

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH 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. YUOHASSOCIATE JUSTICE

Reginald Goodridge, National Chairman, True Whig)
Party (TWP and Executives and Partisans of The)
True Whig Party (TWP), of the City of Monrovia)
.....APPELLANTS)

Versus)

APPEAL)

The Government of the Republic of Liberia by and)
thru the Ministry of Justice, represented by the)
Minister of Justice, Deputy Ministers, the Solicitor)
General, Betty Lamine-Blamo, Assistant Ministers,)
Directors and all prosecuting attorneys and Agents)
Acting under their control.....APPELLEES)

GROWING OUT OF THE CASE:)

The Government of the Republic of Liberia by and)
thru the Ministry of Justice, represented by the)
Minister of Justice, Deputy Ministers, the Solicitor)
General, Betty Lamin-Blamo, Assistant Ministers,)
Directors and all prosecuting attorneys and Agents)
Acting under their control.....MOVANTS)

Versus)

MOTION TO DISMISS)

Reginald Goodridge, National Chairman, True Whig)
Party (TWP and Executives and Partisans of The)
True Whig Party (TWP), of the City of Monrovia)
.....RESPONDENTS)

GROWING OUT OF THE CASE:)

Reginald Goodridge, National Chairman, True Whig)
Party (TWP and Executives and Partisans of The)
True Whig Party (TWP), of the City of Monrovia)
.....PETITIONERS)

Versus)

PETITION FOR
DECLARATORY
JUDGMENT)

The Government of the Republic of Liberia by and)
thru the Ministry of Justice, represented by the)
Minister of Justice, Deputy Ministers, the Solicitor)
General, Betty Lamine-Blamo, Assistant Ministers,)
Directors and all prosecuting attorneys and Agents)
Acting under their control.....1st RESPONDENTS)

AND

The General Services Agency (GSA), represented)
by the Director-General, Madam Mary Broh, Deputy)

and Assistant Directors and all those acting under)
their control as their agents and representing, of)
the City of Monrovia.....2nd RESPONDENTS)

HEARD: June 21, 2018

DECIDED: August 5, 2019

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

On May 23, 2017, the appellants, Mr. Reginald Goodridge, National Chairman True Whig Party and the True Whig Party (TWP) filed a petition for declaratory judgment before the Civil Law Court, Sixth Judicial Circuit, seeking declaration of its ownership rights to the E.J. Roye Building against the Government and the General Services Agency, the appellees. The appellants alleged that the appellees, had on many occasions attempted, and in some instances, temporarily succeeded in illegally taking possession of the E.J. Building under the pretext of enforcing PRC Decree No. 11, under which, as claimed by Government, the E.J. Roye building was confiscated by the People’s Redemption Council (PRC), the Government of former President Samuel K. Doe. The appellants contended that the Government’s conduct violated rights under Articles 20(a) and 95(a & b) of the Liberian Constitution (1986). The appellant also contended that PRC Decree No. 11 and 86 are unconstitutional, because they are inconsistent with Articles 20 (a) and 95(a) of the Liberian Constitution (1986). The appellants further asserted that the PRC Decree No. 11 was automatically repealed with the coming into force of the Liberian Constitution (1986) consistent with Article 95(a) and (b) of the said Constitution. The appellants declared illegal and disavowed a Memorandum of Understanding signed on April 9, 2013, between the Government of Liberia and the TWP represented by Peter W. Vuku and Othello R. Mason, the then National Chairman and Secretary conceding that the E.J. Roye Building belongs to the Government and had same turned over to the Government in the spirit of national unity. The appellants asserted that the leadership of Peter Vuku and Othello Mason was not recognized at the time of the execution of the agreement and therefore their action was unauthorized.

The appellees, the Government of Liberia and the General Services Agency, in an amended returns submitted that the E.J Roye Building was confiscated by the People’s Redemption Council (PRC) Government under PRC Decree No. 11 following the 1980 coup d’état, and that the TWP was divested of ownership of the building by virtue of said confiscation; appellees further contended that

although PRC Decree No. 86 was passed on May 24, 1984, by the PRC Government, and ordered the return of confiscated properties seized following the coup d'état to the original owners, it made specific exceptions, notably as to all properties owned by the TWP.

