



COMMUNITY COURT OF JUSTICE, ECOWAS
COUR DE JUSTICE DE LA COMMUNAUTE, CEDEAO
TRIBUNAL DE JUSTICA DA COMUNIDADE, CEDEAO

**IN THE COMMUNITY COURT OF JUSTICE OF THE ECONOMIC
COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

In the Matter of

TRUE WHIG PARTY V REPUBLIC OF LIBERIA

Application No: ECW/CCJ/APP/64/21 Judgment No: ECW/CCJ/JUD/44/23

JUDGMENT

ABUJA

24 NOVEMBER 2023

TRUE WHIG PARTY - **APPLICANT**

V

REPUBLIC OF LIBERIA - **RESPONDENT**

COMPOSITION OF THE COURT:

Hon. Justice Dupe ATOKI - Presiding/ Judge Rapporteur

Hon. Justice Sengu Mohmmed KOROMA - Member

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES - Member

ASSISTED BY:

Dr Yaouza OURO-SAMA - Chief Registrar

REPRESENTATION OF PARTIES:

Femi FALANA, SAN - Counsel for Applicant

Cllr. Lafayette B. Gould, Sr
- Counsel for Respondent



I. JUDGMENT

1. This is the judgment of the Community Court of Justice, ECOWAS (hereinafter referred to as “the Court”) delivered in open court.

II. DESCRIPTION OF THE PARTIES

2. The Applicant is *True Whig Party*, a political party founded in 1869, in Liberia and duly registered under the laws of the Republic of Liberia (hereinafter referred to as “Applicant”).

3. The Respondent is the Republic of Liberia, a Member State of the ECOWAS and State Party to the African Charter on Human and Peoples’ Rights and other international human rights treaties (hereinafter referred to as “Respondent”).

III. INTRODUCTION

4. The Application is premised on the allegation of seizure of the Applicant’s secretariat by the Respondent in violation of its right to a fair hearing and the right to property guaranteed under Articles 14 and 19 of the African Charter on Human and Peoples’ Rights (African Charter) and other international human rights instruments.

IV. PROCEDURE BEFORE THE COURT.

5. The Applicant filed the Initiating Application on 11 October 2021 and it was served on the Respondent on 11 October 2021.

6. The Respondent filed an Application for Extension of time to file a Statement of Defence on 10 December 2021 and it was served on the Applicant on 13 December 2021.

7. The Respondent filed a Motion for Preliminary Objection on 10 January 2022 and the Motion for Preliminary Objection was served on the Applicant on 12 January 2022

8. The Respondent filed a Statement of Defence to the Applicant’s Application on 10 January 2022, which was served on the Applicant on 12 January 2022.



9. The Applicant filed a response to the Respondent's Motion for Preliminary Objection on 18 March 2022 and was served on the Respondent on 18 March 2022.
10. The Applicant filed a response to the Respondent's Statement of Defence on 18 March 2022 and served on 18 March 2022.
11. On the date scheduled for hearing, 10 May 2023, both Parties were represented by counsel in Court. The Court, having observed that all processes were duly filed by the Parties, proceeded to hear both Parties on the merits. Thereafter, the Court adjourned the case for judgment.

V. APPLICANT' CASE

a) Summary of facts

12. The Applicant, True Whig Party was founded in 1869 and duly registered as a political party operating in Liberia. It was the Ruling Party until April 1980 when a handful of enlisted Liberian army officers known as Armed Forces of Liberia (AFL) staged a coup d'etat and assassinated the President (William Richard Tolbert) who was the standard bearer and nineteenth President of Liberia.
13. The Applicant aver that thirteen of its party members were summarily executed via firing squad without recourse to due process of law, the Constitution, and other international treaties while the self-styled military Government, People's Redemption Council (PRC) confiscated properties of anyone linked with the erstwhile government.
14. They state that among the property confiscated by the Respondent was the Applicant's secretariat, which is the Headquarters Building in Monrovia commonly called "E.J Roye Building" a gigantic structure named in memory of the assassinated President.
15. That Military Decrees were regularly issued to legitimize the Respondent's conduct and illegal actions. Neither the Applicant nor anyone was accorded due process of the law as enshrined in any International Treaties.



