

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS OCTOBER TERM, A.D. 2025

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

Youth for Development & Productivity/ YODAP )  
 by and thru its Executive Director, Mr. Jackerso )  
 H. Johnson, and all other Corporate Officers of )  
 said Institution of the City of Monrovia, )  
 Liberia.....Appellant )

Versus )

Appeal )

The Government of the Republic of Liberia )  
 by and thru the Minister of Finance, All Deputies, )  
 Assistant Ministers, Comptrollers and other )  
 Officers of said Agency of Monrovia, Liberia )  
 .....Appellee )

GROWING OUT OF THE CASE : )

Youth for Development & Productivity/YODAP )  
 by and thru its Executive Director, Mr. Jackerso )  
 H. Johnson, and all other Corporate Officers of )  
 said Institution of the City of Monrovia, Liberia )  
 .....Plaintiff )

Versus )

Action of Debt )

The Government of the Republic of Liberia by )  
 and thru the Minister of Finance, all Deputies, )  
 Assistant Ministers, Comptrollers and other )  
 Officers of said Agency of Monrovia, Liberia )  
 .....Defendant )

Heard: January 6, 2026

Delivered: February 13,2026

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPOINION OF THE COURT

On February 24, 2016, the Commercial Court dismissed a claim of debt filed by the Youth for Development and Productivity (YODAP), the appellant herein, against the Government of Liberia (GoL). Predicated upon this ruling, the appellant announced and perfected an appeal before this Supreme Court for appellate review.

The appellant, YODAP, a non-governmental organization registered and operating under the laws of Liberia, filed this action of debt against the Republic of Liberia, contending that the Republic of China (ROC) and the Republic of Liberia signed a "Bilateral Agreement" on April 22, 2003, wherein the Republic of China pledged developmental assistance to the Government of Liberia in the amount Ten Million United States Dollars (US\$10,000,000.00); The ROC-Liberia Joint Commission Program, as the assistance was called, aimed to fund various development initiatives in the leeward counties of Liberia and that the implementation of these projects was to be channeled through a selection of twenty-two local organizations deemed credible by Liberia and with the capacity to pre-finance assigned projects.

The appellant avers that it was officially designated as one of the implementing partners and allotted a grant of One Million Eight Hundred Thousand United States Dollars (US\$1,800,000.00) for the purpose of executing development work in two phases in Montserrado, Bomi and Margibi. Appellant alleges that once implementing partners pre-financed designated projects, they would be reimbursed upon successful completion and subsequent certification by the Administrator of the Projects Management Team. Appellant alleges that being fully authorized and endorsed by the Project Administrator, it secured private loans and alternative funding totaling Seven Hundred Fifty-five Thousand Eight Hundred Ten United States Dollars Forty-seven Cents (US \$755,810.47) to finance phase one of its project obligations.

Appellant also asserts that despite the fulfillment of the agreement and issuance of a certification of completion by the Project Monitoring Team, the appellee, GoL, refused to make the settlement of the US\$755,810.47. In pursuit of its deserving payment, appellant says it has sent several communications to the Ministry of Finance and Development Planning, requesting payment, but all failed to yield the required result. Appellant alleges further that the appellee had acknowledged the validity of the debt for reason that the Ministry of Finance allegedly vetted and structured the obligation for payment and thereby officially listed the debt in its internal logs; that this internal acknowledgment by the Finance Ministry serves as a clear admission of the government to the liability, and based on the government's failure to make settlement, the appellant sought this judicial intervention to recover the principal amount of US\$755,810.47, in addition to several additional amounts to include Twenty Thousand United States Dollars (US \$20,000.00) in attorney fees, a 6% interest rate on the total amount under litigation, and the coverage of all legal costs arising from the proceedings.

