IN THE HONORABLE 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

The United Muslims in Fiamah Lelhi by and through its Mosque Committee of Safa & Marwa Mosque Chairman, Foday Ibrahim Toure and Vice Chairman Karamon Massalay of 21st Street, Russell Avenue, Sinkor, Monrovia, Montserrado County Republic of Liberia……..PETITIONER

Versus

Elizabeth Marsh by and through her Attorney-In-Fact, Emily Marsh and Isaac Saye of Harbel & Benson Street, Monrovia Montserrado County, Republic of Liberia…….RESPONDENT

GROWING OUT OF THE CASE:

Elizabeth Marsh by and through her Attorney-In-Fact, Emily Marsh and Isaac Saye of Harbel & Benson Street, Monrovia Montserrado County, Republic of Liberia……...MOVANT

Versus

The United Muslims in Fiamah Lelhi by and through its Mosque Committee of Safa & Marwa Mosque Chairman, Foday Ibrahim Toure and Vice Chairman Karamon Massalay of 21st Street, Russell Avenue, Sinkor, Monrovia, Montserrado County Republic of Liberia……..RESPONDENT

PETITION FOR REARGUMENT

MOTION TO DISMISS APPEAL

HEARD: January 15, 2025 DECIDED: February 18, 2025

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

December 19, 2024, the Supreme Court delivered an Opinion in a motion to dismiss an appeal, during the October Term of Court A.D 2024, filed by the movant, now respondent in this petition for re-argument, based on *Part 1, Rule IX of the Revised Rules of the Supreme Court*, which states that "For good cause shown to the Court by petition, a re-argument of a cause may be allowed only once when some palpable substantial mistake is made by inadvertently overlooking some facts, or point of law." In that case, the Supreme Court delivered the appeal of the Petitioner.

The petitioner, the United Muslims in Fiamah Lelhi, on the 23rd of December, 2024, filed a petition for re-argument, alleging that this Court inadvertently overlooked a key point of the transcription of the records before this Honourable Court, when this Court, indicated in its opinion as follows:

“that the respondent, having failed and neglected to transcribe the records from the trial court to the Supreme Court after two years of rendition of the final ruling in the court below and up to the time the appeal was called for hearing, same is tantamount to abandonment";

The petitioner contended as follows:

1. That this inadvertence is premised on the fact that the respondent filed the amended motion to dismiss the appeal and attached a clerk's certificate dated April 4, 2024, from the Clerk of Honourable Supreme Court of Liberia when the records were transcribed before the hearing of the motion to dismiss;
2. That the petitioner prayed this Court to deny and dismiss the motion to dismiss the appeal because the petitioner had to pay twice for the transcription of the records to this Court due to the suspension of the clerk of the court below who was transferred during the period the petitioner paid for the transcription of the records;
3. That it would be a dangerous precedent were the Supreme Court to allow the temptation of making laws to govern critically important questions bordering on the exercise of the sacred right of appeal in this jurisdiction;
4. That the adequate remedy to deal with a party's failure to transcribe trial records to the Supreme Court, is to impose a fine or order reimbursement of all costs incurred by the adverse party, as was done in the case, *Mars v. Freeman et al., Supreme Court Opinion, March Term A. D. 2023*.

Pursuant to the contentions raised in petitioner’s petition for re-argument, the respondent filed returns contesting petitioner’s claims as follows:

1. That on January 14, 2025, the respondent filed returns contending that the petitioner had abandoned its appeal for its failure to superintend/ensure the records from the trial court to the Supreme Court within Ninety (90) Days, as provided for by law;
2. That the appeal bond proffered by the petitioner in the amount US$5,000.00 (Five Thousand United States Dollars) was inadequate to indemnify the respondent's Fifty Thousand United States Dollars (US$50,000.00) award for General Damages;
3. That the surety is invalid because the tax clearance attached to the appeal bond had expired prior to the submission of the notice of completion of appeal and that the financial statement only indicated assets from two years back, whereas the appeal was announced on November 2, 2022;
4. That no expense was indicated in the purported financial statement to determine whether the surety had sufficient assets in the country to serve as surety and to indemnify the respondent;
5. That here is no inadvertence, for this petition to lie;