16. They confirm that subsequently, an Act was passed that amended Decree No 11, which authorized the return of all confiscated property by PRC to its original owners, including the E.J Roye Building but the Respondent was adamant and not willing to return the property to the Applicant.

17. The Applicant allege that the Respondent surreptitiously offered to buy the building for US\$600,000.00 (six hundred thousand United States Dollars). Due to the Applicant' refusal to sell, a questionable Memorandum of Understanding (MoU) was entered into with some former members of the Applicant in the person of Messrs Peter Vuku and Othello Mason and they allegedly received the sum of US\$130,000.00 (one hundred and thirty thousand United States Dollars). Further that at the time of execution of this MoU in 2013, the tenure of the two officers had expired.

18. The Applicant further allege that following the Respondent's purported attempt to convert the ownership of the building to a State Agency i.e., National Oil Company (NOCAL) the Applicant opposed the move, and this was challenged by the Respondent.

19. The Applicant concludes that in view of the legislative amendment, the confiscation of its property on the strength of the Decree is a gross violation of the Applicant inalienable right under the provision of Articles 20(a) and 95 (a & b) of the Liberian Constitution (1886) and to fair hearing and the right to property contrary to the provision of African Charter and other international treaties.

b) Pleas in law

20. The Applicant relies on the following laws:

- i. The provisions of Articles 1, 2, 7, 14 and 19 of the African Charter;
- ii. Article 17, 2, 8, 23, and 10 of the Universal Declaration of Human Rights;
- iii. Articles 2 and 7 of the International Covenant on Economic and Social Cultural Rights;
- iv. Section 2 of the Act to Amend People Redemption Council (PRC) Decree No 86 and;
- v. Chapter 3 Articles 11, 20, 22, 24 and 26 of the Liberian Constitution 1986.

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c) Reliefs sought

21. The Applicant therefore seeks the following reliefs:

- a) A Declaration that the forceful takeover of the Applicant's Head Office known and described as E. J Roye Building, Monrovia, Liberia is illegal as it violates the fundamental right of the Applicant to fair hearing and equality respectively guaranteed by Articles 7, 2, 3, 14 and 19 of the African Charter on Human and Peoples' Rights and Articles 8, 10, 2, of the Universal Declaration of Human Rights.
- b) A Declaration that the failure of the Respondent to investigate and prosecute the armed agents who invaded and forcefully took over the Applicant's Head Office known and described as E.J Roye Building, Monrovia, Liberia and carted their properties away is dereliction of the legal obligation of the Respondent under Article 1 of the African Charter on Human and Peoples' Rights and Article 1 of the Universal Declaration of Human Rights.
- c) An Order of this Honourable Court directing the Respondent to pay over to the Applicant the sum of \$10,000,000.00 (ten million US Dollars) only as aggravated and general damages for the egregious violation of the Applicant's right by the armed agents of the Respondent in Monrovia, Liberia.
- d) An Order of this Honourable Court directing the Respondent, their agents, organs, privies, servants or by whatsoever name called to hand back to it, its Head Office known and described as E.J. Roye Building, Monrovia, Liberia.

VI. RESPONDENT'S CASE

a.) Respondent's Preliminary Objection

22. The Respondent filed a motion for Preliminary Objection on the three grounds;
- i. That the Application is inadmissible as the Applicant lacks the locus standi being a political party.
 - ii. That the Applicant has no authorization from National Convention or Executive Committee to institute this action.



- iii. Also, that the review of the decision of the Supreme Court of Liberia will amount to an interference in the decision of a national court, making this an appeal- a jurisdiction it is devoid of.

b) *Defense of the Respondent*

23. Further to the objection raised, the Respondent also filed a defense admitting that the Respondent is a sovereign republic, a member of the Economic Community of West African States (ECOWAS), and has duly signed and ratified the Protocol establishing this Honourable Court. It recognizes jurisdiction to hear and determine cases of alleged human rights violations.

24. They submit that there is no dispute regarding the status of the Applicant as a registered political party that led the government and one-party state for one hundred and thirty-three years until April 12, 1986, when it was ousted from power by some army officers under the name "People's Redemption Council".

25. The Respondent admit that the standard bearer of the party was murdered by members of the People's Redemption Council Government and several properties believed to have been acquired through stolen resources of the state were confiscated by them. Such properties were turned over to the Government of the Respondent and one of such is the property that is the subject matter of this Application.

