

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.O. 2021

BEFORE HIS HONOR: FRANCIS S. KORKPOR. SR..... CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIEASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOHASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBEASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABAASSOCIATE JUSTICE

The Citizens of Worteh Clan, Worteh Township)
Kpanyan Statutory District, Sinoe County, Liberia,))
by and thru their representatives, Wle Doe Blamo,))
Chairman, Monrovia Office, Peter M. Jerbo,))
Township Commissioner, T. Kelly Johnson Sneh,))
President Youth Council, Mane Kugmah,))
Chairlady, Women Organizations, and all other))
citizens of the said TownshipMovants))

Versus) MOTION TO DISMISS
) APPEAL

The Citizens of Du-Wollee Township, Mantroe)
Chiefdom by and thru their representatives,))
Chairman Elder Council, Chairman,))
Commissioner, President Youth Council,))
Women Organizations and all other persons acting))
for and on behalf of the Township, Sinoe County,))
Republic of Liberia.....1st Respondents))

And))

The Ministry of Internal Affairs by and thru the)
Minister of Justice of the Republic of Liberia.....))
.....2nd Respondent))

And))

Golden Veroleum by and thru all of its Executive)
Officers, to include Board of Directors,))
Comptroller and all persons acting under its))
control, Republic of Liberia3rd Respondent))

GROWING OUT THE CASE:))

The Citizens of Worteh Clan, Worteh Township)
Kpanyan Statutory District, Sinoe County, Liberia,))
by and thru their representatives, Wle Doe Blamo,))
Chairman, Monrovia Office, Peter M. Jerbo,))
Township Commissioner, T. Kelly Johnson Sneh,))
President Youth Council, Mane Kugmah,))
Chairlady, Women Organizations, and all other))
citizens of the said TownshipAppellants))

Vesus)APPEAL

)
The Citizens of Du-Wollee Township, Mantroe)
Chiefdom by and thru their representatives,)
Chairman Elder Council, Chairman,)
Commissioner, President Youth Council,)
Women Organizations and all other persons acting)
for and on behalf of the Township, Sinoe County,)
Republic of Liberia.....Appellees)

)
GROWING OUT THE CASE:)
)

The Citizens of Worteh Clan, Worteh Township)
Kpanyan Statutory District, Sinoe County, Liberia,)
by and thru their representatives, Wle Doe Blamo,)
Chairman, Monrovia Office, Peter M. Jerbo,)
Township Commissioner, T. Kelly Johnson Sneh,)
President Youth Council, Mane Kugmah,)
Chairlady, Women Organizations, and all other)
citizens of the said TownshipPetitioners)

)
Versus) PETITION FOR DECLARATORY
) JUDGMENT

The Citizens of Du-Wollee Township, Mantroe)
Chiefdom by and thru their representatives,)
Chairman Elder Council, Chairman,)
Commissioner, President Youth Council,)
Women Organizations and all other persons acting)
for and on behalf of the Township, Sinoe County,)
Republic of Liberia.....P¹ Respondents)

)
And)
)

The Ministry of Internal Affairs by and thru the)
Minister of Justice of the Republic of Liberia.....))
.....2nd respondent)
)

And)
)

Golden Veroleum by and thru all of its executive)
officers, to include Board of Directors,)
Comptroller and all persons acting under its)
control, Republic of Liberia.....3rd respondent)

Heard: November 3, 2021

Decided: February 1, 2022

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

This motion to dismiss appeal grows out of the underlying petition for a declaratory judgment filed by the movants/appellees, The Citizens of Worteh Clan, Worteh Township, Kpanyan Statutory District, Sinoe County, against the respondents/appellants, the Citizens of Du-Wollee Township, Mantroe Chiefdom, Sinoe County, Republic of Liberia. On March 14, 2019, His Honor, Judge Nelson T. Tokpa, presiding by assignment over the Third Judicial Circuit of Sinoe County, ruled granting the movants/appellees' petition and declared that the movants/appellees have legal rights and title to the 7,654,91 (Seven Thousand Six Hundred Fifty-Four and Ninety-One) acres of land described by the metes and bounds of movants/appellees' deeds of 1930.

The records show that at the rendition of final judgment in open court, the counsel for the respondents/appellants noted exception on the records as follows:

To which ruling of Your Honor, one of counsel for respondents excepts and gives notice to Your Honor that respondents will take advantage of the laws, statute controlling and will ensure that further relief from your ruling will be sought.

On March 24, 2019, the respondents/appellants filed their approved bill of exceptions followed by their appeal bond and notice of completion of appeal on April 13, 2019. The records show that the respondents/appellants served the notice of completion of appeal on the movants/appellees in time allowed by the appeal statute; that is within sixty days after the rendition of final ruling.

On November 9, 2019, the movants/appellees filed before the Supreme Court a ten count motion to dismiss appeal on grounds that the respondents/appellants failed to announced appeal in open court consistent with Civil Procedure Law Revised Code: 1 :51.4 and 1 :51.6; and that the respondents/appellants' surety failed to show certificate or other legal instrument from an appropriate entity such as the Central Bank of Liberia that the surety possesses assets within the Republic of Liberia sufficient to cover the obligations undertaken by the surety in the bond. For these reasons stated above, movants/appellees pray that the respondents/appellants' appeal be denied and dismissed, order the court below to enforce its final ruling and grant unto them any other relief as justice and equity demand.

The respondents/appellants denied the allegations as contained in the movants/appellees' motion to dismiss appeal. They contend that there is no "stated language" adopted in the statute to constitute an announcement of appeal; that the respondents/appellants announced appeal in open court and thereafter perfected their appeal; and that the movants/appellees are estopped from challenging the appeal bond after the three days window provided for by law.

