

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

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

International Bank (Liberia) Limited, represented by its) Chief Executive Officer, Mr. Henry F. Saamoi, and all) Authorized Officers of the City of Monrovia, Montserrado) County, Liberia Movant)		
Versus)		Motion to Dismiss Appeal
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The Intestate Estate of the Musa Kamara, Sr., represented) by its administrator & heirs of the City of Monrovia,) Montserrado County, Liberia Respondent)		
GROWING OUT OF THE CASE:)		
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The Intestate Estate of the Musa Kamara, Sr., represented) by its administrator & heirs of the City of Monrovia,) Montserrado County, Liberia Appellant)		
Versus)		Appeal
)))

International Bank (Liberia) Limited, represented by its) Chief Executive Officer, Mr. Henry F. Saamoi, and all) Authorized Officers of the City of Monrovia, Montserrado) County, LiberiaAppellee)		
GROWING OUT OF THE CASE:)		
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The Intestate Estate of the Musa Kamara, Sr., represented) by its administrator & heirs of the City of Monrovia,) Montserrado County, LiberiaPetitioner)		
Versus)		Petition for Adverse Claim
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International Bank (Liberia) Limited, represented by its) Chief Executive Officer, Mr. Henry F. Saamoi, and all) Authorized Officers of the City of Monrovia, Montserrado) County, Liberia Respondent)		
GROWING OUT OF TRHE CASE:)		
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International Bank (Liberia) Limited, represented by its) Chief Executive Officer, Mr. Henry F. Saamoi, and all) Authorized Officers of the City of Monrovia, Montserrado) County, LiberiaPetitioner)		
Versus)		Petiton for Foreclosure of Mortgage
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The Intestate Estate of the Musa Kamara, Sr., represented) by its administrator & heirs of the City of Monrovia,) Montserrado County, LiberiaRespondent)		
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HEARD: November 2, 2021

DECIDED: January 27, 2022

MADAM JUSTICE WOLOKOLIE DELIVERED **THE** OPINION OF THE COURT

Mindful of the possibility that errors, and impropriety may seep into the hearing and determination of legal disputes and consequently affect the rights and interests of the parties, the proponents of our legal system have designed that judgments/decisions of inferior judicial tribunals are subject to review before superior forums with the Supreme Court being the final arbiter. Party litigants appearing before our lower courts and administrative forums, in line with the Constitution which provides for the right of appeal, often seek appellate reviews of adverse decisions made against them before the appropriate appellate forum.

The proponents of the laws on appeal however were not unmindful of the obstacle the right to appeal would pose to the speedy enforcement of cases if reasonable parameters were not defined for the exercise of the right to an appeal. The intent of the appeal process being to afford the appellant the opportunity to have a higher court review the legal propriety of an adverse judgment entered against the appellant by a lower court and to cure any legal defects posed to the appellant on account of errors or impropriety that may have attended the proceedings had in the lower court, it however is not to be used to delay or deprive the ends of justice, to the disadvantage of any party.

Striking the balance between the rights of the appellant and the appellee, our appeal statutes enumerate the requirements that an appealing party must satisfy in order to confer jurisdiction on the appellate court, and to enable it review the records of the lower court and enter appropriate judgment thereupon.

Chapter 51 of the Civil Procedure Law, and Chapter 24 of the Criminal Procedure Law of the Liberian Codes Revised, set the requirements necessary for an appeal from the judgments of circuit courts. Section 51 .4 of the Civil Procedure Law specifically outlines the requirements for completion of an appeal in a civil matter as follows:

- (a) Announcement of the taking of the appeal;
- (b) Filing of the bill of exceptions within ten days as of the date of announcement of the taking of the appeal;
- (c) Filing of an appeal bond;
- (d) Service and filing of notice of completion of the appeal.

The Civil Procedure Statute requires that not only must an appealing party ensure all of the steps written above, but that these steps are completed within a period of sixty (60) days. Otherwise, the Supreme Court has no jurisdiction to hear the appeal announced and the appeal will be dismissed, and the judgment of the lower court will be enforced against the defaulting appellant.