26. The Respondent claims that a Memorandum of Understanding was executed with the Applicant wherein the Applicant having taken possession leased the property to Westgate Realty Inc. for valuable consideration. The parties recognized that it has been divested of the property, the Applicant agreed to surrender the original warranty Deed on which the building is located, and it was agreed that the Applicant shall vacate and cause to be vacated all tenants and occupants of the building and surrender same to the Government through General Services Agency (GSA).

27. That it is in the spirit of reconciliation that the Government agreed to make a gratuitous payment of two hundred and twenty-five thousand United States Dollars



(N225,000,000.00) to the Applicant to enable them relocate and rebuild. Mode of payment was agreed upon by the parties to the MoU.

28. That as contended at the Civil Court in line with the principle of Pacta Sunt Servanda, the Applicant is bound by the terms of the contract as stipulated in the MoU and estopped from repudiating the terms of the agreement having willingly entered it.

29. They urge that the Court should declare the Application inadmissible because the same has already been decided by the Supreme Court of the Republic of Liberia where the Applicant had filed an action for Declaratory Judgment.

30. The Respondent argued that it is an abuse of court process for the Applicant being fully aware of the decision of the Supreme Court, to come before the Community Court to seek redress for the right already being decided upon by the Respondent's apex court and put to rest.

d. Pleas in law

31. The Respondent relies on the Supplementary Protocol on the Court 2005.

b.) Reliefs sought.

32. The Respondent therefore seeks the following reliefs:

- i. An Order denying and dismissing the Application in its entirety as the Applicant has failed to demonstrate any act that is indicative of a characteristic violation of its human rights;
- ii. An Order denying the Applicant's claim of 10,000,000 US Dollars in general damages that it suffered no injury because no right to the property was violated.
- iii. An Order granting the Respondent all rights and privileges just, legal, and equitable in law.


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VII. JURISDICTION

33. The Applicant's claim hinges on the alleged violation of the obligation of the Respondent to give effect to the provisions of the African Charter and the alleged violation of the Applicant's right to a fair hearing and property provided by Articles 1, 2, 7, and 14 of the African Charter respectively. Having being premised on alleged violation of human rights, the Court holds that it has jurisdiction to adjudicate on the Application in accordance with Article 9(4) of the Supplementary Protocol 2005.

VIII. ADMISSIBILITY

34. Where the jurisdiction of the Court is established, an application whose subject matter concerns human rights violation must equally pass the test of admissibility as provided by Article 10(d) of the Protocol, which provides as follows "*Access to the Court is open to the following: individuals on application for relief for violation of their human rights; the submission of application for which shall: i) not be anonymous; nor ii) be made whilst the same matter has been instituted before another International Court for adjudication.*"

35. It follows from the above that for an Application to be admissible, the Applicant must be established as an individual who is alleged to be a victim of a human rights violation. In addition, the application must not be anonymous nor pending before another international court. AZIAGBEDE KOKOU V. REPUBLIC OF TOGO (2013) CCJELR @ pg. 167

Preliminary Objection

36. The Respondent filed an application contending that the Application is not admissible within the context of Article 10(d) of the Supplementary Protocol. They ground their objection on the premise that the Applicant is a political party, which as a corporate entity cannot be a victim to claim relief for the violation of their rights. They assert that access to the Court for human rights violations is only applicable to natural human beings and not corporate entities.

37. Secondly, they argue that assuming without conceding that the Applicant has such capacity, it still lacks the capacity to institute this action as it did not provide any authorisation from its National Convention or Executive Committee to

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institute this action. That failure to do so deepens its incapacity to file the present action before the Court.

38. Finally, that the subject matter of this Application has been litigated upon by the Parties at the Supreme Court of the Republic of Liberia thereby, depriving the Court of its requisite toga of jurisdiction, as the court cannot review the decision of a national court. They conclude that this Court cannot exercise an appellate jurisdiction over this matter which was adjudicated by the national court and has been put to rest by the Supreme Court of Liberia.

