

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2020

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. NAGBEASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

New African Technology Company, represented)
By and thru its Head of Operations, Haresh)
Karamchandii and all authorized officers of)
Monrovia, Liberia..... Petitioner)
)
Versus) AMENDED PETITION FOR
) RE-ARGUMENT
)
Mrs. Gail Cisco of the City of Monrovia,)
Liberia..... Respondents)
)
)
GROWING OUT OF THE CASE)
)
New Africa Technology Company, represented)
by and thru its Head of Operations, Haresh)
Karamchandanii and all authorized officers of)
Monrovia, Liberia..... Appellant) APPEAL
)
Versus)
)
)
Mrs. Gail Cisco of the City of Monrovia,)
LiberiaAppellee)

HEARD: July 23, 2020

DECIDED: September 4, 2020

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

On November 19, 2019, the Supreme Court en banc had arguments on an appeal arising from a judgment entered by the Civil Law Court, Sixth Judicial Circuit, involving an action of damages for wrong filed by Mrs. Gail Cisco against the New Africa Technology Company. The Court ruled on February 7, 2020, affirming the judgment of the Civil Law Court with modification as follows:

“The appellant having failed and neglected to produce expert rebuttal witnesses to refute the appellee physicians’ testimonies offered in support of the medical costs assessed against the appellee, this Court affirms the award of special damages in the amount of Three Thousand Nine Hundred and Twenty United States Dollars (US\$3,920.00) representing payment for medical expenses;

The award of income for four months as special damages to the appellee for her alleged incapacity to operate her restaurant, being arbitrary and unsupported by the evidence, is hereby denied; and the trial court's award of general damages in the amount of One Hundred and Fifty Thousand United States Dollars (US\$150,000.00) not being in commensurate with the injuries sustained by the appellee, is hereby modified to the amount of Fifty Thousand United States Dollars (US\$50,000.00)."

The petitioner herein, New Africa Technology Company, filed before us a petition for re-argument, alleging that the Supreme Court made palpable mistakes when it ruled as it did on February 7, 2020. His Honor, Justice Yussif D. Kaba, in accordance with the Revised Rules of the Supreme Court signed the petition for re-argument thereby making said case re-docketed for hearing.

The Revised Rules of the Supreme Court on re-argument states:

Part 1. Permission for- For good cause shown to the Court by petition, a re-argument of a cause may be allowed only once when some palpable substantial mistake is made by inadvertently overlooking some facts, or point of law.

Both in its petition for re-argument and during argument before us, the petitioner's counsel insisted that the Supreme Court overlooked the fact that the respondent failed to plead or prove the amount of Three thousand nine hundred United States Dollars (US\$3,900.00) awarded as special damages; that the Court should have awarded only Three hundred and ninety five United States Dollars (US\$395.00) as special damages; that the Court inadvertently overlooked the contradictions between the John F. Kennedy Hospital's diagnosis and treatment and Dr. William Taylor Neal of SOS Clinic vis-à-vis the diagnosis and treatment of Ghail Foundation Health Center; that the Court mistakenly overlooked the contradictions between the averments contained in the pleadings and that of the plaintiff's own testimony in so far as it relates to the injury alleged; that the causation of the injury alleged was not established; that the Court overlooked the fact that the trial court did not state a specific amount in its judgment thereby rendering the judgment void.

The petitioner contends that had the Court not inadvertently and mistakenly overlooked the points of law and facts as stated in its petition, a different result would have obtained in the case out of which the petition grows.

Having heard the petition for re-argument, the sole question to be determined is whether the petitioner showed any palpable, substantive

mistake of facts or law that the Court in its review of the case inadvertently overlooked and which if considered would have led to a ruling different from that of February 7, 2020?

The petitioner in its petition does not allege that the Court overlooked and failed to consider a substantive point of law or fact in its ruling which if considered by the Court would have brought about a different result in the ruling of the Court. What the petitioner seeks to achieve from its petition is a further review of the awards made by the Court in its ruling of February 7, 2020.

The facts are Mrs. Gail Cisco, co-respondent, in these proceedings filed an action of damages for wrong against the petitioner before the Civil Law Court, Sixth Judicial Circuit, alleging that she sustained bodily injuries when a vehicle owned by the petitioner smashed the door of a parked vehicle at the point from which she was disembarking; she prayed the Civil Law Court to award her special damages of Six Thousand Eight Hundred and Twenty United States Dollars (US\$6,820.00) and general damages of One Hundred and Fifty Thousand United States Dollars (US\$150,000.00) as a result of the injuries she suffered. The co-respondent attached to her complaint various medical reports and payment receipts in the total amount of Three Thousand Nine Hundred and Twenty United States Dollars (US\$3,920.00) issued to her by the Ghail Foundation Health Center and the SOS Clinic in support of her claim for the award of special damages. The petitioner contested the veracity of the medical reports and receipts issued in favor of the co-respondent by the Ghail Foundation Health Center and SOS in support of her of her claim for special damages contending that the co-respondent only sustained injuries on her left wrist, and that other injuries alleged by her could not be attributed to the accident.

