IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2018

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR. ....CHIEF JUSTICE
BEFORE HIS HONOR HIS HONOR: KABINEH M. JA'NEH....................ASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE..............................ASSOCIATE JUSTICE
BEFORE HIS HONOR: PHILIP A.Z. BANKS III ......,.,,,,,,,,,,,,,,,,,,,,......ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE YUOH ....ASSOCIATE JUSTICE

World Bank, by and thru its Corporate Officers.................................. APPELLANT)
)
VERSUS) APPEAL
)
Manhattan Trading Corporation, by and thru its President, Mr. Marouf Mansour, of the City of Monrovia, Liberia.................APPELLEE)

GROWING OUT OF THE CASE:

Manhattan Trading Corporation, by and thru its President, Mr. Marouf Mansour, the City of Monrovia, Liberia...............MOVANT)
) MOTION FOR SUMMARY JUDGMENT
VERSUS)
)
World Bank, by and thru its Corporate Officers.........................RESPONDENT)

GROWING OUT OF THE CASE:

Manhattan Trading Corporation, by and thru its President, Mr. Marouf Mansour, of the City of Monrovia, Liberia.....PETITIONER)
)
VERSUS) PETITION FOR DECLARATORY JUDGMENT
)
World Bank, by and thru its Corporate Officers...RESPONDENT)

HEARD: July 21, 2016 **DECIDED:** May 10, 2018

OPINION DELIVERED BY MADAM JUSTICE JAMESETTA H. WOLOKOLIE

This case, an epitome of a legal marathon, dating far back as 2010, began when the appellee, Manhattan Trading Corporation, filed a petition against the World Bank, appellant, for declaratory judgment before the Sixth Judicial Circuit Court, Montserrado County during its June Term. The Appellant World Bank filed its returns along with a motion to dismiss raising the issue of its immunity from legal processes in Liberia. The Judge ruled dismissing the motion and the Appellant World Bank ran up with a petition for certiorari, filing same before the Justice in Chambers, His Honor Kabineh M. Ja'neh. Based on a conference with the parties, the Chambers Justice referred the matter to the Ministry of Foreign Affairs to ascertain the status of the World Bank. The Chambers Justice requested that the Ministry forward its findings to the Supreme Court. The Deputy Minister and Legal Counsellor of the Ministry of Foreign Affairs, Counsellor Krubo Kollie, cited the parties by letter dated August 16, 2016. The appellee alleged that in an attempt to resolve the matter amicably at the Foreign Ministry, it withdrew its petition for declaratory judgment filed before the court, but as soon as the matter was withdrawn from the court, the World Bank commenced dilatory tactics that kept the case at the Foreign Ministry for nearly a year. Subsequently Counsellor Krubo Kollie, of the Foreign Ministry, wrote a report on her attempt to mediate the matter. She requested the World Bank to settle the appellee's claims, and upon the Bank's failure to do so, the appellee was at liberty to pursue all appropriate legal remedies for the satisfaction of its claim without further intervention or involvement of the Ministry of Foreign Affairs. Upon the World Bank failure to honor this ruling of the Foreign Ministry, and there being no matter before the Six Judicial Circuit regarding the parties after the appellee withdrawal of the matter, the Appellee Manhattan Trading instituted a renewed petition for a Declaratory Judgment before the Six Judicial Circuit on September 16, 2012. The circuit court in its hearing found for the appellee, holding the Appellant World Bank liable to the appellee in the amount of United States Five Hundred and Seven Thousand, Seven Hundred and Fifty Seven Dollars and Sixty-Six Cents (US$507, 757.66). Since the circuit court's ruling on the renewed petition filed on September 16, 2012 for declaratory judgment, two separate ancillary rulings have come out of the Supreme Court on this matter.

The first matter grew out of the circuit court's enforcement of the judgment when the appellant ran up to Justice Yuoh, the Justice in Chamber, with a petition for prohibition, alleging that the circuit court was attempting to wrongfully enforce its judgment after an appeal had been announced and appellant was in the process of pursuing its appeal. The World Bank alleged that the Judge in delivering the final judgment, informed the counsels for the parties that the written text of his ruling was still being processed by the court reporter and was not ready for distribution to the parties and that he would only read the "*wherefore portion*" of the judgment so as to enable any aggrieved party to except to the ruling and announce an appeal therefrom; the judge then promised that the full written text of the judgment would be delivered to each counsel of record after it was printed by the court reporter. The full text of the judgment was delivered on December 3, 2012, and the Appellant World Bank, asserted that it excepted to the ruling and filed its bill of exceptions on December 7, 2012, which was approved by the Judge on the same day. However, on December 5, 2012, the movant, Manhattan Trading Corporation filed a motion with the trial court to resume jurisdiction and enforce its judgment, basically contending that the World Bank had failed, refused, and neglected to file an approved bill of exceptions within ten (10) days as of the date the final judgment was rendered in keeping with law. Upon a hearing on of the motion to dismiss the appeal, the trial judge granted the Appellee Manhattan Trading Corporation's motion to resume jurisdiction and ruled to have the court enforce its judgment.

The Respondent/Appellant World Bank, in its petition filed before Justice Sie-A-Nyene G. Yuoh, contended that while the statute provides that a bill of exceptions should be filed within ten (10) days as of the date of the rendition of final judgment, the statute contemplates that copy of the final judgment would be delivered to the parties to the proceedings on the selfsame day the judgment is rendered; that the statute would not toll for the filing of a bill of exceptions until such time when a copy of said final judgment was made available to the party against whom the final judgment was rendered. The appellant asserted that this not having been the case, and besides, the judge having approved the appellant's bill of exceptions presented to him, the trial court could not resume jurisdiction and enforce its judgment.

Justice Yuoh granted the peremptory writ, holding that the circuit judge acted ultra vires. The Appellee/Movant Manhattan Trading Corporation appealed the Justice's decision to the Bench *en banc*, and the Bench upheld the Chamber Justice's ruling, sending a mandate to the court below restraining and prohibiting the trial judge presiding therein from enforcing the judgment and that the court allow the Appellant, World Bank, to proceed with the completion of its appeal *nunc pro tunc,* as of the date of the filing of the approved bill of exceptions (*Trading Corporation v. World Bank (Liberia), Supreme Court Opinion, March Term 2014).*

Subsequently, the Appellant World Bank proceeded with and perfected its appeal filing an appeal bond and a notice of completion of appeal. The appellant having filed its notice of completion of appeal with the trial court, the court below was divested of the matter and the case was transferred and docketed before the Supreme Court.

