IN THE SUPERIOR COURT OF JUDICATURE

IN THE COURT OF APPEAL

ACCRA AD. 2023

CORAM:

H/L Justice Poku-Acheampong, JA (Presiding)

H/L Justice Adjei-Frimpong, J.A.

H/L Justice Dr. E. Owusu-Dapaah, J.A.

Suit No.: H1/74/2023

Date: 11th May, 2023

GCB BANK LIMITED : RESPONDENT/APPELLANT

VRS

1. JARVIS ASIEDU

2. MARIAM ABDULLAH **COMPLAINANTS/RESPONDENTS**

3. ROBERT KWEINOO AMAMOO

J U D G M E N T

Adjei-Frimpong,J.A:

This suit has a brief antecedent. The Respondents before us, originally complainants at the National Labour Commission were employees of the GCB Bank Limited, the Appellants herein. Prior to their employment with the Appellant, the Respondents had been employees of two defunct banks under what has come to be known as the banking crises in this country. The Appellant engaged them based upon a Purchase and Assumption Transaction entered between it and the joint Receivers of the two banks. Having worked with the Appellant for about two years, their employments were terminated by the Appellants. No reasons were assigned for the termination. Each was however paid three months' salary in lieu of notice. Aggrieved nonetheless, the Respondents filed a complaint against the Appellant at the National Labour Commission (hereinafter "the Commission"). The reliefs they sought were as follows:

1. *Reinstatement*
2. *Payment of all salaries, allowance etc. till final payment.*
3. *Compensation for trauma and hardship*
4. *Costs including legal and associated cost directive as this Commission deem appropriate.*

At the Commission, an attempt at resolving the dispute by mediation failed. The Commission referred the matter to voluntary arbitration with the consent of the parties pursuant to Regulations 15 and 17 of the National Labour Commission Regulations, 2006 (L.I 1822). Upon hearing, the Sole Arbitrator Mr Paul Osei Mensah published an award in favour of the Respondents. The award was short and unambiguous. It stated:

"The award.

From the analysis of the relevant facts and law as well as the Collective Agreement (1) Each of the three Complainants should be paid three months salary for each year of service or part thereof. (2) Each should, in addition, be paid their salaries from the effective date of termination to 31/1/2022 when the Arbitration process began.

I am unable to ask the employer to pay them any loss of future income, because by diligent effort, they may be able to secure alternative work within a reasonable time. Their entitlements under this award must be paid not later than 21 days from today 14/3/2022."

The Appellant was unhappy with the award and is before this court on appeal. He filed the appeal on 30th March 2022. The grounds in the notice of appeal without any addition, contrary to an indication to later file additional grounds, are as follows:

1. *The award is against the weight of evidence*
2. *The National Labour Commission erred when it held that the termination of the complainants/Respondents' employment was unlawful*

In the Respondents' written submission filed on 22nd November 2022, two legal points have been raised. The first one is that the award of the voluntary arbitrator under the law was not appealable. The second, which is contingent on the first is that granted the award was appealable, the Appellant filed it out of time. The award was delivered on 14th March 2022 whilst the appeal was filed on 30th March. In effect, the appeal was not filed within fourteen days as prescribed by Section 134 of the Labour Act.

We consider the two objections fundamental. Each one goes to the very root of the appeal. In the event either or both of them succeed, the appeal fails *in limine*. They strike

at the jurisdiction of this court to determine the merits of the appeal. Indeed, properly speaking, the Respondent ought to have invoked Rule 16 of the Rules of this court (C.I 19 as amended) by filing notice of preliminary objection for the objections to be determined without considering the appeal on merits. The essence of the Rule 16, as we do appreciate, is to terminate an appeal which may fail on some legal or technical grounds so as to economize judicial time.

That said however, we do not think the non-compliance with the rule defeats the objections. Once they question the very jurisdiction of this court, we are obliged to make a determination regardless of how and at what stage our attention was drawn to them. It is a deep-rooted legal principle that a challenge to jurisdiction may be raised at any time even for the first time on appeal. ***ATTORNEY GENERAL VRS FAROE ATLANTIC [2005-2006] SCGLR 27; R VRS NII ADAMA THOMPSON [2012]46 GMJ 31.***

Following from the foregoing, we set down two questions for determination in the preliminary; first, whether or not by law, the award made or published in the voluntary arbitration of the labour dispute between the parties was appealable and second, whether the Appellant's appeal was filed out of time.