An examination of the contentions of the parties, pros et cons, presents two issues for determination by this Court. The issues are as follows:

1. Whether under the facts and circumstances in this case, it can be said that the respondents/appellants failed to orally announce the taking of an appeal in keeping with Civil Procedure Law Revised Code: 1:51.4 and 1:51.6?
2. Whether under the facts and circumstances of this case, it can be said the respondents/appellants failed to show evidence that the surety on its appeal bond possesses assets within the Republic of Liberia sufficient to cover the obligations undertaken by the surety and therefore the appeal dismissible?

We shall proceed to discuss these issues in the order they are present.

In addressing the first issue of whether the respondents/appellants did take an appeal from the final ruling of the judge in the court below, this court notes that our Civil Procedure Law Revised Code; 1:51.6 provides that "an appeal shall be taken at the time of rendition of the judgement by *oral announcement in open court*". The movants/appellees contend that the respondents/appellants announcement made excepting to the circuit court judge's final ruling does not amount to an appeal as sanctioned in the Opinions of the Supreme Court. *Goffa et al Scott-Go/fa, Supreme Court Opinion, March, A. D. 2011, St. Stephen v. Ghedze, Supreme Court Opinion, March Term, A.D. 2013,*; that the counsel for the respondents/ appellants should have given notice of the taken of an appeal to the court in the standard and commonly accepted language as follows: "Counsel for the appellants excepts to the final ruling of the judge and announces an appeal to the Supreme Court sitting in its next Term of Court." The movants/appellees contest that the language of the respondents/appellants' counsel in his pronouncement differs from the standard language recognized and adopted by this Court, where a party excepting to a final ruling in order to meet the first mandatory step of the appeal process gives notice that counsel for the [party excepting]

excepts to the final ruling of the judge and announce an appeal to the Supreme Court.

The respondents/appellants reject this interpretation of the provision of the appeal statute and instead contended that their pronouncement made after their exception to the judge's final ruling met the requirement of the statute as there is no stated language specified in the statute to constitute the taking of an appeal; that the respondents/appellants excepted to the circuit court judge's ruling and gave notice that they would take advantage of the law; in their mind, once they embarked on the regular appeal by the filing of the bill of exceptions and appeal bond, etc. which are in line with perfecting a regular appeal, this is in the contemplation of the law.

We are inclined to accept the argument of the respondents/appellants in this case, indeed, once the respondents/appellants commenced perfecting the appeal process by filing their bill of exceptions, appeal bond and serving and filing the notice of completion of appeal, the intent of the appeal process had been fulfilled.

Moreover, and as the records show, the movants/appellees did not object when the respondents/appellants commenced the appeal process. In our opinion, if the movants/appellees felt that the respondents/appellants failed to take an appeal as required by the statute, they should have applied to the lower court for enforcement of the judgment in the case, since the failure of a party to announce an appeal from a final ruling automatically puts finality to the case. We therefore conclude that the movants/appellees waived any and all objections to the respondents/appellants' announcement of an appeal and is estopped from raising issue with the appeal process before the Supreme Court.

The second issue presented in this case for our determination is whether under the facts and circumstances of this case where the movants/appellees contend that the respondents/appellants failed to show evidence that the surety on its appeal bond possesses assets within the Republic of Liberia sufficient to cover the obligations undertaken by the surety this Court should dismiss the appeal.

The respondents/appellants argued that the movants/appellees waived their right to except to the appeal bond after the filing of the bond and the expiry of three days as provided for under the Civil Procedure Code 1:63.5.

We disagree. This Court has consistently held that where the appeal bond is filed along with the notice of completion of the appeal, the notice of completion of

appeal removes the case from the jurisdiction of the trial court to the Supreme Court and the motion challenging said bond can only be raised in the Supreme Court. (*Manhattan Tradin::; Corp v. World Bank, Opinion Supreme Court Opinion, March Term, A.D. 2016, Jerome G. Korkoya v. Prof Bestman Larmena, Supreme court Opinion, March Term, A.D. 2020*). In the case before us, the appeal bond and notice of completion of appeal were filed on the same day, that is, April 13, 2019. Since the movants had no opportunity to challenge the appeal bond in the trial court, it can challenge said bond in the Supreme Court. The contention of the respondents/appellants therefore is untenable.

We must note, however, that the final ruling from which the respondents/appellants announced an appeal is not a money judgement. In such a case, this Court has continuously held that the appeal bond is purposely to satisfy the costs of court. *NBL v Karloweah, 42 LLR 389 (2005), The Management of Lonestar Cell/MTN v Nathaniel Kevin, Supreme Court Opinion, March Term, A.D. 2021*. We take note that the trial court declared in its final ruling, the movants/appellees' legal rights or title to 7,654.91 (Seven Thousand Six Hundred Fifty-Four and Ninety-One) acres of land. There is no judgement amount for which the respondents/appellees are obligated to file an indemnity bond. Therefore, we must, as we have held in the preceding cases, that the bond required should be only to cover court costs.

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss the respondents/appellants' appeal is denied and dismissed. The Clerk of this Court is ordered to docket the appeal to be heard on its merits. Costs shall abide the final determination. AND IT IS HEREBY SO ORDERED.

Counsellors Milton D. Taylor and Frederick L. M. Gbermie of the Law Offices of Taylor and Associates appeared for the movants/appellees. Counsellor Mark M. M. Marvey appeared for the respondents/appellants.