IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2026

BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR ....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE....................ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA......................................ASSOCIATE JUSTICE
BEFORE HER HONOR: CEAINEH D. CLINTON JOHNSON.............ASSOCIATE JUSTICE
BEFORE HIS HONOR: BOAKAI N. KANNEH.................................ASSOCIATE JUSTICE

The ECOWAS Bank for Investment and Development (EBID) 128)
Boulevard Due, 13 Javier, Republic of Togo, represented by its)
President, Dr. George Agyekum Nana Donkor and/or other authorized)
Officers...Appellant)
)
Versus) APPEAL
)
The United Commodities, Inc., represented by and through its)
Managing Director/CEO, Anwar Ezzedine and Shadia Fawaz Ezzedine)
Mortgagers and Personal guarantees, and/or other authorized officers)
of Monrovia, Liberia...Appellees)
)
GROWING OUT OF THE CASE:)
)
The ECOWAS Bank for Investment and Development (EBID) 128)
Boulevard, Due, 13 Javier, Republic of Togo, represented by its)
President, Dr. George Agyekum Nana Donkor and/or other authorized)
Officers...Plaintiff)
)
Versus) ACTION OF
) DEBT
The United Commodities, Inc., represented by and through its)
Managing Director/CEO, Anwar Ezzedine and Shadia Fawaz Ezzedine)
Mortgagers and Personal guarantees, and/or other authorized officers)
of Monrovia, Liberia...Defendants)

Heard: June 2, 2026 Decided: August 28, 2026

MR. CHIEF JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This case comes before this Court for the fourth time on appellate review. In the present appeal, we are called upon to review a final judgment rendered by the majority judges of the Commercial Court of Liberia, which held both parties liable for losses arising from the performance of a series of contracts executed between them. The material facts are substantially undisputed. The central issue for determination is whether the losses incurred during the performance of those contracts are solely attributable to either party or whether both parties' bear responsibility for the losses.

To have a fair appreciation of this controversy, we deem it necessary to quote the salient facts as pertaining to this matter.

The record reveals that on November 7, 2013, the co-appellant, ECOWAS Bank for Investment and Development ("EBID"), and the appellee, United Commodities Inc. ("UCI"), entered into a Loan Agreement pursuant to which EBID extended to UCI a trade finance facility in the principal amount of Twelve Million United States Dollars (US$12,000,000.00), with a permissible tolerance of plus or minus five percent (±5%). The facility was intended to finance UCI's importation and commercial distribution of rice within the Republic of Liberia. Consistent with the terms of the agreement, the facility was made available through a Letter of Credit in favor of UCI's suppliers.

The Loan Agreement obligated UCI to repay the total indebtedness, including accrued interest, commissions, and other agreed charges, within one hundred and eighty (180) days from the opening of the Letter of Credit. Upon maturity, the total amount due under the agreement was approximately Thirteen Million United States Dollars (US$13,000,000.00). To secure repayment of the facility, the parties executed few ancillary agreements, including personal guarantees by UCI's shareholders, mortgage instruments covering UCI's warehouse facilities, and additional security arrangements intended to protect EBID's financial interest in the event of default. These instruments formed integral components of a single commercial transaction and must therefore be construed together in determining the respective rights and obligations of the parties. Initially, UCI performed a substantial portion of its repayment obligations. Through proceeds generated from the sale of imported rice, UCI deposited Four Million Twenty-Eight Thousand Seven Hundred Fifty United States Dollars (US$4,028,750.00) into the designated escrow account maintained with the Liberia Bank for Development and Investment (LBDI). Following those payments, an outstanding balance of Seven Million Nine Hundred One Thousand Two Hundred Fifty United States Dollars (US$7,901,250.00) remained unpaid.

Before expiration of the contractual repayment period, Liberia experienced the unprecedented outbreak of the Ebola Virus Disease (EVD), a national emergency that significantly disrupted commercial activity throughout the country. UCI informed EBID that the epidemic had materially impaired its ability to continue the sale of rice and to satisfy the remaining indebtedness within the contractual period. Accordingly, by written communication, UCI requested an extension of time within which to complete repayment. EBID declined that request.

