IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.D. 2019

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

Counsellor Benedict F. Sannoh, of the City of Monrovia ....Movant/Appellee	
Versus	MOTION TO DISMISS APPEAL
Meridian BIAO Bank Liberia Limited (MBBLL) (under Seizure), represented by and thru the Central Bank of Liberia, by and thru its Governor, Elias Saleeby and/or its agent, et. al., also of the City of Monrovia. ....Respondents/Appellants	
GROWING OUT OF THE CASE:	
Meridian BIAO Bank Liberia Limited (MBBLL) (under Seizure), represented by and thru the Central Bank of Liberia, by and thru its Governor, Elias Saleeby and/or its Authorized Agent, also of the City of Monrovia. ....Appellant	
AND	
Meridian Properties, Inc., represented by and thru the Central Bank of Liberia as Sequestration Receiver Of Meridian Properties also of Monrovia....Co-appellant	
Versus	APPEAL
Counsellor Benedict F. Sannoh, of the City of Monrovia...Appellee	
GROWING OUT OF THE CASE:	
Counsellor Benedict F. Sannoh, of the City of Monrovia..Plaintiff	
Versus	ACTION OF DEBT BY ATTACHMENT
Meridian BIAO Bank Liberia Limited (MBBLL) (under Seizure), represented by and thru the Central Bank of Liberia, by and thru its Governor, Elias Saleeby and/or its Authorized Agent, also of the City of Monrovia. ....1st Defendant	
AND	
Meridian Properties, Inc., represented by and thru its	

Chairman of the Board of Directors and Corporate Agent,)
A. Tekonblah Togba, also of Monrovia...2nd Defendant)

AND

Madison Insurance Liberia Limited, represented by and)
Thru its General Manager Septimus Massaquoi,)
also of the City of Monrovia..............................3rd Defendant)

AND

All the Tenants of Meridian Properties, located at Tweh)
Farm, J. J. Roberts Compound in Mamba Point and the)
Three Story Building located on Randall Street,)
currently under lease..Garnishees)

HEARD: April 23, 2019 DECIDED: February 7, 2020

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This motion to dismiss appeal is a derivative of an action of debt by attachment and garnishment, instituted by the movant/appellee, Benedict F. Sannoh, on November 13, 2000, in the Debt Court of Montserrado County against the respondent Meridian BIAO Bank Liberia Limited (MBBLL). At the time the movant filed his debt action, the 1st defendant/respondent, Meridian BIAO Bank Liberia Limited (MBBLL), was under seizure by the CBL and was therefore sued by and thru the CBL as the Meridian BIAO Bank designated representative. The movant also named the Meridian Properties, Inc., by and through the Chairman of its Board of Directors, and Corporate Agent, A. Tekonblah Togba,and Madison Insurance Liberia Limited, represented by and through its General Manager, Septimus Massaquoi, as 2nd and 3rd defendants, respectively. The movant claims that the 2nd and 3rd defendants are associated companies of the Meridian BIAO Bank Liberia Limited.

In his complaint filed before the Debt Court of Montserrado County, the movant alleged that the respondents were jointly and severally indebted to him in the amount of One Hundred Sixty-Nine Thousand Eight Hundred United States Dollars (US$169,800.00) plus six percent legal interest annually computed from 1996, representing accrued legal fees under a retainer agreement executed in 1996 between him and Meridian BIAO Bank Liberia Limited.

On September 28, 2015, the Debt Court entered final judgment against the respondents, awarded the movant US$163,000.00 plus 6% interest per annum.

The CBL, representative of the Meridian BIAO Bank Liberia, Limited excepted to the adverse judgment of the Debt Court and announced an appeal to the Supreme Court. The movant seeks to dismiss the appeal announced by the CBL, citing defects in the appellants' appeal bond as ground for the Supreme Court to refuse jurisdiction.

The crux of movant's motion is that the respondent CBL appeal bond set forth by the Accident and Casualty Insurance Company (ACICO) is defective in that it does not meet all the four standards of an insurance bond as outlined by the Supreme Court in its Opinions in the cases *Reeves v. Quiah Brothers,* decided March 2012, and confirmed in the *International Bank v. SIRR Marketing, Inc.,* decided August 2015. The movant alleges that the bond failed to show evidence that the ACICO has assets sufficient to indemnify movant as required in the Quiah Brothers case and Section 51.8 "Appeal Bond", Civil Procedure Law (1974).