The appellees challenged the jurisdiction of the Civil Law Court over the subject matter of the petition, stating that Article 97 (a) forbids the court from conducting any proceedings, the subject matter of which is the question of the propriety of PRC Decree No. 11. The appellees argued that only the Supreme Court, pursuant to its power of judicial review granted under Article 2 of the Constitution of Liberia, can declare a law or statute unconstitutional. Therefore, the Civil Law Court, the appellees said, should refuse jurisdiction over the petition since it had no jurisdiction to determine whether or not PRC Decrees Nos. 11 and 86 are unconstitutional; that Article 97 (a) and (b) of the Constitution (1986) shields the actions taken by the People's Redemption Council (PRC) Government pursuant to its decrees from any Article 20 violations, and from any judicial review whatsoever; that the distinction being that actions taken by private citizens against other private citizens are not covered under the Article 97 immunity clause; that there is nothing called "a defunct PRC Decree No. 11".

The appellees further stated that the Government of Liberia subsequently entered a Memorandum of Understanding with the TWP on April 9, 2013, for turnover of the E.J Roye Building to the Government; that at the time of the execution of the Memorandum of Understanding with the TWP, the Government made a gratuitous payment of Two Hundred Twenty Five Thousand United States Dollars (\$225,000.00) to the National Elections Commission's recognized leadership of the Party, Mr. Peter W. Vuku and Mr. Othello Mason, Chairman and Secretary General of the Party, respectively, who admitted in the Memorandum of Understanding that the True Whig Party was divested of ownership of the E.J. Roye Building as per PRC Decree No. 11.

The appellees, filed along with their returns a motion to dismiss the appellants' petition, raising the issue that the court below lacked the authority and jurisdiction to conduct a proceeding into the subject matter due to the court's lack of jurisdiction to declare the PRC Decrees Nos. 11 and 86 unconstitutional and which are part of the laws of Liberia; that if the PRC Decree No. 11 is wrong, as claimed by the TWP, said Decree remains a historical wrong which the Courts are powerless to correct.

Traversing the issues raised in the appellees' returns and motion to dismiss, the appellants in their reply and resistance to the motion, reiterated their position

that the PRC Decree No. 11 is unconstitutional and is not a legislative act or a "rule of law" within the contemplation of the Constitution, and certainly cannot and should not be treated and construed within the context of "legislative enactments, customary laws and other treaty laws that were in existence during the 1847 Constitution" and as contained in Article 95(a) and (b) of the 1986 Constitution; that the PRC Decree No. 11 cannot be used to determine the property rights of a Liberian citizen or any institution as it is inconsistent with the provisions of the 1986 Constitution, especially Article 20(a). The appellants further reiterated that the group of partisans with whom appellees executed the Memorandum of Understanding for the turnover of the E. J. Roye Building to the Government was not the recognized leadership of the Party as the Party was engrossed in a leadership crisis at the time of the execution of said MOU; that it is contradictory for the appellees to claim that the E. J. Roye Building belonged to the Government of Liberia by means of a confiscation order through PRC Decree No. 11, and at the same time include in the MOU signed with the unauthorized partisans a clause that "the Party shall surrender to the Government the original Warranty Deed to the property on which the Building is located"; that the Government's claim of ownership to the E. J. Roye Building by means of confiscation under PRC Decree No. 11 and at the same time requiring the surrender of the warranty deeds of the building is contradictory; that if the Government had interest in the Party's property which is not the case here, there are civilized and constitutional steps that must be taken consistent with Article 24(a) of the 1986 Constitution. Article 24(a) of the 1986 Constitution states: "While the inviolability of private property shall be guaranteed by the Republic, expropriation may be authorized for the security of the nation in the event of armed conflict or where the public health and safety are endangered or for any other public purposes, provided."