In response to the appellant's complaint, the appellee, GoL, filed a 10-count answer along with a motion to dismiss the appellant's complaint on January 10, 2012. Appellee contended that the writ is fatally defective in that it commanded the sheriff to summon Ecobank, instead

of the GoL, thus, appellee argued that it was not legally brought under the jurisdiction of the court. Additionally, appellee argued that the appellant lacks the requisite standing to maintain the suit in that the appellant's Articles of Incorporation were purportedly finalized in 1998, but it neglected to register or obtain a proper accreditation for over a decade and only obtained said certificate of accreditation on September of 2011; and that the substantial lapse in corporate compliance undermined the appellant's capacity to initiate legal proceedings for claims predating its formal recognition.

The appellee denied the existence of any contractual relationship with the appellant and asserted that while a bilateral agreement existed between the Republic of Liberia and the Republic of China for the implementation of 22 projects, the appellant was never a party to this agreement. The appellee argued that the One Million Eight Hundred Thousand United States Dollars ( US\$1,800,000.00) in question was earmarked for a national service program, not a private entity, and that the appellant failed to produce any evidence of a pre-financing agreement or a contract for the construction of housing units and water wells; that appellant could not have completed the construction of forty-eight housing units and two hundred twenty-two water wells between May and August 2003, as this period coincided with the height of the Liberian Civil War, dubbed "World Wars I, II, and III"; that the funds stipulated in the bilateral agreement were never actually received by the GoL due to GoL collapse of diplomatic relations with the Republic of China (Taiwan); appellee denied ever acknowledging any debt to the appellant as the mere listing of the appellant's claim for validation by the Ministry of Finance did not constitute an admission of liability or an obligation to pay.

On January 21, 2013, appellant filed its reply to appellee's answer noting that the defect referenced by appellee in the Writ of Summon are frivolous, and though the error was from the court, they did not affect the substantial rights of the defendant or the merit of the case.

With respect to its legal status, appellant noted that the requirements to exist as a legal entity is by filing an Articles of Incorporation and obtaining a Certification of Accreditation and that the appellant met all these requirements for which the GoL and other institutions confided in YODAP in awarding contracts.

Appellant asserted that the appellee had admitted to the worthy and legal obligation with respect of the existence of the workings of the two Governments in that crafters of the documents governing the implementation of the program had enlisted an institution called "National Youth Services Corps, without mentioning Youth for Development and Productivity; that it is a common knowledge that the National Youth Services Corps is the same as Youth for Development and Productivity; that nearly in all the exhibits of the appellant, the project

coordinators including then Foreign Minister, H. E. Monie R. Captan, and Project Administrator, Sandra P. Howard, referred to the appellant as YODAP, while in other cases, front slash such as NYSC/YODAP was used to mean the same institution; and that even the GoL recognized appellant as YODAP when it, through the Ministry of Finance vetted appellant for payment.

As indicated above, when the GoL filed its answer to YODAP's complaint on January 10, 2013, it simultaneously had it filed along with a motion to dismiss, primarily contending that the writ, defective in nature, was directed to Ecobank, and did not therefore bring the appellee under the jurisdiction of the court; that the appellant had failed to substantiate its claim by not exhibiting all relevant documents including contract with the appellee and out of which the debt derived; that consistent with the principle of statute of fraud, contracts of over US\$500.00 ought to be in writing; that the entire claim was time barred since appellant's claim occurred in 2003, a period spanning over 10 years, in contravention of the statutory time required to file a debt action; that appellant was not a legal entity at the time it allegedly performed the service in that the appellant's entity was registered as a corporate person on September 12, 2011.

The appellant subsequently filed resistance to appellee's motion to dismiss on January 21, 2013, indicating that the errors in the writ were inadvertent and attributable to the court, not the appellant; that it was a legal entity recognized by the GoL, a condition for which it was issued contract by the said GoL; that by the submission of names of local organizations to the two governments (Liberia and Republic of China) as implementing partner and subsequent signing of the program by these two governments, there had been established a binding contract and that the performance thereof established a debt on the part of the defaulting party, which is the GoL in the instant case; that the government and people of Liberia did benefit from the services performed by the appellant; that the appellee had recognized its obligation when it conducted a forensic investigation upon which it vetted the amount claimed by appellant in its log; that there existed unstable political situation characterizing the regimes of Charles G. Taylor, Moses Blah and Charles Gyude Bryant, for which no rational person would have gone after these leaders with a debt claim, a reason for which the statute could not toll; that when calm returned during the presidency of President Ellen Johnson Sirleaf in 2006, the appellant communicated with the Finance Ministry in 2011, as a result of which the appellant was vetted and included on the list of domestic debts; that statute of fraud could not lie as the joint implementation project, which enlisted the name of the appellant, noted that no other instrument was needed to be signed separately when the two governments signed a binding instruments naming relevant partners such as the

appellant; that the article of incorporation of YODAP was registered in 1998 and accredited in 2001 and 2003, by the Ministry of Planning; and that the motion to dismiss should be denied by the court.