Our Civil Procedure, Rev. Code section 63.2(1) states who may be sureties, and it states as follows:

> "Unless the court orders otherwise, a surety on a bond shall be either two natural persons who fulfill the requirement of this section or an insurance company authorized to execute surety bonds within the Republic."

While Section 63.2.2 "*Lien on real property as security",* sets out the requirements for natural persons serving as sureties to appeal bonds, Section 63.2.1 only set out that for an insurance company to execute surety bonds it must be one authorized by the relevant authorities to function as such within the bailiwick of the Republic. It is silent as to what requirements ought to be satisfied by an insurance company acting as surety to a bond. Problems arose regarding the adequacy of insurance bonds, whether the mere issuance of a bond by an authorized insurance company was adequate to satisfy 51.8 of the Civil Procedure Law (1974). In Opinions that preceded the Reeves v. Quiah Brothers case (2012), the Supreme Court stated that the intent and spirit of the statute would be defeated if an insurance company could not demonstrate that it is a registered entity, and that it has the capacity and the liquidity to effectively discharge the obligation undertaken in a bond. (*Kamara v. Wolloh,* 9 LLR 177, 180 (1981); *The Intestate Estate of the Late William J.M. Bowier et al.,* 40 LLR 84,89 (2000); *Freeman and Wesseh v. Lewis et al*; 40 LLR 103, 107(2000)). The Court, however, did not prescribe a definitive standard for satisfying the intent of Section 51.8 in regard to an insurance bond in these cases and it remained an unsettled area of law prior to the *Reeves v. Quiah Brothers case,* Supreme Court Opinion, March 2012, The Supreme Court in the case Reeves v. Quiah Brothers opted to remove uncertainties with regards the execution of surety bonds by an insurance company. It went on to set the requirements for bonds executed by insurance companies as sureties. In order to meet the requirement of indemnification, the Court set out four benchmarks for bonds proffered by insurance companies. The benchmarks set are the following*:*

1. The exhibition or attachment to the bond of the Articles of Incorporation of
   the insurance company as evidence that the company does exist;

2. Registration certificate of the insurance company with the appropriate government ministry or agency indicating that it is authorized to do business in Liberia and that it is in good standing;

3. Clearance from the Ministry of Finance evidencing that all taxes due as at the time of the execution of the bond have been fully paid; and

4. Evidence, such as a certificate or other legal instrument from an appropriate legal authority such as the Central Bank of Liberia or other insurance authority or similar government entity having the regulatory responsibilities for insurance companies, that the insurance company possesses, within the Republic of Liberia, sufficient assets to cover the obligation undertaken by the insurance company in the bond, exclusive of other bonds to which it is already serving as surety, commensurate with the amount stated in the bond.

In the case before us, the movant's contention is not whether or not the respondents failed to follow the statutory steps of the appeal process; rather, it is a question of whether in fact the respondents' bond issued by ACICO satisfactorily complied with all the requirement set out by the Supreme Court in *Reeves v. Quiah Brothers.* The issue, the movant contends is that even though the respondent proffered an insurance bond in pursuit of the appeal, the bond failed to demonstrate evidence that the insurance company (ACICO) possessed sufficient assets within the Republic of Liberia to cover the obligation undertaken in the bond, exclusive of other bonds to which it is already serving as surety. By this stance, the movant essentially alleges that the fourth criterion of the Quiah Brothers case was not met by the bond; that though documents such as the Liberia Business Registry Certificate, US$600.00 Treasury receipt in favor of ACICO plus other flag receipts, Notary Certificate, Amended Articles of Incorporation, LRA Tax Clearance Certificate, Insurance License from the Central Bank of Liberia (CBL) were attached to the respondents' bond, these documents only prove that the ACICO is legally an insurance company authorized to do insurance business in Liberia, but however failed to meet the fourth criterion as outlined in the Quiah Brothers case, which requires the respondents' surety to submit a certificate or other legal instrument from an appropriate legal authority to substantiate that the insurance company, while taking into account all of the bonds it is currently serving as surety, is possessed of sufficient assets within Liberia to indemnify the appellee; and that the respondents failed to offer or annex any document from the CBL, Ministry of Transport, or any other authority, not even a commercial bank statement to verify that ACICO has sufficient assets or liquid cash to indemnify the movant. This defect, movant claims, equates the appeal bond proffered by the respondents a legal nullity and by extension renders the appeal itself a failed attempt to confer jurisdiction on the Supreme Court.

