

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC  
OF LIBERIA, SITTING IN ITS MARCH TERM, A.D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE  
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE..... ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE

Susan F. Cooper and Henry Eric Cooper by and thru their	)	
Attorney-in-Fact Cllr. John Wleh Togba, II of the City of	)	
Monrovia, Liberia.....Movant	)	
Versus	)	Motion to Dismiss
Monique C. Cooper, one of the Administrators Cum	)	Appeal
Testamento Annexo of the Intestate Estate of Henry Ford	)	
of the City of Monrovia, Liberia.....Respondent	)	
	)	
<u>GROWING OUT OF THE CASE:</u>	)	
	)	
Monique C. Cooper, one of the Administrators Cum	)	
Testamento Annexo of the Intestate Estate of Henry Ford	)	
of the City of Monrovia, Liberia.....Appellant	)	
Versus	)	Appeal
Susan F. Cooper and Henry Eric Cooper by and thru their	)	
Attorney-in-Fact Cllr. John Wleh Togba, II of the City of	)	
Monrovia, Liberia.....Appellee	)	

Heard: March 25, 2024

Decided: May 23, 2024

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

The present motion to dismiss appeal emanates from a final ruling rendered on May 16, 2023, by Judge Necular Y. Edwards of the Monthly and Probate Court for Montserrado County, wherein he declared the Intestate Estate of Henry Ford Cooper closed and the properties apportioned among the beneficiaries.

The movant herein, Cllr. John Wleh Togba, the Attorney-in-Fact for Susan F. Cooper and Henry Eric Cooper, Co-Administrators *Cum Testamento Annexo* of the Intestate Estate of Henry Ford Cooper, alleged that the respondent herein, Monique C. Cooper, also one of the Co-Administrators *Cum Testamento Annexo* of the Intestate Estate of Henry Ford Cooper, failed to file her bill of exceptions within ten (10) days as of the date of rendition of the trial court’s final ruling as mandated by statute, that is, on May 27, 2023. To substantiate this averment, the movant attached a copy of a Clerk’s Certificate dated May 29, 2023, and signed by the Clerk of the Monthly and Probate Court, Montserrado County, Madam Helena Sogbe-Stewart. The movant also alleged that the respondent failed to file an appeal bond and to serve and file notice of completion of appeal within sixty (60) days

as also mandated by statute. For the purpose of clarity of this Opinion, we quote below *verbatim* the said Clerk's Certificate:

"...CLERK'S CERTIFICATE

Upon careful scrutiny of the file containing the records in the above captioned case, it has been confirmed that the respondent has not filed her bill of exceptions as required by law, before this court after the rendition of the final ruling of His Honor Nocular Y. Edwards, Resident Judge of the Monthly and Probate Court of Montserrado County, Republic of Liberia, on 16<sup>th</sup> May 2023; hence, this Clerk's Certificate..."

In her returns, the respondent does not deny the movant's averment that the ruling of the trial court was rendered on May 16, 2023, but asserts that both parties received copies of the trial court's final ruling on separate dates. Specifically, that the movant received its copy of the ruling on May 18, 2023 while she, the respondent received her copy on May 24, 2023. We pause at this juncture to note that during his argument before the Court, the counsel for the movant confirmed the respondent's assertion that he received a copy of the trial court's final ruling on May 18, 2023, which discredits the movant's computation of the time of the tolling of the statute for the filing of the bill of exceptions. To support the aforestated allegation the respondent attached to her returns, a Clerk's Certificate, also under the signature of Madam Helena Sogbe-Stewart, Clerk of the Monthly and Probate Court for Montserrado Court which we also quote *verbatim* to wit:

"...CLERK'S CERTIFICATE

Upon careful scrutiny of the file containing the records in the above captioned case, it has been confirmed that the counsels of records in persons of Cllr. Jura Lynch, Counsel for Informant (movant), signed and received the court's minutes and ruling of May 16, 2023, on the 18<sup>th</sup> day of May 2023, while Cllr. Molley N. Gray, Jr., Counsel for the respondent, signed and received the said minutes and ruling on May 24, 2023. Hence, this Clerk's Certificate..."

We have reviewed the records and found that contrary to the movant's allegations, the respondent did receive copy of the trial court's ruling on May 24, 2023; that the bill of exceptions was properly filed and approved by the trial judge on May 31, 2023; and that the filing of the appeal bond on June 6, 2023, and service and filing of notice of completion of appeal on July 10, 2023, were similarly within statutory time. It is the law that "until the final judgment is delivered to the appellant, the ten days prescribed by law within which

the appellant is required to file a bill of exceptions cannot be said to have commenced.” *His Honor Yussif D. Kaba, Resident Circuit Judge, Civil Law Court, Sixth Judicial Circuit, Montserrado County and Manhattan Trading Corp v. World Bank*, Supreme Court Opinion, March Term 2014; *Liberia Sheng Xin De Yuan Mining Company v. Mr. John P. Saah*, Supreme Court Opinion, March Term 2023. Hence, we hold that the respondent having established compliance with the mandatory steps of the provisions of the appeal statute, and the movant having failed to prove the contrary, the motion to dismiss the respondent’s appeal must be denied and dismissed.

This Court reiterates the settled principle that “mere allegations do not constitute proof, and unless said allegations are supported by evidence, they shall remain mere allegations because, it is evidence alone which enables the court, tribunal, or administrative forum to pronounce with certainty the matter in dispute.” *Wamah Jones Kuteh v. The National Elections Commission et. al*, Supreme Court Opinion, October Term 2023; *Bhofal Chambers v. National Elections Commission et.al*, Supreme Court Opinion, October Term 2023; *Universal Printing Press v. Blue Cross Insurance Company*, Supreme Court Opinion, March Term 2015; *Kamara et. al v. The Heirs of Essel*, Supreme Court Opinion, March Term 2012; *Kpoto v. Williams*, Supreme Court Opinion, March Term, 2008.

Before concluding this Opinion, we herewith sternly warn all clerks of court issuing certificates in favour of lawyers and their clients to substantiate contested facts and circumstances, and to meticulously review the case file before proceeding to issue and affix their signatures to said certificates. We particularly warn Madam Helena Sogbe-Stewart, Clerk of the Monthly and Probate Court for Montserrado Court, that a repetition of the act in issuing conflicting certificates as the ones quoted herein, will lead to more stringent action.

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss the appeal is hereby denied and dismissed, and the appeal ordered proceeded with on its merits. Costs are to abide final determination of the appeal. AND IT IS HEREBY SO ORDERED.

*Motion denied*

*When this case was called for hearing, Counsellor Jura Lynch appeared for the movant. Counsellor Molley N. Gray, Jr. of the Jones and Jones Law Firm appeared for the respondent.*