Following arguments *pros and cons* on the motion to dismiss, Judge Richard Klah of the Commercial Court ruled granting the motion to dismiss on two grounds: 1) that the writ of summons directed to Ecobank, rather than GoL, was defective and that the court could not take jurisdiction over parties from a defective writ of summons; and 2) that the appellant did not have legal capacity to sue in that appellant did not establish the obligation, sum due and the breach thereof.

Predicated upon Judge Klah's ruling, the appellant filed a 17-count petition to the full bench of the Commercial Court for a review of an interlocutory ruling, that is, to review the ruling on the motion to dismiss that had been rendered by Judge Klah. Appellant contended that the dismissal of its complaint based on grounds of defectiveness of summons and lack of capacity was a reversible error and requested the Commercial Court *en banc* to reverse same. The full bench of the Commercial Court heard the matter following the filing of the appellee's resistance, and arguments of the parties *pros and cons*, and ruled overturning the ruling of Judge Klah on a single issue relating to the defectiveness of the summons. The court reasoned that the dismissal of the appellant's complaint for defectiveness was a reversible error as same was the fault of the court and should not have been attributed to the appellant.

Following the ruling of the Commercial Court *en banc*, the matter was ruled to trial and we incorporate herein below the comprehensive ruling of the trial Judge:

### **COURT'S FINAL RULING**

#### **CASE HISTORY:**

*The record of the case file reveals that on the 31st day of December 2012, the plaintiff YODAH filed an Action of Debt against the defendant. Plaintiff contended that the Republic of China/Taiwan and the Government of Liberia signed a bilateral agreement on April 22, 2003 and the Republic of China (Taiwan) pledged development assistance to the Government of Liberia in the tune of Ten Million United States Dollars (US\$10M). A Joint ROC-Liberia Commission was then set up and headquartered at the Executive Mansion under the direct supervision of the Ministry of State for Presidential Affairs and a Project Management Team. The plaintiff further claimed that the amount of One Million Eight Hundred Thousand United States Dollars (US\$1,800,000.00) was allotted under the program to local organizations selected to implement various projects in the leeward counties under a pre-financing arrangement, and reimbursement was conditioned upon the certification of the completion of work actually done by the Coordinator/Administrator*

*of the Project Management Team. The plaintiff claims that that it was awarded a project to be implemented in two (2) phases in Montserrado & Margibi Counties respectively; the Project Administrator endorsed the funding request and ordered the plaintiff to commence Phase One (1) of the project at the cost of Seven Hundred Fifty Five Thousand Eight Hundred Ten & 47/100 United States (US\$755,810.47). They said Phase One (1) was allegedly completed between May to August, 2003, the Project Administrator certified the completion and submitted the approved payment request to his principals. Strangely though, the Government of Liberia failed to reimburse the plaintiff for work done and this action ensued.*

*The defendant, Government of Liberia, filed its answer questioning the legal existence of the plaintiff from the inconsistency between its Articles of Incorporation dated September 7, 1998, registration dated July 25, 2004 and its certificate of Accreditation dated September 16, 2011. Defendant noted for the record that a bilateral agreement was signed between the Government of Liberia and the Republic of China (Taiwan) under which twenty-two (22) projects were to be jointly implemented by the two governments and argued that the name of the plaintiff was never mentioned among the implementing partners except by an insertion of the plaintiff's name along that of the National Youth Service Corps. Defendant contended that the plaintiff was not a party to the bilateral agreement signed between the Governments of the Republic of Liberia and Republic of China (Taiwan) and that the agreement itself did not mention the plaintiff by name as one of the implementing partners for the various projects to be undertaken and contended that the One Million Eight Hundred Thousand United States Dollars (US\$1.8M) claimed to be allotted to the plaintiff was a work of fraud. Most importantly, the defendant denied owing the plaintiff any debt for work allegedly performed by it during the period of civil unrest as claimed and filed a "Motion to Dismiss" the entire Complaint along with its Answer.*

