

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: CEATNEH D. CLINTON JOHNSON..... ASSOCIATE JUSTICE

Ms. Ding Shu Jun (CKA Nancy Chinese Lady))
of the City of Monrovia, Montserrado County,)
Liberia.....Movant)

Versus)

MOTION TO DISMISS
APPEAL

Mr. Najib Kamand of the City of Monrovia,)
Montserrado County, Liberia)
.....Respondent)

GROWING OUT OF THE CASE:)

Mr. Najib Kamand of the City of Monrovia,)
Montserrado County, Liberia)
.....Appellant)

Versus)

APPEAL

Ms. Ding Shu Jun (CKA Nancy Chinese Lady))
of the City of Monrovia, Montserrado County,)
Liberia.....Appellee)

GROWING OUT OF THE CASE:)

Ms. Ding Shu Jun (CKA Nancy Chinese Lady))
of the City of Monrovia, Montserrado County,)
Liberia.....Plaintiff)

Versus)

ACTION OF DEBT BY ATTACHMENT

Mr. Najib Kamand of the City of Monrovia,)
Montserrado County, Liberia)
.....Defendant)

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

The records before us reveal that the final judgment in the underlying action of debt by attachment was handed down by the Judge of the Debt Court of Montserrado County, His Honor James E. Jones, on April 30, 2024, in favor of the movant/appellee and the respondent/appellant announced an appeal to this Supreme Court. However, it is shown from the records that the appellant only complied with steps one and two of the appeals process, that is, noting exception and announcing an appeal from the final ruling in open court and thereafter filing an approved bill of exceptions within ten (10) days as required by the statute. Following this, the appellant took no further steps to perfect his appeal.

The movant secured a Clerk Certificate from the clerk of the Debt Court on August 19, 2024, and it reads, thus:

“From a very careful inspection and scrutiny of the records in the above entitled cause of action, it is revealed that the judgment debtor/defendant in these proceedings filed with this Honorable Court Defendant’s Bill of Exceptions on 8th May A.D. 2024.

However, in satisfaction of your request of 7th August A.D. 2024, defendant has not filed before this Honorable Court an Appeal Bond and Notice of Completion of Appeal, up to and including the issuance of this instrument.

Hence, this Clerk’s Certificate.

Given under my hand and seal of Court
this 19th Day of August, A.D. 2024.

MarCathy S. Hne, Jr.
Clerk, Debt Court, Mont. Co. R.L.”

We have observed that the Clerk’s Certificate of the debt court was issued one-hundred one (101) days after the respondent filed his bill of exceptions. We do not see that the respondent/appellant has filed a resistance to the movant’s motion for dismissal of the appeal nor has he filed his brief consistent with the practice before this Court.

However, at the call of the motion, the counsel for respondent spread on the minutes of the Court a submission which intimated that his failure to pursue the appeal process by the submission of an appeal bond and service of notice of completion of appeal was on account of an alleged ongoing stipulation negotiation for the payment of the judgment amount; that being a judgment debtor, respondent had already commenced payment against the debt and

was therefore taken at a surprise when he received a notice of assignment for dismissal of the appeal before this Court.

The movant, in resisting, submitted that the payment made by the respondent/appellant was in accordance with the legal obligation that compels a judgment debtor to make 25% percent partial payment of a judgment amount consistent with the debt court rule and therefore, was not in any way a stipulation payment; that at present, even though the debt court judge had ordered the filing of a stipulation payment plan, the respondent has failed to do so.

This Court notes that the submission made by the respondent/appellant constitutes an admission of the averments contained in the motion to dismiss. Further, we must state that such ongoing matters intimated by the respondent are not before us; thus, we are only restricted to the certified records.

The Revised Rules of the Supreme Court, Section III, Part 2, Continuance and Withdrawal states that parties may, by their own election or vocation, or either counsel, sign or file with the clerk as agreement in writing directing the cause to be withdrawn and specifying the terms on which it is to be withdrawn as to costs, shall pay to the clerk any fees that may be due him and the ministerial officers; it shall be the duty of the clerk to enter the case withdrawn upon the approval of the Chief Justice or any Justice of the Court, and to give to either party requesting it a certificate of withdrawal.

We see that this was not done. The records show that upon the rendition of the final judgment, the respondent announced an appeal, filed his bill of exceptions, which transferred the matter of the motion to dismiss the appeal before this Court on account of the respondent's failure to file his appeal bond and serve his notice of completion of appeal consistent with our Civil Procedure Law, Rev. Code Rev.1: 51.4 .

The law extant in this jurisdiction is that for the Supreme Court to assume jurisdiction of an appeal from a judgment of the lower court, the requirements for taking an appeal outlined in Section 51.4 of the Civil Procedure Law must be fully complied with, within the time allowed by statute. Failure to comply with any of these jurisdictional steps, this Court has held, is ground for dismissal of an appeal: *Williams et al. v. National Port Authority*, 42 LLR 520, 525 (2005); *Badio v Badio, Sr.*, Supreme Court Opinion, March Term, A.D. 2020;

Having heard the submission of the respondent /appellant conceding to the truthfulness of his neglect and failure to complete the statutory requirements for the taking of an appeal, the motion to dismiss is hereby granted.

WHEREFORE AND IN VIEW OF FOREGOING, the Clerk of this Court is ordered to send a Mandate to the Judge of the debt court to resume jurisdiction over the case, and to proceed forthwith with the enforcement of its final ruling. Costs are ruled against the respondent/appellant. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR AMARA M. SHERIFF OF THE LIBERIA LAW GROUP, INC. APPEARED FOR THE MOVANT. COUNSELLOR ARTHUR T. JOHNSON OF THE CONSORTIUM OF LEGAL PRACTITIONERS INC. APPEARED FOR THE RESPONDENT.