TARTU JALLOH and **BEATRICE BAMBA,** Appellants, v. **B. S. TAMBA**, Justice of the Peace, Monrovia, Appellee.

MOTION TO DISMISS APPEAL FROM THE CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT, CRIMINAL ASSIZES, COURT "B", MONTSERRADO COUNTY.

Heard: April 6, 1988. Decided: July 29, 1988.

1. The failure of an appellant to appear before the Supreme Court for the hearing of his appeal is proper ground under our statute for the dismissal of the appeal.

Appellants, against whom judgment had been rendered in an action of summary proceeding to recover real property commenced in the justice of the peace court, filed a petition in Criminal Court "B", First Judicial Circuit, Montserrado County, for summary investigation against the justice of peace. In the petition, the petitioner contended that they had.been denied their day in court. The trial court denied the petition. From this ruling, the petitioners announced an appeal to the Supreme Court.

Although a motion to dismiss the appeal had been filed by the appellant because of the failure of the appellant to file an approved bond and to have a notice of completion of appeal issued and served, the appellee elected instead to request the dismissal of the appeal on the ground that the appellant had failed to appear at the call of the case.

The Supreme Court, agreeing with the appellee, and noting that the appellant were duly notified of the hearing of the case, dismissed the appeal. The court observed that under Section 51.6 of the Civil Procedure Law, a case was subject to dismissal upon the failure of the appellant to appear for the hearing. It therefore ordered enforcement of the trial court's ruling.

No one appeared for the appellants. *M Fahnbulleh Jones* appeared for the appellee.

MR. CHIEF JUSTICE GBALAZEH delivered the opinion of the Court.

Appellants were sued on December 5, 1985 in the court of Justice of the Peace B. S. Tamba in Monrovia in an action of summary proceedings, to recover possession of real property. They were adjudged liable and ordered evicted by the said justice of the peace.

On December 30, 1985, appellants applied to the presiding judge of Criminal Court "B", First Judicial Circuit, Montserrado County, for summary investigation against Justice of the Peace Tamba. The petitioners, appellants herein, alleged that they were denied due process by the justice of the peace during the hearing of the summary proceedings. They therefore prayed the court to summon the said justice of the peace for investigation of his act.

The respondent justice of the peace, B. S. Tamba, after being cited to appear, filed returns denying the allegations made against him by the appellants. He explained that in fact the appellants, petitioners in the court below, were given every opportunity to defend themselves in the summary proceedings to recovery real property, including the granting of two adjournments requested by them; that the appellants had finally confessed judgment, after which they had asked for an extension of time in order to enable them to seek and secure other premises; that the request was granted; and that the summary investigation was resorted to by appellants merely to delay the execution of the valid judgment rendered against them.

Upon holding a regular hearing on the matter, the presiding judge of Criminal Court "B", on February 23, 1986, dismissed the petition against the justice of the peace, affirmed his act, and ordered him to proceed to enforce his judgment. Whereupon appellants excepted to the judge's ruling and announced an appeal to this Court of last resort.

On February 27, 1986, appellants filed an approved bill of exceptions with the clerk of Criminal Court "B". However, on February 3, 1988, about two years later, appellee obtained a certificate from the said clerk to the effect that appellants had not filed an approved appeal bond, and hence no notice of the completion of the appeal had been issued up to that date.

On February 8, 1988, appellee filed a motion to dismiss the appeal, stating (a) that the summary investigation brought against him in Criminal Court "B" was outside court's jurisdiction since the matter from which it emanated was a civil matter of summary proceedings to recover rented premises; (b) that the summary investigation should have been brought in the Civil Law Court for the Sixth Judicial Circuit, Montserrado County; and (c) that no approved appeal bond had been filed, and no notice of completion of appeal, issued and served, as was evidenced by the clerk's certificate.

Appellants filed no resistance to the appellee’s motion, and, even though the marshal’s returns proved that due notice were given to both parties to appear for the

hearing of the appeal, appellants elected to stay away without any excuse from or notice to this Court.

Upon the call of this case for hearing by this Court, the counsel for appellee elected not to argue his brief, but instead prayed this Court to enforce the Civil Procedure Law, Rev. Code 1:51.16 and to dismiss the appeal on grounds of failure of appellants to appear for the hearing of the appeal. This request being sound in law, the Court granted the same. The appeal is therefore hereby dismissed, with costs against the appellants.

The Clerk of this Court is ordered to send a mandate to the judge of Criminal Court "B", Montserrado County, to resume jurisdiction over the matter and to enforce the judgment as rendered in the summary investigation appealed from to this Court. And it is hereby so ordered.

Appeal dismissed.