A second contention arose from the appeal. This time, the Appellee Manhattan Trading prayed the Supreme Court to dismiss the Appellant World Bank's appeal due to the defectiveness of its bond. The appellee alleged the World Bank's appeal bond was fatally defective in that there was no certificate attached to state its compliance with the requirement, that when an appellant uses an insurance company to put up an appeal bond, there should be a certificate or other legal instrument from the appropriate legal authority, such as the Central Bank or other insurance authority, or similar government authority having regulatory responsibility for insurance companies indicating that the insurance company possess assets within the Republic, sufficient to cover the obligations undertaken by the insurance company in the bond exclusive of other bonds to which it is serving as surety. The Appellant World Bank resisted the motion to dismiss the appeal, countering that the movant, Manhattan Trading Corporation, failed to except to the appeal bond within the three (3) days statutory period allowed by the statute and this constituted a waiver of the appellee raising any alleged defects in the bond filed by the World Bank. The Court upheld the contention of the World Bank and denied the appellant's motion to dismiss the appeal (Manhattan Trading Corporation v. World Bank (Liberia), Supreme Court Opinion, March Term 2016), holding that the appellee/movant's failure to have challenged the bond in three days amounted to waiver of its rights to challenge the validity of the appeal bond.

Having dispensed with all the ancillary legal matters leading to the main case, the Supreme Court is now faced with the final determination of the main matter on appeal, the Appellant World Bank's complaint that the judgment of the lower court was erroneous and prejudicial.

A perusal of the court's file revealed a 13 count petition for declaratory judgment filed by the appellee, Manhattan Trading Corporation, in the court below, and a twenty-eight (28) count returns filed by the appellant, World Bank. We quote below both the petition and the returns thereto.

"PETITIONERS PETITION

And now comes petitioner in the above entitled cause of showing for cause the following reasons, to wit:

1. That the petitioner herein instituted a previous action of declaratory judgment proceeding against the respondent. That the respondent subsequently filed a motion to dismiss, which motion was heard by this Honorable court and denied, court is requested to take judicial notice of the records of this case.

2. That subsequently, the respondent fled to the Chambers Justice on a writ of certiorari. The Chambers Justice, after a conference, referred the matter to the Ministry of Foreign Affairs to conduct an investigation/hearing into the claims of the parties. Copy of the Chamber Justice letter is hereto attached marked p/1.

3. Petitioner say that subsequently, the respondent and petitioner after a conference amongst themselves agreed that whist this matter was before the

Foreign Ministry, the parties would mutually withdraw the matter from court and abide by the determination from the Foreign Ministry.

4. Petitioner says that consistent with the aforesaid understanding, the petitioner also withdrew the action, with reservation to re-file. Copy of the withdrawal is hereto attached marked P12.

5. Petitioner says that after several months of hearing, the Foreign Ministry handed down an administrative decision ordering the respondent to settle the claims of the petitioner, as per the mandate of the Chambers Justice. Copy of the administrative decision and claim of the petitioner submitted to the Foreign Ministry is hereto attached marked p/3 in bulk.

6. Petitioner say that since the respondent received the decision, and despite repeated meetings, consistent with the mutual understanding above mentioned that were aimed at bringing closure to this matter, the respondent and counsel completely ignored the administrative decision handed down, and refused to settle the Petitioner's claims.

7. Petitioner says that he possesses leasehold rights to an unencumbered Real Property situated on Tubman Boulevard, Sinkor Monrovia, as can be more readily seen by the attached lease agreement, marked Exhibit *"P14"*.

8. Petitioner says that the respondent, though its legal representatives, approached him in the year 2005, and requested him to utilize his property for a certain project through their representative Team Leader Mr. Mwangi Wachira from the World Bank Washington D.C. and the Head Office of Monrovia, Liberia. The respondent also requested that the petitioner undertake certain renovation of the property to meet up with specifications for their project. Based upon these representations of corporate officers of a reputable international institution, the petitioner, at his own cost and expense, conducted the requested renovation and made other expenses receipts are hereto attached marked Exhibit "P/5"

9. Petitioner says that after the renovation of the property requested by the respondent, a draft lease agreement was sent to the Petitioner by the Respondent for review and signature. Petitioner and counsel reviewed the draft, and sent it back to the respondent for signature and payment of the agreed and stipulated rental. Copy of the draft Lease Agreement is hereto attached marked Exhibit "P/6".

10. Petitioner says that nearly two (2) years after completion of the renovation, and holding the property for the respondent, the respondent on November 26, 2006, sent the petitioner a letter by Mr. Luigi Giovine, Country Manager for the World Bank of Monrovia, Liberia, acknowledging the investment made by petitioner on the 24th Street property in preparation for the respondent's project and also indicated their preparedness to lease the property for US$50,000.00 per annum, inclusive of other lease terms and conditions. Petitioner consented to the terms of the respondent's letter. Copy of the respondent's letter is here attached marked Exhibit" *P/7"*.

11. Petitioner says that notwithstanding the clear and unambiguous terms of this letter, and for reasons best known to the respondent, the respondent has failed, refused and neglected and breached the expressed and implied terms and conditions of the letter of November 26, 2006, up to and including the filing of this complaint in the amount of US$150,000.00 representing three (3) years rent due on the lease contract.

12Petitioner says that any person interested under a deed, will, written contract, or other writing constituting a contract may obtain a declaration of rights, status, or other legal relations hereunder. See 1LCLR 43.2 Page 218.

13. Petitioner submit that respondent's letter of November 26, 2006, and the corresponding draft agreement annexed hereto, coupled with the administrative decision of the Foreign Ministry conveyed rights and legal relationship, which, when abrogated as in the instant case, will result into general and special damages to be borne by the wrongdoer, the respondent herein.

Wherefore, and in view of the foregoing, petitioner respectfully prays court to issue orders confirming and affirming the administrative decision of the Foreign Ministry of the Republic ordering the respondent to make settlement of the claims of the petitioner, pursuant to instructions of the Chambers Justice of the Supreme Court, in the total amount of US$507,757.66, exclusive of statutory interest of 6% per annum, reasonable attorney fees as well as cost of court, and to grant unto the petitioner each and every relief deemed just, legal and equitable."

"RESPONDENT'S RETURNS

Respondent in the above-entitled cause of action denies the legal and factual sufficiency of Petitioner's Petition, and prays Your Honor to deny and dismiss same for the following legal and factual reasons, to wit:

1. That as to Counts One (1) and Two (2) of the petition, respondent says that same present no traversable issue, and therefore need not be traversed.

2. That also as to Counts One (1) and Two (2) of the petition, respondent submits and says that the petition for declaratory judgment referred to in Count One (1) of the petition is still pending before the Honorable the Supreme Court of Liberia undetermined, as no mandate has been sent from the Supreme Court to this Honorable Court to resume jurisdiction over the subject matter of the petition for declaratory judgment.

