

THE MANAGEMENT OF JOS HANSEN, Appellant/Respondent, v. **JOHN WADAH** and **THE HEARING OFFICER**, Ministry of Labour,
Appellees/Movants.

MOTION TO DISMISS AN APPEAL FROM THE NATIONAL LABOUR
COURT.

Heard: December 5, 1988. Decided: December 29, 1988.

1. The issuance, service and returns of the notice of completion of appeal confers full jurisdiction on the Supreme Court.
2. An appeal bond is designed to indemnify the appellee.
3. An appeal bond is a mandatory prerequisite of an appeal.
4. When an appellant fails to file an approved appeal bond, as well as to serve a notice of completion of an appeal, the appeal must be dismissed.

Appellant herein filed a petition for judicial review from the decision of a hearing officer in a labor case which had been rendered against it. The labour court heard the petition and confirmed the ruling of the hearing officer. Appellant excepted to the ruling and announced an appeal to the Supreme Court. When the case was called for hearing, co-appellee Wadah informed the Court that he had filed a motion to dismiss the appeal on the ground that while a bill of exceptions was timely filed, appellant had failed to file either an appeal bond or a notice of completion of appeal, to which appellant conceded. The Supreme Court granted the motion, holding that the records certified to it show that no appeal bond or notice of completion of appeal had been filed. Motion granted.

M Fahnbulleh Jones for appellant. James D. Gordon for appellees.

MR. JUSTICE JUNIUS delivered the opinion of the Court.

The management of Jos Hansen and Soehne Corporation, appellant, filed a petition with the National Labour Court to review the ruling of the hearing officer of the Ministry of Labour. The matter was heard by the judge of the labour court who confirmed and affirmed the hearing officer's ruling. Whereupon appellant,

petitioner/defendant below, excepted to the ruling and announced an appeal to the Supreme Court of Liberia for final determination.

When the case was called for hearing, the co-appellee informed the Court that a motion to dismiss the appeal had been filed. Thereupon counsel for appellant placed on record that appellant conceded the points raised in the motion to dismiss the appeal, hence there was no resistance. The two count motion is quoted hereunder as follows:

"1. That final judgment in this case was rendered on the 14th day of June, 1988. Appellant accordingly filed its bill of exceptions within statutory time, that is 10 days after rendition of the final judgment. But up to and including the 17th day of August, 1988, the appellant has not filed its appeal bond as required by statute, which renders the entire appeal dismissible, as will more fully appear from a copy of the clerk's certificate to this effect hereto attached and marked exhibit "A" to form a part of this motion.

2. That according to statute and numerous opinions of the Honourable Supreme Court of Liberia, an appealing party must file his approved appeal bond and notice of completion of appeal within 60 days after rendition of final judgment. In the instant case, final judgment was rendered on the 14th day of June, 1988, and therefore appellant should have filed its appeal bond on or before August 15, 1988; but up to the filing of this motion, appellant had not filed the appeal bond nor the notice of completion of appeal, thereby rendering the appeal dismissible."

From the records certified to this Court, the appellant did file a bill of exceptions, but no appeal bond was filed; neither was the notice of completion issued, served and returned. It is the issuance and service of the notice of completion appeal that brings the parties under the jurisdiction on this Court. This should be common knowledge among lawyers, especially counsellors of this Honourable Court. Therefore it is puzzling to this Court to see how lawyers continuously handle their client's interest without due diligence.

This Court has often held, in support of the statute, that an appeal bond is one of the mandatory prerequisites of an appeal, and as such when appellant has failed to file an approved appeal bond as well as to serve a notice of completion of an appeal, the appeal must be dismissed.

"Every appellant shall give an appeal bond in an amount to be fixed by the court,

with two or more legally qualified sureties, to the effect that he will indemnify the appellee from all costs or injury arising from the appeal, if unsuccessful, and that he will comply with the judgment of the appellate court or of any other court to which the case is removed. The appellant shall secure the approval of the bond by the trial judge and shall file it with the clerk of the court within sixty days after rendition of judgment. Notice of the filing shall be served on opposing counsel. A failure to file a sufficient appeal bond within the specified time shall be a ground for dismissal of the appeal; provided, however, that an insufficient bond may be made sufficient at any time during the period before the trial court loses jurisdiction of the action." Civil Procedure Law, Rev. Code 1:51.8.

Further, "after the filing of the bill of exceptions and the filing of the appeal bond as required by Sections 51.7 and 51.8, the clerk of the trial court on application of the appellant shall issue a notice of the completion of the appeal, a copy of which shall be served by the appellant on the appellee. The original of such notice shall be filed in the office of the clerk of the trial court." Id. at §51.9.

There being no approved appeal bond filed or notice of completion of appeal issued and served on the appellee, the motion is hereby granted and the appeal dismissed with costs against appellant And it is so ordered.

Motion granted.