

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA SITTING  
 IN ITS MARCH TERM, A. D. 2025.

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: CEANEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE

Mr. Mohammed Dunzo of Jacob Town, )  
 Paynesville, Montserrado County, Liberia )  
 ..... Movant )  
 ) Motion to Dismiss  
 Versus ) Appeal  
 )

Marima Fofana Beyla, also of Jacob Town, )  
 Paynesville, Montserrado County, Liberia )  
 ..... Respondent )

GROWING OUT OF THE CASE:

Mr. Mohammed Dunzo of Jacob Town, )  
 Paynesville, Montserrado County, Liberia )  
 ..... Plaintiff )  
 ) Ejectment  
 Versus )  
 )

Marima Fofana Beyla, also of Jacob Town, )  
 Paynesville, Montserrado County, Liberia )  
 ..... Defendant )

Heard: April 15, 2025

Decided: August 14, 2025

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

The facts that preceded the filing of this motion to dismiss the appeal are undisputed. On March 17, 2016, the movant, Mr. Mohammed Dunzo, instituted an action of ejectment against the respondent, Madam Marima Fofana Beyla, before the Sixth Judicial Circuit, Civil Law Court, Montserrado County. After pleading rested and an investigative survey conducted, the trial jury heard and weighed the evidence and returned a verdict of liable against the respondent, and said verdict was confirmed by the trial judge after a hearing and denial of a motion for a new trial. The trial court subsequently entered a final ruling on February 15, 2021, adjudging the respondent liable. The respondent excepted and announced an appeal to this Court, sitting in its March Term, A.D. 2021.

The movant in a motion to dismiss filed before this Court alleged that the respondent completed the appeal process on February 23, 2021, but failed and neglected to transmit the records to this Court within the statutory period of ninety (90) days from the date of the court's final ruling which constitutes an abandonment of the respondent's appeal. The movant therefore prayed this Court to dismiss the respondent's appeal in keeping with our Civil Procedure Law Rev. Code 1:51.11.

The respondent in its resistance to the motion averred that it met all the legal requirements of taking an appeal as outlined under the Civil Procedure Law Rev. Code 1:51.4: that is, the announcement of an appeal, filing of the bill of exceptions, filing of an appeal bond, and service and filing of the notice of completion of the appeal. The respondent argued that section 51.11 of the Civil Procedure Law Rev. relied upon by the movant placed the responsibilities on the circuit court's clerk to transcribe the records after the completion of the appeal process; as such, the failure of the clerk to do so should not be a ground to dismiss the respondent's appeal; that further, respondent says that she deposited United States One hundred & Fifty Dollars (US\$150.00) with the clerk of the trial court to assist in transcribing the records and asked the opposing counsel of the movant to pay the balance amount so the records could be transcribed. The respondent therefore prayed that the Court denies the movant's motion as the ground advanced by the movant under section 51.11 of the Civil Procedure Law is not one of the grounds statutorily provided for dismissing an appeal before this Court.

Considering the undisputed facts in this matter, the Court asked whether the movant stated a ground sufficient in law to have it dismiss the respondent's perfected appeal?

The Civil Procedure Law Rev., Code 1:51.16 ***Dismissal of an appeal for failure to proceed***, provides, that "an appeal may be dismissed by the trial court on a motion for failure of the appellant to file a bill of exceptions within the time allowed by statute, and by the appellate court after filing of the bill of exceptions for failure of the appellant to appear on the hearing of the appeal to file an appeal bond or to serve notice of completion of appeal as required by statute". Failure to comply with any of these requirements within the time allowed by statute shall be ground for dismissal of an appeal (The Civil Procedure Law Rev., Code 1:51.4).

The Civil Procedure Law Rev., Code 1:51.11. "*Record on appeal*" also provides 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 judgement. The clerk of the appellate court shall docket the record forthwith and forward a receipt to the clerk who transmitted it."

While the failure to transcribe records of cases on appeal from the lower court and have same forwarded to this Court is not one of those grounds stated for dismissal of an appeal, this Court in several decisional laws has interpreted Section 51.11 as placing the burden on the appellant to superintend the transcription and transmission of records on appeal from the lower court, and to ensure that such records are forwarded to the appellate court in a timely manner; that failure to do so is tantamount to abandonment of the appeal announced and the appeal may be dismissed therefor.: *Dayrell v. Thomas and Moore*, 11 LLR 98,100 (1952). This Court has in similar light dismissed several cases on appeal for the reason of abandonment where the appellant failed to superintend the transcription and transmission of the records on appeal in a timely manner. See Supreme Court's Opinions: *Nat'l Housing & Savings Bank v. Gordon* 35 LLR 323, 326 (1988); *Intestate Estate of A.B. Mars v. Alexander R. Freeman and Einanine Freeman*, Supreme Court Opinion, March Term, A.D. 2023.