CITIBANK, N. A., by and thru its Vice President, LEONARD MAESTRE, Appellant, v. JOE HANSEN & SOEHNE (LIBERIA) LTD., by and thru its Managers, M. AYOMANOR and B. SILLA, Appellee.

MOTION TO DISMISS APPEAL FROM THE DEBT COURT FOR MONTSERRADO COUNTY.

Heard: April 6, 1988. Decided: July 29, 1988.

1 While it is true that under the statute, an appellant is required to secure the approval of an appeal by the judge who tried the case, and thereafter file same with the clerk of court within sixty days after rendition of judgment, this requirement presupposes that things are operating in a normal fashion, and merely means that in normal circumstances the judge who tried the matter should approve the appeal bond, and that in extraordinary unforseen circumstances another judge regularly sitting or assigned to the court appealed from may approve the bond, especially where the amount of the bond is sufficient to cover the costs and to indemnify the appellee.

2 The failure of a trial judge to approve an appeal bond which meets the statutory requirements is not one of the statutory grounds for dismissing an appeal, where such approval has been done by another judge.

3 Where the statutory prerequisites and conditions for an appeal bond have been met and the bond is one and one-half times the value of the judgment in order to satisfy the intent of the statute, the trial judge should approve the bond.

4 Where existing conditions are not normal and diligent attempts are made in good faith to secure the approval of the appeal bond by the trial judge, but these genuine efforts are abused and the approval is made impossible by the said judge, for no tangible and legitimate reasons, a commissioned or assigned judge available can approve the appeal bond.

5 The Court does not favor deciding cases before it upon motion to dismiss, but would rather go into the merits of the case, and decide same according to the law and evidence.

The appellant sued the appellee in an action of debt by attachment in the Debt Court for Montserrado County. The commissioned judge of the said court, who had signed the attachment, heard and disposed of the law issues, recused himself from the case at the request of the appellee. Thereafter, another

judge was assigned to hear and determine the case. Following a hearing, without a jury, the court dismissed the complaint and awarded the appellee $72,562.62, although no counterclaim had been set forth in the answer or demanded by the appellee. The appellant excepted to the judgment and announced an appeal therefrom.

As a prerequisite to perfecting the appeal, the appellant presented its appeal bond to the trial judge for his approval. The judge refused to approve the bond even though it contained no defects and was sufficient to indemnify the appellees against injury and costs. Upon this refusal, the appellant presented the bond to the commissioned judge for the debt court, who approved the bond. Counsel for the appellant was thereupon cited for and held in contempt of court by the trial judge and imprisoned. The trial judge also demanded that the commissioned judge reverse her approval of the appeal bond, but the demand was refused. Hence, the approve bond remained a cogent part of the appellant's appeal.

When the case was called for hearing by the Supreme Court, the attention of the court was called to a motion to dismiss filed by the appellee. The motion stated that the appeal should be dismissed since the appellant had failed to secure the approval of the appeal bond by the judge who heard the case. The appellee's basic contention was that the statute provided that the appeal bond be signed by the judge who tried the case, and that therefore the bond signed by the commissioned judge was invalid since she was not the trial judge. This defect, appellee said, rendered the bond incurably defective, along with the entire appeal.

The Supreme Court disagreed that the bond signed by the commissioned judge of the Debt Court for Montserrado County was invalid. The Court noted that while ordinarily it is the trial judge who is mandated by the statute to approve appeal bonds, if, however, the existing conditions are not normal and diligent efforts are made in good faith to secure the approval of an appeal bond by the trial judge and the approval is made impossible by the said judge, for no tangible or legitimate reasons, a commissioned or assigned judge available can approve the appeal bond

if the bond meets the requirement of sufficient indemnification of the appellee.

The Court noted also that under the circumstances of the case, where the trial judge and the appellant's counsel were in serious disputes, to the extent that the appellant's counsel had even been imprisoned on orders of the judge, it was proper for another judge to approve the appeal bond upon the refusal of the trial judge to perform the said act. The appellee, the Court said, was not prejudiced by the approval of the bond by the commissioned judge of the debt court since the value of the indemnification was more than sufficient to cover any costs and/or injuries to the appellee growing out of the appeal.

The Court opined further that although the statute required that only the judge who tried the case should approve the appeal bond, it was equally true that this was not a statutory ground for the dismissal of an appeal, especially where all of the statutory requirements for an appeal are met. The Court therefore denied the motion to dismiss and ordered that the case be docketed for hearing at its ensuing term.

H. Varney G. Sherman of the Maxwell and Maxwell Law Firm appeared for the appellant. *M. Fahnbulleh Jones*and *Alfred*
B. Flomo appeared for the appellee.

MR. CHIEF JUSTICE GBALAZEH delivered the opinion of the Court.