The appellants therefore prayed the court to declare the TWP'S rights as legitimate owner of the E.J. Roye Building and the land on which it is built; enjoin any further actions on the part of the Government and restrain, prohibit and prevent them from illegally entering upon, constructing thereon a structure or any form of renovation; and give an order declaring null and void the use of the PRC Decree No. 11 as a basis for illegal seizure, occupation and the taking away of TWP's Headquarters, the E. J. Roye Building.

In accordance with the law extant in our jurisdiction, all pretrial motions, particularly relating to the jurisdiction of a court to proceed into a matter must be heard and decided before a court can proceed into the matter. His Honor J.

Boima Kontoe, Assigned Circuit Judge, Sixth Judicial Circuit, therefore called for the hearing and disposition of the motion to dismiss filed by the appellees.

Ruling on the motion to dismiss, the judge ruled that the lower court had no jurisdiction to determine whether the PRC Decree No. 11 is unconstitutional or that it falls within the exemption of Article 97 of the 1986 Constitution. The Judge therefore ruled sustaining the appellees' motion to dismiss the petition for declaratory judgment for the court's lack of jurisdiction to proceed into the matter.

The appellants excepted to this ruling of the lower court Judge and announced an appeal to the Supreme Court.

The appellants averred in its bill of exceptions that the trial Judge erred by not ordering the transfer of the case to the Supreme Court since he claimed that the controversy surrounds the interpretation of Article 97 of the Constitution of Liberia, and given the nature of the matter, as indicated by the movants/ appellees, that only the Supreme Court has the authority to declare a law unconstitutional, the trial judge should have ordered the case transferred to the Supreme Court. Further, Article 97 of the Constitution refers to legitimate acts performed by the PRC Government, such as execution of contracts, treaties, among others and did not include the illegal confiscation of private properties absent due process under Article 20(a) of the Constitution; that the confiscation of real properties by the PRC on April 12, 1980 was "transitory" in terms of possession, and that such act did not convey title; that Article 97 does not preclude the judicial pursuit of property rights, but rather grants unfettered amnesty to members of the PRC for crimes and other unlawful acts personally committed. The appellants referenced the case *The Estate of Frank E. Tolbert, et al. v. Sonpon*, 37 LLR 113 (1993). Below are the relevant counts of the appellants' bill of exceptions:

"2. That your honor committed a reversible error for ignoring the admission by the Appellee in count 16 of their returns to the petitioners' Petition that by its peculiar nature, PRC Decree No. 11 is neither a legislative enactment nor a rule of law within the contemplation of Article 95, of the 1986 Constitution, yet your honor proceeded to dismiss Petitioners' petition by ignoring the procedure by which a real property may be conveyed or acquired by means of an eminent domain or condemnation proceedings under the laws of Liberia.

3. That your honor committed a reversible error when your Honor also ignored the salient argument raised by appellant that the acquisition of real properties by civilized governments the world over is not done by a confiscation order but rather by means of an eminent domain or a condemnation proceeding and that pursuant to this, the confiscation of

real properties by the PRC on April 12, 1980 was transitory in terms of possession, and that such act did not convey title, yet, Your Honor proceeded to dismiss petitioner's petition

4. That your Honor erred when Your Honor failed to take into account that Article 97 of the 1986 Constitution also refers to legitimate acts performed by the PRC, such as the execution of contracts, treaties, among others and did not include the illegal confiscation of private properties absent due process under Article 20(a) of the 1986 Constitution, yet Your Honor granted the motion to dismiss.

5. That your honor erred when you deliberately refused and failed to take into account that the respondents/ Movants in count 5 of their own returns made it clear that given the nature of the matter, only the Supreme Court has the authority to declare a law unconstitutional and as clear as the argument was Your Honor failed to forward the matter to the Supreme Court which has jurisdiction over such controversy, but instead proceeded to dismiss petitioners' petition."

Faced with the contentions of the parties, the Court will first determine whether the dismissal of the case by the lower court judge was erroneous?