6. That the petitioner transcribed the records on October 15, 2024, while the appeal was announced on November 2, 2022, far beyond the time allowed by law for the transcription of appeal records;

The issue before us to address, is whether or not this Court inadvertently overlooked a point of law or fact in its opinion of December 19, 2024. We answer this sole issue in the negative, that this Court, did not inadvertently overlooked a point of law or fact in its opinion of December 19, 2024. Our *Civil Procedure Law, Rev. Code:1:51.11*, states that "The clerk of the court from which the appeal is taken shall make up a record containing certified copies of all the writs, returns, notices, pledges, motions, applications, certificates, minutes, verdicts, decisions, rulings, orders, opinions, judgments, bills of exceptions, and all other proceedings in the case. He shall transmit this record with a copy of the appeal bond to the appellate court within ninety days after rendition of judgment. The clerk of the appellate court shall docket the record forthwith and forward a receipt to the clerk who transmitted it."

The Supreme Court opined that the failure of the appellant to pay for transmission of the records to be sent to the appellate court is tantamount to an abandonment of the appeal. National Housing and Saving Bank v. Gordon 35 LLR 323, 326 (1988); the *Intestate Estate of A. B. Mars v. Alexander R. Freeman and Einaine Freeman, the Supreme Court Opinion March Term, A.D. 2023; Dayrell v. Thomas and Moore, 11 LLR 98, 100, (1952*). The issue raised by the petitioner that the records were transcribed before the hearing of the motion to dismiss appeal was adequately address before this Court en banc and a judgment was rendered in favour of the respondent. This Court says further, that the records were transcribed before the hearing of the motion to dismiss far beyond the statutory period of Ninety (90) days. We note that the appeal was announced on November 2, 2022, and the petitioner transcribed the records to this Court on October 15, 2024, which computation is one (1) year eleven (11) months and thirteen (13) days. We note, that the petitioner transcribed the records after the filing of the motion to dismiss the petitioner's appeal and after the respondent's amended motion to dismiss the appeal, which transcription is far beyond the time required for the transcription of the records by law.

This Court holds that the failure for the petitioner to transcription the appeal records to this Court *en banc* by the petitioner, constitutes abandonment. The Supreme Court has held in the case, in the case, held that the appellant must superintend the said process of transcription, and that failure to do so for the period of more than ninety (90) days shall constitute abandonment, which is a valid basis for the Court to dismiss any appeal *National Housing & Saving Bank v. Gordon, 35LLR 232, 326 (1998)*; that this position of the Court was

also reinforced during the Supreme Court October 2023 Term of Court in the case, *the Intestate Estate of the late Gobbeh Kamara and Satta Kamara V. The Intestate of J. Lamark Cox Estate, where the appellant did not transcribe the records from the court below to the Supreme Court for the period of ninety (90) days;*

This Court also notes from the certified records before it, that prior to the hearing of the motion to dismiss the appeal, the records were transferred from the trial court to the Supreme Court one (1) year eleven (11) months thirteen (13) days after rendition of the final ruling of the lower court. We are of the opinion that re-hearings are not granted as a matter of right, and not allowed merely for the purpose of re-argument or because a party disagrees with the Court's decision; unless there is a reasonable probability that the Court had arrived at the erroneous conclusion or overlooked some important question or matter necessary to a correct decision." *Lamco J.V. Operating Co. v. Azzam et al, 31 LLR 649, 654 (1983)*.

We hold that we do not see any legal ground, facts or point of law in petitioner's petition for re-argument that was overlooked during December 19, 2024 hearing of this decision to dismiss the petitioner/respondent's appeal. Considering the petition for re-argument and the arguments made before this Court, the petitioner did not state any mistake made, where we inadvertently overlook any fact, or point of law.

WHEREFORE AND IN VIEW OF THE FOREGOING, the petition for re-argument is hereby denied and dismissed and the previous judgment of this Court is affirmed. The Clerk of this Court is hereby ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and proceed in accordance with the Judgment of this Court delivered on December 19, 2024. And It Is Hereby So Ordered.

Petition denied.

WHEN THE CASE WAS CALLED FOR HEARING, COUNSELLOR ALHAJI SWALIHO A. SESAY APPEARED FOR THE PETITIONER. COUNSELLOR MARK M.M. MARVEY APPEARED FOR THE RESPONDENT.