CITIBANK, a leading banking house in Monrovia, appellant/ respondent, brought an action of debt by attachment against Jos Hansen & Soehne (Liberia) Ltd., a leading importer of cars on the Liberian market, appellee/movant, in the Debt Court for Montserrado County, presided over by Her Honour Charlene A. Reeves, claiming payment of the sum of $882,564.22.
Judge Reeves heard the law issues and the motion to dissolve the attachment, and ruled thereon. Upon application of appellee, however, Judge Reeves recused herself from the hearing of the facts of the case. Upon information sent to former Chief Justice Cheapoo, Judge Harper Bailey of the Monthly and Probate Court

for Montserrado County was designated to hear the facts of the matter. After hearing the facts, without a jury, Judge Bailey ruled dismissing the complaint against the appellee, and awarded it $72,362.62, notwithstanding it had made no counterclaim in the matter.

Appellant excepted to the judgment and announced an appeal to this Court. The appeal formalities were cautiously carried through with more than adequate indemnification, but when counsel for appellant presented Judge Bailey the appeal bond in the sum of $108,543.93, by a manager's check, being more than one and one-half times the value of the judgment ($72,362.62), Judge Bailey steadfastly refused to affix his signature to and give his approval of the bond for no obvious legal reasons.

Whereupon, counsel for appellant proceeded to the regular debt court judge, Charlene A. Reeves, where he secured her approval of the appeal bond, the bases therefor being that it was Judge Reeves who had granted the attachment bond and decided the law issues, that the value of the bond was more than adequate to indemnify the appellee, and that Judge Bailey had already approved the bill of exceptions.

When Judge Bailey was informed of the action of Judge Reeves in approving appellant's appeal bond, he cited appellant's counsel in criminal contempt and simultaneously wrote Judge Reeves requiring the latter to rescind her approval of the appeal bond as only he, the trial judge, had the authority to approve same. Judge Reeves refused to withdraw her approval of the appeal bond, asserting that she had the authority to approve same. In the trial of the criminal contempt against the appellant's counsel, Judge Bailey adjudged the counsel liable and imposed upon him a fine of $30.00. The latter appealed therefrom and filed another appeal bond which Judge Bailey also refused to sign, opting instead to imprison the counsel for refusing to pay the fine.

This matter is before us on appeal by appellant and has come along with the appeal bond approved by Judge Reeves. Appellee has however filed a motion to dismiss the appeal, noting as the ground therefor the failure of the appellant to secure the approval of the appeal bond by the trial judge. In spite of all the

circumstances enumerated *supra,* Judge Bailey sought a very strict interpretation of the appeal statute insisting that the appeal bond should be approved by the trial judge. The appellee has similarly pursued that position, arguing that Judge Reeves had no authority to approve the appeal bond since she was not the trial judge. Appellee's basic contention is that as the statute on appeals is mandatory, only Judge Bailey could approve the bond, and that where he failed to do so, the only recourse left to the appellant was to resort to the writ of mandamus to compel him to approve the bond. Appellee therefore prayed that the appeal be
dismissed.

In resisting the motion to dismiss the appeal, appellant contended that given the circumstances of this case, involving an unpleasant relation between Judge Bailey, the trial judge and appellant's counsel, where the judge had fined and jailed its counsel, the trial judge himself had made it impossible for the appellant to obtain the required approval. Appellant argued that the trial judge had somehow prevented appellant from reaching him to get his approval.

In addition, appellant contended that since in fact Judge Reeves had tried the law issues and concluded the attachment pro ceedings, she could also be rightly said to be a trial judge in the matter, and that in any event, the non-approval of an appeal bond by a trial judge is not one of statutory grounds for the dismissal of an appeal. Appellant contended that the purpose of an appeal bond is to indemnify appellee, and once that condition is fulfilled there is no reason why an appeal, sufficient in all other respects, should be dismissed simply because of the failure or refusal of the trial judge to approve the appeal bond.

Finally, appellant argued that in any case, the modern trend has been to give the right of approval of an appeal bond to any judge of the trial court, not necessarily the trial judge, and that allowing the appeal will do no harm to the appellee.

The forgoing presents the concise background to the motion to dismiss this appeal. This Court is often indisposed to deciding causes on a motion to dismiss. However, a motion to dismiss an appeal has its own place in our laws and therefore must be properly examined each time it is filed before us in order to

ascertain whether or not it has been properly brought, and for some compelling legal reason, to determine whether there is sufficient weight requiring us to grant same; or else to deny the motion as, in the opinion of the Court, justice and equity might require.

