

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: CEATNEH D. CLINTON-JOHNSON.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : BOAKAI N. KANNEH.....ASSOCIATE JUSTICE

Ecobank Liberia Limited by and thru its Managing) Director and all authorized officers of the City of) Monrovia, Liberia.....Appellant))	
Versus)	APPEAL
)	
Genesis Liberia by and thru its Managing Director) and all authorized officers of the City of Monrovia,) LiberiaAppellee))	
<u>GROWING OUT OF THE CASE:</u>)	
)	
Genesis Liberia by and thru its Managing Director) and all authorized officers of the City of Monrovia,) LiberiaPetitioner))	
Versus)	PETITION FOR DECLARATORY
)	JUDGMENT
Ecobank Liberia Limited by and thru its Managing) Director and all authorized officers of the City of) Monrovia, Liberia.....Respondent))	

Heard: June 10, 2026 Decided: August 27, 2026

MR. JUSTICE KANNEH DELIVERED THE OPINION OF THE COURT

This appeal originates from a petition for declaratory judgment filed on March 24, 2024, in the Civil Law Court, Montserrado County, Republic of Liberia, by Genesis Liberia by and thru its General Manager George F. Howard, appellee herein, against Ecobank Liberia Limited, appellant herein.

The facts culminating into the present appeal shows that between the years 2008 to 2012, the appellee, Genesis Liberia by and thru its General Manager George F. Howard applied for and obtained several loans from Ecobank Liberia Limited with terms and conditions agreed upon by the parties. Following the execution of the loan agreement, the appellee began repayment of the loan to the appellant as per the approved terms and conditions of the loan arrangement. However, the appellee at a certain point defaulted in the repayment of the loan, prompting the appellant to file a petition for foreclosure before the Commercial Court. The Commercial Court upon receipt of the petition ordered the appellee to file its returns to the petition within the statutory timeframe to which instructions of the Commercial Court, the appellee complied by filing its returns. Subsequently, while the petition for foreclosure was

pending before the Commercial Court, the parties disputed the actual amount owed the appellant Bank. To amicably resolve this issue, the appellant and the appellee reached an agreement to submit their dispute to an arbitral panel to determine the appellee's actual indebtedness to the appellant. The court having received the agreement to arbitrate ordered each of the disputing party to submit the name of its representative for the arbitral proceedings and the Commercial Court then appointed the head of the arbitration committee. The arbitration panel began its work by reconciling the appellee's bank statements in the account held at the appellant Bank and concluded in its report that the appellee's total indebtedness to the appellant amounted to One Hundred Nineteen Thousand Seven Hundred Eighty-Eight Dollars Thirteen Cent (US\$119, 788.13) and not Two Hundred Ten Thousand Four Hundred Eighty-Two Dollars Nine Cent United States Dollars (US\$210, 482. 09) for which the petition for foreclosure was filed.

We deem it relevant to quote an excerpt of the arbitration report as follows, to wit:

“On January 29, 2022, the petitioner submitted additional information to the chairperson to the effect that US \$155,863.76 with payment details CK 5704 PD IFO Genesis Liberia Inc., was discovered in Ecobank's banking system in favor of the respondent however, the check was not deposited into the respondent's Ecobank account but was deposited into an unknown account bearing account number USD102550001. According to the petitioner this check was cleared through the Central Bank of Liberia Clearing House before hitting the UNDP account at Ecobank Liberia Ltd.,

Based upon this information the chairperson immediately submitted this information to the respondent requesting for response, and also informed all parties that the unknown account bearing account number USD102550001 would be investigated to determine the name of the bank, and the owner of the account.

On February 2, 2022, a subpoena duces tecum was issued by the Commercial Court on the Central Bank of Liberia (CBL) to provide information pertaining to the Commercial Bank that host account number USD102550001.

On February 8, 2022 the Central Bank of Liberia in response to the subpoena informed the Court that the Supervision and Banking Departments of the CBL is unable to establish the name of the Commercial Bank that holds account number USD102550001.

Now, given this new information from the Central Bank of Liberia (CBL) and all the facts and circumstances painstakingly narrated herein above, the question that this arbitration must answer is whether the respondent is indebted to the petitioner and if so what is the actual amount the respondent owes the petitioner.

In answering the above question, it is prudent we briefly reiterate some salient undisputed facts. First, the question of whether or not the respondent obtained the loan from the petitioner is not in dispute. Secondly, there are no deposit slips or records from the respondent corporate office showing that it made payments to the petitioner in settling its obligations. Thirdly the only evidence showing that the respondent made part-payments toward the loan are the bank statements produced by the petitioner which show an outstanding balance of US \$210,482.09 as money owed the petitioner. Last but not the least, it is undisputed that while this arbitration was ongoing the amount of US \$90,693.96 was discovered in a write-off account at the Ecobank Liberia Ltd.,

Now, given the above premise, we have determined that the facts and evidence presented herein clearly established that the respondent is indebted to the petitioner and that the actual debt owed is US \$119,788.13. This amount represents the initial amount sued for (US \$210,482.09) minus the US \$90,693.96 that was discovered in the write off account.