In resisting the movant's motion to dismiss the appeal, the respondents, Central Bank of Liberia et al, contends that the averments of the movant's motion represent a misconstruction of the Supreme Court's interpretation of the Civil Procedure Law section 63.2, and the complementing requirements given in the Quiah Brothers case. The respondents are of the view that the instruments annexed to their appeal bond, viz, a business registration certificate, tax clearance, flag receipts, a notary certificate, articles of incorporation, and an insurance license duly issued by the CBL were adequate to satisfy the purpose of section 63.2 of the Civil Procedure Law; that the CBL being the principal statutory regulator of all financial institutions which include those in the insurance industry, the CBL's authorization to ACICO via an insurance license to execute insurance bonds removes every doubt with regards to the liquidity of ACICO, the respondents' insurer; hence, there is no breach of the Quiah Brothers' fourth requirement, that is, a showing that the insurer has sufficient unencumbered assets within the Republic of Liberia to successfully discharge the obligations undertaken in the bond and that the movant should have filed its objection in the court below.

The records reveal that the respondents, having announced the taking of an appeal on September 28, 2015, proceeded to file its appeal bond along with the notice of completion of appeal on the movant on November 16, 2015, twelve days before the expiration of the statutory sixty days period. It is a settled law in this jurisdiction that the filing of the notice of completion of appeal removes the case from the jurisdiction of the lower court. When the notice of completion of appeal is served on the appellee simultaneously along with the appeal bond, as was done in the instant case, the challenge to the bond cannot be filed in the lower court as it has lost jurisdiction over the case. Therefore, the movant's motion to dismiss the appeal on ground of a defective appeal bond was appropriately filed before this Court.

The Court takes note that when the movant instituted his debt action against the Meridien Bank and its associated companies, the Bank had been seized by the CBL under the Financial Institution Act of 1999. Section 49 of the Act expressly and specifically provides, inter alia:

> "After entering into possession of a financial institution, the Central Bank shall be vested with full and exclusive power of management and control of that financial institution, including the power to continue or discontinue its operations, to stop or limit the payment of its obligations, to employ any necessary staff, to execute any instrument in the name of the financial institution, to initiate, defend and conduct in its name, any action or proceedings to which the financial institution may be a party...."

By virtue of the above seizure provision of the Financial Institution Act, the statute clearly vests in the CBL the right to manage and control the operations and assets of the Co-respondent Meridian Bank, and by extension, a legal duty to prosecute claims for and defend claims brought against Meridian Bank. Therefore, for all purposes and intent of these proceedings, CBL is the de facto Meridian Bank, since the latter cannot appear in court or act otherwise in its own name.

The CBL being the sole substantive party respondent in these proceedings is consistent with this Court's holding in a prior case involving the same Meridien Bank. (*The Meridien Bank v. Andrews et al., 40 LLR 111, 12 (2000).* The CBL, the de facto respondent on whose behalf the ACICO executed the appeal bond as surety is an institution most unlikely to default should the movant prevail in this matter on appeal. Besides, the CBL is a government entity which under our law is exempted from filing bonds in all such cases where a bond is required. Civil Procedure Law, Rev. Code, 1:63.8 provides:

> *"Any provision of statute or rule of court authorizing or requiring a bond to be given by a party shall, unless **the contrary is clearly expressed,** be construed as excluding the Republic, or a domestic municipal corporation, or a public officer or agency in behalf of the Republic or of such a corporation."*

Section 4(4) of the Central Bank of Liberia Act (1999) having specified the functions of the CBL to include it as a fiscal agent and financial and economic advisor to the Government and Republic of Liberia, the Central Bank is covered by this bond exemption. By this, the CBL being the appellant in this case, the movant's motion to dismiss the appeal because the Bond filed by the CBL is alleged to be defective is not applicable as the CBL is an entity of the government of Liberia which under the law is exempt from filing bonds in such cases where a bond is required. Therefore, the motion to dismiss the appeal because the CBL is alleged to have filed a defective bond cannot be sustained by this Court.

WHEREFORE AND IN VIEW of the foregoing, the movant's motion to dismiss the appeal is denied and the case ordered proceeded with on its merits. Costs abide final determination. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors Benedict F. Sannoh, Viama J. Blama, and A. Ndubusi N. Wabudike appeared for the movant. Counsellors Rosemarie Banks James and Emmanuel B. James appeared for the respondents.