*In the plaintiff's reply, plaintiff contended that the National Youth Service Corps is the same as the Youth for Development & Productivity and that the war in 2003 did not reach Monrovia until August and September; further, plaintiff gave notice to produce evidence that the Ten Million United States Dollars grant (US\$10M) was actually received by the Government of Liberia and that it had worked but had not been paid. Plaintiff argued that it was named in the bilateral agreement as one of the organizations earmarked to implement various projects and that the Government of Liberia owed it a debt for work done. Pleadings then rested, the "Motion to Dismiss" was heard and denied, law issues were disposed of and the matter was ruled to trial.*

*Thus, after several continuances requested by the parties in this matter, the trial resumed and the plaintiff produced three witnesses in person of Jackerson Hallie Johnson, Robert B. Kennedy and Lawrence A. George and one rebuttal witness, Mr. Daniel Kolubah. Witness Jackerson Johnson testified that National Service Corps/Youth for Development & Productivity was a non-profit organization started by undertaking projects as cleaning and brushing the major highways, cleaning the cemeteries, renovating the Fendall Campus of the University of Liberia, the TNIMA, and other public areas; that the plaintiff wrote a project proposal for US\$3M to the joint ROC-Liberia Commission to undertake rural electrification projects but only US\$1.8M was allotted to be implemented in Montserrado and Margibi Counties. The*

witness further said that Plaintiff constructed pit latrines, hand pumps and housing units in the Mamba Kaba District in Margibi County, and that the installation of solar panels and hand pumps were completed at designated areas such as Bondeway, Smell No Taste Community, Bensonville and Brewerville. Plaintiff's second witness testified that the Joint ROC-Liberia Commission awarded contracts to various organizations including the National Youth Service Corps/YODAP and the amount of US\$690,000.00 was approved for the Plaintiff to install hand pumps and solar panels in Bong, Margibi and Montserrado Counties, specifically at Bomi Check Point (Clay), Gbarnga, Brewerville Check Point and Stephen Tolbert Estate. The third witness essentially testified to the bilateral agreement signed between the Governments of Liberia and the Republic of China (Taiwan) while he was Deputy Minister of State for Administration between 2001 to 2006. Plaintiff rested with the usual reservation to present a rebuttal witness if the need arose.

The defendant produced five witnesses to testify on its behalf. Witness Boakai Kamara, an employee of the Ministry of Finance & Development Planning in Liberia testified that to the best of his knowledge, for the eleven years he has worked with the Ministry, he had not seen any contract between the Government of Liberia and YODAP as a person directly responsible for handling and processing payments for such matters. Witness Madison C. Kagbeh testified also as a debt analyst at the Ministry of Finance & Development Planning that a new claim of debt was received from the Plaintiff in 2011 after older claims were vetted by international auditors, KPMG. Witness Moses Yekewolo testified as a resident of Bensonville since 1970 that YODAP did not install any hand pump at Bensonville and that the only two hand pumps are presently in the area, one was built during the administration of President William R. Tolbert and one newly constructed by LRRRC for displaced people in 2013. Witness Rebecca Hill, the District Commissioner of Mamba Kaba District, testified that YODAP did some roadside brushing along the Robertsfield Highway in 2002 and 2003 but refuted the claim that YODAP did any work in her district. The witness also testified that the only hand pumps in the district were built by CRS and UMCOR in 1998 and 1999 respectively. She further testified that she served as Chairlady for the District and was knowledgeable about development projects undertaken in the district. Defendant's last witness, Madam Pandora Nyangbeh, testified that she has been a resident of Clay District since 2000 and works at the Immigration Check Point since that time, she has not seen any hand pump built or solar panel installed by YODAP; that she met one hand pump there in 2000 and another one was constructed in 2009. Defendant then rested with the production of both oral and documentary evidence and submitted its side to final argument. At this stage, plaintiff produced a rebuttal witness in person of Daniel N. Kolubah who testified that he served as former Project Implementer of YODAP and stated that in 2003, plaintiff installed solar panels at the Clay Check Point and several other places, that he supervised the implementation of several other projects that were completed under the supervision of the Joint ROC-Liberia Commission in 2003. Interestingly, this witness had earlier testified as Daniel Nyumah and his testimony was ordered stricken from the record since the plaintiff had rested with the production of evidence.