Learned Counsel for the Respondents refers to the relevant provisions of the Labour Act to draw a statutory distinction between a decision made by the Labour Commission which may be appealed against and an award published by a voluntary arbitrator appointed by the Commission with the consent of the parties pursuant to Section 156 of the Act which is not appealable.

Counsel contends that the process of Voluntary arbitration is governed by the Alternative Dispute Resolution Act, 2010, Act 798 (The ADR Act). Therefore, an award published by the voluntary arbitrator is not a decision of the Commission which may be

appealed against. Such a voluntary award is binding on the parties and may only be set aside in terms of the relevant provisions in Sections 52 and 58 of ADR Act.

It is further argued that aside the Labour Act not making provision for appeal in voluntary arbitration, the parties arbitration management agreement created no right of appeal. Consequently, the award was final and binding. ***KLIMATECHNIC VRS JENSEN INTERNATIONAL [2005-2006] SCGLR 913*** cited.

Counsel submits that the right of appeal against the decision of the Commission which has been expanded and explained in the cases of ***JAMES DAVID BROWN VRS NLC (2018)1 GLR 592 CROCODILE MACHETTES VRS NLC [2012]1 SCGLR 270*** does not extend to a voluntary arbitration award under the relevant provisions of the Labour Act and the ADR Act.

The response of Learned Counsel for the Appellant in summation is that the voluntary award was rendered under the auspices, procedures and directions of the Commission. The award is therefore by extension a decision of the Commission hence, the appeal against same was proper. Reference was made to the Supreme Court's decision in the self-same JAMES DAVID BROWN case.

Now, we note that Section 156 of the Labour Act on the subject of *Appointment of Arbitrators* stipulates:

> *"156. Subject to the Arbitration Act, 1961 (Act 38), or any general enactment on dispute resolution in force, the parties to an industrial dispute shall agree on the method of appointment of arbitrators or arbitration panel and in the absence of an agreement by the parties the Commission shall appoint an arbitrator or an arbitration panel."*

Section 157 on *Voluntary Arbitration* also stipulates:

"157(1) When mediation fails under Section 154(6) and the dispute is referred to the Commission, the Commission shall with the consent of the parties refer the dispute to an arbitrator or an arbitration panel appointed under Section 156.

(2) The parties to an industrial dispute shall, within three days after the appointment of an arbitrator or an arbitration panel under Section 156, submit in writing a statement of the issues in dispute signed by one or more of the parties or their representatives.

(3) The arbitrator shall as soon as possible appoint a time and place for the hearing and notify the parties.

(4) If any party fails to appear before the arbitrator after the expiration of seven days after being so notified, the arbitrator shall proceed to hear and determine the dispute."

On the subject of *Arbitration award*, Section 158 states:

"158. (1) The decision of the arbitrator or a majority of the arbitrators shall constitute the award and shall be binding on all the parties.

(2) The arbitrator shall communicate the award in writing to the parties and the Commission within seventy-two hours after the award has been made except where the Commission is the arbitrator.

Section 164 on *Compulsory reference to arbitration* provides:

"164(1) when a dispute is referred to compulsory arbitration in pursuance to Section 160 or 162, the Commission shall be the arbitrators and shall serve on the parties a notice

a. Stating what, in its opinion are the unresolved issues between the parties; and

b. Asking the parties whether they agree to those issues.

(2) The Commission shall, within fourteen days after service of the notice, determine the dispute by compulsory arbitration.

(3) A compulsory arbitration shall be composed of three members of the Commission, one member each representing Government, organized labour and employers' organization.

(4) In a compulsory arbitration, the decision of the majority of the arbitrators shall constitute the award and shall be binding on all the parties."

Then on the subject of *Publication of compulsory arbitration award and the effect of arbitration awards on existing employment contracts, Section 167* provides:

"167. (1) The award of the Commission in a compulsory arbitration shall immediately on completion be published in the Gazette by the Commission.

(2) A award published under subsection (1) shall be final and binding on the parties and unless challenged in the Court of Appeal on questions of law within seven days after the publication of the award.

(3) Subject to any appeal, an award arising from a voluntary or compulsory arbitration shall prevail over any contract of employment or collective agreement in force at the time of the award and the terms of the contract of employment or collective agreement shall be deemed to have been modified as far as may be necessary in order to conform to the award."