39. They therefore seek the following reliefs:

- i. A declaration that the Applicant lacks the locus standi to file this action as a corporate body;
- ii. A declaration that the Application is inadmissible as the Applicant does not qualify under Article 10(d) of the Supplementary Protocol;
- iii. A declaration that the Application is inadmissible under the principle of res judicata for the fact that this matter has already been decided by the Supreme Court of the Republic of Liberia when it comes to the right of the Applicant to the property subject of these proceedings.
- iv. A declaration that the Application is inadmissible for the fact that the Respondent has violated no right of the Applicant because there is no existing right accrued to the Applicant in the property;
- v. Cost of US\$5,000 (Five Thousand United States Dollars) be awarded to the Respondent.

Applicant's Response:

40. On the Respondent's objection to the admissibility of the Application based on the status of the Applicant as a political party, they agree that the Applicant is a political party duly registered under the Liberian law that has been actively involved in the political landscape of the Republic and has been a ruling party until April 12, 1980. They however argue that by virtue of Article 9(4) of the

Supplementary Protocol, this Court has jurisdiction to hear petition on any violation of human rights in any Member State. Additionally, under Article 10(c) of the same Protocol, individuals and corporate bodies have access to proceedings for the determination of an act or inaction of community officials that violate such human rights, and the confiscation of the Applicant's property is a violation in that category.

41. With regards to authorization to commence this action, the Applicant states that it has the authorisation from True Whig Party to institute this action, as evidenced by its National Executive Committee Resolution No 003/2021 adopted by the National Executive Committee and marked as *Exhibit "A/1"*.

42. On the review of the decision of the Supreme Court, they state that whilst this Court does not have the appellate jurisdiction to review decisions of national courts, it will assume jurisdiction if the complaint is on violation of the human rights of the individual or corporate body that instituted the action before the Court.

43. The Applicant therefore urged the Court to discountenance the Respondent's arguments and hold that the Court has the jurisdiction to determine this matter and that the Applicant is competent to bring the action

Issues for determination.

44. From the above narrations, the Court formulated the following issues for determination:

- i. Whether the Applicant, being a Political Party, can institute this action for the violation of its right to property;
- ii. Whether the Court can review the decision of the Supreme Court of Liberia.

Issue 1a

Whether the Applicant, being a Political Party, can institute this action for violation of its right to property.

45. The argument of the Respondent in its preliminary objection is that the Applicant, a political party and a corporate entity cannot bring an action on its behalf. That access to the court for human rights violation is only applicable

to natural human beings and not corporate entities, and that this being the case, the Court does not have the competence to hear this matter.

46. The Applicant on the other hand submits that the Court's jurisdiction covers all human rights violation that took place in any Member State.

Analysis of the Court.

47. Ahead of examining the competence of the Applicant, it is imperative for the Court to clarify any doubt about the status of a political party and its corporate personality.

48. A corporate organization is an entity that has been registered according to the law of the land, thereby acquiring a legal personality with the capacity to sue and be sued. The nature of the business of that entity has no relevance to its corporate personality. Thus in the instant case, it is not in contest that the Applicant is registered to carry out political activities, in that wise its status as a corporate entity is legally recognised.

49. Having said that, the bone of contention of the Respondent is that the Applicant is incompetent to bring this action as the Court's jurisdiction is limited to providing reliefs for the violation of human rights of individuals and not for corporate organisation such as the Applicant. Indeed the ordinary interpretation of Article 10(d) supports the submission of the Respondent as it provides *access is to individuals on the application for relief for violation of their human rights*.

50. However, the Court has under its inherent powers and in line with the positions of other international human rights courts expanded the interpretation of 'individual' to incorporate corporate bodies albeit within a limited scope. The effect is that while it affirms the individual capacity of Applicants to access the Court for the violation of their human rights, it allows corporate bodies to ground an action on rights that are fundamental to their corporate existence of the corporation and not rights relating to human beings. CHUDE MBA V. REPUBLIC OF GHANA (2013) CCJELR @ pg. 335, AND GORRAIZ LIZARRAGA & ORS V. SPAIN (APPLICATION NO. 62543/00 JUDGMENT STRASBOURG APRIL, 2004) AND

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GROPPERA RADIO AG AND OTHERS V SWITZERLAND (APPLICATION NO. 10890/84
JUDGMENT STRASBOURG 28 MARCH 1990, GROPPERA RADIO AG);

51. The Court's reasoning is that human rights imply the rights that belong to all human beings irrespective of their nationality, race, caste, creed and gender amongst others; like right to life, right to health and right against torture, inhuman and degrading treatment which are specific to a human being. On the other hand rights of a corporate body, are rights that are fundamental and necessary for the existence of a corporate body which a legal entity can enjoy and be deprived of. This includes right to freedom of speech as the corporation is entitled to speak about its product; right to property as the corporation generates profit in shares and, or cash and is entitled to the quiet enjoyment of same; and the right to a fair hearing, as a corporation is also expected to be heard before any court of competent jurisdiction to speak on cases that concern them.