## **ANALYSIS/DISCUSSION**

*In the mind of this Court, the following two issues are dispositive of this Action:*

- 1. Whether or not the evidence adduced at trial sufficiently supports the existence of a contract between the parties under which an action of debt would lie?*
- 2. Whether or not the plaintiff has sustained the burden of proof as necessary to entitle it to the relief sought?*

*The first issue as to whether or not the evidence adduced at trial confirms the existence of a contract between the parties under which a debt action would lie for the alleged performance of a party must be answered in the negative. It is a long established principle of law recognized and upheld in many opinions of the Honorable Supreme Court of Liberia that "in an action of debt, the declaration or complaint must allege all the necessary facts to show an obligation on part of the defendant to pay plaintiff a sum certain or one which may be readily reduced to certainly." (See the case, Goll vs. Servicetecnic Corporation (SEVO), 32LLR 140). The Honorable Supreme Court also opined that a complaint in an action of debt must contain the following pre-requisites:*

- i) A written obligation or promise to pay a sum certain loaned or due for services rendered or the goods sold and delivered upon a promise and the refusal to pay the same; or*
- ii) It must state that the defendant owes the plaintiff money due upon an account made in the normal course of business transaction, in which case the plaintiff must annex to the complaint the account made stating distinctly and intelligibly the articles which the plaintiff intends to charge the defendant so as to give due notice of the facts to the defendant that the plaintiff intends to prove. (Blamo vs. Zulu, 30LLR 586, on page 595, decided in 1983). In the instant case, the averments in the complaint, specifically Plaintiff's "Exhibit P/2 in bulk," clearly showed that an insertion was improperly made alongside the name of National Youth Service Corps by writing the name of the plaintiff on the list of organizations approved to implement various projects as found on Page XIX of the Bilateral Agreement executed by the Government of Liberia and the Republic of China (Taiwan) on April 22, 2003. Also, the Plaintiff's "Exhibit P/3" showed a letter bearing the signature of Mr. Robert Kennedy purportedly addressed to the Ambassador of the Republic of China (Taiwan) which contained the names of vendors/suppliers of YODAP, but none of these vendors appeared to testify on behalf of the Plaintiff. Moreover, the alleged authorization letter to YODAP to commence work/pre-finance based on the findings of the Project Monitoring Team, confirming the completion of work in Montserrado and Margibi Counties failed to indicate the specific work done and the exact locations of the alleged completed projects. In the mind of this Court, all of the communications referred to hereinabove are self-serving and indicative of a cursive scheme intended to perpetuate fraud. One would wonder why proof of the financing arrangements, loan documents, or other species of evidence was not made available during the trial of this case.*

*This brings us to our final issue as to whether or not the plaintiff has sustained the burden of proof as necessary to entitle it to the relief sought must be answered in the*

*negative. The Honorable Supreme Court has held in many of its opinions that the burden of proof rests on a party who alleges a fact except where the subject matter of a negative averment lies peculiarly within the knowledge of the other party, in which case the averment is taken to be true unless disproved by that party. The standard for upholding the burden of proof in civil cases is through preponderance of evidence." Specifically, Section 25.4 of our Civil Procedure Law provides that "all evidence must be relevant to the issue at bar and must have the tendency to establish the truth or falsehood of an allegation." In the case Liberia Petroleum Refining Corporation vs. Ibrahim Mahmoud, decided May 201, text on page 213 the Honorable Supreme Court said that "the opportunity for the judge, the information possessed, the manner of testifying, and the things that go with convincing the mind must be taken into consideration." In Selly et al vs. SN Brussels, decided January 29, 2009); Also, in Insurance Company of Africa et al. vs. Fantastic Store, 32LLR 366, the Supreme Court set the benchmark when it said that "the preponderance of evidence is determined by the weight of evidence which is determined by the manner of testifying."*