3. That further to Counts One (1) and Two (2) above, the Chambers Justice, in his letter of August 23, 2010, addressed to the Minister of Foreign Affairs, informed the Minister of Foreign Affairs that the instrument referred to by the World Bank immunizing it from suit in Liberian courts was executed by the Minister of Foreign Affairs, and in that spirit he was giving he Ministry the opportunity to examine the matter and, in consideration thereof, inform the Court within reasonable time not exceeding a maximum period of three (3) months as to its disposition. Respondent submits and says that the Ministry of Foreign Affairs has not, up to and including the filing of these returns reported to the Supreme Court of Liberia as to its disposition of the matter to enable the Supreme Court dispose of the certiorari proceedings pending before it.

4. That as to Count Three (3) of the petition, respondent denies the averment contained therein, and submits and says that at no time, during the conference with the Chambers Justice, did petitioner and respondent agree to withdraw the matter from court and abide by the determination of the Ministry of Foreign affairs in said matter. Hence, the averment contained in Count Three (3) of the petition is false and misleading and bears no iota of truth.

5. That as to Count Four (4) of the petition, respondent says that the attempted withdrawal of the petition for declaratory judgment by petitioner

with reservation to re-file is a legal nullity, since in fact and indeed a petition for the writ of certiorari was filed against the ruling of this Court on the motion to dismiss, a citation and stay order issued by the Chambers Justice, thereby ousting the Civil Law Court of jurisdiction. Respondent submits that there not having been a mandate from the Supreme Court of Liberia lifting its stay order and ordering the lower court to resume jurisdiction over the matter, petitioner could not legally withdraw its Petition for declaratory judgment with reservation to re-file. Hence, count four (4) of the petition is a fit subject for denial and dismissal; and respondent prays Your Honor to so rule and declare.

6. That as to Count Five *(5)* of the petition, respondent submits and says that the Ministry of Foreign Affairs did not conduct any administrative hearing, as no evidence was ever adduced by either party to support or in denial of the claims asserted by the parties. Accordingly, no award was made by the Ministry of Foreign Affairs. Under Liberian law, a decision devoid of an award is void *ab initio* and of no legal effect. The Ministry of Foreign Affairs not having conducted an administrative hearing, and not having made an award, the allegation contained in Count Five *(5)* of the petition has no basis in fact and law, and should therefore be denied and dismissed.

7. Also traversing Count Five *(5)* of the petition, respondent says that under Liberian law, a party aggrieved as a consequence of an administrative decision is required to file a petition for judicial review before the appropriate circuit court having jurisdiction over the subject matter out of which the administrative decision grows within thirty (30) days as of receipt of said administrative decision; and failing to do so, said administrative decision shall be binding and conclusive against such aggrieved party. Respondent submits that the Ministry of Foreign Affairs not having conducted an administrative hearing by the taking of evidence and rendering an enforceable judgment thereof, it did not file a petition for judicial review of the purported administrative decision marked as Petitioner's Exhibit *"P13"* in bulk, for reason that said decision is void *ab initio* and of no legal effect for reasons stated in Counts Five *(5)* and Six (6) above; which counts are hereby incorporated into this count of the returns in traversal of Count Five *(5)* of the petition.

8. That as to Count Six (6) of the petition, respondent confirms and affirms Counts Five *(5)* through Seven (7) above, and incorporates said counts into this count of the returns in traversal of Count Six (6) of the petition.

9. That as to Count Seven (7) of the petition, respondent says that same presents no traversable issue, and therefore need not be traversed.

10. That as to Count Eight (8) of the petition, respondent says that while it is true that respondent expressed interest in leasing petitioner's premises, and that in order to carry into effect a lease agreement for same the building had to be renovated, which petitioner did renovate, respondent submits that the execution of a lease agreement between petitioner and respondent for said premises was contingent on the signing of the GDLN Grant Agreement, which was never signed, and therefore the contemplated lease agreement for said premises was not executed.

11. Also traversing Count Eight (8) of the petition, specifically petitioner's Exhibit *"P15"*, respondent says that there was no agreement between petitioner and respondent pursuant to which respondent undertook to pay petitioner US$50,451.05, representing renovation and reconditioning or replacement cost of Petitioner's premises. Respondent submits that

petitioner would still have renovated his premises even if respondent had not expressed interest in leasing said premises. Respondent submits that it is unfair, in equitable and illegal for petitioner to request this court to have respondent pay the renovation cost for its premises.

12. That also as to Count Eight (8) of the petition, respondent says that petitioner and respondent did not enter into a lease agreement for the premises, subject of the petition for declaratory judgment, pursuant to which respondent undertook to pay petitioner one year's rent in the amount of US$50,000.00. Respondent submits that the basic understanding is that had the agreement been executed, respondent would pay rent in the amount of US$50,000.00 per annum; but since the contemplated lease agreement was never executed, respondent has no obligation to petitioner under an unsigned lease agreement.

13. That also as to counts eleven (11) and twelve (12) above, respondent says that there is no agreement and understanding between petitioner and respondent calling for respondent to pay six percent (6%) interest on the renovation cost incurred by Petitioner in the renovation and rehabilitation of its own property and to pay rent in the amount of US$50,000.00 *for* the year 2005. Accordingly, both the principal of US$100,451.05 and the six percent (6%) interest calculated thereon up to 2010 not having any legal and factual basis, should be denied and dismissed.

14. That as to the provision of security and maintenance cost for 2008 to 2010 in the amount of US$9,000 and US$7,500.00, respectively, respondent says that there is no legal and factual basis to hold respondent liable for same for reasons stated in several counts above. Respondent submits that it does not understand under what parity of reasoning petitioner would expect respondent to be responsible to pay for security guards and maintenance costs of petitioner's premises in the absence of an agreement obligating respondent to do so. Hence, Count Eight (8), along with the entire petition should be denied and dismissed.

15. That further traversing Count Eight (8) of the petition, respondent says that under Liberian law, legal fees and court expenses incurred or to be incurred by a party litigant cannot be the obligation of the adverse party in the absence of an agreement therefor. Respondent submits that petitioner's assertion that it has incurred legal fees and court expenses in the amount of US$50,000.00, which it included in its calculation of special damages, has no basis in fact and law and should therefore be denied and dismissed.

16. That as to Count Nine (9) of the petition, respondent says that apart from the averment relating to the drafting of a lease agreement for petitioner's premises as contained in count Nine (9) of the petition, the other portion of the averment as to the returning of the draft lease agreement for signature, and payment of the agreed rental payment, are false and misleading and have no iota of truth. Respondent submits that the leasing of petitioner's property was contingent on the signing of the GDLN Grant Agreement, which was never signed and therefore Respondent did not lease petitioner's premises. Hence, the averment contained in Count Nine (9) of the petition, along with the entire petition should be denied and dismissed. Attached hereto and marked as respondent's Exhibit "**R/**1" is a copy of a letter written to petitioner's president, notifying petitioner of the contingency attached to the leasing of its premises.