Instead, EBID elected to invoke Article 10.2 of the Loan Agreement, the contractual provision governing remedies upon default. Acting pursuant to that provision, EBID exercised its contractual right to assume possession and control of the remaining rice inventory and instructed its designated recovery agent, ACE Global, to take custody of the goods with the objective of selling them and applying the proceeds toward liquidation of the outstanding indebtedness. The agreement further contemplated that should the proceeds from the sale prove insufficient to satisfy the indebtedness, EBID could thereafter enforce the guarantees and other security instruments executed by UCI.

The significance of EBID's election cannot be overstated. By choosing to exercise the contractual remedy expressly provided under Article 10.2 rather than immediately pursuing the guarantors or foreclosing upon the collateral, EBID assumed exclusive control over the remaining rice inventory and thereby undertook the contractual responsibilities necessarily attendant to that election. The evidence establishes that after EBID assumed possession of the rice for approximately six (6) months; the anticipated sale did not immediately occur. Instead, following discussions between the parties, they negotiated a supplemental arrangement embodied in an Aide Memoire, whereby they agreed upon procedures governing the assessment and eventual disposition of the remaining stock. As part of that arrangement, Bureau Veritas (BIVAC) was jointly designated to inspect the inventory and determine its quantity and condition.

The inspection was conducted in the presence of representatives of EBID, UCI, LBDI, and ACE Global. BIVAC thereafter submitted its assessment, reporting that a substantial portion of the rice had deteriorated while in storage. Although approximately twenty thousand three hundred fifty-two (20,352) bags remained suitable for human consumption, a significant quantity had become damaged and commercially unusable. Following receipt of the BIVAC report, the remaining sound rice was re-bagged and sold by public auction under the supervision of the parties. The auction generated proceeds totaling Two Million Three Hundred Eighty-Six Thousand Eight Hundred United States Dollars (US$2,386,800.00), which were deposited into EBID's escrow account. When added to UCI's previous repayments, EBID had received aggregate payments of Six Million Four Hundred Fifteen Thousand Five Hundred Fifty United States Dollars (US$6,415,550.00). Despite receiving those proceeds, EBID demanded payment of the remaining balance. UCI challenged the demand, asserting that the deterioration of the rice occurred only after EBID had assumed exclusive possession and that EBID's failure to preserve and promptly dispose of the inventory materially increased the loss. According to UCI, EBID could not recover losses attributable to its own handling of the collateral.

Unable to resolve their dispute amicably, UCI instituted an action for Declaratory Judgment before the Civil Law Court for Montserrado County seeking judicial clarification of the parties' respective rights and obligations under the Loan Agreement and related instruments. The Civil Law Court declared that UCI's liability was limited to the proceeds realized from the auction sale of the remaining rice. EBID appealed. On appeal, in its Opinion rendered during the March Term, A.D. 2020, this Court reversed that determination, holding that the Civil Law Court improperly confined UCI's contractual obligations to the auction proceeds without considering the entirety of the integrated contractual framework. This Court held that UCI's obligations extended to all liabilities arising under the Loan Agreement, the Aide Memoire, the guarantees, and the security instruments executed by the parties. Importantly, however, the Court did not adjudicate a specific monetary award or enter judgment for any sum certain.

Following remand, the Civil Law Court erroneously interpreted this Court's Opinion as authorizing immediate enforcement of a money judgment and prepared a Bill of Costs assessing UCI's liability at US$10,047,976.12. UCI challenged that action through a Bill of Information. In its subsequent Opinion rendered during the March Term, A.D. 2021, this Court clarified that its earlier decision merely declared the contractual rights and obligations of the parties. The Court emphasized that an action for Declaratory Judgment determines legal rights but does not itself authorize execution or award damages. Accordingly, this Court vacated the Bill of Costs and expressly recognized EBID's right to institute an independent action to recover whatever damages the evidence might establish under the governing contractual instruments.