The National Labour Commission Regulations, 2006 (L.I.1822) made pursuant to Section 152 of the Act, captures the substance of some of the provisions of the Act reproduced above. On Voluntary arbitration, Regulations 17, 24, and 25 capture the provisions in Sections 157 and 158 whereas on Compulsory arbitration, Regulations 27, 28 31 and 32 capture the provisions in Sections 164 and 167 of the Act.

We have had to set out the above statutory provisions to draw on the framework of distinction between the two shades of arbitral proceedings that may ensue under the law for purposes of determining for what is important to us, the legislative approach to challenging an award made in either case. This way, the paramount issue of whether an award in a voluntary arbitration is appealable under the law is placed in proper perspective.

It is certain that an award by the Commission in a compulsory arbitration is appealable under Section 167(2). The provision is repeated under Regulation 32 of L.I 1822. The appeal is permitted only on questions of law. No such provision is made in case of voluntary arbitration. Neither the Act nor the Regulations has created a right of appeal in voluntary arbitration process.

That the provision in Section 167(2) limits the right of appeal only to questions of law accentuates the fact that a right of appeal is a statutory creation, and the enabling statute defines the terms of the right. The principle that a right of appeal is a creature of law is a universal one. The Learned Authors of ***Halsbury's Laws of England*** put the principle this way:

> *"A right of appeal is conferred by statute or equivalent legislative authority; it is not a mere matter of practice or procedure and neither the superior nor the inferior court or tribunal nor both combined can create or take away such a right."* Vol 37 4th ed., (Reissue), para 1501, p.485.

In ***ODGERS, Principles of Pleadings and Practice, (Sweet & Maxwell), 20th ed., p. 363,*** it is stated:

"Under English law, a litigant has no inherent right to appeal against a decision of any tribunal which has found against him; such a right must always be sought in the provisions of some statute."

Then also in ***HEALEY VRS MINISTRY OF HEALTH (1954)3 ALL ER 449 at page 453 MORRIS L.J*** at the opportune point espoused:

"By raising the preliminary issue the defendant invites the court to rule now that it is not endowed with any jurisdiction to grant the relief sought. In my judgment, there is no right of appeal to the court from the determination of the Minister. None is given by reg. 60 or in any other regulation. There can certainly be no implication of a right of appeal. Had it been desired to provide some machinery or procedure for an appeal from the decision of the Minister, it could have been done. Any such prescribed appeal might or might not have been an appeal to the courts. Questions as to which methods for determining

rights are the most desirable, raise issues of policy which are for parliament to decide, but the courts cannot invent a right of appeal where none was given. The courts will not usurp an appellate jurisdiction where none is created." [Emphasis added]

Back home, the tall list of cases on the point will include ***FRIMPONG VRS NYARKO ((1998-99) SCGLR 734; FRIMPONG VRS POKU (1963)2 GLR 1; IN RE OKINE (1960) GLR 84; MOORE VRS TAYEE (1933)2 WACA 43 SANDEMA-NAB VRS ASANGALISA (1996-97) SCGLR 302 and finally, IN RE YENDI SKIN AFFAIRS; YAKUBU II VRS ABUDULAI (1984-84)2 GLR 226 where ABBAN J.A*** (as he then was) at page 229, in a short rendition noted:

"The main issue of importance is whether or not the applicant has a right of appeal to the Supreme Court, he not having appealed against any of the findings of the of the Ollenu

Committee. An appeal is a creature of statute and if the statute does not give a right of appeal, that is the end of the matter."

It is argued for the Respondent in this case that the award of the voluntary arbitrator was by extension, a decision of the Commission hence the appeal could properly be launched against it under the law. According to Counsel, the complaint had been lodged with the Commission and the proceedings were steered at the Commission. Again, it was the Commission's secretary that called the parties when the award was ready. For him, this made the award the decision of the Commission.

The statutory ramifications of the two distinct proceedings (Compulsory arbitration and voluntary arbitration) and how in this case, the parties' arbitral proceedings were conducted do not lend support to such a position.

First, it would be observed that, unlike a voluntary arbitration, the Commission itself acts as the arbitrator in a compulsory arbitration. Its panel is constituted in accordance with Section 164(3) and Regulation 28 of L.I.1822. The parties are compelled to submit their dispute to the Commission for resolution even if they are unwilling to do so. The Commission must publish the award in the Gazette and other State media and give copies to the parties. The award in a compulsory arbitration is therefore the decision of the commission which is reached by compulsion and devoid of element of voluntariness.