The appellants, as outlined in their bill of exceptions, argued that the judge having conceded his lack of jurisdiction over the determination of whether the PRC Decree No. 11 is unconstitutional or that it falls within the exemption of Article 97 of the 1986 Constitution, should have had the case transferred to the Supreme Court immediately, instead of dismissing same. We agree with the appellants' contention that a trial judge cannot decide a case when the constitutionality of an act of the Legislature is challenged. The PRC Decree Nos. 11 and 86 being equivalent to legislative enactment, the trial court should have forwarded the case to the Supreme Court for determination of the challenge posed to the Decrees. Nevertheless, by virtue of the appeal announced by the appellants, the case is now properly before the court for its determination.

We note that the appellants have challenged the constitutionality of the PRC Decrees Nos. 11 and 86 as being contrary to certain provisions of the Constitution (1986) citing Articles 95 (a) and (b), 20 (a) and 24 (a). We also note that the Government, besides claiming ownership to the E. J. Roye Building based on the PRC Decree No. 11, has put forth an alternative claim of ownership based on a Memorandum of Understanding entered between the TWP and the Government on April 9, 2013.

The Court takes note of the records and the historicity of the subject matter involving the disputed property.

During the era of the late President William V.S. Tubman, Liberia existed as a *de facto* One-Party State. The True Whig Party (TWP), the only Party, was

indistinguishable from the Government. It is public knowledge that during the leadership era of President William V. S. Tubman and well into the Tolbert era, the Government made compulsory deduction from civil servants' salaries twice yearly for the running and upkeep of the appellant, True Whig Party, and said deduction was instrumental in providing funds for the construction of the disputed E. J. Roye Building; that it was sometime during the administration of President William R. Tolbert that said practice was discontinued and multi-partyism came into being with the registration of other political parties.

After the coup d'état in 1980 and the overthrow of the late President William R. Tolbert leadership, the Peoples Redemption Counsel (PRC) Government suspended the Liberian Constitution (1847) and passed several Decrees such as the PRC Decree No. 11. The PRC Decree No. 11, passed on June 30, 1980, confiscated all properties belonging to the TWP including the disputed property, which housed the Party offices. On May 15, 1984, the PRC Government by passage of Decree No. 86 returned properties confiscated to the original owners, except those persons and entities listed in paragraph 2 which included the TWP. Later, President Doe in a pronouncement returned all properties of government officials listed under paragraph 2 of the PRC Decree No. 86 except the TWP properties including the E. J. Roye Building commonly called the True Whig Party Building. The Government remained adamant that the E.J. Roye Building was built by money deducted from salaries of the citizenry of Liberia and therefore belong to the Government. The Government then took possession of the building, and in 1989, turned the building over to the National Social Security and Welfare Corporation. It was in 1989, while the Social Security was engaged in the renovation of the building, the Liberian Civil War erupted and the property was abandoned.

The records reveal that in 2013, the TWP under the leadership of Mr. Peter Vuku took possession of the E.J. Roye Building, leasing same to Westgate Realty, Inc. The Government, now headed by Madam Ellen Johnson Sirleaf moved in to vacate those occupying the building. Mr. Peter R. Vuku serving as National Chairman of the Party and Othello Mason as Secretary General, conceded the Government's right to the property but appealed that the Government assists the Party with funds to relocate it to another location and to make refund to those from whom the Party had received money for occupation of the building. The appellee, Government of Liberia, in what it called a spirit of national reconciliation, entered a Memorandum of Understanding (MoU) with the TWP, giving it what it referred to as a gratuitous amount of Two Hundred and Twenty-Five Thousand United States Dollars (US\$225,000.00) to have the TWP and its

tenants move out of the building. The Party and those occupying the building then vacated the said building.

The TWP, and its subsequent Chairman and others, appellants, now challenge the government's claim to the building despite the Memorandum of Understanding reached by the Party's previous leadership. The appellants question the action of the previous leadership with the Government, referring to the previous leadership of the Party as an unauthorized group who had connived with the Government to take over the E. J. Roye Building, and whose action cannot bind the National Chairman or the National Executive Committee which are the only ones clothed with the authority consistent with the TWP's Constitution to make such a decision. The Party asserts therefore that the attempt to seize and take away by force the E. J. Roye Building was flawed particularly when the TWP's Constitution provides that fifty-five (55) members of the National Executive Committee shall make a binding decision and that twenty-nine (29) of which shall constitute a quorum.