*In the instant case, this Court is not convinced or persuaded that an enforceable contract exists between the parties and the plaintiff has blatantly failed to sustain the burden of proof of any performance under which it should be entitled to the relief prayed for in its complaint. More besides, the incoherent testimonies of plaintiff's witnesses lacked the element of corroboration and the preponderance required to convince this court that the plaintiff is entitled to any relief.*

**DECISION:**

*WHEREFORE AND IN VIEW OF THE FOREGOING FACTS AND CIRCUMSTANCES, the plaintiff's complaint for an Action of Debt is hereby denied. The cost of these proceedings is ruled against the plaintiff. AND IT IS HEREBY SO ORDERED."*

The appellant excepted to the Judge's ruling and filed a 24-count bill of exceptions. A glance through the bill of exceptions revealed that counts 6, 7 and 8 are the most relevant counts where the appellee insists that it had proven sufficiently at trial that the appellee was indebted to it; therefore, the Judge's ruling against it was erroneous. Counts 6,7, and 8 read, thus:

6. *That because plaintiff says that as stated aforesaid, plaintiff met all of the requirements set up by the Commission through the project Administrator who was then Mr. Robert B. Kennedy. That on May 17, 2003, the Administrator of the Project communicated with the Plaintiff, through its CEO, Mr. Jackerson Johnson, to "Begin work /Pre-finance, thus indicating in the communication NYSC/YODAP". All copies of communications between the plaintiff and the Project Office were forwarded to the Offices of the Ministers of Foreign Affairs and State simultaneously.*
7. *That on May 15, 2003, the Project Coordinator/Administrator, addressed a communication to the Ambassador of China, using the Letter Head of the Commission, Republic of China-Liberia Joint Commission, with subject: PAYMENT REQUEST*

*UNDER THE APPROVED ASSISTANCE PACKAGE TO THE NATIONAL YOUTH SERVICE CORPS/YODAP. This request took into consideration all items that were purchased through a pre-finance arrangement by the plaintiff.*

8. *That plaintiff continues that on the 7th day of August, 2003, the Project Office directed a communication to the plaintiff, the late Jackerson H. Johnson, expressing satisfaction that phase-1 of the two assessable counties, Montserrado & Margibi, given the Plaintiff to perform under the pre-finance arrangement, check in the amount of US\$755,810.47 for the payment for the services performed would be released as soon as the prevailing situation in the capital and its environs were settled.*

The appellant's bill of exceptions stated above excepts to the Judge's ruling which stated that the appellant did not show sufficient evidence to meet the legal requirement of proof that the appellant and the GoL had a legal contract to carry out the projects as alleged by the appellant, and that the appellant did implement the project activities as alleged. The appellant says that contrary to the Judge's ruling it had met all the requirements set up by the Commission evidenced by the Project Administrator, Mr. Robert B. Kennedy, who on May 17, 2003, communicated with the appellant through its CEO, Mr. Jackerson Johnson, to begin work with authorization to prefinance; that on May 15, 2003, the Project Coordinator/Administrator, addressed a communication to the Ambassador of China, requesting payment to the appellant and by this request took into consideration all items that were purchased through a prefinance arrangement by the appellant, and on the 7th day of August, 2003, Mr. Kennedy directed a communication to the appellant expressing satisfaction of the appellant's work under phase-1 to the two assessable counties, Montserrado & Margibi, indicating that a check in the amount of US\$755,810.47 for the payment for the services performed would be released as soon as the prevailing situation in the capital and its environs were settled. These exchanges between the Project Administrator of the Commission, Mr. Robert B. Kennedy, and appellant were the evidence relied on by the appellant and presented during trial.