In voluntary arbitration, the law, reading particularly the provisions in Sections 157 and 158 together, leaves the initial process of appointment of a voluntary arbitrator in the hands of the parties. The Commission comes in to appoint an arbitrator for them where they were unable to agree on such appointment. Even then, the Commission acts with the consent of the parties. The arbitrator on appointment then appoints a time and place

for the hearing and notify the parties. The arbitral process is conducted in terms of the parties' own agreement. The decision of the arbitrator or a majority of the arbitrators shall constitute the award and shall be binding on all the parties.

In consonance with the above, the record before us shows that the Appellant and the Respondent consented in writing to the appointment of the Sole arbitrator. [Pages 48-54 of Record of Appeal (ROA)]. On the appointment of the Sole arbitrator, the parties entered into an Arbitration Management and Confidentiality Agreement. This agreement regulated the arbitral process that resulted in the award. The agreement which had no provision on any right of appeal covered such matters as; ***Agreement to Arbitrate; Issues for Arbitration; Arbitrators' role, Submissions; Arbitration sittings; Arbitration process, Confidentiality; Fees and Award***. [Pages 72—74 ROA].

It must be clear from the above that the award of the voluntary arbitrator was not the decision of the Commission. It was the product of the parties' own agreed process. Not only was the process undertaken in accordance with the parties' own agreement, the parties' sponsored the process. It was out of their fees that the arbitrator was paid for his services.

From our standpoint, the Commission's role in a voluntary arbitration is that of a facilitator and not a decision-maker. The argument therefore that the award of the voluntary arbitrator was by extension the decision of the Commission is erroneous and ought to be rejected. It cannot be suggested, indeed, we have not come across a case where the Commission is in court seeking to enforce an award made by a voluntary arbitrator as it would, for its own award in a compulsory arbitration, which to all intents and purposes is its own decision and enforceable as such.

The Alternative Dispute Resolution Act, 2010, (Act 798) has adequately provided for the enforcement of and recourse to challenging a voluntary arbitral award.

Section 52 on Effect of award provides:

> *"52: Subject to the right of a party to set aside an award under section 58 of this Act, an arbitration award is final and binding as between the parties or any person claiming through or under them."*

Sections 57 on enforcement stipulates:

> *"57(1) An award made by an arbitrator pursuant to an arbitration agreement may, by leave of the High Court, be enforced in the same manner as a judgment or order of the Court to the same effect.*
>
> *(2) Where leave is so given, judgment may be entered in terms of the award.*
>
> *(3) Leave to enforce an award shall not be given where, or to the extent, that a person against whom the award is sought to be enforced shows that the arbitrator lacked substantive jurisdiction to make the award."*

Section 58 on challenge of award provides:

> *"58 (1) An arbitral award may subject to this Act be set aside on application by a party to the arbitration.*
>
> *(2) The application shall be made to the High Court and the award may be set aside by the Court only where the applicant satisfies that Court that:*
>
> > *(a) a party to the arbitration was under some disability or incapacity;*
> >
> > *(b) the law to the arbitration agreement is not valid;*

(c) the applicant was not given notice of the appointment of the arbitrator or of the proceedings or was unable to present the applicant's case;

(d) the award deals with a dispute not within the scope of the arbitration agreement or outside the agreement except that the Court shall not set aside any part of the award that falls within the agreement;

(e) there has been failure to conform to the agreed procedure by the parties;

(f) the arbitrator has an interest in the subject matter of the arbitration which the arbitrator failed to disclose.

(3) The court shall set aside an arbitral award where it finds that the subject-matter of the dispute is incapable of being settled by arbitration or the arbitral award was induced by fraud or corruption.

(4) An application to set aside an award may not be made after three months from the date on which the applicant received the award unless the Court for justifiable cause orders otherwise.

(5) On hearing the applicant, the Court may make an order as is just in the circumstances of the case.

(6) An appeal from the Court lies to the Court of Appeal."

The above provisions of the ADR Act present the statutory regime to regulate the enforcement of and the recourse to challenging a voluntary arbitral award. Significantly, a right of appeal is created under Section 58(6) to the Court of Appeal but that is against the decision of the High Court deciding on the award. There is no right of appeal directly against the award to the Court of Appeal. The law maker, we presume knew the state of the law under the Labour Act at the time it legislated to regulate

voluntary arbitration under the ADR Act. We dare not attempt to create any such right of appeal.