17. That as to Count Ten (10) of the petition, respondent says that it did send petitioner the letter referred to in Count Ten (10) of the petition, dated November 26, 2006, and requests Your Honor to take judicial notice of petitioner's averment that it consented to the terms of respondent's letter, which notified petitioner of respondent's intention to use petitioner's premises for the GDLN project contingent on signing of the GDLN Grant Agreement. Respondent submits that the GDLN Grant Agreement was never signed, and therefore respondent could not, and therefore did not execute the contemplated lease agreement for petitioner's premises. -

18. That as to Count Eleven (11) of the petition, respondent confirms and affirms Counts Eight (8) through Seventeen (17) above and incorporates said counts into this count of the Returns in traversal of Count Eleven (11) of the petition.

19. That also traversing Count Eleven (11) of the petition, respondent requests Your Honor to take judicial notice of the averment contained therein to the effect that respondent has failed, refused, neglected, and breached the express and implied terms and condition of the letter of November 26, 2006, up to and including the filing of the Petition in the amount of US$150,000.00, representing three (3) years' rent due on the lease contract. Respondent submits that where there is a failure, refusal, neglect and breach of the express and implied terms and conditions of an agreement or instrument, the remedy available to the non-breaching party is an action of damages for breach of contract or for wrong but not declaratory judgment as petitioner is urging Your Honor to do in the instant case.

20. Also traversing Cost Eleven (11) of the petition, respondent says that there is no lease contract between petitioner and respondent for which respondent undertook to pay rent to petitioner in the amount of US$150,000.00, representing three (3) years' rent as averred in Count Eleven (11) of the petition. So, respondent challenges petitioner to produce any lease contract fully executed by petitioner and respondent; failing which, the instant petition should be denied and dismissed.

21. That as to Count Twelve (12) of the petition, respondent says that while it is true that the law extant in this jurisdiction provides that any interest under a deed, will, written contract or other writings constituting a contract may obtain a declaration of rights, status or other legal relations thereunder, respondent submits and says that said law is not applicable to the instant case, as there is no deed, will, written contract or other writing constituting a contract between petitioner and respondent for which this court may declare the rights, status or other legal relations between petitioner and respondent in respect thereto. Hence, declaratory judgment will not lie in the instant case.

22. That as to Count Thirteen (13) of the petition, respondent confirms and affirms Counts Two (2) through Twenty-One (21) above and incorporates said counts into this count of the Returns in traversal of Count Thirteen (13) of the petition.

23. That also traversing Count Thirteen (13) of the petition, respondent says that in declaratory judgment proceedings, the court cannot award special damages and general damages. Declaratory judgment proceedings are limited to the declaration of the rights status or legal relations between the parties in respect of a deed, will, written contract or other writings constituting a contract. Petitioner having requested

court for the award of special damages and general damages, same not being the office of a petition for declaratory judgment, the instant petition for declaratory judgment should be denied and dismissed.

24. That as to the prayer of petitioner, respondent confirms Counts Two (2) through Twenty-Three above and incorporates said counts into this count of the returns in traversal of petitioner's prayer.

25. That *Section 43.5* of the *Civil Procedure Law* provides that courts may refuse to render or enter a declaratory judgment where such judgment, if rendered, could not terminate the uncertainty or controversy giving rise to the proceedings. In the instant case, there is no uncertainty or controversy giving rise to this petition for declaratory judgment, as the petitioner has not stated any uncertainty with respect to any document executed by petitioner and respondent for which this court would remove any uncertainty thereto with respect to the rights, status or legal relations of petitioner and respondent. Hence, declaratory judgment will not lie.

26. Respondent submits that Liberia is a member of the World Bank and is therefore duty bound and obligated to uphold and give effect to its Articles of Agreement (Charter). The Articles of Agreement of the International Bank for Development and Investment (IBRD), otherwise known as the World Bank, 'provides, at Article VII, Section 8(i) thereof, for immunity for all World Bank officers from legal process with respect to their official acts. Respondent submits that the negotiation of a lease agreement for and on behalf of the World Bank is an official act. Accordingly, the officers of respondent being officers of the World Bank office in Liberia, who negotiated a lease agreement with Petitioner, which was not consummated, are immune from legal process growing out of said transaction or negotiation. Hence, this Court lacks jurisdiction over the persons of the Respondent. Attached hereto and marked as respondent's Exhibit "R12" is a copy of the relevant portion of the World Bank's Articles of Agreement in substantiation of the averment contained herein.

27. Respondent submits that notwithstanding the World Bank has been named as the respondent in this case, this Court still lacks jurisdiction over the person of the World Bank, for reasons stated in count Twenty-Five (25) above. That is to say, the World Bank enjoys immunity from legal process, as per its Articles of Agreement and by virtue of its Establishment Agreement with the Government of the Republic of Liberia, signed by Honorable Abel Massaley, then Deputy Minister of Foreign Affairs, for and on behalf of the Government of Liberia. The said Establishment Agreement grants the World Bank immunity from legal process in Liberia in all matters save in cases arising out of, or in connection with the exercise of its powers to issue or guarantee securities. Respondent submits that the purported transaction out of which the petition for declaratory judgment grows is not an exercise, by the World Bank, of its powers to issue or guarantee securities. Attached hereto and marked as respondent's Exhibit "R/3" is a copy of the establishment agreement entered into between the Government of the Republic of Liberia and the World Bank, granting the Bank immunity from legal process in Liberia. Your Honor is requested to take judicial notice of Exhibit "R/2" attached hereto, in substantiation of the averment contained herein.

28. Respondent denies all and singular the allegations of both law and fact contained in petitioner's petition and not specifically traversed in these Returns.

Wherefore, and in view of the foregoing, respondent prays Your Honor to deny and dismiss petitioner's petition in its entirety and grant unto respondents any other and further relief as the law, justice, and equity demand in the premises."

The appellee Manhattan filed a reply to the returns, reiterating the allegations made in its petition and subsequently filed a motion for summary judgment, contending that the Appellant World Bank did not deny that it approached the appellee to use it property and that it requested the appellee to perform certain renovation works on the said property to meet the Bank's specific needs; that the Foreign Ministry had conducted an administrative hearing into the dispute and handed down a ruling favorable to the appellee and from which the World Bank took no remedial action to reverse. The appellee, Manhattan Trading Corporation, therefore prayed that in consonance with the Civil procedure Code 1:11.3, it was entitled to judgment as a matter of law. We transcribe below Counts 4 and 5 of appellee's motion which captures essential averments of the said motion for summary judgment:

"4- Movant says that the respondent having admitted, by operation of law, that indeed: (a), a request was made for the use and occupancy of the property; (b) that movant was instructed to perform sundry works i.e. raising the fence etc., to meet their specification; and (c) sundry costs associated with the preparation of the property for use and occupancy for the property especially as can be seen by respondent's own letter to movant dated November 26, 2006, no genuine or material issue of facts is in dispute, and the movant is entitled to judgment, as a matter of law. Copy of the letter is hereto annexed and marked Exhibit M/1."

