am I correct to say that the Embassy Suites Incorporated was incorporated in 2014?

A. Embassy Suites Incorporated was incorporated in January, 2014.

Q. Is it correct that you incorporated the Embassy Suites Incorporated after the Embassy Suites Sole Proprietorship was dropped from the case at the Commercial Court, Ecobank v. Liberia Resort Management Group?

A. We were not able to do that until that was resolved by the Commercial Court so the delay was due to the disturbances Ecobank caused us.

Q. Embassy Suites Incorporated was formed after the Embassy Suites Sole Proprietorship was dropped from the action of debt at the Commercial Court. Is that correct?

A. Yes

From the above quoted testimony of Ms. Sara Saoud, it is clear that the acts allegedly perpetrated against the Embassy Suites Sole Proprietorship occurred in 2013 prior to the incorporation of the Embassy Suites Incorporated on January 17, 2014, prompting the appellant to challenge the standing and legal capacity of Ms. Sara Saoud, General Manager of the Embassy Suites Incorporated, to institute the present action on behalf of the Embassy Suites Sole Proprietorship.

Section 4.7 of the Associations Law of Liberia provides:

“...The corporate existence begins upon filing the articles of incorporation effective as of the filing date stated thereon. The endorsement by the Minister of Foreign Affairs, as required by Section 1.4, shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Act.”

The Statute clearly provides that corporate existence begins effective upon the date of filing articles of incorporation. Hence, the Embassy Suites Incorporated, having filed its articles of incorporation on January 17, 2014, it acted ultra vires by filing the instant action to recover damages for acts which occurred in 2013 allegedly against the Embassy Suites Sole Proprietorship, prior to its coming into existence,

and especially without any showing of the expressed authorization of the Embassy Suites Sole Proprietorship.

It is the law that whenever the issue of standing is raised, courts of law including the Supreme Court must first establish the standing or legal capacity of the parties to file the suit before proceeding to any other contention, because if it is established that a person or an organization lacks the standing to institute an action, the action will be dismissed for lack of proper party, without deciding the substantive issues; standing as interpreted by this Court requires a person or an organization to show sufficient stake in the outcome of a case before seeking redress for the injury complained of. The Supreme Court has opined in numerous Opinions that “a person or an organization seeking to establish standing to sue must demonstrate the following: (1) that he has suffered a particularized, actual or imminent invasion of a legally protected interest or right; (2) that the injury complained of is the result of the defendant's wrongful conduct; and (3) that a finding in the party's favor is likely to redress or remedy the injury...” *Citizens Solidarity Council v RL*, Supreme Court Opinion, March Term, 2016; *The Concerned Sector Youth v. LISGIS et al.*, Supreme Court Opinion, March Term, A.D. 2010; *Center for Law & Human Rights Education et al. v. Monrovia City Corporation et. al*, 39 LLR 32 (1998).

It is also the law that “ a party seeking to demonstrate standing to sue must assert his or her own rights or show sufficient authority to bring the action on behalf of a third party who is not before the court; nor can a party establish standing to institute an action by making claims of generalized injury common to the body politic; and that mere 'interest' in a problem, no matter how qualified the person or an organization is in evaluating the problem, is not sufficient by itself to render a person or an organization adversely affected or aggrieved for the purpose of granting said person or organization standing to obtain judicial resolution of the matter. The person or group seeking review must have suffered an injury in order to have the standing to sue.” *Citizens Solidarity Council v RL*, Supreme Court Opinion, March Term, 2016; *In Re Petition of Cox*, 36 LLR 837(1990); *Chronicles Newspaper & Browne v RL*, Supreme Court Opinion, March Term, A.D. 2015.

Assuming the appellee had the legal capacity and standing to institute the action of damages, a review of the records shows the lack of a board resolution from the Board of Directors of the Embassy Suites Incorporated, authorizing Ms. Sara Saoud to file

the instant action, a mandatory step required of any corporate officer or other person to institute an action in the name of a corporation.

It is the law that “a corporate entity is a "legal person separate and distinct from its shareholders, officers and directors. It can sue or be sued in its own name. As a legal person, a corporation has no hands, no feet, eyes and ears and lacks the ability to speak for itself. Hence, for the purpose of achieving its goal, [including the filing of lawsuits], and for the convenience of those who interact with this legal person, it is practical and logical that actions for and against it be channeled through a designated [natural] person. However, a corporation cannot act just through any natural person. The practice in vogue in this jurisdiction is for the corporation to act "by and thru" a corporate officer such as its president, vice president, general manager or treasurer. It may also act through its chairman or board of directors, but in all such cases, the corporation's board of directors should authorize the action through a board resolution.” *Citizens Solidarity Council v RL, Supreme Court Opinion, March Term, 2016; Chronicles Newspaper & Browne v RL, Supreme Court Opinion, March Term, A.D. 2015; The Concerned Sector Youth v. LISGIS et al., Supreme Court Opinion, March Term, A.D. 2010; Republic of Liberia v. The Independent Newspaper decided during the March Term, 2007; Section 2.5, Associations Law of Liberia.* Accordingly, there being no board resolution authorizing Ms. Sara Saoud to file the instant action, she and/or the Embassy Suites Incorporated lack legal capacity and standing to sue, and we so hold.

