

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN ITS
OCTOBER TERM, A.D. 2024

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

Mrs. Monica Freeman Dewalt, Finance Director)
Liberia Agency for Community Empowerment)
(LACE), Monrovia, Liberia.....Appellant)

Versus)

APPEAL

Mr. Julius K. Sele, Executive Director, Liberia)
Agency for Community Empowerment (LACE))
and the Management of Liberia Agency for)
Community Empowerment (LACE), Monrovia,)
Republic of Liberia.....Appellees)

GROWING OUT OF THE CASE:)

Mrs. Monica Freeman Dewalt, Finance Director)
Liberia Agency for Community Empowerment)
(LACE), Monrovia, Liberia.....Petitioner)

Versus)

PETITION FOR THE WRIT
OF PROHIBITION

Mr. Julius K. Sele, Executive Director, Liberia)
Agency for Community Empowerment (LACE))
and the Management of Liberia Agency for)
Community Empowerment (LACE), Monrovia,)
Republic of Liberia.....Respondents)

Heard: October 28, 2024

Delivered: December 19, 2024

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This appeal originates from a Chambers Justice's ruling denying a petition for the writ of prohibition filed by the appellant, Monica Freeman Dewalt, as petitioner. In her petition before the Chambers Justice, the appellant alleged that the co-appellee Mr. Julius K. Sele, Executive Director of the Liberia

Agency for Community Empowerment ("LACE"), acted without legal authority when he terminated her services at LACE where she served as the Finance Director.

The certified records reveal that the appellant was employed by LACE on September 4, 2018, for a period of one year which was subsequently extended on July 4, 2019 for another year to serve as the finance director of LACE; that on February 14, 2024, the incoming Executive Director wrote to her terminating her services on the ground that the declaration by the former President, George M. Weah, mandated all appointed officials to resign "by noon on January 22, 2024", therefore the appellant should have adhered to said declaration.

The pronouncement by the former President Weah, the appellant alleged in her petition before the Justice in Chambers is that it was not applicable to her as one serving as the Finance Director of LACE, and therefore her termination was wrong. Further, the Act creating the LACE ascribes unto the Board of Directors the authority to appoint and terminate one serving in her position; hence, the appellees action was arbitrary and in absolute disregard of the statute creating LACE. Therefore, prohibition will not lie to undo such illegal action and to prevent any further action by the appellee that tend to interfere with her employment.

The Chambers Justice placed a stay order on the all actions pending the citation for a conference. Having had the conference, the justice ordered the alternative writ issued, mandating the appellees to file their returns to the petition and all parties returned to *status quo ante* pending the disposition of the matter.

Opposing the averments contained in the petition for a writ of prohibition, the appellees contend that the decision to terminate the appellant's employment was done in keeping with law, given that the appellant was never appointed by the previous board which she claims has the statutory authority to appoint and dismiss her; that appellant's failure to provide evidence of her appointment by the Board of Directors of LACE, or by the former President of Liberia constituted a legal nullity of her position for which the petition for the writ of prohibition should be denied and dismissed.

The Justice in Chambers called for a hearing in the matter and thereafter ruled that the appellant was not found to have been appointed by the Board of Directors, nor was she appointed by President Weah to have resigned by noon on January 22, 2024, rather she was a contractual employee whose agreement with LACE had expired and was never renewed. That though the Act of LACE does not mandate the Executive Director to exercise the power to dismiss the finance director, it is logical to say that since the appellant assumed the position as Finance Director by an agreement between the former Executive Director and the appellant, and this been done at the exclusion of the Board of Directors, and said contractual agreement has since expired, the appellant cannot suggest that the Board of Directors should effectuate her removal. She accepted or contracted appointment from the

Executive Director and she must accept dismissal or transfer by the Executive Director. Hence, prohibition cannot be used to correct what was legally done.

It is from this Chambers Justice's decision denying the appellant's petition for a writ of prohibition that the appellant has appealed to this full bench, praying the Court to reverse the Chambers Justice's ruling granting the preemptory writ of prohibition.