"5- Movant also says that there is also no denial that the Foreign Ministry of Liberia over several months conducted an investigation of this matter, based upon the claims of the movant, and rendered a judgment ordering the respondent to make settlement of the claim of the movant. No remedial action was taken to reverse this judgment which is hereto attached marked M/2."

To this motion for summary judgment, the Appellant World Bank filed it resistance, restating the grounds, defenses and assertions in its returns to the petition for declaratory judgment, especially emphasizing that summary judgment cannot lie because there were issues of facts material to the determination of the case. World Bank, appellant, prayed the court to deny and dismiss the motion.

The trial court, after a hearing of arguments pro et con into the motion for summary judgment, derived three issues dispositive of the motion, namely,

1. Whether the failure to formally execute the contemplated lease agreement extinguished all rights to petitioner;

2. Whether the Foreign Ministry decision conveyed rights to petitioner which are proper subject for determination by the court; and,

3. Whether or not summary judgment would lie.

Disposing of the first issue, the trial judge answered in the affirmative, holding that the absence of a formally executed lease agreement under the circumstances could not extinguish the rights of the appellee Manhattan Trading Corporation. The judge stressed that the lease agreement was a contract which could be expressed and/or implied; that though there was no formal agreement between the parties, the letter of November 26, 2006, written by the World Bank to Manhattan Trading Corporation can be construed as a contract; that where one party acts consistent with the terms of a stipulated agreement and completes performance in keeping with anticipated agreement, the other party who induced said performance, cannot sport away the vested rights of the other party due to changed circumstances.

With respect to the second issue, the trial judge also answered in the affirmative, holding that courts will not question the decision of any administrative agency where the party stood idly and failed to take appropriate steps to correct an adverse ruling against it, and where a party subjects itself to a forum voluntarily, court of law will presume the validity of such decision and enforce same. The judge further emphasized that respondent's failure to seek correction of any kind of the findings of facts of the administrative agency (Ministry of Foreign Affairs Justice) made it liable to make settlement of the claims of the petitioner.

In determining the third issue, whether summary judgment would lie, the trial judge again answered in the affirmative, holding that from the records, respondents resistance was void of any affidavit stating and outlining issues that are material for trial; that the respondent World Bank's failure to proffer such affidavit was fatal, since by statute, the only way to interpose and oppose a motion for summary judgment is to show by affidavits that there exists material issues for trial, not by mere denial or allegations.

It is to this ruling of the trial judge, His Honor Yusuf D. Kaba, that appellant excepted, announced an appeal to the Supreme Court and filed a bill of exceptions, complaining that the ruling was erroneous and reversible.

Hereunder is transcribed the full text of appellant World Bank's bill of exceptions:

> "Respondent having' excepted to Your Honor's Final Judgment of November 23, 2012, a copy of which was delivered to and received by respondent on December 3, 2012, and announced an appeal therefrom, now presents this Bill of Exception for Your Honor's approval *nunc pro tunc,* as follows:

1. That movant alleged that there was a verbal and written request made by respondent for the renovation of movant's premises for subsequent lease by respondent, which, after renovation of said premises by movant, respondent reneged on leasing same. Respondent submits that assuming, without admitting, that movant's assertion were true, then and in that case the remedy available to movant would either be an action of damages for breach of contract or action of damages for wrong, but not declaratory judgment. Respondent submits that notwithstanding the above, Your Honor erred when. Your Honor granted summary judgment in favor of movant and against respondent, to which respondent excepts.

2. That in Your Honor's Ruling, Your Honor held that no formal lease agreement was executed between movant and respondent. Notwithstanding, Your Honor ruled granting movant's motion for summary judgment, thereby awarding movant the amount of *US$507,575.60* exclusive of statutory interest and cost of court. There being no factual or legal basis for Your Honor's award, as evidenced by the record of the case file, Respondent excepts to said award.

3. That under our law, a court of competent jurisdiction can only render judgment upon a hearing consistent with due process of law. A court of competent jurisdiction cannot render judgment in a declaratory judgment proceeding or any other proceeding for that matter growing out of an administrative hearing, save petition for Judicial review or petition for enforcement of an administrative decision. Accordingly, Your Honor erred when Your Honor granted summary judgment in a petition for declaratory judgment under the pretext of enforcing an alleged administrative decision from the Ministry of Foreign Affairs; for which respondent excepts.

4. That the Ministry of Foreign Affairs did not conduct an administrative hearing and therefore entered a determination thereon; rather, Honorable Krubo Kollie, in her letter of August 16, 2012, addressed to respondent, she urged respondent to do everything within its power to settle the claims of movant under the direction of the Ministry within the period of one month as of the date of her decision. Failing which, the parties were at liberty to pursue all appropriate legal means for the satisfaction of their respective claims without further interference or involvement of the Ministry of Foreign Affairs of the Republic of Liberia. Hence, the Ministry of Foreign Affairs did not issue an order to respondent to pay movant the amount of US$507,757.66. Accordingly; Your Honor erred when Your Honor granted movant's motion for summary judgment and awarded movant the amount of US$507,757.66; for which error of Your Honor, respondent excepts.

5. That movant filed a Petition for declaratory judgment to which respondent filed a resistance and a motion to dismiss. The motion to dismiss was heard and denied, and respondent filed a petition for the writ of certiorari before the Justice in Chambers. Subsequently, the Justice in Chambers lifted the stay order and mandated the Civil Law Court to proceed with the petition for declaratory judgment in keeping with law. While this mandate and petition for declaratory judgment are pending before the Civil Law Court, the movant filed a second petition for declaratory judgment out of which the motion for summary judgment grew. Notwithstanding this fact, Your Honor granted movant's motion for summary judgment in violation of controlling laws and statutes; for which error of Your Honor, respondent excepts.

6. That notwithstanding the several genuine factual issues raised in the petition, the resistance thereto, and the reply, which require the taking of evidence, Your Honor ignored said genuine factual issues and

erroneously and prejudicially granted movant's motion for summary judgment; for which error of Your Honor, respondent excepts.

Wherefore and in view of the foregoing, respondent submits this bill of exceptions for Your Honor's approval, in fulfillment of the second jurisdiction step in the perfect of its appeal."