The appellees, on the other hand, asserts that the TWP is estopped by operation of law from filing a Petition for Declaratory Judgment because the party itself admitted in the Memorandum of Understanding that it was divested of the E.J. Roye Building upon confiscation by the PRC Decree No. 11, and confirmed that there have been no formal reacquisition of the building either by judicial process or Government action since 1980, when the property was confiscated by the government; further, the Government had in furtherance of its reconciliation policy executed a Memorandum of Understanding with the True Whig Party on April 9, 2013, wherein the Government had paid to the TWP the sum of US\$225,000.00 and the TWP agreed to vacate itself and all tenants and surrender the building to the Government through the General Services Agency on or before March 31, 2013.

The Memorandum of Understanding referred to by the Government, under which the Government claims that the TWP is estopped from further claim to the property, reads as follows:

**"MEMORANDUM OF UNDERSTANDING
BETWEEN THE TRUE WHIG PARTY (TWP)
AND THE GOVERNMENT OF THE REPUBLIC OF LIBERIA (GOL)**

This Memorandum of Understanding is made and entered into this 9th day of April, 2013 by and between the True Whig Party of Liberia, a registered Political Party, organized and existing under the laws of the Republic of Liberia, represented by and through Hon. Peter W. Vuku, National Chairman and Hon. Othello R. Mason, General Secretary, (hereinafter the "Party") and the Government of the Republic of Liberia represented by Hon.

Edward B. McClain, Jr., Minister of State for Presidential Affairs, Hon. Amara M. Konneh, Minister of Finance, and attested to by Hon. Christiana P. Tah, Minister of Justice and Attorney General (herein after referred to as the "Government") and collectively the "Parties", hereby

WITNESSETH:

WHEREAS, in 1980 following the military coup that toppled the True Whig Party led Government, the People's Redemption Council (PRC) Government under PRC Decree No. 11 confiscated the E. J. Roye Building (the "Building"), then the National Headquarters of the Party, by virtue of which the Party was divested of the Building and the title thereto vesting immediately in the Republic of Liberia, which action is protected under Article 97 (b) (iv) of the Liberian Constitution of 1986.

WHEREAS, the Government did not take physical possession of the Building immediately upon confiscation, and

WHEREAS, the Party, in 2005 took possession of the Building while the confiscation was still in force, and leased same to Westgate Realty, Inc. for valuable consideration, and

WHEREAS, when the Government in 2008 attempted to take possession of the Building, the Party asserted that the taking be done by eminent domain accompanied by the payment of compensation so as to facilitate the cancellation of the lease agreement with Westgate; as well as facilitate its relocation, and the Party asserted that the taking be done by eminent domain accompanied by the payment of compensation so as to facilitate the cancellation of the lease agreement with Westgate; as well as facilitate its relocation, and

WHEREAS, the Government on the premise that it is illogical for it to declare domain on a property that it has already acquired by "confiscation and owns by operation of law, has clarified that it will retain ownership of the building in furtherance of the confiscation and not invoke eminent domain and, accordingly, will not enter into any negotiations for the payment of compensation but is willing, notwithstanding, to make a gratuitous payment to the Party in the spirit of national reconciliation to assist with the relocation of its offices and the squatters it has allowed in the building, which the Party has accepted.

NOW, THEREFORE, the Parties in consideration of their mutual promises and covenants agree as follows:

1. That the Party recognizes that it was divested of the Building upon confiscation under the PRC Decree No. 11, and confirms that there has been no formal reacquisition of the Building by the Party either by judicial process or government action, hence title to the building is in the Republic of Liberia.
2. The Party by this instrument affirms and confirms that a memorandum of understanding has been executed between it and Westgate mutually cancelling the lease agreement made and entered into in 2005, but because, that said agreement although notarized was not duly probated and registered as the law requires, the Party undertakes to have the Agreement duly probated and

registered and to submit the original of the said agreement to the Government at the signing of this Agreement.