At the trial of the case in the court below, the co-respondent subpoenaed two expert witnesses to testify in support of her claim of medical expenses incurred at the Ghail Foundation Health Center and the SOS Clinic. Dr. Samuel Topoe, who attended to the co-respondent at the Ghail Foundation Health Center, testified that the co-respondent visited the center and was observed to have suffered from a number of health issues including conspicuous absence of one of co-respondent's lower teeth, slight bleeding in her mouth, bruises on her left temporal region, etc. Dr. Topoe's testimony confirmed the co-respondent's claim that she sought medical attention at the Ghail Foundation Health Center and the cost attached thereto. Dr. William Neal Taylor of SOS Clinic was also subpoenaed by the co-respondent to

testify to the fact that Mrs. Cisco also visited the SOS Clinic for further medical examination and treatment. He also confirmed that the co-respondent visited the SOS Clinic and was examined, and defended the medical report issued by the SOS Clinic and the recommendations contained therein.

The petitioner, though contesting the veracity of the medical reports and financial receipts issued by the two health centers, produced no expert witness to impeach the credibility of the medical reports. At the conclusion of the trial, the trial jury, the trial of facts, returned a unanimous verdict of liable against the petitioner and awarded the co-respondent the amounts of Six Thousand Eight Hundred and Twenty United States Dollars (US\$6,820.00) as special damages and One Hundred and Fifty Thousand United States Dollars (US\$150,000.00) as general damages.

On appeal, the Court reviewed the entire records of evidence produced by the parties in the court below and ruled modifying the trial court's special damages award of US\$6,820.00 to US\$3,920.00 in keeping with the evidence adduced at trial, and the general damages award of US\$150,000.00 to US\$50,000.00. The issues raised by the petitioner in its petition for re-argument were adequately reviewed and considered by the Court in its ruling.

During argument before the court, the Court posed the following questions to the petitioner's counsel, and his answers thereto confirmed that the petitioner's petition was filed merely to induce the Court to reduce the awards given in its ruling of February 7, 2020. Below are excerpts from the hearing:

"Ques: Are you saying that the Supreme Court overlooked dollars and cents?

Ans: The ruling says that the special damages award of US\$3,920.00 represents medical expenses, but at trial the respondent did not plead nor prove such amount.

Ques: How much do you think the Supreme Court should have awarded the respondent as special damages for medical expenses?

Ans: Your Honors, the Supreme Court should have awarded only US\$395.00 because that was what she pleaded.

By these answers, petitioner was questioning the wisdom of the Court in its consideration of the evidence as reflected in the transcribed records. We

must emphasize that the office of re-argument is not to question or challenge the wisdom of the Court's conclusion on any issue of law or fact, but is restricted in scope and function to the Court's overlooking of salient points of law and fact raised at prior hearing of the trial court and which were inadvertently overlooked by the Court in its decision and which the Court is confined to dispose of. The filing of a petition for re-argument should therefore be with no intent to challenge an Opinion and Judgment of the Supreme Court on points of law and fact raised and already decided by the Court simply because the petitioner believes the Court's conclusion is wrong. This Court in its Opinion, *USTC v. Wray & Williams*, 37 LLR, 649 (1994) succinctly elaborated on this point when it wrote:

"The Court would be setting a very ugly precedent, detrimental to its dignity and repugnant to good society, if it would permit parties to a suit before it to determine the relevancy of laws controlling the case. As the determination and interpretation of the law is for the Court, to permit a party to a case before the Court to determine the relevancy of the law would amount to a surrender of the important office of the Court to the whims and notions of such party. If no omission or new authorities on points of law or facts are shown, the appellate Court will seldom permit a re-hearing simply for the purpose of obtaining a re-argument on, and a reconsideration of, points, authorities, and matters which have already been fully considered by the Court, on the assertion of counsel, that, notwithstanding the Court fully considered everything wished to be argued on the re-hearing, it reached the wrong conclusion."

The entire evidence adduced in the court below and raised in the petition for re-argument having been thoroughly analyzed and deliberated on by this Court, leading up to the decision in its ruling on February 7, 2020, and the petitioner has shown no law or fact that was inadvertently overlooked by the Court that would warrant a change of its ruling of February 7, 2020, the petition for re-argument is therefore denied. AND IT IS HEREBY SO ORDERED. Costs are ruled against the petitioner.

THE PETITIONER WAS REPRESENTED BY COUNSELLOR AMARA M. SHERIFF OF THE J. JOHNNY MOMOH AND ASSOCIATES LEGAL CHAMBERS. THE RESPONDENT WAS REPRESENTED BY COUNSELLOR WILLIAM GBAINTOR OF THE GBAINTOR LAW FIRM.