52. Following from the above, the established exceptions under which corporate bodies can ground an action which are fundamental rights not dependant on human rights include right to fair hearing, right to property and right to freedom of expression. See DEXTER OIL LIMITED v. REPUBLIC OF LIBERIA JUDGMENT NO ECW/CCJ/JUD/03/19. See also RESOURCES LIMITED & ANOR v. REPUBLIC OF SIERRA LEONE (APPLICATION NO. ECW/CCJ/APP/55/21; JUDGMENT NO. ECW/CCJ/JUD/03/23

53. Having found that the right to property is one of the exceptions that grants a corporate legal entity the right to bring an action for the violation of its right, and in the light of the fact that one of the reliefs sought by the Applicant is for the violation of the right to their property, the Court finds that the Applicant can validly maintain an action for the alleged violation of its right to property. It therefore holds that the Application is admissible in this regard.

Issue 1b

On the issue of authorization to act:

54. It is the Respondent's contention that assuming but without conceding that the Applicant has the capacity to institute the action, having not obtain any authorization from its National Convention or Executive Committee, it lacks the locus standi required.


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55. The Applicant in its defense referred to annexure EXH A/1 titled “National Executive Committee Resolution No 003/202” adopted by the National Executive Committee, which contained in part an authorisation from True Whig Party for the persons mentioned therein to take all measures locally and internationally available to them to secure the property of the Applicant.
56. The Court notes the said attached annexure EXH A/1, and in the absence of any evidence on records challenging the propriety of the said resolution, holds that the Respondent’s preliminary objection based on lack of authorization act fails.

Issue 2

Whether the Court can review the decision of the Supreme Court of Liberia.

57. The contention of the Respondent in this regard is that this matter had already been decided at the highest Court in Liberia. Therefore, the Applicant cannot institute same for human rights violation before this Court.
58. The Applicant argues that the fact that a matter has been decided by a National Court of a Member State does not automatically oust this Court’s jurisdiction if the complaint is based on the violation of human rights as in the instant case.

Analysis of the Court.

59. As a general rule, the Court will not review decisions of national courts as this will cause it to constitute itself as an appellate Court for which it has no jurisdiction. In this regard, the Court reiterates that though it has jurisdiction over human rights violations that occur in Member States of ECOWAS, it does not have the jurisdiction to act as an appellate court of the domestic courts of Member States. However, when human rights applications are brought before the Court, it will inquire into the human rights allegations but will resist any invitation to act as an appellate court to the domestic courts of Member States as it does not have that jurisdiction. See OCEAN KING NIGERIA LTD v. REPUBLIC OF SENEGAL (2011) CCJELR @ pg. 139.
60. Furthermore in making this enquiry, the Court hastens to say that it has no mandate to pronounce on the propriety or otherwise of the substance of the

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decision rendered by the Member State but to examine the processes leading to the decision with the view to finding whether any procedural rights of the Applicant were violated in the course of the hearing. Such a mandate should not be construed either in form or substance as amounting to the exercise of an appellate function by this Court as being strenuously contended by the Respondent. See HONOURABLE JUSTICE ALADETOYINBO V FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/18/20 PARAGRAPH 32.

61. In the instant case, the Applicant is seeking a declaration that the forceful takeover of the Applicant's Head Office known and described as E. J Roye Building, Monrovia, Liberia is illegal as it violates the fundamental rights of the Applicant to fair hearing and equality respectively guaranteed by Articles 7, 2, 3, 14 and 19 of the African Charter on Human and Peoples' Rights and Articles 8, 10, 2, of the Universal Declaration of Human Rights. In other words that it was not accorded the guarantee of fair hearing in the process of the trial at the national Court which amounts to the violation of its right under Article 7 of the African Charter.
62. As earlier stated, an allegation of violation of a human right in the course of the proceedings at the national courts opens the door for this Court to examine and determine whether the safeguards of fair hearing under Article 7 of the African Charter were observed in the course of the trial.
63. In the instant case, since the procedural precaution in the course of the hearing at the national Court is the subject-matter before this Court, it is thus empowered to review the decision of the Supreme Court to determine whether the safeguards of fair hearing under Article 7 of the African Charter were observed in the course of the trial in relation to their claim to the property in question.
64. Consequently, to the extent that the decision of the Supreme Court of Liberia can be reviewed in relation to the allegation of violation of fair hearing, the Respondent's objection fails and the Application is therefore declared admissible.