As to count 3, the appellant alleged that the trial judge erred when having expressly concluded in his final ruling on the motion for new trial that no evidence was produced showing any transfer of assets and/or liability of Embassy Suites Sole Proprietorship to Embassy Suites Incorporated, he nonetheless confirmed the verdict of the jury, which was based on the conclusion that the appellee is liable for all claims and rights that Embassy Suites Sole Proprietorship may have held, especially with regards to the writ of attachment executed by the Commercial Court based on the application of the appellant. The appellant has further argued that the Embassy Suites Incorporated and the Embassy Suites Sole Proprietorship are separate and distinct entities; and that the Embassy Suites Incorporated is not a continuation and/or transformation of the Embassy Suites Sole Proprietorship under a different name.

Our search of the records reveals no evidence to support the appellee's allegation that the Embassy Suites Incorporated is a continuation and/or transformation of the Embassy Suites Sole Proprietorship. To substantiate this allegation, the appellee should have proffered some instrument and/or other document(s) evidencing the transfer of assets and/or liabilities from the Embassy Suites Sole Proprietorship to the Embassy Suites Incorporated or any existing relationship between the two entities. Nothing of such was done in the instant case. This Court has held in a long line of Opinions that "Mere allegation does not constitute proof as it is only evidence which enables a court of competent jurisdiction to settle with certainty a matter in dispute. *Frankyu et al v Actione Contre la Faim*, 39 LLR 289 (1999); *Morgan v Barclay et al.*, 42 LLR 259 (2004). It is also the law that "in every case the best evidence which the case admits of must be produced and as such no evidence is sufficient which presupposes the existence of better evidence." *The Management of Forestry Development v. Walters and the Board of General Appeals*, 34 LLR 777 (1988); *Farhat v. TRADEVCO*, Supreme Court Opinion, October Term 2015, decided January 29, 2016; *Knuckles v. TRADEVCO*, 40 LLR 525 (2001). Accordingly, the best evidence in this case would have been an instrument(s) evidencing the relationship between the two entities. Therefore, the failure of the appellee to provide any iota of proof to substantiate a merger, a consolidation, transfer of assets and/or continuation of the Embassy Suites Sole Proprietorship from a sole proprietorship to a corporation, there is no legal basis for the institution of the action of damages for wrong, and we so hold.

Moreover, it is worth noting that the case out of which the appellee is claiming damages for wrong is still pending undetermined before the Commercial Court; hence, as a matter of law, the action filed by the appellee seeking damages for acts allegedly perpetrated against the Embassy Suites Sole Proprietorship is premature.

We shall consolidate and address counts 4 and 6 of the bill of exceptions wherein the appellant alleged that the failure by the appellee to establish that the appellant's act directly or indirectly affected the appellee which caused its injuries, the appellee cannot prevail in an action of damages; and that since the award by the petit jury did not specify whether that amount represents special or general damages or whether that sum represents the combination of these two damages, the trial judge should have set aside the verdict.

It is the law extant in this jurisdiction that “damages will only attach where a wrong is committed... that damages refer to pecuniary compensation or indemnity which may be recovered by any person or organization that has suffered a loss, detriment, or injury, whether to his person, property or rights, through the unlawful act, omission or negligence of another... that it is not sufficient to merely allege an injury and claim damages therefor, but the plaintiff must prove the injury complained of...” *City Builders v City Builders*, Supreme Court Opinion, March Term, 2013; *Firestone Liberia Inc. v G. Galimah Kollie*, Supreme Court Opinion, March Term, A.D. 2012; *Intrusco Corp. v Osseily*, 32 LLR 558, 571 (1985). Therefore, the records having established that the appellee lacks the legal capacity and standing to institute the present action; considering that the injury alleged to have been perpetrated against the Embassy Suites Sole Proprietorship occurred prior to the coming into existence of the appellee; and there being no evidence of any transfer of assets and/or liabilities from the Embassy Suites Sole Proprietorship to the Embassy Suites Incorporated for same to be deemed a continuation and/or transformation of the Embassy Suites Sole Proprietorship under a different name, it is legally inconceivable that the appellee suffered injury for which damages will attach, and we so hold.

It is the law that a verdict may be set aside, where the verdict is contrary to the weight of the evidence or in the interest of justice. This Court having held that the appellee lacks standing to file the action of damages for wrong, makes the entire action fit for dismissal, hence, ground to set aside the verdict of the jury, to include the amount awarded as damages, same being against the weight of the evidence.

WHEREFORE AND IN VIEW OF THE FOREGOING, the verdict of the jury and the final ruling of the lower court affirming the verdict are hereby reversed. The Clerk of this Court is ordered to send a mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and enforce the Judgment of this Opinion. AND IT IS HEREBY SO ORDERED.

Ruling Reversed

When this case was called for hearing, Counsellor T. Negbalee Warner of the Heritage Partners & Associates, Inc. appeared for the appellant. Cllr. M. Wilkins Wright of Wright and Associates and Counsellors Cooper W. Kruah, Othello G.

Kruah, Sr., and Prince M. Kruah, of the Henries Law Firm appeared for the appellee.