

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS OCTOBER 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
BEFORE HER HONOR: CEAINEH D. CLINTON JOHNSON..... ASSOCIATE JUSTICE

Siaka Turay of the City of Paynesville,)
Montserrado County, Liberia)
.....Movant)

Versus)

Motion to Dismiss Appeal)

Ma Konneh Kamare, et al Occupants under)
her control also of The City of Paynesville,)
Montserrado County, Republic of Liberia)
.....Respondents)

GROWING OUT OF THE CASE:)

Siaka Turay of the City of Paynesville,)
Montserrado County, Liberia)
Liberia.....Plaintiff)

Versus)

Action of Ejectment)

Ma Konneh Kamare, et al occupants under)
her control also of the City of Paynesville,)
Montserrado County, Republic of Liberia)
.....Defendants)

Heard: October 21, 2024

Decide: December 19, 2024

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT.

On July 17, 2024, the movant, Siaka Turay, filed this motion to dismiss the respondents, Ma Konneh Kamara et al., appeal, averring therein that the movant instituted an action of ejectment against the respondents and all occupants under her control on the 27th Day of January 2023 at the Sixth Judicial Circuit, Civil Law Court; movant further averred that after pleadings rested, and considering that the parties derived their titles from the same grantors and that the movant’s title is older than that of the respondents, the movant filed a motion for summary judgment, which was heard and granted by the trial court on April 23, 2024; that the respondents entered exceptions thereto and announced an appeal to the Supreme Court; that the respondents filed their bill of exceptions but failed and neglected to file an appeal bond and serve and file a notice of completion of the appeal. The

movant, therefore, prays that the appellants' appeal be dismissed for their failure to complete the appeal process in a timely manner.

On October 18, 2024, the respondents filed resistance to the movant's motion to dismiss the appeal. In its resistance, respondents averred, among other things, that during the exchange of pleadings, the issue of fraud was raised by the respondents in the court below and that the trial judge ignored the respondents' fraud issue and ruled on summary judgment in favor of movant; that the original counsel representing the respondents withdrew his representation for the failure of the respondents to superintend the appeal; that respondents' new counsel filed a motion for enlargement of time to enable him to complete the appeal process for and on behalf of the respondent before the lower court which motion is pending undetermined. Respondents prayed that this Court dismiss the movant's motion for the reasons stated in the resistance.

From a careful review of the parties' contentions, the dispositive issue in this matter is whether the grounds asserted by the respondents in their resistance to the movant motion to dismiss the appeal are grounded in the exceptions to the mandatory appeal statute.

This Court has reiterated time without number that the failure to comply with the appeal statute Civil Procedure Law, Rev. Code 1:51.4 is a ground for the dismissal of an appeal announced before this Court. *Anthony Armah et al v. Intestate Estate of the late Kemah Hoki Johnson*, Supreme Court Opinion, March Term, 2024; *Stevens V. NHS Bank et al*, Supreme Court Opinion, March Term, A.D. 2012; *Catakaw et al. v. Karweh*, Supreme Court Opinion, March Term, A.D. 2010, *Sheriff v. Parwon et al.*, Supreme Court Opinion, March Term, A.D. 2015. The appeal statute instructed a party wanting to take an appeal before this Court to follow the steps enumerated in the statute Civil Procedure Law Revised Code 1:51.4.

“§ 51.4. Requirements for completion of an appeal.

The following acts shall be necessary for the completion of an appeal:

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

Failure to comply with any of these requirements within the time allowed by statute shall be grounds for dismissal of the appeal.”

In the instant case, the respondents announced an appeal and filed a bill of exceptions but failed to complete the remaining steps by filling an appeal bond and the service and filing of a notice of completion of the appeal. The respondents’ counsel argued in its resistance that he could not have completed the remaining steps because when the respondents hired him, there was no time available to him to complete the remaining steps; therefore, he filed a motion for enlargement of time, which is still pending before the lower court; he however, admitted in the said resistance that the respondents failed and neglected to superintend the appeal process which led to the previous counsel withdrawing from the legal representation of the respondents.

The Civil Procedure Law provides, under Section 51.10, the grounds upon which the appeal Statute may be tolled.

“§ 51.10. Tolling of time for acts required to complete an appeal.

If, after an appeal is announced, the counsel for the appellant dies or becomes physically or mentally incapacitated or is disbarred or suspended before the expiration of the time for filing of a bill of exceptions or an appeal bond, the time for the doing of such act shall commence to run anew from the date of the death, incapacitation, disbarment, or suspension of such counsel. A bill of exceptions or appeal bond shall not be filed by a new attorney of record within the extended time allowed by this section until he has applied for and received permission of the court”.

The records show that the conditions provided under Section 51.10 of the Civil Procedure Law *supra* do not exist under the facts and circumstances of this case; hence, the respondents were duty-bound to have completed the appeal as announced within the time specified by the appeal statute. The respondents failed to perfect their appeal in the time, manner, and form prescribed by Civil Procedure Law Revised Code 1.51.4. The reason advanced by the appellants for their failure to perfect their appeal in a timely manner cannot trigger the tolling of the time for the act required to complete the appeal process. This renders the appeal announced by the appellant dismissible as a matter of law.

Wherefore and in view of the foregoing, the movant's motion to dismiss the respondents' appeal is granted, and the appeal ordered dismissed. 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 give effect to the Judgment of this Opinion. Costs ruled against the respondents. IT IS HEREBY SO ORDERED

Motion granted.

WHEN THE CASE WAS CALLED FOR HEARING, COUNSELLOR YAHAYA B. KROMAH APPEARED FOR THE MOVANT. COUNSELOR KPOTO KPADEH GIZZIE APPEARED FOR THE RESPONDENT.