The appellee in its argument before the Court denied the appellant's claim of debt, and argued that the appellant was not privy to the bilateral agreement signed between the two governments; thus, the appellant cannot use the said Bilateral Agreement as evidence of a binding contract between itself and the Government of Liberia; that there is no statement of pre-financing as a precondition within the Agreement, and that there is no proof of, or evidence of loans and other fundings in the amount of US\$755,810.47 to be undertaken. The appellee further argued that assuming without admitting that there is a contract between the appellee and appellant for the construction of forty-eight (48) housing units and 220 water wells in Montserrado and Margibi counties, it was impossible to begin and complete them

between May 15 and August 7, 2003, considering the war situation in both Margibi and Montserrado counties, that is to say, the period termed as world war-I,II, and III-in Liberia at the time, the appellee further considered that the documents executed by the Administrator for payment and to start work are all fabricated and unsupported by evidence of work performed even though the USD10,000,000.00 mentioned in the Bilateral Agreement was never received by the Government of Liberia and cannot be claimed by the appellant which was never even a party to the said agreement.

The Court says, assuming that the National Youth Service Corp and the appellant were one and the same, as mentioned in Topic XIX of the Approved Projects for Implementation between the Government of China and the Government of Liberia (April 22, 2003), and that the amount of US\$1.8 Million was provided to the appellant for the design and implementation of strategic development projects in the leeward counties, since the agreement was exclusively between the Liberian Government and China, the GoL in effect was the one to enter an agreement with YODAP for the implementation of projects. This agreement than would set out the approved projects, the specific locations, the duration, and associated costs for implementation. An agreement between the parties therefore would be the *prima facie* evidence, that is, the best evidence to authenticate the understanding between the parties and to set the stage for the appellant's claim of debt. This agreement with the appellee GoL, setting out the scope of work and the amount associated with each aspect of the work to be implemented was necessary evidence for the appellant to have established proof of the appellee's debt obligation.

Where the appellant claims to have gotten a loan based on the understanding of the parties to prefinance the projects allegedly done by it, the agreement between the appellant and GoL stating out this understanding was also necessary. The appellant however proffered no proof of such arrangement with the appellee government, neither did it show any evidence of the bank from which the loan was obtained in regards to the projects allegedly undertaken by the appellant.

During its argument before the Court, the following questions were put forward by the Court to counsel for the appellant:

Ques: Did you produce evidence during the trial of a valid contract between appellant and the appellee?

Ans: There was no written contract, Your Honors.

Ques: Did you produce evidence of the appellant's performance?

Ans: The issue of the appellant's performance was not in dispute, as the government acknowledged its debt to the appellant.

From the foregoing facts narrated above and the contentions ensuing therefrom, the lone issue is whether the appellant proved its claim of debt with certainty and sufficiency of evidence to warrant the overturn of the trial judge's ruling?

As we see from the line of questioning from the Court above, the counsel for the appellant informed the Court during oral argument that the issue of appellant's performance was not based on a written contract, and that the issue of performance was not in dispute as the government had acknowledged liability.

This admission by the appellant that there was no contract between it and the appellee for implementation of projects valued at 1.8 million United States Dollars is a contravention of the common law doctrine on statute of frauds which makes certain contracts judicially unenforceable if they are not committed in writing and signed by the parties. The Liberian Commercial Code, Sec 1.9 states that "no agreement or transaction having a value of more than Two Thousand United States Dollars (US\$2,000.00) or its equivalent in Liberian Dollars is enforceable unless evidence in writing and signed and acknowledge by the person against whom enforcement is sought."

