

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2022

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

Merlene Grimes McCall, represented by her Attorney-in-Fact,)
Samuel D. Teh, II, of the City of Monrovia, Montserrado County,)
Liberia.....Movant)

VERSUS)

Kadie Sarnor Kamara and all those under the scope of her)
authority, also of the City of Monrovia, Montserrado County,)
Liberia.....Respondents)

MOTION TO DISMISS

GROWING OUT OF THE CASE:)

Kadie Sarnor Kamara and all those under the scope of her)
authority, also of the City of Monrovia, Montserrado County,)
Liberia.....Appellants)

VERSUS)

APPEAL

Merlene Grimes McCall, represented by her Attorney-in-Fact,)
Samuel D. Teh, II, of the City of Monrovia, Montserrado County,)
Liberia.....Appellee)

GROWING OUT OF THE CASE:)

Merlene Grimes McCall, represented by her Attorney-in-Fact,)
Samuel D. Teh, II, of the City of Monrovia, Montserrado County,)
Liberia.....Petitioner)

VERSUS)

PETITION FOR
CANCELLATION OF
LEASE AGREEMENT

Kadie Sarnor Kamara and all those under the scope of her)
authority, also of the City of Monrovia, Montserrado County,)
LiberiaRespondents)

HEARD: March 22, 2022

DECIDED: August 4, 2022

MADAME JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

This case is before us on a motion to dismiss an appeal filed by Merlene Grimes McCall, the movant herein, against Kadie Sarnor Kamara, the respondent herein.

The certified records reveal that on June 21, 2021, the Sixth Judicial Circuit, Civil Law Court, Montserrado County, sitting in its June Term A.D. 2021, entered final ruling in a petition for the cancellation of a lease agreement, wherein the respondent's lease agreement with the movant was ordered cancelled. However,

the trial judge declined to issue a writ of possession in favor of the movant on grounds that the cancellation proceedings filed by the movant is an equitable proceeding and does not grant the right of possession. Both parties noted exceptions and appealed this final ruling of the trial court.

The records also show that in perfecting their respective appeals, the respondent, Kadie Sarnor Kamara filed her bill of exceptions within the time allowed by statute, that is, ten days following the rendition of the final ruling, but neglected and failed to pursue and complete the last two mandatory statutory steps, by the filing of an appeal bond and service and filing of a notice of completion of appeal. The movant, Merlene Grimes McCall on the other hand, completed the appeal process by filing her bill of exceptions, appeal bond, and notice of completion of appeal as required by law.

The records show that on December 21, 2021, the movant filed a notice of voluntary discontinuance of the appeal and subsequently on January 25, 2022, filed a motion to dismiss the respondents' appeal on grounds that the respondents neglected to perfect their appeal by the filing an appeal bond and filing and service of a notice of completion of appeal as mandated by statute. On March 21, 2022, the respondent filed resistance to the motion to dismiss, conceding the legal soundness of the motion but requested the Court to deny the motion on the basis that the failure to perfect the appeal was the fault of the law firm representing the respondent; that the said failure was mere technicality; and that the respondent be allowed to perfect her appeal *nunc pro tunc*.

On March 22, 2022, the motion to dismiss the appellant's appeal and the notice of voluntary withdrawal were both called for hearing. The counsel representing the movant, Counsellor Johnathan T. Massaquoi, by leave of Court made a submission drawing the Court's attention to the notice of voluntary discontinuance, and the motion to dismiss the respondent's appeal.

The counsel representing the respondent, Counsellor Morris M. Davis although interposed no objections to the movant's motion to dismiss, he however pleaded with the Court to hear the appeal for reasons stated in his resistance.

In passing on the respondent's request, this Court is once again constrained to affirm its decision as espoused in numerous cases on similar request to relax the strict rule of the appeal statute. The Court opined as follows: "... that while the Supreme Court favors deciding cases on the merits and is ordinarily hesitant to dismiss an appeal on technicality, it is imperative that an appellant in pursuing an appeal takes the utmost care to ensure that the statute is strictly complied with, as the Court is not prepared to disregard the mandatory steps of the appeal statute." *Manakeh v. Toweh*, 32LLR 207 (1984); *Ezzedine v. Saif* 33LLR 21 (1985); *Blamo et al., v. The Management of Catholic Relief Services*, Supreme Court Opinion, March Term 2006; *Hussenni v. Brumskine*, Supreme Court Opinion, March Term, A.D. 2013; *National Elections Commission (NEC) v. Siebo, Jr.*, Supreme Court Opinion, March Term A.D. 2017.

The Supreme Court further held that “*any omission in fulfilling the requirements enounced in the appeal statute is deemed fatal and a warranty for the dismissal of the appeal; that the Supreme Court is un-wavering and uncompromising in its position that non-compliance with the mandatory statutory requirements for an appeal cannot be deemed as mere technicality and that a case will in fact be dismissed where there are violations of the substantive statutory requirements by the appellant.*” *Manakeh v. Toweh*, 32LLR 207 (1984); *Ezzedine v. Saif* 33LLR 21 (1985); *Blamo et al., v. The Management of Catholic Relief Services*, Supreme Court Opinion, March Term 2006; *Hussenni v. Brumskine*, Supreme Court Opinion, March Term, A.D. 2013; *National Elections Commission (NEC) v. Siebo, Jr.*, Supreme Court Opinion, March Term A.D. 2017. Hence, we hold that the respondents having failed to file an appeal bond and serve and file a notice of completion of appeal, the appeal is dismissible as a matter of law.

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss the respondent’s appeal is granted and the appeal is hereby dismissed. The Clerk of this Court is ordered to send a Mandate to the court below to resume jurisdiction over this case and enforce its final ruling of June 21, 2021. Costs are ruled against the respondents. AND IT IS HEREBY SO ORDERED.