Acting pursuant to that authorization, EBID's Board of Directors adopted a formal resolution authorizing commencement of the present action in debt before the Commercial Court. Following extensive pretrial proceedings, the parties submitted on records that the amount in dispute was Four Million Five Hundred Thousand Three Hundred Eight United States Dollars and Sixty-Six Cents (US$4,500,308.86). Trial thereafter proceeded upon the merits. After considering the documentary evidence, testimony of witnesses, and the parties' contractual instruments, the Commercial Court concluded that both parties contributed to the losses sustained during performance of the agreements. The court therefore apportioned responsibility by holding UCI liable for US$2,000,000.00 and EBID liable for US$2,500,000.00.

Both parties have appealed from that judgment, each maintaining that the trial court improperly allocated responsibility for the losses.

EBID, appellant herein, in its exceptions to the ruling of the trial court primarily argued that the trial court erred when it ruled awarding it (appellant) Two Million United States Dollars (US$2,000,000.00), because that ruling in effect overturned the two previous rulings of the Supreme Court of Liberia where the Supreme Court ruled that the appellee's (UCI) liability to the appellant was not limited to Two Million Three Hundred and Eighty-Six Thousand Eight Hundred United States Dollars (US$2,386,800.00) and further adjudged the appellee (UCI) liability to the appellant (EBID) in the amount of Eight Million Five Hundred and Eighty Thousand Seven Hundred and Two United States Dollars (US$8,580,702.00) and that the trial court has no authority whatsoever to review, modify or overturn a ruling from the Supreme Court but is bound to follow said ruling; that the appellee did not prove through the preponderance of the evidence that it had settled its indebtedness to the appellant and that there trial court erred when it ruled that the appellee is indebted to the appellant in the amount of US$2,000,000.00, when the accounting exercise that was done and agreed to by the parties before going to trial was US$4,500,308.86, which was mutually agreed to and uncontested by the parties as the appellee's (UCI) actual indebtedness to the appellant and the appellant now wonders where did the trial court get its figure of US$2,000,000.00 from.

The appellant therefore urged this Court to overturn and reverse the ruling of the trial court and award it (appellant) US$4,500,308.86 as mutually agreed to by the parties in the court below and uncontested by both parties plus six percent statutory interest and grant unto it any further relief that this Court may deem just legal and equitable. However, the fact that the matter was ruled to trial shows that this amount wasn't mutually agreed to by the parties; in fact, to show that this amount wasn't mutually agreed to by the parties, the appellee in its appeal has primarily argued that it does not owe the appellant any amount as the appellant is responsible for the damage done to the rice and as such it cannot be held liable for the appellant's reckless and negligent behavior in handling the rice which led to its damage.

We must determine, in order to bring finality to this issue, what is the appellee's total liability, if any to the appellant. To determine this, we revert to the evidence and facts, as provided for by the records certified to this Court.

We begin with the appellant's first contention that the rulings of this Court are final and not subject to review, modification or reversal by any other court in this Country. This contention of the appellant is as old as our jurisprudence itself, that no other court or tribunal has the authority to modify, review or reverse the Honorable Supreme Court of Liberia, no matter how the said court or tribunal may feel about a judgment emanating from this Court. Lib. Const. Art. 66.

Standing on this holding, we must now review the two previous decisions of this Court as it relates to the issue at hand.

This Court handed down two relevant opinions as it relates to the issue at bar, the first relevant opinion as it relates to this issue was delivered by this Court on June 25, 2020, in which this Court was seized of an appeal from a ruling made by the Sixth Judicial Circuit based upon a declaratory judgment action filed by the appellee herein, asking the trial court to declare its rights as it relates to the business relationship between it and the appellant herein, and that the court should declare that it (appellee herein) is only liable to the appellant herein for the amount of US$2,386,800.00, which is the total amount generated from the auctioned portion of the rice that was sold. The trial court, after listening to both parties and examining the evidence ruled declaring that the appellee herein was only liable to the appellant herein in the amount of US$2,386,800.00 and nothing more. This appellant herein excepted to this decision and filed an appeal before this Court and this Court after entertaining arguments and reviewing the evidence ruled that the trial court erred by declaring and limiting the liability of the appellee to only US$2,386,800.00 and that the appellee is liable to the appellant for all its obligations under various agreements executed between the parties and that these obligations encompass but not limited to US$2,386,800.00.