Besides the appellant showing no proof of a written contract to assert its debt against the appellee, its only proof of performance was that its name was placed on the listing of government's domestic debt at the Ministry of Finance. The appellee's 2<sup>nd</sup> witness, Mr. Madison Kagbeh however testified that he worked for the MFDP as Debt Analyst; that his function was to record all new debts into a software and make a monthly reconciliation into a database for creditors; that he got to know YODAP in some part of 2011, when he received communication from the then Minister of Finance, Augustine K. Ngafuan referring a letter under the signature of one Jackerson H. Johnson, informing the GOL of its indebtedness to the claimant and requesting settlement; that upon receipt of that communication, it was attention to the Debt Management requesting for the status of the claim for which a research was conducted in the database to establish whether the claim existed in the debt management record, and that they checked on that and noticed that there was nothing indicating YODAP; that when they received YODAP's communication, they placed YODAP under the category as a new claimant because it was received after all old claims had been vetted by auditors from IVC and the KPMG. The heading of those claiming domestic debts and in which YODAP was included reads: "PENDING DOMESTIC DEBTS FOR VALIDATION AND FURTHER PAYMENT FOR YOUR PERUSAL."

The Court wonders how the mere listing of the appellant's name on the document captioned, "PENDING DOMESTIC DEBTS FOR VALIDATION AND FURTHER PAYMENT FOR YOUR PERUSAL" could be the appellant's principal reliance in establishing evidence of proof of its contract with the GoL as well as evidence of work performed for which it is entitled to payment. For the claims of the appellant to be valid, there must have been evidence of a specific contract executed between the appellant and the Government of Liberia, stating terms and conditions, such as, work expected to be carried out; duration of the project implementation; as well as the stipulated obligations of the Government inclusive of the payment plan for each project activity under said agreement. For the appellant to recover on this claim of debt against the appellee GoL it should have shown sufficient evidence of the agreement with the GoL and its performance thereunder; the agreement requiring the appellant to prefinance the work under the agreement, particularly for the amount claimed by the appellant, must have been in writing outlining the nature of the prefinancing arrangement of the alleged projects to be carried out. Regrettably we have not seen said evidence in the records before this Court.

In an action of debt, the plaintiff's complaint must be sustained by sufficient evidence to establish the claim with all certainty that the plaintiff and defendant entered a contract for the specific amount, the plaintiff has performed its duty under the contract, the defendant has benefited or received the benefits of the plaintiff performance under the contract, and that the defendant has failed to make payment of the contracted amount under the executed contract. *Farhat et al v. Gemayel et al*, 34 LLR 24, 34 (1986); *LPMC v National Seamen's Port*, 33 LLR 132,142 (1985); *Goll v Servicetechnic Corp.*, 32 LLR 140, 150(1984) .

Given that the appellant presented no evidence to sustain its claim of debt, we agree with the ruling of the lower court judge, that in the absence of any substantial proof by the appellant evidencing an exclusively binding contract between the appellant and the Government of Liberia to carry out said projects, and considering that the appellant claimed to have perform under the alleged contract by building and constructing pit latrines, hand pumps, forty-eight housing units, as well as the installation of solar panels in the Mamba Kabba District in Margibi County, Bondeway, Smell No Taste Community, Bensonville and Brewerville, totaling US\$755,810.47, which facts witnesses brought to testify denied stating that no said projects were ever carried out in their areas, we are obliged to agree with the lower court Judge.

We also agree with the trial court that the communications of the appellant and Robert Kennedy, the Project Administrator, relied upon by the appellant to prove its debt are self-serving as the best evidence to prove the appellant's claim, should have comprised the agreement between the parties proving financing arrangements, loan documents, and or

other applicable species of evidence of proof of implementation of projects carried out under the said agreement and for which appellant would be entitled to the relief sought. For these reasons we must uphold the ruling of the court below denying the appellant's claim of debt against the appellee, Government of Liberia.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the Commercial Court denying the appellant's claim of debt is hereby affirmed. 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 the Judgment emanating from this Opinion. AND IT IS HEREBY SO ORDERED.

**WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR MILTON D. TAYLOR OF THE LAW OFFICE OF TAYLOR AND ASSOCIATES, INC. APPEARED FOR THE APPELLANT. COUNSELLORS AUGUSTINE C. FAYIAH, SOLICITOR GENERAL, REPUBLIC OF LIBERIA AND COUNSELLOR JERRY D.H GARLAWULO, ASSISTANT MINISTER OF JUSTICE FOR LITIGATION, MINISTRY OF JUSTICE APPEARED FOR THE APPELLEE**