This position of the arbitration is supported by the fact that the respondent failed to produce any evidence to controvert the petitioner's claims although the respondent had earlier, in its

December 23, 2021 email, promised to produce all relevant documents to establish its counter-claim. We should state here that the proof we expected from the respondent were original deposit slips, or some payment confirmation from UNDP that the amount of US \$155,863.76 was deposited in Ecobank in favor of the respondent, or a letter of complaint from the respondent addressed to Ecobank/UNDP complaining the financial irregularities carried on its account back then in 2011.

We are of the view that had the respondent produce these pieces of evidence immediately stated herein above, we are certain that these pieces of evidence would establish: (i) that the respondent paid the amount of US \$155,863.76 into their Ecobank account as claimed, (ii) shift the burden of proof towards the petitioner to show that the US \$155,863.76 was not deposited into the Ecobank, and (iii) off-set the loan completely in the event the petitioner fails to disprove the respondent claims.

But none of these pieces of evidence were produced during the investigation. To the contrary, the respondent own evidence adduced during the investigation established that the respondent Operation Manager, Janice C. Ricks received the check of US \$155,863.76 on May 22, 2011 from the UNDP and in return she issued a receipt thereto in favor of UNDP. The records also show that this particular US \$155,863.76 with payment details CK 5704 PD IFO Genesis Liberia Inc., was debited from the UNDP's account at Ecobank Liberia Ltd., on May 31, 2011.

Although there are no deposit slips from the respondent showing where this check was actually deposited, records from Ecobank Liberia Ltd., tends to establish that this check in the amount of US \$155,863.76 was never deposited into an Ecobank Liberia account, rather same was deposited in an unknown bank/financial institution with account number USD102550001. The petitioner evidence tends to establish that the said check went through the clearing house at the Central

Bank of Liberia before the UNDP account at Ecobank was debited in the amount of US \$155,863.76.

Now, it should be quickly noted here that while we are a bit concerned over the evidence produced by the petitioner Ecobank regarding the unknown bank with account number USD102550001, on the other hand we are surprised, bewildered, and seriously baffled over the question as to why the respondent could retrieve and produce the receipt of May 22, 2011 for the amount of US \$155,863.76 signed by its Operation Manager, Janice C. Ricks, but then failed to produce the deposit slips of May 31, 2011 which will eventually show where the US \$155,863.76 was deposited. Is the May 22, 2011 receipt signed by Janice C. Ricks more important than the deposit slip of May 31, 2011?

In addition to this unsolved question as to where the US \$155,863.76 was actually deposited; the respondent also did not produce any letter of complaint addressed to Ecobank or UNDP complaining about the missing US \$155,863.76; and there are no pieces of evidence to show the respondent ever challenged the issue of a missing US \$155,863.76 that was allegedly deposited since 2011.

Be that as it may, we will be remiss if we fail to recognize and comment on the conduct of Mr. L. Olandor Boyce, Jr., when he decided to disclose the amount of US \$90,693.96 in favor of the respondent January 18, 2022, which off-set and adjusted the loan to US \$119,788.13. This act of Mr. Boyce is iconic and commendable because of two reasons: (i) Mr. Boyce disclosure of January 18, 2022, on the amount of US \$90,693.96 was long after the investigation was already closed and awaiting final award; (ii) it can be vividly recalled that all these transactions surrounding the amounts of US \$155,863.76 and US \$90,693.96 took place over 10 years ago by the respondent; and that the respondent, who happens to be the beneficiary of these amounts only produce receipts for the checks it received from UNDP but

fail to present any proof like deposit slips showing that the amount was indeed deposited into Ecobank; or a written complaint red-flagging alleged financial irregularities at Ecobank.

These assertions that the respondent failed to produce proof showing that it deposited the amount of US \$155,863.76 into an Ecobank account is attested by records before the Commercial Court and the arbitration proceedings which show that the only reliance the respondent depended on in making its case were mere averments, mere speculations, and presumptions. And, as we stated earlier herein above "mere allegations of a claim do not constitute proof, but same must be supported by evidence so as to warrant a court or jury accepting it as true and enable the court to pronounce with certainty concerning the matter in dispute." *Knuckles v. TRADEVCO 40 LLR 511, 525 (2001).*"

The trial court having received the arbitral award ruled as follows:

"The law citations and oral arguments of the parties present one cardinal issue for determination. The issue is whether declaratory judgment will lie to declare the rights of petitioner in respect of a check for US\$155,863.76 issued by the UNDP to petitioner? The answer is a resounding "yes".