The matter was then sent to the lower court for enforcement of this Court's mandate as enshrined in this Court's judgment. Upon resumption of the case at the trial court, the trial court proceeded to prepare a bill of costs against the appellee for the amount of US$10,047,976.12 as the total amount owed the appellant by the appellee as decided by this Court.

The appellee, obviously dissatisfied with the action of the lower court proceeded to file a bill of information before this Court on grounds that the mandate of this Court was being improperly executed by the lower court. The matter was again brought before this Court, with both parties arguing their side and this Court after listening to arguments and examining the evidence again, adjudged on August 20, 2021, that its ruling on the declaratory judgment action was being improperly executed by the lower court, as the ruling only stated that the appellee's liability to the appellant was not limited to the US$2,386,800.00 as alleged by it and that the appellant was at liberty to pursue the available legal action to recover under the instruments stated in its June 25, 2020 judgment and mandate.

The appellant has now argued that the ruling of this Court on the declaratory judgment action and bill of information was clear that the appellee's liability exceeded US$2,386,800.00, and therefore, any modification below the said amount is tantamount to a reversal of this Court's judgment. We are compelled to disagree with this argument of the appellant.

This Court after handing down its ruling on the action for declaratory judgment was again seized of this matter when the appellee objected to the manner in which the trial court was executing the mandate of this Court from the declaratory judgment opinion and therefore sought clarity of the Supreme Court's Opinion on the matter by filing a bill of information, this Court heard the bill of information and granted same on grounds that its opinion was been improperly executed by the lower court.

> We quote excerpts of that ruling: "*the Supreme Court judgment shows that while the Court acknowledged the informant's (appellee herein) obligations, there was no monetary award. The Supreme Court reversed the trial court's final ruling in the petition for declaratory judgment and held that the informant's obligations under the November 7, 2013, Loan Agreement and the Aide Memoire of February 4, 2015, the joint and several guarantees by the informant's shareholders, the executed mortgage on the informant's multi-purpose business complex (warehouses), and was not limited to the US$2,386,800.00 (Two Million Three Hundred and Eighty Six Thousand Eight Hundred United States Dollars).*"
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> The Court further opined that: "*it is the law that the sole object of a declaratory judgment is to declare rights, statutes and other legal relations without ordering anything to be done. Gbartoe et al. v. Washington, 41 LLR 117, (2002). As a matter of fact, the Supreme Court has held that a declaratory judgment is one which simply declares the rights of the parties or exercises the opinion of the court on a question of law without ordering anything to be done and the action is distinguished from other actions in that it does not seek execution or performance from the defendant or opposing party." Hussan v. Butler, Supreme Court Opinion, October Term, A.D. 2014.*"

The Court then concluded in its bill of information opinion that, "*the respondent (appellant herein) was at liberty to pursue the available legal action to recover under the instruments stated in the June 25, 2020, judgment and mandate of the Supreme Court, as the trial court was in error to have prepared a bill of costs in the amount of US$10,047,976.12, thus* *improperly executing the Supreme Court's Judgment and Mandate of June 25, 2020, for which this bill of information will lie."*

It is the law in this jurisdiction that: *"a bill of information will lie where there exists an obstruction in the execution of this Court's mandate, or where a subordinate court acts contrary to a directive issued it by this Court; moreover, this Court has furthered held that only a bill of information can remove uncertainty from its judgment or correct the enforcement of its judgment." Intestate Estate of the late Sarah Sirleaf v. El-Bim et al.,* Supreme Court Opinion, March Term, 2013; *Liberia Aggregate Corporation v. Taylor et al.,* 35 LLR 38 (1988); *J. Fonati Koffa and Members of the House of Representative of the 55th Legislature v. Representative Richard N. Koon, purported speaker of the house of Representative, Representative Thomas Fallah, Deputy Speaker of the House of Representative, et al.,* Supreme Court Opinion, March Term 2025.

