



The respondent has argued that this Court should deny the motion to dismiss its appeal and proceed to hear the case on its merits in order for justice to be done.

Recourse to the records reveals that the respondent filed an action of unfair labor practice against the Catholic Relief Services, movant herein. The matter was heard by the Hearing officer at the Ministry of Labor and after considering all the facts and circumstances ruled denying the respondent's action. This prompted the respondent to file a petition for judicial review before the National Labor Court for Montserrado County, the Court heard the matter and ruled affirming the hearing officer's ruling. The Labor Court handed down its ruling on April 19, 2024, to which ruling the respondent excepted and announced an appeal before this Court.

The records also reveal that the respondent filed his bill of exceptions, his appeal bond, along with his notice of completion of appeal on July 12, 2024, thus completing the jurisdictional steps required for the perfection of an appeal and the said appeal was properly venue before this Court.

The main contention of the movant herein is that the respondent has abandoned his appeal by his failure to transcribe the certified records to this Court within ninety (90) days in keeping with law as provided for in the Civil Procedure Law, Rev. Code. 1:51.11 and that up to the time of the issuance of assignment and served on the parties for argument of this motion, the respondent has still not transmitted the certified records of his appeal from the lower court to this Court and that this attitude on the part of the respondent is reckless, deliberate and a complete disregard and abandonment of its appeal; therefore, this Court should refrain from hearing respondent's appeal on its merits and dismiss the appeal.

As stated above, the respondent's lone resistance to this motion is that the movant has not shown or stated in any manner or form what the untimely transcription of the certified records before this Court has caused. We also note that the respondent has proceeded to raise jurisdictional arguments, challenging the jurisdiction of the Ministry of Labor and the National Labor Court to hear and determine the matter and has argued that this Court should deny the motion to dismiss its appeal and proceed to hear the case on its merits in order for justice to be done.

The issue that we must address to judicially bring an end to the current controversy is: whether or not the appellant's failure to transcribe the records from the trial court to the

Supreme Court within more than a year's period is tantamount to an abandonment of the respondent's appeal and whether such abandonment is a ground for dismissal of its appeal?

We answer this question in the affirmative and hold that respondent/appellant's failure to transcribe the records to this Court over and beyond twelve (12) months without a valid justification is tantamount to an abandonment of the appeal.

The appeal from which this motion to dismiss sprouts was completed by the respondent on July 12, 2024, but for more than a year since the respondent fully complied with the statutory steps required for the completion of an appeal, the records have not been transcribed to this Court. We cannot help but wonder why the respondent will be so wanton and careless in protecting his own interest. It was the respondent who, genuinely believing that his rights had been violated by the trial court, excepted and announced and perfected its appeal before this Court of last resort in order to have the ruling of the court below reviewed. All practicing lawyers are aware that though the burden to transcribe the records to the Supreme Court is on the clerk of the lower court, there is an implied burden on the party that appealed to superintend. We are now left to wonder why the respondent did not superintend its case to make sure that the records were transmitted to this Court.

The respondent has implied in his argument that since he has fully complied with every statutory step for the completion of an appeal before this Court, lateness should not be a ground to dismiss his appeal as the movant has suffered no harm from the said lateness to transcribe the certified records to this Court and that lateness to transmit the records to this Court is not a ground for the dismissal of an appeal. However, a thorough review of our laws compels us to disagree. Our Civil Procedure Law, Rev. Code 1:15.25 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 (90) 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.***

One may argue that the statute cited does not speak to whether an appeal should be dismissed if the records are not transmitted to this Court in ninety (90) days, and that the statute says the clerk and not the respondent/appellant should transmit the records to this

Court. However, this Court, in the case *Nat'l Housing & Savings Bank v. Gordon*, 35 LLR 323 (1998), dismissed an appeal after the respondent's failure to transmit his records to this Court in ninety (90) days as prescribed by statute, holding that: ***"where defendant excepts to an adverse judgment, prays for an appeal, and files an approved bill of exceptions and a legal appeal bond, thus depriving the lower court of jurisdiction, but defendant does not have the records sent to the appellate court, the appellate court will grant a petition by the successful party below to have the judgment of the lower court enforced."***

This Court in the case mentioned supra further held that: "even if a failure to have the records of the appeal transmitted to this court is not a statutory ground for dismissing an appeal, every court has right to dismiss any cause for abandonment, either as to a plaintiff or an appellant, and no reasonable mind can say that the dismissal is unjustified when in fact without it a defendant or an appellee will be left without justice, either to be discharged from a complaint or to have the lower court judgment in favor of an appellee's enforced." *Nat'l Housing & Savings Bank v Gordon*, 35 LLR 323, (1988). *Intestate Estate of Gobbeh Kamara v. J. Lamark Cox, Sr.*, Supreme Court Opinion, March Term 2024.

We need not delve into the respondent's arguments of jurisdiction as the matter is not before us on a normal regular appeal and therefore, we do not have the authority to enter into the merits of the case. If the respondent rightfully believed that the tribunals in question did not have jurisdiction, he should have timely transcribed the records before this Court to enable us to review his contentions, but as it is, the motion is a fit subject for dismissal and we so hold.

WHEREFORE AND IN VIEW OF THE FOREGOING, we hold that the respondent, having failed to transmit its records to this Court in ninety (90) days as prescribed by statute and still having failed to transmit the said records to this Court in more than a year's time amounts to an abandonment of the said appeal and we take such abandonment by the respondent to mean acquiescence to the lower's court judgment and acceptance therefrom of its effect in law and his appeal dismissible; therefore, the motion to dismiss the respondent's appeal is hereby granted and the appeal is hereby dismissed.

The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and enforce its final ruling. AND IT IS HEREBY SO ORDERED.

*WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR JAMES BAIKPEH SEEKPEE OF THE CMB LAW GROUP APPEARED FOR THE MOVANT. COUNSELLOR DENISE S. SOKAN OF THE JONES & JONES LAW FIRM APPEARED FOR THE RESPONDENT.*