At the call of the motion to dismiss filed by the movant/appellee in this case, the counsel of the respondent/appellant submitted that consistent with Section 51.11 of the Civil Procedure Law, Rev., it is the statutory responsibility of the clerk of the lower court to transcribe and transmit the records on appeal to the appellate court. That in fact the respondent graciously paid United States One Hundred and Fifty Dollars (US\$150.00) against the total cost required for transcription of the records, and expected the counsel for the movant to have paid the balance required to enable the clerk transcribe and send the record up to the Supreme Court. We wonder what was the total amount required to transcribe the records of the case to this Court?

We find it hard to believe that the Counsellors involved in this case on behalf of the respondent, and who are long standing Counsellors of the Supreme Court Bar, would submit such ridiculous submission to this Court, particularly relating to shared payments for transcribing records to this court, when they are aware of numerous Opinions of this Court placing the obligation on the appellant to superintend and underwrite the costs of transcribing records on appeal to this Court.: *Baker v. Morris*, 10 LLR187,188 (1949); *Marsh v. The United Moslem Fiamah*, Supreme Court Opinion, October Term A.D. 2024.

Where records are not forwarded up on appeal, what would an appellate court be reviewing? Is the counsel of the respondent saying that the Judiciary is to underwrite the costs of transcribing records on appeal, or is he saying that a party who is satisfied with the lower court's final ruling and has not appealed therefrom be obligated to underwrite the costs of the dissatisfied party who has appealed from the said ruling?

The question we are inclined to ask, is, how else could the appellate court hear appeals taken from rulings of the lower court and render justice where required, in the absence of the certified records sent up to the Court for review? It is in this light that the Supreme Court has also emphasized section 51.11, in addition to the mandatory requirements of perfecting an appeal under section 51.16, as a critical component to perfecting an appeal, and failure to timely transcribe and transmit the trial court's records to the Supreme Court may be dismissed for abandonment.

The Court notes that the respondent announced an appeal from the lower court's final ruling on February 15, 2021, and announced an appeal to the Supreme Court, and the appeal process was finalized within the statutory period of sixty days as allowed by the statute; yet, the appellant failed and neglected to transcribe the records to this Court for review, even up to the time the case was called for hearing on April 15, 2025, a period spanning more than four (4) years after the notice of completion of the appeal.

Since the appeal taken by the appellant was intended to confer jurisdiction on this Court to review records of the proceedings of the lower court based on a bill of exceptions filed by the appellant, the failure of the respondent/appellant to ensure that the records of the case were transcribed and forwarded to this Court after four (4) years constitutes abandonment of the respondent/appellant's appeal. Besides, an appellee cannot sit indefinitely after an appeal is announced by the opposing party/appellant from a final ruling made by the trial court and the judgment stayed with no enforcement of that ruling being in sight since the appealing party has made no effort to transcribe the records and have same sent up to the Court on appeal. Surely that would be tantamount to injustice by the courts. This was why the section 51.11 of the Civil Procedure Law Rev. was enacted, to ensure that appeals are heard and decided expeditiously. In this case, the respondent having failed to superintend the transcription and transmission of the records to this Court more than four years after the final ruling was handed down by the lower court, this is equated to an abandonment of her appeal, and we so hold.

The counsel for the movant/appellant's abandonment being based on its contention that the appellee should have paid portion of the cost for transcription of the records, and same being ridiculous and contrary to the many Opinions decided by the Supreme Court, and an indication of the appellant's counsel, Liberty Law Firm, lack of knowledge of the elementary laws and procedures in this jurisdiction, the Supreme Court being clothed with the authority to supervise the practice of law in this jurisdiction, hereby fines the Liberty Law Firm, United States Five Hundred Dollars (US\$500.00) to be paid within 72 hours as of the rendition of this Judgment. The Court warns that repetition of such acts by law firms and by extension lawyers

practicing therein shall warrant suspension from the practice before all courts within this jurisdiction.

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss the appeal is granted and the appeal ordered dismissed. The Clerk of this Court is ordered to send a Mandate to the court below, commanding the judge presiding therein to enforce its final ruling of February 15, 2021. Costs are ruled against the respondent. AND IT IS HEREBY SO ORDERED.

**WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR EDUARDO BLAMO NYANTEE APPEARED FOR THE MOVANT. COUNSELLORS DAVID M. KOLLEH, JR. AND MAMEE S.W. GONGBAH, JR. APPEARED FOR THE RESPONDENT.**