Appellant's bill of exceptions basically contends three things: (1) Assuming that the alleged verbal and written request made by appellant/respondent for the renovation of appellee/movant's property are true, the proper remedy should have been either an action of damages for breach of contract or an action of damages for wrong, not a declaratory judgment; (2) The courts cannot render judgment in a declaratory judgment proceedings or for any other matter growing out of administrative hearings save a petition for judicial review or petition for enforcement of an administrative decision; (3) The award of US$507,757.66 in favor of appellee against appellant had no factual and legal basis, since the court failed to take evidence amidst the genuine and factual issues raised in the pleadings.

In count 1 of World Bank's bill of exceptions, it does not out-rightly deny that the World Bank approached and reached a verbal understanding with the appellee to renovate its property for the World Bank's Global Development Learning Network (GDLN) Project. However, the World Bank asserts that assuming without admitting that there was an implied contract between the parties, the appellee should have filed the appropriate legal action which should have been damages for breach of contract or action of damages for wrong, not a declaratory judgment.

Our review of the pleadings and attachments in the certified records, and the arguments made before the Court, presents the following facts: the Appellee Manhattan Trading Corporation possessed leasehold rights to a piece of property lying and situating on 24th Street, Sinkor, Monrovia; that it was approached by the Appellant World Bank in 2004, by and through its authorized agent and corporate officer, requesting interest in the appellee's property for the use of the World Bank's Global Learning Project; that the appellee then proceeded to renovate the said property according to specifications the appellee said was provided by the World Bank. Upon completion of the renovation work, the appellee communicated to the World Bank that it had completed the renovation work in keeping with the Appellant Bank's specifications as prescribed and requested. The Appellant Bank sent a draft lease to the appellee which reviewed same with its counsel and had same sent back to the Appellant Bank for its signature and payment of the agreed stipulated rent. However, it was on November 26, 2006, two years after appellee's request for payment sent along with the attached lease agreement, that the Appellant World Bank responded in a communication under the signatures of its

Country Manager Luigi Giovine and the UNDP Country Director Steven Ursino, expressing gratitude to the appellee for the patience it continued to exhibit as the World Bank and UNDP finalized the Global Development Learning Network (GDLN) project. Appellant also commended the appellee for the investment made on the premises and for reserving the building in preparation for their project in good faith. However, in the succeeding paragraphs of the communication, appellant expressed its intent to use the property contingent upon the approval of the GDLN Grant Agreement, indicating that they would lease the building for an initial two years minimum and pay a rent in the amount not to exceed US$50,000.00 per year. The letter further related to other issues reflecting appellant's position on the terms and conditions of the lease agreement to be entered into by the parties when the project was approved. Transcribed below is the full text of the appellant's letter to the appellee:

November 26, 2006

Mr. Marouf A. Mansour
President
Manhattan Trading Center
PO Box 10-2141
1000Monrovia 10,
Republic of Liberia

Mr. Mansour,

Global Development Learning Network (GDLN) Project Building Lease.

The World Bank and the United Nations Development Programme (UNDP) appreciate your continued patience as we finalize the Global Development Learning Network (GDLN) Project. We appreciate that you have invested in your premises on 24th Street, Sinkor, Monrovia (the premise) to prepare it for our project. Moreover, we recognize that you have held the premise for us in good faith.

Regarding the use of the premises for the GDLN project, this letter is to notify you of our intent, contingent on signing of the GDLN Grant Agreement, to rent the premises. We intend to request the premise for a minimum of two years and are prepared to rent it for the sum not to exceed US$50,000 per year. Once we finalize the lease terms, then we will make a first lease payment upon signing of the lease, and a second lease payment at the end of the first year of the lease. It is further understood that upon the expiration of the initial term of the lease, the World Bank and/or UNDP will enjoy "first option" to renew the lease for up to three additional years, with any increase for lease payments not to exceed five percent (5%) of the original lease amount over the three year renewal period. If we exercise the option to renew the lease, the World Bank and/or UNDP reserve the right to notify you, in writing, of our intent to renew the lease by no later than March 30th 2008.

The World Bank and UNDP look forward to finalizing these terms in the lease agreement after signing the Grant Agreement between The World Bank and UNDP.

Sincerely,

Steven Ursino Country Manager World Bank	Luigi Giovine Country Director UNDP"

The appellee, Manhattan Trading Corporation's petition for declaratory judgment rested on two cardinal documents; namely, the appellant letter of November 26, 2006 (supra) to the appellee, and the ruling or decision from the administrative hearing conducted by the Ministry of Foreign Affairs.

The appellant alleged in its returns to the declaratory judgment that there was no formal lease agreement executed between the parties and though it expressed an interest in leasing the appellee's building, in order to carry into effect a lease agreement for the said building, it had to be renovated, which renovation work the appellee did. Further, the appellant argued that its letter of November 26, 2006, to appellee, cannot be construed to form a binding agreement between the parties, implied or written, from which a petition for declaration judgment would lie; that the Appellant Bank's letter of November 26, 2006, explicitly conditioned the leasing of the building subsequent to the approval of the Global Development Learning Network Project. The appellant also argued that assuming the letter is construed or determined by the trial court to form a binding agreement between the parties, the proper form of action would not be declaratory judgment but either an action of damages for breach of contract or action of damages for wrong.

The trial court opined that the letter of November 26, 2006, supported the appellee's claim that there was an understanding reached by the parties which induced the appellee to perform in keeping with an anticipated agreement and this the appellant could not "sport" away from due to change circumstances, considering the vested rights of the appellee.

This Court notes that contracts law hold that a contract is formed when one of the parties has an expectation, and relies on a promise deserving of legal protection. This Court must determine whether in this case, where the written contract was not concluded, there were sufficient legal reasons for the court's ruling enforcing a legal obligation of the Appellant World Bank to the appellee.

From the records, can this Court say the appellant merely told the appellee that appellant was considering the use of appellee's property if the appellant's anticipated GDLN Grant Agreement was signed, and upon this conditioner statement the appellee went ahead and renovated its property? If such was the case, the Court could not find the appellee hope of expectation equivalent to legal detriment or reliance. In this case, however, the appellee claims that the World Bank, through its legal representatives, approached appellee's president in the year 2005, and requested to utilize the appellee's property for a certain World Bank project The World Bank also requested the appellee to undertake certain renovation of the property to meet up with specifications for its project. Based upon these representations of corporate officers of a reputable international institution, the appellee said, at its own cost and expense, it conducted the requested renovation work and incurring other expenses; that after the renovation work was completed, the appellee communicated to the World Bank which then sent the appellee a draft contract for the appellee's review and signature; the appellee reviewed the contract and had same sent back to the world Bank along with the appellee's claim for two years rental payment.

