

IN THE HONORABLE SUPREME COURT 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

Tony Hage and all other occupants of the)
City of Monrovia.....Movants)

Versus) MOTION TO DISMISS APPEAL

John W. Mcgee, Serina Mcgee, George)
Mcgee, Jr. Administrators of 2/3 share)
Being estate of the late John W. Mcgee)
of the City of Monrovia.....respondents)

GROWING OUT OF THE CASE:

John W. Mcgee, Serina Mcgee, George)
Mcgee, Jr. Administrators of 2/3 share)
Being estate of the late John W. Mcgee of)
the City of Monrovia.....Petitioner)

Versus) SUMMARY PROCEEDING TO
RECOVER POSSESSION OF
REAL PROPERTY

Tony Hage and all other occupants of the)
City of Monrovia.....Respondent)

HEARD: June 18, 2025

DECIDED: August 14, 2025

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

The administrators of the Intestate Estate of John W. McGee, respondents herein, filed a summary proceeding to recover possession of real property against the movants, Tony Hage and other occupants before the Monrovia City Court on September 21, 2017. The Monrovia City Court adjudged the movants liable and they noted exception and announced an appeal on June 13, 2018 to the Civil Law Court, Sixth Judicial Circuit for Montserrado County and the trial judge presiding, reversed the ruling of the Monrovia City Court on the basis that the movants had a valid lease agreement with the respondent. The respondent noted exception to the trial judge's ruling and appealed to this Court *en banc*. Thereafter, the respondents filed their bill of exceptions on June 21, 2018 in adherence to statute and on August 1, 2018, filed its appeal bond and notice of completion of appeal.

Following the completion of the respondents' appeal process, the movants, on October 11, 2024, filed a motion to dismiss the respondents' appeal and on August 3, 2018, filed an

exception to the respondents' appeal bond, stating that the appeal bond failed to meet statutory requirements of the bond and that the said instrument lacked certificate.

The respondents filed resistance to the movants' motion to dismiss its appeal on August 21, 2025 and averred that the certificate is not one of the statutory grounds to dismiss an appeal nor is it a prerequisite for the trial judge to approve an appeal bond but rather, that the said motion to dismiss is intended merely to delay, baffle and frustrate the final disposition of this matter and perpetuate the illicit enrichment, illegal and wrongful withholding of the respondents' property; that the movant's motion to dismiss is not based on any statutory ground for the dismissal of an appeal as enshrined in the *Civil Procedure Law, Rev. Code:1.51.16* and prayed for the dismissal of the motion to dismiss the appeal.

From the records certified before this Court, this Court observes that there is a Petition for Exception to Appeal Bond filed and is undetermined before the trial court, in which the petitioner therein stated that the appeal bond is defective and does not meet the statutory requirement of a bond; that the bond appears to be a real property (title deed) without a certificate from the revenue department of the Ministry of Finance, the agency of government with the statutory responsibility to state the value, the name and owner of the property and evidence of the real estate tax payment.

This Court, having reviewed the records in this motion to dismiss the respondents' appeal says that the only issue that is dispositive of this matter is whether or not the omission of the certificate of Ministry of the Finance is a requirement for the approval or dismissal of an appeal.

This Court has opined that the answer to this question can be ably answered from the *Civil Procedure Law, Rev. Code: 1.63.3*, which states that "A bond shall become effective when approved by the court. Approval may be granted when the party furnishing the bond presents prima facie evidence to show that the sureties are qualified or that the security offered on the bond is adequate, genuine, and as represented by such party. An approved bond shall be filed with the clerk of the court in which the action is pending. A notice of the filing of the bond shall be served on the adverse party.

Further the same statute under *Section 63.2(4)* provides that "the bond shall also be accompanied by a certificate of a duly authorized official of the Ministry of Finance that the property is owned by the surety or sureties claiming title to it in the affidavit and that it is of the assessed value therein stated but such a certificate shall not be a prerequisite to approval by the judge."

From the above stated statutes, this Court agrees with the movants' contention that the respondents' appeal bond lacks a certificate from the Ministry of Finance, now the Liberia Revenue Authority.

Further, the contention of the respondents that, once the judge approves the bond, and the bond is served on the adverse party, the process is completed and that "...the omission of the certificate shall not be a prerequisite to approval by the judge." *Civil Procedure Law, Rev. Code:1.63.2*, however, does not vitiate the mandatory requirement of the *Civil Procedure Law, Rev. Code:1.63.2(4)* which provides that the bond shall also be accompanied by a certificate of a duly authorized official of the Ministry of Finance (now Liberia Revenue Authority) that the property is owned by the surety or sureties claiming title to it in the affidavit and that it is of the assessed value therein stated but such a certificate shall not be a prerequisite to approval by the judge.

The respondents' contentions that the absence of the certificate is not a prerequisite to the approval of the bond and that bond shall become effective when approved by the court cannot be taken in isolation of the mandatory requirement of the appeal bond being accompanied by a certificate from the Ministry of Finance (now Liberia Revenue Authority), which is provided for under *Civil Procedure Law, Rev. Code: 1.63.2(4)* which states that the bond shall also be accompanied by a certificate of a duly authorized official of the Ministry of Finance (now Liberia Revenue Authority), that the property is owned by the surety or sureties claiming title to it in the affidavit, and that it is of the assessed value therein stated but such a certificate shall not be a prerequisite to approval by the judge.

Predicated upon the contentions of the parties as stated above, this Court, in the Edith Dennis case, stated that one of the primary purposes for a penalty in an appeal bond is to indemnify the appellee from all cost and injuries that may result from the appeal; and that the penalty must be sufficient to comply with the judgment of the appellate court, if the appellant is unsuccessful; that in determining the penal sum in an appeal bond in a case of nonmoney judgment as in the instant case, only a nominal sum that is sufficient within the sound discretion of the trial judge to cover cost of trial and appellate courts together with damages appellee may sustain by reason of the appeal should be the penalty of the bond, without any regard to the amount that is not awarded by the trial court. *Dennis v. Intrusco et al*, 31 LLR 69 (1983). This Court says that in the instant case, the penalty of the bond is One Thousand Liberian Dollars (LD\$1000) and this case being one of the nonmoney judgment, is sufficient to indemnify the appellee. This court has opined in numerous opinions that where an appeal is from a nonmoney judgment, the penalty in the appeal bond should cover costs of defending

the appeal, and not the value sued for in the lower court. *Lartey et al. v. Corneh et al.* 31 LLR 326 (1983); *Monkon Boy v. Kai et al.* 30 LLR 292 (1982).

That the instant case is not one of monetary judgment as the movant is only entitled to cost, stands to suffer no monetary loss; hence this Court is inclined to hear the appeal on its merit in the interest of substantive judgment.

WHEREFORE AND INVIEW OF THE FOREGOING, the motion to dismiss the appeal is denied and the appeal ordered proceeded with on its merits. Costs are to abide final determination. And It Is So Ordered.

Denied

WHEN THE CASE WAS CALLED FOR HEARING, COUNSELLOR THOMPSON N. JARGBA APPEARED FOR THE MOVANTS. COUNSELLOR FRANCES JOHNSON-ALLISON APPEARED FOR THE RESPONDENTS.