It is therefore obvious that the opinion on the bill of information as handed down by the Supreme Court on August 20, 2021, having preceded the Court's Opinion on the declaratory judgment action, sought to explain and further interpret the Court's previous decision on the declaratory judgment action, so, assuming that there were misunderstandings between the parties as to the judgment and mandate of the Supreme Court's June 25, 2020 Opinion on the declaratory judgment action, the Court's judgment in the bill of information give clarity to the meaning of the Court's previous ruling.

This Court clarified its previous opinion through the bill of information that was brought before it, leaving no room for uncertainty or ambiguity. The Opinion of August 20, 2021, was clear that the appellee's liability to the appellant was not limited to just the US$2,386,800.00 as claimed by the appellee, as a fixed figure but that the appellant could pursue other legal remedies to have all the agreements and instruments executed between the parties reviewed so as to determine if the appellee's liability is only the US$2,386,800.00 as it is claiming or to determine if there is showing from the instruments executed by the parties that the appellee is indebted to the appellant for an amount in excess of the amount as alleged by the appellee.

This Court could not have attached a fixed figure to whatever liability the parties were claiming as the only matter before it was to declare the parties' rights in relation to the contractual agreement that was executed between them, which was clearly stated and clarified in this Court's Opinion on the bill of information.

We do not see how the trial court erred in enforcing this mandate or how the trial court's decision overturned or modified the ruling from this Court. The trial court being fully informed about the office of declaratory judgment ruled that:

"in this jurisdiction, declaratory judgments are non-enforceable and intended only to declare the rights of a party. Our law provides that the party whose rights have been declared against the other, must then file the appropriate legal action before the appropriate court to recover under the rights declared; while we are aware that the Honorable Supreme Court declared certain rights in favor of the (plaintiff) appellant herein, we equally take into consideration the Court's mandate to us to conduct a full trial equally important as a matter of law. We are aware and also take into account any set of new relevant facts or defenses that were not considered during the disposition of the declaratory judgment by the Supreme Court, when it opined directing the plaintiff to seek remedy in a court of competent jurisdiction with respect to its declared rights. We hold that all the Supreme Court's Opinion did was acknowledge that UCI is indebted to EBID, in an amount to be derived after other consideration of all documents and transaction between the parties."

We are in agreement with this holding of the trial court and again reiterate that our previous rulings directed the aggrieved party to seek the legal remedies that were available. We need not delve into this further.

We move to determine the appellee's total liability, if any, to the appellant. To determine this, we revert to the evidence, oral and documentary and facts, as provided for by the records certified to this Court.

The evidence establishes beyond dispute that UCI failed to repay the loan within the one hundred eighty-day period prescribed by the Loan Agreement. That default constituted a breach of contract. UCI does not seriously contest that conclusion. Instead, it attempts to explain its inability to perform by reference to the devastating effects of the Ebola epidemic upon commercial activity in Liberia. While this Court does not underestimate the extraordinary economic disruption caused by that public health emergency, the parties' agreement did not contain any provision automatically extending the repayment period upon the occurrence of such events. Nor does the record establish that the parties subsequently modified the repayment obligation before default occurred. Consequently, the Ebola outbreak, standing alone, did not extinguish UCI's contractual duty to repay the indebtedness. UCI therefore remained in breach when payment was not made upon maturity. That conclusion, however, does not end the inquiry.