The Appellant World Bank is not definitive in countering that it did not approached the appellee to renovate its property for use by appellant for its project or required that the renovation meet certain specifications. Although the second paragraph of the letter from the appellant to the appellee reveals that subsequently after renovation of the property the appellant expressed its intent to rent the property contingent on the signing of the GDLN Grant Agreement, the preceding paragraph indicates that there was a promise made and a reliance thereon for which the appellee proceeded to expend funds to renovate the building. The appellant in its letter of November 26, 2006 states: "*We appreciate that you have invested in your premises on 24th Street, Sinkor, Monrovia (the premise) to prepare it for our project. Moreover, we recognize that you have held the premise for us in good faith.*"

Clause 9 and 10 of the appellee's petition written above reads as follows:

> 9. Petitioner says that after the renovation of the property requested by the respondent, a draft lease agreement was sent to the petitioner [Manhattan Trading Corporation] by the respondent [World Bank] for review and signature. Petitioner [Manhattan Trading Corporation] and counsel reviewed the draft, and sent it back to the respondent [World Bank] for signature and payment of the agreed and stipulated rental. Copy of the draft Lease Agreement is hereto attached marked Exhibit "P/6".
>
> 10. Petitioner says that nearly two (2) years after completion of the renovation, and holding the property for the respondent, the respondent on

> November 26, 2006, sent the petitioner a letter by Mr. Luigi Giovine, Country Manager for the World Bank of Monrovia, Liberia, acknowledging the investment made by petitioner on the 24th Street property in preparation for the respondent's project and also indicated their preparedness to lease the property for US$50,000.00 per annum, inclusive of other lease terms and conditions. Petitioner consented to the terms of the respondent's letter. Copy of the respondent's letter is here attached marked Exhibit" *P/7".*

We note that the Appellant World Bank did not address this fact in its returns to the appellee's petition filed in the court below. The fact that the World Bank had sent to the appellee a draft lease agreement for the appellee's review and signature after the renovation work was completed, which was reviewed by the appellee and its counsel and sent back to the World Bank for its signature and payment of the agreed stipulated rent, in the mind of the Court, is an indication that there was a legal binding understanding, an inducement by the World Bank, for the appellee to renovate its property for use by the Bank. The drafting of the lease agreement by the World Bank, which was sent to the appellee for its review, was a confirmation by the Appellant Bank that there was an understanding by the Bank and the appellee for the appellee to renovate its place to be used by the Bank.

We therefore concord with the conclusion reached by the lower court that although there was no formal agreement between the parties, the draft agreement sent by the World Bank to the appellee, and the letter of November 26, 2006, written by the appellant to the appellee did acknowledge an oral understanding between the parties for renovation and use of the appellee's premises by the Appellant World Bank. The appellant's communication to the appellee acknowledged the undertaking of renovation work by the appellee based on the appellant's inducement and the appellant's reliance thereof. This Court believes that the Foreign Ministry must have also reached this conclusion in her mediation effort, as Counsellor Krubo Kollie in her communication stated that the Bank was urged to do all it could to settle the claims of the appellee. This Court also believes that the communication of November 26, 2006, coupled with the reputation of the appellant, ("World Bank"), were sufficient inducement upon which any reasonable person could rely and take an action, and which in this case, led the appellee to finance said renovation in anticipation of the appellant occupying the premises which would yield to the appellee anticipated benefits. The world Bank's assertion that the appellee would have renovated its premises in any case is untenable since the appellee might not have contemplated renovating its property at the time it did, taking into account the political situation in Liberia at the time when it was approached by the appellant.

In the law of contract, the doctrine of promissory estoppel provides that if a party changes his or her position substantially either by acting or forbearing from acting in reliance upon a promise, then that party can enforce the promise although the essential elements of a contract are not present. We believe that the doctrine of promissory estoppel is applicable in this case since the appellee might not have renovated its property at the time, especially with the specifications requested by the Appellant World Bank. The appellee harbor the belief that the World Bank would occupy the premises and appellee would then reap its pecuniary expectations. Under the facts and circumstances, the Court is bound to uphold the view of the lower court, that the appellant was legally obligated to the appellee, that the Appellant Bank's promise to the appellee was binding and that liability attached. As the Ministry of Foreign affairs requested, the World Bank should have seen reason to work with the appellee in reaching an amicable solution after the Bank's expected support from Washington DC for the GBLN Project failed.

We are in agreement with the World Bank that the allegations made by the appellee constitutes grounds for the institution of either an action for breach of contract or action of damages for wrong but the Court has however held that the existence of another adequate remedy does not preclude a judgment for declaratory judgment relief in cases where it is appropriate to facilitate the administration of justice and to fix and determine rights.

Our Civil Procedural Law Rev. 1, Chapter 43 (1974) grants the courts power to render declaratory judgments, declaring rights, status and other relationships to "any person interested under a deed, will, written contract, *or other writing constituting a contract.....*" The office of declaratory judgment grants both legal and equitable reliefs. Declaratory judgment may be rendered for the purpose of determining the existence and validity of contract, and are not limited to only the interpretation of written instruments but also to judgments declaring the rights of parties under oral contract. (Declaratory Judgment, 22A Am Jur 2d, 212).

The appellee's claimed, and the lower court awarded it the sum of US$507,757.60 which appellee says represents loss sustained as a result of appellant's breach of the oral agreement between them.

The appellant's bill of exception complains that there was no legal or factual basis established for the Judge's granting the appellee's claim of US$507,757.66; that the Ministry of Foreign affairs communication on which the lower court relied to grant the monetary judgment did not grant appellee a monetary award in its communication but referred the parties to the court to settle their claims.

Therefore the judge's ruling summarily granting the award of US$507,757.66 in a declaratory judgment was erroneous.

Referencing the conferences held at the Ministry of Foreign Affairs, the Appellant World Bank asserts that the Ministry of Foreign Affairs did not conduct an administrative hearing since no evidence was adduced by either party in support or denial of the claims asserted by the appellee and no award was made by the ministry; under the Liberian law, a decision devoid of an award is *void ab initio* and of no legal effect. Further, the court could not render a judgment in a declaratory judgment proceeding, or for any other matter, growing out of administrative hearing except a petition for judicial review or petition for enforcement of an administrative decision.

The Executive Law, Section 82.4, this Court has defined what constitutes an administrative hearing. It reads:

> "*Forms and procedures as to determination and orders.* A final determination or order by an agency adverse to party in a contested matter shall be in writing or stated in the record. A final determination shall include the findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the determinations shall include a ruling upon each proposed findings. Parties shall be notified either personally or by mail of any determination or order. Upon request, copy of the determination or order shall be delivered or mailed forthwith to each party and to his attorney of record."

The Supreme Court finds it necessary to quote herein below the communication from the Foreign Ministry referred to by both the lower court and the appellee as an administrative decision:

"RL/MFA/1401/2-5/11 August 16, 2011

IN RE: Manhattan Trading Center by and thru)
Its President, Marouf Mansour, of the City of)
Monrovia, Liberia........................PETITIONER)
) <u>PETITION</u>
VERSUS) <u>FOR</u>
) <u>DECLARATORY</u>
World Bank, by and thru the County Manager) <u>JUDGEMENT</u>
County Manager, Assistant Country Manager)
and all Authorized Persons operating....RESPONDENT)

We present our compliments and herewith attach our position on the above mentioned case after several administrative hearings aimed at amicably resolving the matter.