The Supreme Court has interpreted the appeal statute in several of its Opinions, as requiring strict adherence to the steps of the appeal process, otherwise, the appeal is dismissible. *Ahmar v. Gbotoe*, 42 LLR 117, 126 (2004); *Raspa/ and Sachdeva v. Ouku/y*, Supreme Court Opinion, March Term 2015; *Ahmar v. Gbotoe*, 42 LLR 117, 126 (2004), and kindred cases.

In the instant case, the records reveal that the movant/appellee herein, on September 30, 2020, filed a motion praying this Court to dismiss the appeal announced by the respondent/appellant from the Commercial Court's ruling denying an adverse claim to a foreclosure proceeding instituted by the movant/appellee.

The motion averred that while the respondent/appellant had filed its bill of exceptions within the time allowed by statute, that is, ten (10) days after the lower court entered final judgment in the case, respondent/appellant took no further steps to perfect its appeal by filing an appeal bond, and serving and filing a notice of completion of appeal. By the failure of the respondent/appellant to perfect the appeal process, the Supreme Court has no jurisdiction to hear and determine the appeal on its merits.

The respondent/appellant filed no resistance to the contention raised in the motion to dismiss.

At the call of the motion for hearing on November 2, 2021, Counsellor Lavela Korboi Johnson, Sr. announced representation for the respondent/appellant, and with leave of Court made the following submission:

"At this stage, additional counsel, Lavela Korboi Johnson, Sr., says that he is unable to represent the respondent in this matter because, based on his own belief and understanding of the case, he sees no justiciable matter. And respectfully submits."

The Court having noted the submission made by Counsellor Lavela Korboi Johnson, Sr., made the following entry on its records:

"Several times this case has come up for hearing. At such times, requests for postponement had consistently been by the respondent, and this being a matter based on property rights, this Court had exercised patience in giving the respondent time to find a lawyer of his choice to represent the said respondent. During the last day's sitting of this case, the respondent was specifically advised to find a Counsellor to represent it, and that failure to do so, the Court would enter upon the records and make a decision. The case was called for hearing today, and even though, a notice of additional counsel is on the file indicating that Counsellor Lavela Korboi Johnson, Sr., has been chosen by the respondent as additional counsel, Counsellor Lavela Korboi Johnson, Sr. now informs the Court that because he does not find the position of the respondent justiciable, he, as Counsellor and Officer of the Supreme Court does not deem it fit to represent the respondent, and he therefore withdraws his representation of the appellant/respondent.

In view of the length of time this case has taken and the repeated warning given to the respondent to find a lawyer, and further, in view that the respondent's lawyer now says in effect that the respondent's position is not tenable in respect of the motion to dismiss the appeal, this Court, without much delay, will enter upon the records and make the appropriate decision. No notice of assignment will be further sent for the hearing of this case. AND IT IS SO ORDERED. MATTER SUSPENDED."

The Court, upon entering the records of the case file, found that the records reveal that the Commercial Court, on August 7, 2019, entered a final ruling in an action for foreclosure of mortgage against the respondent/appellant, which ruling was served on the counsel for the respondent, The records further show that upon an application made by one of the counsels who represented the movant in the Commercial Court, the clerk of the Commercial Court issued a Clerk's Certificate to the effect that the respondent had failed to file its appeal bond and notice of completion of the appeal up to and including the date of issuance of Clerk's Certificate which was outside the statutory period of sixty days allowed for perfection of an appeal.

The Court says that its review of the records of the case file confirms the Clerk's Certificate and the averments contained in the movant's motion that the respondent/appellant took no further steps to perfect its appeal after the filing of the bill of exceptions; that is, filing an appeal bond and serving and filing a notice of the completion of appeal. The Supreme Court in such instance being without jurisdiction to hear and determine the appeal on its merits, the motion to dismiss the appeal is granted and the appeal ordered dismissed as a matter of law.

The Clerk of this Court is ordered to send a mandate to the trial court commanding the judge presiding therein to resume jurisdiction over this case and enforce its judgment. Costs are ruled against the respondent/appellant AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR JOYCE REEVES WOODS APPEARED FOR THE MOVANT / APPELLEE. COUNSELLOR LAVELA KORBOI JOHNSON, SR., APPEARED, BUT DECLINED TO REPRESENT THE RESPONDENT/ APPELLANT.