The legal significance of UCI's breach must be examined in conjunction with the contractual election thereafter made by EBID. Article 10.2 of the Loan Agreement expressly afforded EBID several remedies upon the occurrence of default. Among those remedies was the right to assume possession and control of the remaining rice inventory, dispose of the goods, and thereafter pursue any remaining deficiency through enforcement of the guarantees and other security instruments. The record unequivocally demonstrates that EBID deliberately elected that remedy. Rather than immediately instituting proceedings against the guarantors or foreclosing upon the mortgage security, EBID instructed its designated agent, ACE Global, to seize the remaining rice inventory. From that moment, the evidence establishes that the rice ceased to be under UCI's exclusive control and instead came within the exclusive custody and management of EBID and the entities acting under its authority. That election carried legal consequences which cannot be avoided.

Once EBID voluntarily exercised its contractual authority to assume possession of the collateral, it became obligated to exercise reasonable care in preserving, safeguarding, managing, and disposing of the property. Although the Loan Agreement conferred broad remedial authority upon EBID, nothing contained therein authorized careless management of the collateral property whose sale constituted the very mechanism by which the indebtedness was to be reduced or liquidated. The law does not permit a party to invoke contractual remedies while simultaneously disregarding the obligations inseparable from those remedies.

The record further reveals that following the seizure of the rice, the anticipated sale did not immediately occur. Instead, the parties negotiated the Aide Memoire, pursuant to which BIVAC was designated to inspect the inventory before sale. By the time that inspection was conducted, a substantial portion of the rice had deteriorated beyond commercial use. BIVAC's report documented extensive damage to the inventory, leaving only approximately 20,352 bags suitable for re-bagging and eventual auction.

No evidence suggests that the rice was already in that deteriorated condition at the moment EBID assumed control. This factual circumstance is legally significant because the debt claimed by EBID consist not merely of UCI's unpaid indebtedness but also of losses allegedly resulting from the diminished value of collateral that EBID itself had elected to control. Once EBID elected to liquidate the collateral through seizure and sale, it was required to pursue that remedy in a commercially reasonable manner calculated to preserve, rather than diminish, the value of the collateral.

The evidence before the Court fails to establish that this obligation was fully discharged. Instead, the record reflects prolonged delay between seizure of the rice and its eventual assessment and disposition. During that interval, substantial deterioration may have occurred. No satisfactory explanation appears in the record demonstrating that such deterioration was unavoidable or that EBID or UCI exercised any reasonable measure necessary to preserve the inventory pending sale. Accordingly, although UCI's default furnished the occasion for EBID's exercise of Article 10.2, it cannot fairly be said that UCI's breach alone caused every dollar of the losses subsequently sustained. Neither does the evidence support UCI's contrary contention that it bears no further contractual responsibility.

The contractual instruments executed by the parties imposed upon UCI an unequivocal obligation to repay the indebtedness. That obligation survived the execution of the Aide Memoire and remained enforceable notwithstanding the subsequent deterioration of the collateral. The Aide Memoire modified aspects of the parties' performance but did not extinguish the underlying debt nor release UCI from liability under the Loan Agreement, the guarantees, or the security instruments. Accordingly, UCI remained legally and equally responsible for those losses proximately resulting from its own default, while EBID likewise remained responsible for losses attributable to its own failure to perform the obligations arising from its election of section 10.2 to assume exclusive possession and management of the collateral. EBID's argument that UCI's initial breach renders it solely liable for every subsequent loss ignores the reciprocal obligations imposed upon EBID after it exercised Article 10.2 of the Loan Agreement. Conversely, UCI's assertion that the deterioration of the rice completely extinguished its repayment obligations is equally inconsistent with the express terms of the parties' agreements and the settled principle that contractual obligations survive unless discharged by performance, agreement, or operation of law. The Court therefore rejects the position advanced by both parties.

The proper inquiry is therefore not which party first breached the agreement, but rather what portion of the losses are legally attributable to each party's respective conduct. In that respect, we agree with the Commercial Court's fundamental conclusion that responsibility for the losses cannot be placed exclusively upon a contracting party. The evidence supports the conclusion that UCI's failure to satisfy its repayment obligations precipitated the contractual default, while EBID's subsequent handling of the collateral materially contributed to the magnitude of the ultimate loss.