Case Summary

Mr. Marouf Mansour, hereinafter referred to as the claimant, instituted an Action of Declarative Judgment against the World Bank through its corporate officers, hereafter referred to as the Bank, in the Civil Law Court, Sixth Judicial Circuit. From the record before us, it appears that the Bank, after appearing, file a motion to dismiss the claimant's petition, basically contending that the Bank enjoys "Immunity" from court proceeding in Liberia. The claimant denied this claim of immunity from suits alleging that there exists no instrument of ratification by the Legislature of the establishment agreement executed between the Bank and the Government of Liberia. Apparently, the Trial Judge, His Honor Yussif D. Kaba, agreed with the claimant and denied the Motion.

Thereupon, the Bank filed a Petition for a writ of prohibition before the Honorable Supreme Court that was heard by His Honor Kabineh M. Ja'neh, Associate Justice Presiding in chambers, who after having conducted a conference, forwarded to the Foreign Ministry to review the claims of the parties and revert to his office within a given time with findings to enable the Supreme Court to proceed in keeping with law.

Based upon this instruction of our Highest Court, all of the parties were summoned by the Foreign Ministry and the discussions were commenced as to how this matter could be laid to rest amicably. After several sessions, the parties mutually agreed that they would have this Ministry decide the matter out of court.

Accordingly, claimant was requested to withdraw his lawsuit, whilst the Bank was requested to withdraw its petition from the Supreme Court. For the record, we wish to indicate that all parties fully cooperated and the case was accordingly withdrawn from court to enable the Foreign Ministry impartially settle the matter. Evidence of withdrawal of the case from court was also presented by the parties.

As such, this Ministry dispatched several citations to the parties but some of the meetings were not attended by the Bank as our file is replete with one excuse after another from the Bank. This state of affairs culminated in the failure of the meeting on March 2011, when the Bank Manager requested for three months continuance to enable him "consult" with his Head Office in Washington, D.C., U.S.A., the Ministry once again granted the postponement with the anticipation that he would return for final settlement of the matter. The discussions in the last meeting held on Tuesday, July 12, 2011 were merely an exercise in futility as the Bank's representatives failed to provide any proposal to resolve this matter.

In view of the foregoing, this Ministry hereby urges the Bank to do all within its power to settle the claims of the claimant under the direction of this Ministry, within a period of one (1) month as of the date of this decision; failure of which, it is our decision that all parties are at liberty to pursue all appropriate legal remedies for the satisfaction of their respective claims without any further intervention or involvement of the Ministry of Foreign Affairs of the Republic of Liberia

Krubo B. Kollie
DEPUTY MINISTER/LEGAL COUNSELLOR

Cc: The Country Manager
World Bank
Mamba Point
Monrovia, Liberia

Clarke and Associates"

We are unable to equate the meetings held at the Ministry of Foreign affairs and the conclusion stated in the Ministry's communication, of August 16, 2011, as an administrative hearing in which an investigation was held and an award made for the purpose of the appellant filing before the court a petition for a judicial review, or the appellee filing before the court a petition for enforcement of an award from an administrative decision. Firstly, the matter sent to the Ministry of Foreign was solely to inquire whether the World Bank was immune from legal processes in Liberia. Whatever investigation was held at the Ministry of Foreign Affairs did not constitute an administrative hearing as required under Section 82.4 of our Administrative Procedure Act, as we do not see any record or evidence of the hearing as required under our due process law that led to granting of an award. All this Court finds is what might be termed or considered as a mediating attempt by the Ministry of Foreign Affairs to settle the matter after seeing that liability attached, and urging the appellant to settle with the appellee. Upon failure of the appellant to settle with the appellee as advised by the Ministry, the Ministry recommended that the parties were at liberty to seek the appropriate legal remedy to settle their matter. The Court therefore do not see that a petition to review or enforce the Ministry's decision would be proper in this case since the hearing and decision rendered by the Ministry was not an administrative hearing as contemplated by law, and for which a judicial enforcement could have been sought. If the award as the lower court said was based on an administrative decision by the Ministry of Foreign Affairs, then the rights of the appellee had already been declared and therefore appellee could have only filed a petition for enforcement of the judgment and not a petition for declaratory judgment. A reading of the last paragraph of the communication from the Foreign Ministry, in the mind of the Court, simply states that the appellant having failed to act upon the advice of the Ministry, the parties were at liberty to seek appropriate legal redress in a court of competent jurisdiction without further involvement or intervention of the Ministry. By said report, the Ministry only denied the immunity claim of the World Bank to submit to the jurisdiction of the court.

Besides, the appellee having chosen to file a petition for declaratory judgment the lower court could only declare the parties rights and legal relations under the facts and circumstances. This Court has held that the sole object of a declaratory judgment is to declare rights, statuses and other legal relations whether or not further relief is or could be claimed, *Gbartoe et al. v. Doe,* 41 LLR 117, 124 (2000). An action for declaratory judgment therefore could not have settled the issue of damages as claimed by the appellant in this case. The lower court award of the amounts as claims by the appellee was therefore erroneous and reversible and the judgment of the lower court awarding damages in the amount of US$507.757.66 being without the province of declaratory judgment is therefore set aside. the sole objective of a declaratory judgment being to declare rights statuses and other legal relations, the issue of the appellee's monetary claims could not have been settled in this cause of action, particularly where the law hoary with age in this jurisdiction requires that money judgment be proved and clear evidence produced as to how the award was derived.

This Court however considering the totality of the circumstances in this case as it relates to the agreed annual rental payment, and given that two years rent became due and payable to the appellee before the World Bank's letter of November 26, 2006, finds the amount of One Hundred Thousand United States Dollars (US$100,000.00) which the parties had agreed to as having accrued as the right and entitlement of the appellee. The Court therefore exercising its authority to enter a judgment which otherwise should have been given by the lower court, declares the amount of One Hundred Thousand United States Dollars (US$100,000.00) as the right and entitlement of the appellee under the circumstances of this case. However, this declaration does not preclude any other action by the appellee which it deems appropriate.

The Clerk of this Court is ordered to send a mandate to the court below, ordering the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors Golda Bonah Elliott and Albert Sims, of the Sherman and Sherman, Inc., appeared for the Appellant. Counsellor Samuel R. Clark, of the Clark and Associates Law offices, and Theophilus C. Gould, of the Kemp and Associates Legal Consultancy Chambers, Inc., appeared for the Appellee.