The Supreme Court of Zimbabwe in the case of ***ZIMBABWE EDUCATIONAL SCIENTIFIC, SOCIAL AND CULTURAL WORKERS UNION VRS WELFARE EDUCATIONAL INSTITUTIONS EMPLOYERS' ASSOCIATION (Civil Appeal SC 121 of 2011)[2013] ZWSC 11*** had to decide inter alia, whether there was a right of appeal in voluntary arbitration in terms of Section 98(10) of that country's Labour Act, Chapter 28:01. The provision, similar to Section 167(2) of our law, creates a right of appeal on questions of law in compulsory arbitration.

The court, having examined the provisions of the country's Labour Act *vis vis* its Arbitration Act took the view that the Labour Court which is vested with appellate jurisdiction under the law had no power to entertain an appeal or review over an award made in a voluntary arbitration.

Malaba DCJ delivered himself thus:

> *"Consistent with the meaning of s 98(1)(a) of the Act, s 98(10) provides that an appeal on a question of law shall lie to the Labour Court from any decision of an arbitrator appointed to hear and determine a dispute referred to him or her for compulsory arbitration. The fact that s 98(10) of the Act gives limited right to appeal on a question of law underscores the fact that a right of appeal is a statutory creation and its ambit will depend on the terms of the statute creating it."*

Delivering further, he stated:

> *"…The provisions of s 98(10) become relevant in the determination of the appeal because in terms of the provision there is no right of appeal against a decision of an arbitrator in*

compulsory arbitration proceedings on a question of fact. Voluntary arbitration proceedings cannot thus be subjected to either an appeal or review under the Labour Act. Voluntary Arbitration proceedings are governed by the Arbitration Act."

The learned judge then cited another decision of the court thus: *"In* ***McKelvey v Abrahams & Anor 1989 (2) ZLR 251 (SC) Gubbay CJ at 264C-D*** *said:*

"The object of arbitration, as expressed in para 13 of the Schedule to the Act, is to arrive at an award that is final and binding on the parties. Thus, an award is not subject to appeal. It may be set aside on any of the four grounds. First, that it does not fall under para 13 as not being "made in terms of the submission". Second, if the arbitrator has misconducted the proceedings, as envisaged in s 12(2) of the Act. Third, where it has been improperly procured (vide the same section). Fourth, where the arbitrators' mistake is so gross and manifest that it could not have been made without some degree of misconduct."

For what we consider to be sound exposition of the law and given the similarity of terms in the provisions in Section 167(2) of our law and the s 98(10) of the Act referred to, we are persuaded to toe the line of the Zimbabwean Supreme Court. In the final analysis, we shall hold that the award in the voluntary arbitration was not appealable. No such right is created under the law and this court has no jurisdiction to entertain the appeal.

In the strength of our conviction, we have applied our minds to the time-honoured presumption in law against creating or enlarging existing jurisdiction. Rooted in common law, the presumption in essence prohibits a court from extending its jurisdiction in the absence of an express statutory provision to that effect. See *The Law of Interpretation in Ghana (Exposition & Critique)* S.Y BIMPONG-BUTA; *(Advanced Legal Publications ALP, 1995)* p.157. ***AZORBLIE VRS ANKRAH (1984-86)1 GLR 562;***

REPUBLIC VRS VOLTA REGIONAL HOUSE OF CHIEFS, EX PARTE ASOR II (1972)1 GLR 273.

The case of ***JAMES DAVID BROWN VRS NLC*** (supra) has been cited for our consideration. The Appellant wants this court to hold by that decision, that the subject award is appealable.

The ***JAMES DAVID BROWN*** case involved the Supreme Court essentially interpreting the relevant provisions of the Labour Act to allow a person aggrieved by the Commission's determination of a case of Unfair termination under Section 63 to have recourse to appeal to the Court of Appeal as in the case of Unfair Labour Practices and Compulsory arbitration under Sections 134 and 167(2) respectively. The court's interpretation gave rise to its formulation as follows:

> *"Accordingly, based on the provisions already made by parliament that the Court of Appeal shall determine appeals from determinations of the NLC in unfair Labour practice matters and awards in compulsory arbitration cases, we formulate our opinion as follows: wherever in the Labour Act, the NLC is required to make a determination and no remedy is provided for the aggrieved party, a dissatisfied party shall be entitled to appeal within 14 days of the making or giving of the order, direction or decision to the Court of Appeal. This is in consonance with similar provisions made by the lawmaker."*