65. Having said that, it is imperative to recall that the admissibility of an application is premised on conditions that grant access to individuals on the application for relief for violation of their human rights; the submission of application for which shall: i) not be anonymous; nor ii) be made whilst the same matter has been instituted before another International Court for adjudication. See ARTICLE 10 (D) OF THE SUPPLEMENTARY PROTOCOL 2005.
66. The capacity of the Applicant having been resolved in the positive, the Court must equally examine the Application to confirm that it is not anonymous; nor made whilst the same matter has been instituted before another similar International Court for adjudication.
67. The facts before the Court show that the Application meets the remaining two requirements. Consequently the Court holds that the whole Application is admissible same being in compliance with Art 10(d) of the Supplementary Protocol 2005.
68. Having so ruled, the Court will now proceed to examine the merit of the Applicant's alleged violation of its right to a fair trial at the national Court and its possible impact on their claim to the right of the said property.

On the alleged violation of the right to fair hearing.

69. The Applicant alleges that the Respondent having expropriated its property without the due process of law despite spirited protest was not given an opportunity to be heard thus violating its rights to a fair hearing under Article 7 of the ACHPR which guarantees an unrestricted access by a party to a competent court to have his/her cause heard.
70. The Respondent on the other hand denied that the Applicant was not given a fair hearing as it took part in all the proceedings before the national Court regarding the contested property. They insist the Applicant was given the opportunity to be heard, having been represented both at the civil law Court in the Petition for a declaratory judgment, and at the Supreme Court when the case was on appeal.


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Analysis of the Court.

71. Article 7 of the African Charter which guarantees the right to a fair hearing provides as following:

“Every individual shall have the right to have his cause heard. This comprises:

- i. *The right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations, and customs in force.*
- ii. *The right to be presumed innocent until proved guilty by a competent court or tribunal.*
- iii. *The right to defence, including the right to be defended by counsel of his choice.*
- iv. *The right to be tried within a reasonable time by an impartial court or tribunal.”*

72. The right to a fair hearing is a fundamental human right the absence of which defeats the essence of justice. It is based on the rule that an individual should not be penalised by decisions affecting his rights or legitimate expectations without being given prior notice of the case, a fair opportunity to answer and an opportunity to present their own case. The fact that a decision affects the rights or interests of a person is sufficient to subject the decision to the procedures required by natural justice. Accordingly, every person has the right to have a hearing and to present his or her own case. MOHAMMED EL TAYYIB BAH V. THE REPUBLIC OF SIERRA LEONE (2015) CCJELR @ pg. 193

73. The Applicant, in this case allege that his right to a fair hearing was violated by the Respondent because they were not given an opportunity to be heard. The facts as presented by both parties showed that the Applicant filed a Suit at the Circuit Court to which the Respondent defended. Being dissatisfied with the decision of the Circuit Court, the Applicant appealed to the Supreme Court to which the Respondent also joined issues. Thereafter the Supreme Court gave a decision in favour of the Respondent.

74. Despite this process, the Applicant maintained that they were denied an opportunity to be heard. However, the records show that through the

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instrumentality of lawyers of their choice, the Applicant prosecuted the suit at the trial court through to the highest court of the Respondent in respect of its claims to the property in question. The Respondent likewise also diligently defended the claim at all levels before the delivery of the final judgment by the Supreme Court of the Respondent.

75. The uncontroverted narration above of the participation of the Applicant both at the circuit Court and the Supreme Court does not support their claim that they were not given an opportunity to be heard. Obviously the outcome of the case did not meet the Applicant's expectation as they had hoped as stated in their pleading that since the lower court declined jurisdiction in the first instance and having appealed to the Supreme Court, the Court ought to have sent the case back to the lower court for determination on the issues contested instead of making pronouncements on it.




