

IN THE HONORABLE 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

Jammel T. Mulbah of the City of Monrovia,)
Montserrado County, Liberia....Movant/Appellee)
)
Versus) MOTION TO DISMISS APPEAL
)

Ujay Morris, Administrator of the Intestate estate)
Of the late Gballah Morris, Bushrod Island, Mont.)
County, Liberia.....Appellant/Respondent)

GROWING OUT OF THE CASE:)

Ujay Morris, Administrator of the Intestate estate)
Of the late Gballah Morris, Bushrod Island, Mont.)
County, Liberia..... Petitioner)

Versus) SUMMARY PROCEEDINGS
)

His Honor Timothy A. F. Worries, Associate)
Magistrate, Bushrod Island Magisterial Court,)
Jamel T. Mulbah, all of the Bushrod Island)
Montserrado County, LiberiaRespondents)

GROWING OUT OF THE CASE:)

Ujay Morris, Administrator of the Intestate estate)
Of the late Gballah Morris, Bushrod Island, Mont.)
County, Liberia.....Petitioner)

Versus) MOTION TO INTERVENE
)

Jammel T. Mulbah of Bushrod Island, Republic)
of LiberiaRespondent)

HEARD: March 25, 2024

DELIVERED: May 23. 2024

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This motion to dismiss the appeal, originates from an action of summary proceeding for possession of real property files before the Bushrod Island Magisterial Court. The movant, Jammel T. Mulbah accused some individuals of illegally possessing and occupying his property and, after persistent calls to them to vacate his property did not yield any results, he sued the defendants at the Bushrod Island Magisterial Court. The magistrate ruled in favor of movant and the defendants excepted to the ruling and announced an appeal; however, they

did not perfect their appeal, causing the magistrate to issue a writ of possession to have the movant placed in possession of the disputed property. The respondent thereafter filed a motion to intervene but the motion was denied by the magistrate who stated that the case had been finally disposed of; therefore, the respondent's motion to intervene could not be entertained. The respondent appealed to the circuit court and the assigned Judge, Nelson B. Chineh, upheld the magistrate's ruling.

The respondent announced an appeal from Judge Chineh's ruling to the Supreme Court, and it is the respondent's appeal that the movant has asked this Court to deny and dismiss, alleging that the appeal was not perfected within the statutory period of sixty days.

In his brief and argument before the Court, counsel for the movant contended that the ruling of Judge Chineh was rendered on Thursday, June 29, 2023; that the movant received copy of the ruling on Monday, July 3, 2023, but the counsel for the respondent elected to go for his copy on July 10, 2023; that the appeal having been announced on June 29, 2023, when the ruling was rendered, the respondent had up to August 28, 2023, to perfect his appeal; that the respondent, however, filed his notice of completion of appeal on September 8, 2023, eight (8) days after the sixty-day period allocated for completion of appeal. Therefore, said appeal was dismissible by law.

The respondent in resisting the motion to dismiss, alleged that after the Judge read his ruling on June 29, 2023, the ruling was not given to the parties on the same day; that he visited the court several times thereafter, but the ruling was not available until July 10, 2023, at which time he received a copy of the ruling and proceeded to process his appeal.

From our perusal of the records, we see nowhere in the file an affidavit from the clerk of the lower court stating when the parties were advised to pick up a copy of the final ruling, but as the records show, the ruling was made on Thursday, June 29, 2023, by his Honor Judge Nelson B. Chineh, and the movant's counsel alleges that he signed and received a copy of the ruling on Monday, July 3, 2023. The respondent's counsel on the other hand countered that after he had visited the court on several occasions, however, it was not until Monday, July 10, 2023, that the ruling was finally made available.

It is not disputed that Judge Chineh delivered his ruling on June 29, 2023, but did not give the parties copies when the respondent noted his exceptions to the ruling and announced an appeal. This Court has held that the appeal statute begins to toll on the date the ruling is made available by the lower court to the parties and not on the date it was read (*Manhattan*

Trading Corp v. World Bank, Supreme Court Ruling, March Term 2014; Liberia Sheng Xin De Yuan Mining Company v. John P. Saah, Supreme Court Opinion, March Term 2023).

We must, therefore, look to the records to ascertain the date the court's ruling was made available, since this Court has said that it is evidence alone that moves the court. (*Wamah Jones Kuteh v. The 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).

We see from the records the respondent counsel's signature on the court's ruling and the receipt date indicating July 10, 2023, at 11: am. We, however, see no signature in the court's file showing when the movant received the ruling. Instead, there is a Clerk's Certificate indicating that from the time the ruling was rendered on June 29, 2023, the respondent did not file with the court their notice of completion of appeal until September 8, 2023, which was outside the statutory period of sixty days. Interestingly, counsel for the movement has calculated the sixty days to begin as of June 29, 2023, when the respondent announced his appeal, and which assertion this Court debunks, since as stated, the appeal statute begins to toll as of the date the lower court makes available its ruling to the parties, and not from the date the ruling was read. Counsel for the movant not having shown any evidence that the ruling was available on the 3rd of July, 2023, this Court cannot honor his assertion.

Our review of the records shows that the respondent received the ruling on July 10, 2023; filed his bill of exceptions three days later, on July 13, 2024; filed his appeal bond on Sept 5, 2024, and served and filed his notice of completion of appeal on September 8, 2023, which was the sixtieth day as of the date he received the ruling. His appeal was therefore perfected within the statutory period.

It is noteworthy to point out herein that in recent times, lawyers have differed on the time of perfecting an appeal due to the difference between the time a ruling is rendered in the court below, and the time said ruling is delivered or made available to the parties. The confusion stems from the delay by the clerks in editing Judges' final rulings and making same available to the parties for onward processing of an appeal. Since the Court has held that the appeal process takes effect as of the date of receipts of the ruling by the appealing party, the time earmarked for parties to pick up the edited ruling should be clearly indicated on the court records and the receipt of said ruling should not be uncertain and rulings left to the parties to obtain whenever they so wish.

WHEREFORE, the respondent having perfected his appeal within sixty days as of the date the ruling was received, the movant's motion to dismiss the appeal is hereby denied, and the

appeal ordered proceeded with on its merit. Costs are to abide final determination of the appeal. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR GERALD G. APPLETON APPEARED FOR THE MOVANT. COUNSELLOR THOMPSON JARGBA OF THE LAW OFFICES OF JARGBA APPEARED FOR THE RESPONDENT.