Let it be stated without hesitation that the decision in ***JAMES DAVID BROWN*** is incapable of advancing the Appellant's case. Our reasons are straightforward. First, the award in a voluntary arbitration is not a decision of or a determination by the Commission. As demonstrated, it is an award by the parties' own agreement which they have consented to be final and binding. Second, a party aggrieved by such award is not without remedy. The party has recourse to the High Court on an application

pursuant to Section 58 of the Alternative Dispute Resolution Act, 2010 (Act 798) to have the award set aside on stated grounds. Thereafter, there is a further recourse to the Court of Appeal. The ***JAMES DAVID BROWN*** case did not involve a voluntary arbitration. Were the facts similar to those in the instant case, we are certain the Supreme Court would have reached a different decision.

We now come to the second issue. Was the appeal filed within time assuming the award was appealable?

By the provision in Section 134 of the Act (if the award is taken to be decision of the Commission), the appeal was to have been filed within fourteen days of the making of same. The award in question was made on 14th March 2022. The appeal was filed 30th March 2022. It was therefore filed out of time.

The Appellant however has the following argument which is contained in its Counsel's written submission to make:

> *"My Lords, respectfully, on the 28th of March 2022, Appellant received a call from the Arbitrator's secretary that the award was ready. Counsel for the Appellant immediately went to the National Labour Commission for its copy of the Award only to see that the Award was dated the 14th of March, 2022. Some fourteen days after the award was purportedly delivered to the Commission by the Arbitrator. We respectfully submit that in the peculiar circumstances of this case where there was no fixed date for the delivery of the Award, but rather same was to be communicated to the parties. Notice should be deemed to be given to the Appellant from the date on which the Award was received by the Appellant which is 28th of March 2022."* ***REPUBLIC VRS WASSA FIASE TRADITIONAL COUNCIL AND OTHERS, (J4/55 2014) [2015] GHASC 135 (28th May 2015)*** cited.

Observably, the matters forming the basis of the argument are not borne by the record before us. Apart from the fact that the award was dated 14th March, nothing else in the above submission is verifiable from the record. There is therefore no factual basis for this court to assess the argument.

We state with emphasis that this court determines matters based on the record before it. As far we are concerned, anything not contained in the record is deemed not to have taken place. In ***SKYWAYS TRAVELS LTD VRS GCB (2005-2006) SCGLR 724 holding 1*** of the headnote contains the following passage:

> *"Though the record of proceedings must reflect what actually transpires in court, in the absence of any cogent evidence to the contrary, all the courts (as well as the general public) are entitled to presume that the record of proceedings, as set out in the record of the court, is a true and accurate reflection of what transpired in the proceedings. Where a party is of the view that such records, i.e. if the court's version of the proceedings is inaccurate, there are legal steps he or she may take to cause same to be rectified. Failing that, every party is bound by every part of the record of proceedings, regardless of what might be reflected in the party's personal version of what transpired in court. Consequently, since in the instant case, there is nothing on record of appeal indicating that the Appellant ever challenged the accuracy of any part of the record of proceedings, or otherwise sought to rectify same (or caused the same to be rectified) for any reason whatsoever, there is no way the Supreme Court can legitimately rely on any alternative record that seems to exist only in the Appellant's realm of reality."* See also ***IDDRISU VRS AMARTEY (2009) SCGLR 670.***

We take the position that the submission made by Counsel contains matters that exist in the Appellant's realm of reality. There is absolutely no legal basis for us to consider them on merits. The argument is therefore rejected.

In the end, we come to the conclusion that the appeal fails on both objections. The award made in the voluntary arbitration by the arbitrator Mr. Paul Osei-Mensah was not appealable in law. Assuming it was appealable, same was filed out of time and the notice of appeal was incapable of invoking the jurisdiction of this court. We dismiss the appeal in its entirety without going into the merits.

Costs of GH¢10,000.00 for the Respondents.

(SGD)

RICHARD ADJEI-FRIMPONG

(JUSTICE OF THE COURT OF APPEAL)

(SGD)

I agree, **ALEX B. POKU-ACHEAMPONG**

(JUSTICE OF THE COURT OF APPEAL)

(SGD)

I also agree, **DR. ERNEST OWUSU-DAPAA**

(JUSTICE OF THE COURT OF APPEAL)

COUNSEL:

1. Faisal Ziblim for the Appellant.
2. Charles Bawaduah for the Respondents.