Section 43.1 of the Civil Procedure Law provides that courts of record within their respective jurisdiction shall have the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed; that no action or proceeding shall be open to objection on the ground that a declaratory judgment is prayed for; and that the declaration may be either affirmative or negative in form and effect; and that such declarations shall have the force and effect of a final judgment.

Our law also provides that the existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. 1 LCLR, Civil Procedure Law, Section 43.6.

In the instant case, the petitioner seeks a judgment for declaratory relief in respect of a check for US\$155,863.76 issued by the UNDP in favor of petitioner during the period May 1, 2011 to January 31, 2012.

This court takes judicial notice of an admission made by respondent, through its representative on the Board of Arbitration constituted by the Commercial Court, to the effect that a check for US\$155,863.76 with banking details CK 5704 PD IFO Genesis Liberia Inc., was discovered in respondent Ecobank's banking system in favor of petitioner, but that the check was not deposited into petitioner's account at the respondent bank, but was deposited into an unknown account bearing account number USD102550001. Respondent admitted during the arbitration hearing that the check for US\$155,963.76 was cleared through the Central Bank of Liberia Clearing House before hitting the UNDP account at the respondent bank. This court says that all admissions made by a party himself or by his agent acting within the scope of his authority are admissible. 1LCLR, Civil Procedure Law, Section 25.8(1). The fact that the check for US\$155,863.76 was discovered by respondent in its banking system is crucial in these declaratory judgment proceedings. It is an admission that respondent received the check but failed to credit same to petitioner's account.

This court says that the check for US\$155,863.76 issued by the UNDP in favor of petitioner would not have been discovered in respondent's banking system if respondent had not presented same for clearing at the CBL clearing house.

Wherefore, this court declares the following:

1. That the check for US\$155,863.76 issued by the UNDP, with banking details CK 5704 PD IFO Genesis Liberia Inc. legally belongs to petitioner; and
2. The proceeds of the check, amounting to US\$155,863.76 should be credited by respondent to petitioner's account at Ecobank Liberia

Limited and subsequently applied against petitioner's outstanding loan obligation to respondent. And it is hereby so declared."

It is the above-stated ruling of the trial judge to which the appellant noted exceptions by filing a five-count bill of exceptions, outlining the alleged errors committed by the trial judge. We quote in its entirety the appellant's five-count bill of exceptions as follows, to wit:

1. That Your Honor erred and made reversible error when you awarded the amount of US\$155,863.76 to Petitioner based upon an Arbitration Report in the Commercial Court that did not award the said amount to Petitioner during the proceeding.

2. That Your Honor erred and made reversible error when you failed, refused and neglected to give Respondent representative's statement at the Arbitration Board a proper interpretation. The statement is:

"this Court take judicial notice of an admission made by respondent through its representative on the Board of Arbitration constituted by the Commercial Court to the effect that a check for US\$155,863.76 with banking details CK 5704 PD IFO Genesis Liberia, Inc. was discovered in Respondent Ecobank banking system in favor of Petitioner, but that the check was not deposited into petitioner's account at the Respondent's bank"

3. That, Your Honor erred and made reversible error when you failed, refused and neglected to consider all the findings in the Arbitration Report at the Commercial Court that you based your ruling on. Especially, the part of the arbitration report that says:

"we are of the view that had the respondent produce these pieces of evidence immediately stated herein above, we are certain that these pieces of evidence would establish:

(i) that the respondent paid the amount of US\$155,863.76 into their Ecobank account as claimed.

(ii) shift the burden of proof towards the petitioner to show that the US\$155,863.76 was not deposited into the Ecobank, and

(iii) off-set the loan completely in the event the petitioner fails to disprove the respondent claims.”

But none of these pieces of evidence were produce during the investigation. To the contrary, the respondent own evidence adduced during the investigation established that the respondent Operation Manager, Janice C. Risks received the check of US\$155,863.76 on May 22, 2011 from the UNDP and in return she issued a receipt thereto in favor of UNDP. The records also show that this particular US\$155,863.76 with payment details CK 5704 PD IFO Genesis Liberia, Inc. was debited from the UNDP’s account at Ecobank Liberia, Ltd on May 31, 2011.

Although there are no deposit slips from respondent showing where the check was deposited, records from Ecobank Liberia, Ltd. tends to establish that the check in the amount US\$155,863.76 was never deposited into an Ecobank account rather was deposited in an unknown bank/financial institution with account number USD102550001. The petitioner evidence tends to establish that the said check went through the clearing house at the Central Bank of Liberia before the UNDP account at Ecobank was debited in the amount of US\$155,863.76.