We ask, where the Act creating the LACE specifically requires the Board of Directors of the institute to appoint the Finance Director of the institution and to dismiss him/her for cause, could the Executive Director have lawfully dismissed the appellant who served as Finance Director in the institution on the basis that she was hired contrary to the Act of the institution?

As the Justice in Chambers narrated, the appellant entered an employment agreement with LACE under an agreement on September 3, 2018, when she signed an employment contract with the former of LACE, Hon. Quiwu Yeke. The contract though continued up to August 30, 2019, was extended to commence from July 1, 2019 to June 30, 2020. We see no subsequent renewals of a contract between the parties after June 30, 2020, but the appellant continued to serve in the position as the Financial Director, when Mr. Julius K. Sele, who was appointed as the new Executive Director of LACE, in 2024, wrote the appellant on February 14, 2024, terminating her services with LACE. In his letter he stated that appellant should have resigned as per the former President George Weah's pronouncement that all appointed officials in the government resign as of noon on January 22, 2024.

Section 50B.11 (c) and (f) of the Act establishing the LACE, *Powers and Functions of the Board of Directors* s, provide that the board shall appoint the Executive Director, Deputy Executive Director for Administration and Finance Director of the Agency, and can dismiss them for cause. Though the position of Finance Director is one of the three statutory positions designated in the LACE Act to be filled by the Board of Directors of LACE; however, the records show that the appellant derived her employment by a contract signed by the former Executive Director of the Agency and not from the Board of Directors as the appellant herself asserts.

Though the appellant held her position contrary to the statute, we cannot say that the subsequent Executive Director had the authority to dismiss her. A dismissal of the appellant could have been done only by the Board of Directors or upon its directives to the Executive Director. The appellant having been employed irregularly by the previous executive director, it does not give the co-appellee Julius K. Sele, the present executive director, the authority to dismiss appellant in her present position. The legal maxim, "*Ex injuria jus non oritur*", meaning a wrongful act cannot be used to justify or rectify another wrongful act, applies in this case; or as we say in our local parlance "two wrongs cannot make a right", emphasizing fairness and justice in legal proceedings.

This Court holds that Acts or Statutes governing institutions are the guiding administrative roadmap of these institutions and it requires a course of action as oppose to merely permitting it. As such, officers of a corporate entity actions must derive from its statute, bylaws, or written resolutions of its directors, and provision in institutions Acts must be strictly complied with. Any administrative official acting contrary to its directives, acts *ultra vires*.: *Inter-con Security Systems, Inc. v .Kerkula and Brown*, 41 LLR 305, 312 (2002).

Further, the financial director of LACE was not an appointee of President George Weah and the appellees themselves have referred to the appellant's appointment as been done by the former Executive Director who entered an agreement with the appellant; therefore the President's pronouncement did not apply to her. It was the prerogative of the Board of Directors of LACE to dismiss her.

Prohibition is a special proceeding to obtain a writ ordering the respondent therein to refrain from further pursuing a judicial action or proceeding specified therein. *Civil Procedure Law, Rev. Code* 1:16.21 (3). The Supreme Court has interpreted this provision of our laws to say that prohibition will be directed to a governmental administrative agency or official, as similarly situated as the appellee Executive Director, who exercised power not ascribed to him, and to undo what has not been lawfully done. *Kaba and McCromsy v. Township of Gardnerville et al.*, 39 LLR 549 (1999); *The Dennis Family, Morris Family et al. v. Othello Parker*, Supreme Court Opinion, October Term, A.D. 2022; *Ware v. R.L.*, Supreme Court Opinion, March Term, A.D. 2012;

WHEREFORE AND IN VIEW OF THE FOREGOING, the Ruling of the Justice in Chambers is reversed, the alternative writ quashed and the peremptory writ denied. The Clerk of this Court is hereby ordered to send a Mandate to the respondent LACE to act consistent with the Judgment emanating from this Opinion. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELOR ARTHUR T. JOHNSON APPEARED FOR THE APPELLANT. COUNSELLORS AMBROSE N. TAPLAH AND MORRIS M. DAVIES APPEARED FOR THE APPELLEE