3. That the Party shall vacate and cause to be vacated all tenants and occupants of the Building and surrender same to the Government through the General Services Agency (GSA) on or before March 31, 2013.

4. That the Party shall surrender to the Government the original Warranty Deed to the Property on which the Building is located.

5. That in order to avoid future confusion with respect to the property, the government shall make a gratuitous payment in the amount of Two Hundred and Twenty-Five Thousand United States Dollars (US\$225,000.00) to the Party as indicated below in the spirit of national reconciliation to assist the Party to relocate and rebuild itself, and thus secure for the Government a seamless repossession of the Building. Said amount shall be paid in two installments.

- The first installment in the amount of US\$130,000.00 shall be paid at the signing of this agreement upon the submission of the memorandum of understanding executed by and between the Party and Westgate mutually cancelling their lease agreement of 2005 as provided under Section 2. herein; and

- The second installment in the amount of US\$95,000.00 shall be paid upon receipt of a confirmation letter from the General Services Agency (GSA) that the Party and all occupants of the Building have vacated the Building, and that the Building has been turned over and surrendered to the Government.

6. The Party confirms that it has the authority to enter into this agreement and to receive the gratuitous payments herein provided.

7. This Agreement constitutes the entire agreement between the Party and the Government of Liberia relating to the herein subject matter. There are no other agreements, terms, obligations, covenants or conditions between the Parties other than those set forth herein. All previous understandings, verbal or written, have been merged into this agreement. This Agreement therefore, supersedes any previous agreements or understanding-verbal or written-between the Parties not herein contained.

8. This Agreement shall be binding on the Parties hereto, their heirs, administrators, executors, successors, assigns, and legal representatives, as if they were specifically named herein.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and signed this Agreement on the day and date first above written.

FOR THE TRUE WHIG PARTY:

Hon. Peter W. Vuku
NATIONAL CHAIRMAN

Hon. Othello R. Mason
SECRETARY GENERAL

FOR THE GOVERNMENT OF LIBERIA:
Hon. Edward B. McClain Jr.
MINISTER OF STATE FOR PRESIDENTIAL AFFAIRS

Hon. Amara M. Konneh
MINISTER OF FINANCE

ATESTED TO:

Cllr. Christiana P. Tah
MINISTER OF JUSTICE/ATTORNEY GENERAL/RL "

After the signing of the Memorandum above, the leadership of the TWP wrote the Government the following letter:

"TRUE WHIG PARTY NATIONAL HEADQUARTERS
E. J. ROYE MEMORIAL BUILDING ANNEX
105 Ashmun Street
Monrovia, Liberia

May 30, 2013

Hon. Borkai A. M. Sirleaf
Acting Director General
General Services Agency
Republic of Liberia

Dear Hon. Sirleaf:

We have the honor to present our compliments and refer to a Memorandum of Understanding entered into between the Government of Liberia, by and thru the Justice Ministry, and the True Whig Party for the turning over of the E. J. Roy Memorial True Whig Party Headquarters Building to the GOL, pursuant to PRC Decree No. 11.

In respect thereof, and by this instrument, we are formally informing the General Services Agency to take possession of the building aforesaid. May we suggest that this exercise be slated for Monday, June 3, 2013, at 11:00 A. M. on the grounds of the E. J. Roye.

We look forward to this event.

Regards.

Faithfully yours

Othello R. Mason
GENERAL SECRETARY "

From our review of the records, the facts and circumstances of this case, we believe that the matter can be fairly determined from the non-constitutional basis of the Memorandum of Understanding that the TWP entered with the Government of Liberia, conceding to the Government's ownership of the E.J. Roye Building under Decree No. 11 and further taking from the Government an amount of Two Hundred and Twenty Five Thousand United States Dollars

(US\$225,000.00) to vacate said building and turn the deed of the property over to the Government.