4. That, Your Honor erred and made reversible error when you declared that the check for US\$155,863.76 issued by the UNDP, with banking details CK 5704 PD IFO Genesis Liberia, Inc. legally belongs to Petitioner in the face of the Arbitration Board findings that the said amount was debited from UNDP account with Ecobank Liberia Limited on May 31, 2011, and that the amount of US\$155,863.76 was never deposited into an Ecobank Liberia account rather same was deposited in an unknown bank/financial institution with account number USD102550001.

5. That, Your Honor erred and made reversible error when you declared in your ruling that:

“the proceed of the check amounting to US\$155,863.76 should be credited by respondent to petitioner’s account at Ecobank Liberia Limited and subsequently applied against petitioner outstanding loan obligation to respondent.”

Having reviewed the appellant’s five-count bill of exceptions, this Court notes that the singular issue dispositive of this case is whether the trial judge’s modification of the arbitral award was in consonance with the law controlling given the facts and circumstances of this case?

In addressing this issue, we first note that the arbitral panel concluded in its report that the disputed US\$155,863.76 for which the petition for declaratory judgment was filed was never deposited into the appellee’s Ecobank account but rather deposited into an unknown account bearing account number USD102550001. Moreover, we see from our review of the arbitration award that the appellee neglected to provide the requisite evidence to substantiate its claims that the said amount was deposited in its account at the appellant bank and that the appellant failed to apply it against the loan it owed the appellant bank. These findings should have been sufficient to prevent the trial judge from modifying the arbitral award especially at the disposition of law issues.

Section 64.12 provides for the modification or correction of an arbitration award as follows:

“1. Time limitations and grounds for application. Upon application made within thirty days after delivery of a copy of the award to the applicant, the court may modify or correct the award where:

- a) There was evident miscalculation of figures, or an evident mistake in the description of any person, thing, or property referred to in the award; or
- b) b) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or
- c) The award is imperfect as a matter of form not affecting the merits of the controversy.”

The statute is clear in stating the grounds upon which the court may modify an arbitration award to include: mistakes in calculation of figures, evident mistake in the description of any person, thing, or property, the board of arbitration presenting an award upon a matter not submitted to them, and the arbitration award being imperfect as a matter of form. In the instant case, the trial judge acted without the pale of the law by setting aside the arbitration award.

Section 64. 1 of the Civil Procedure Law on arbitration provides as follows:

“A written agreement to submit to arbitration any controversy existing at the time of the making of the agreement or any controversy thereafter arising is valid, enforceable without regard to the justiciable character of the controversy, and irrevocable except upon such grounds as exist for the revocation of any contract.”

Taking judicial cognizance of the above quoted principle of law, the Supreme Court has held in a long line of cases that “where the parties enter into an arbitration agreement submitting any controversy existing at the time of the making of the agreement or any controversy arising thereafter, the agreement is valid, enforceable without regard to the justiciable character of the controversy.” *Chicri Brothers, Inc. v. Overseas Distribution Corporation*, 40 LLR 128, 132 (2000); *Emirates Trading Agency Company v. Global Africa Import and Export Company*, 42 LLR 204, 213 (2004); *Berry v. Intestate Estate of Bettie*, Supreme Court Opinion, October Term 2013; *Gardiner v. James*, Supreme Court Opinion, March Term 2015. Hence, it was *ultra vires* for the trial judge to have modified the arbitration award absent any of the statutory grounds, and we so hold.

The Civil Procedure Law, Rev Code 1:43.1 states that "courts of record within their respective jurisdiction shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed...the declaration may be either affirmative or negative in form and effect; and such declaration shall have the force and effect of a final judgment". However, it is the law that when a proceeding involves the determination of an issue of fact, the right to trial by jury may be demanded under the circumstances and in the manner provided by law. *Id.* Section 43.9.

Additionally, the granting of declaratory relief rests within the sound discretion of the court. A court may refuse to render a declaratory judgment where the judgment,

if rendered, would not terminate the uncertainty or controversy giving rise to the proceeding. *Civil Procedure Law, Rev. Code 1:43.5; Ministry of Information, Culture Affairs & Tourism v. One Media Incorporated, Supreme Court Opinion, March Term, A.D. 2022; Jawhary v. Watts, 42 LLR 474 (2005)*. As seen from the factual scenario presented in this case, the granting of declaratory judgment could not terminate the unresolved factual issues that are yet to be determined. Therefore, the trial judge erred when he granted the appellee's petition for declaratory judgment.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the trial judge is hereby affirmed. The Clerk of this Court is ordered to send Mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and give effect to the Judgment of this Opinion. Costs are ruled against thee appellant. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor Jimmy Saah Bombo, Sr. of the Central Law Offices, Inc. appeared for the appellant. Counsellor G. Wiefueh Alfred Sayeh of the Law Offices of Sayeh & Sayeh appeared for the appellee.