76. It is important to say that Courts are guided by its rules of procedures and not by the wishes or expectation of litigants. Furthermore, it must be understood that failure to secure a favourable judgment cannot be equated to a denial of the right to a fair hearing. See HIS LORDSHIP JUSTICE PAUL UUTER DERRY & 2 ORS v. THE REPUBLIC OF GHANA JUDGMENT NO ECW/CCJ/JUD/17/19.

77. The Court finds that the Respondent failed to prove that the conduct of the Respondent in the course of the trial at the national Courts amounts to a denial of its right to be heard. The Court has repeatedly stated that it will not act on mere allegation of violation but each allegation must be substantiated with some concrete facts as the case may require. In DOROTHY CHIOMA NJEMANZE & 3 ORS v FEDERAL REPUBLIC OF NIGERIA (2017) CCJELR @ pg. 139

78. The Court therefore holds that the Applicant has failed to prove that its right to a fair hearing guaranteed under Article 7 of the African Charter was violated by the Respondent.

On alleged violation of the right to property

79. The Applicant's claim is to the effect that the Respondent confiscated the building housing the secretariat of their party known as the E.J Roye Building. The

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Respondent denies the claim stating that the Applicant's interest had been divested by a memorandum of understanding it signed with it, which was validated by the Supreme Court.

Analysis of the Court

80. The right to property is guaranteed by Article 14 of the African Charter and it may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate law. It is trite that the basic requirements that confer the right to property is the ability to establish or prove ownership by the title deeds and other documentary evidence. In other words, a claim of violation of a property right must be premised on the establishment of a proprietary interest in the property TAHIROU DJIBO & 3 ORS v. THE REPUBLIC OF NIGER ECW/CCJ/JUD/13/2020 PARAGRAPH 242.

81. The Court notes that the ownership of the contested E.J Roye Building has been conferred on the Respondent by the decision of the Supreme Court when it held that the Applicant's agreement with the Respondent through its authorized representatives who received sufficient consideration from the Respondent, and evidenced by the execution of the MoU divested it of the ownership of the E.J Roye Building. This decision of the Supreme Court is not in contest, indeed it is the basis of the Applicant's complaint.

82. Having held that the proceeding at the national court that conferred the ownership of the said building on the Respondent did not occasion the denial of right to fair hearing of the Applicant, that decision remain sacrosanct with the effect that the Respondent has a legal and recognised right over the said Building. Therefore, a claim of any proprietary right over the E.J Roye Building by the Applicant is illusory same being unsubstantiated.

83. The Applicant being devoid of any proprietary interest in the said building has no right over the building capable of being violated. The Court therefore finds that the allegation of the violation of the Applicant's right to the E.J Roye Building remains unsubstantiated and holds that the Respondent has not violated the Applicant's right to property as guaranteed by Article 14 of the African Charter.

REPARATION

84. The Applicant sought an order of the Court directing the Respondent to pay the Applicant the sum of \$10,000,000.00 (ten million Dollars) only, as aggravated and general damages for the egregious violation of the Applicant's rights by armed agents of the Respondent in Monrovia, Liberia.
85. The Court reiterates that reparation of harm may only be ordered upon the condition that the harm in question is established to have really occurred and there is found to have existed a link of cause and effect between the offence committed and the harm caused. *MEISSA WADE V. REPUBLIC OF SENEGAL* (2013) CCJELR @ pg. 231
86. The Court therefore holds that the Applicant, having failed to establish a violation of its rights to a fair hearing and a fortiori right to property as alleged, is not entitled to the compensation or the reliefs sought.

IX. OPERATIVE CLAUSE

For the reasons stated above, the Court, sitting in public after hearing both parties:

As to jurisdiction:

Declares that it has jurisdiction to adjudicate on the Application.

As to Admissibility:

- i. **Declares** that the Application is admissible.

As to merits:


- ii. **Declares** that the rights of the Applicant to a fair hearing and to property, were not violated by the Respondent;


As to costs:

- iii. **Orders** each Party to bear their own costs.


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yes

Hon. Justice Dupe ATOKI – Presiding/Judge Rapporteur 

Hon. Justice Sengu Mohammed KOROMA - Member 

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES - Member 

Dr. Yaouza OURO-SAMA - Chief Registrar 

Done in Abuja, this 24th Day of November 2023 in English and translated into French and Portuguese.