It is a settled constitutional law principle that a court will not pass on the constitutionality of an act of the Legislature or the Government if the merits of the case may be fairly determined otherwise on non-constitutional grounds. In other words, if a sufficient non-constitutional ground for a decision is available, the Court must begin and end there. *16 Am Jur. CONSTITUTIONAL LAW, Section 126.*

This constitutional principle has been adopted by this Court in several cases where the Court stated that it will not pass upon a constitutional question although properly presented, if there is also present, some other grounds upon which the case may be disposed of. In other words, if a case can be decided on either of two grounds, one involving a constitutional question, the other question of statutory or general rule, the Court will decide on the latter: *Liberia Bank for Development & Investment v. Lancelot Holder*, 29 LLR 310, 314 (1981); *Hananiah Zoe et al. v. National Elections Commission*, Supreme Court Opinion, Special Session, September 21, 2005; *In Re – Morris M. Dukuly v. National Elections Commission*, Supreme Court Opinion, Special Session September 21, 2005.

In the mind of this Court, the issue dispositive of this appeal then is whether the TWP, having executed a Memorandum of Understanding with the Government and received a substantial payment thereunder, can subsequently revoke or repudiate its own act?

The records in the case file reveal that at the time the Government entered the Memorandum with the TWP, Peter W. Vuku, National Chairman and Othello R. Mason, Secretary General of the Party were the recognized leaders of the Party by the National Elections Commission (NEC). This confirmation was contained in a letter dated February 17, 2014, from NEC in response to a letter address to it by the Ministry of Justice. Paragraph 1(c) of the National Elections Commission confirmed that before August 2013, Mr. Peter R. Vuku was the recognized Chairman of the True Whig Party. The Memorandum of Understanding then entered into by the Government and the Party, signed by its National Chairman, Peter W. Vuku and Secretary General, Othello R. Mason, cannot be questioned by the Party or its subsequent leadership.

This Court has held as far back as 1897 in the case *West vs. Dunbar*, 1 LLR 313, 314 (1897), that "nothing would work greater injustice and give greater encouragement to fraud than for a man to execute a deed or note in favor of

another, afterwards to be allowed to invoke the aid of the law to prove its unlawfulness". In this case, the TWP through its leadership entered a Memorandum of Understanding, on April 9 2013, to turn over the E.J. Roye Building to the Government in consideration of US\$225,000.00; that before entering into said Memorandum, the Government sought the legitimacy of the Party's leadership from the National Elections Commission (NEC) and the NEC confirmed that those with whom the Government entered the Memorandum were the leadership of the party, recognized by the NEC as the legitimate leaders. Successor of the Party's Leadership cannot now come to undo the action of its predecessors. Based on the principle of estoppel, the Supreme Court held in the case: *Cooper Daniels and Luke vs. Buccimazza Industrial Works Corp.*, 33 LLR, 557, 558 (1985), that a party who makes an illegal contract for which consideration was given and enjoyed cannot impeach his own deeds or to take advantage of his own wrong by showing the illegality of his act, such a person is estopped from seeking relief from law or equity either to enforce or annul its illegal act, and that heirs and successors are bound by its terms. In the case *Rachid vs. Dennis et al.*, 34 LLR 272 (1986), the Court also held that a party to an agreement, or one in privity with such party, will be estopped from denying the validity of the agreement.

The TWP being a party to the Memorandum of Understanding, or the new leadership being successor to the previous leadership of the Party, it is in privity with the act of the past leadership and is estopped from denying the validity of the Memorandum of April 9, 2013. For this Court to declare the Memorandum illegal and unenforceable will work injustice to the Government.

IN VIEW OF THE FOREGOING, we hold that the TWP having received from the Government the amount of Two Hundred and twenty-five thousand United States Dollars (US\$225,000.00) to vacate the premises, and having vacated the premises, and the co-appellants leadership being in privity with the previous leadership, the appellants are estopped from challenging the action of their predecessors. The appellants are therefore ordered to turn over the deed for said property to the Government in accordance with the Memorandum of Understanding dated April 9, 2013.

The Clerk is ordered to send a mandate to the court below to resume jurisdiction and give effect to this Judgment. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.