Therefore, we have marked out the following issues in our consideration of the motion to dismiss and the resistance:

1. Whether or not the Civil Procedure Law has been fully complied with by the appellant in obtaining an appeal bond,
2. If appellant did not fully comply with the law, how far had appellant proceeded in fulfillment of the statute; and whether or not the Court can condone the extent of the compliance to allow the appeal to be heard.
3. Whether or not the circumstances of this case would in ethic and justice warrant a strict adherence to the statute to dismiss the appeal and to deny appellant a chance for hearing the appeal on its merits.

We will begin by resolving the first issue relative to what our Civil Procedure Law says about appellants and their appeal bonds, and whether or not the appellant in the instant case has complied with the said statute.

Our Civil Procedure Law on appeals from courts of record, at chapter 51, has this to say about appeal bonds and the procedure and need for securing them by every appellant:

> '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 and 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 a serve 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.

(Emphasis added).

The only portion of this statute the parties cannot agree upon is the area which provides that "The appellant shall secure the approval of the bond by the trial judge." It is this portion of the statute that appellee contends the appellant has not complied with in failing to have its appeal bond approved by Judge Harper Bailey of the Monthly and Probate Court who had tried the facts in the debt court, after the court's regular commissioned judge, Charlene A. Reeves, had earlier recused herself. Appellee has cited the case *Adorkor v. Adorkor,* 5 LLR 172 (1936), as one of its strongest legal authority in support of its contention that in any case where the appeal bond is not approved by the trial judge himself, the appeal bond on which it is brought must invariably be dismissed. The appellee supports a strict interpretation of that area of the statute and insists that the appeal must be dismissed for no other reason.

It is plain to everyone that the appellant's appeal bond was, to all intents and purposes, not approved by the Judge Harper Bailey of the monthly and probate court, who had tried the facts of the debt action and ruled in favour of the appellant. Indeed, Judge Charlene A. Reeves, the regular commissioned judge of the debt court, who had given the attachment bond and tried the law issues in the case, had approved the appeal bond after Judge Bailey had refused to perform the task for the appellant.

But the appellant has given several reasons which were outlined earlier in this opinion as to why the appeal should not be dismissed in spite of the fact that Judge Reeves, and not Judge Bailey, had approved the appeal bond. Appellant has also supported its contention with the citation of the more recent case *King Peter's Heirs v. Gigger,* 27 LLR 287 (1978), which involved a holding on the interpretation of the statute with respect to the approval of an appeal bond by the trial judge. The holding in that case was to the effect that even though the statute provides that the appellant shall secure the approval of the bond by the "trial judge", an appeal will not be dismissed where another judge regularly sitting assigned to the circuit, has approved the bond. The appellant argued further that in any case, the failure of

the trial judge to approve an appeal bond is not one of the statutory grounds for the dismissal of an appeal.

Appellant further supports its contention by drawing the attention of the Court to, among other things, the fact that Judge Reeves was a trial judge in the matter since in fact she had tried the law issues and allowed the attachment bond in the trial, which Judge Bailey had merely completed.

Appellant finally contends that the essence of an appeal bond is indemnification of the appellee, and that under the circumstances, it has given more than enough in the attachment and appeal bonds combined.

Notwithstanding the foregoing finding of fact, appellant's appeal bond was not approved by the trial judge, he having refused to sign it. In this second issue we will seek to know how far appellant had, in all seriousness, complied with the requirement of the statute on appeals and appeal bonds.

We gather from the records in this case that appellant had complied with the statute on appeal and on the filing of appeal bonds as far as possible. It had excepted to the judgment, announced an appeal, and had secured approval of its bill of exceptions within the required time. Thereupon, it proceeded to file the appeal bond, and intending to comply with the statute further, it presented its appeal bond to Judge Harper Bailey for approval. The latter refused to approve the bond for no tangible reason, even though the said bond was adequate to pay the costs and to indemnify the appellee in case the appeal was unsuccessful. After several entreaties to secure approval of the said bond, and the continued refusal of Judge Bailey to give such approval because, as alleged in appellant's brief, its counsel had refused to meet with the judge's illegal demands, the appellant was constrained to appeal to Judge Reeves, the regular commissioned judge of the trial court, the debt court, to approve its bond, and thereby to afford it the opportunity to have its bond filed within the statutory time. Judge Reeves agreed to the request and approved the bond. Having granted the said approval, she refused subsequently to withdraw that approval as demanded by Judge Bailey.

Judge Bailey held the counsel for appellant in criminal

contempt twice, fined him $30.00, refused to approve another appeal bond, this time in the contempt matter, and imprisoned the counsel.

This is how far the appellant had gone to secure approval of its appeal bond before it finally reached this Court, upon the approval of the bond by Judge Reeves.

Finally, the third and final issue seeks to consider whether or not under the circumstances of this case, and in the interest of equity and justice, a strict interpretation of the statute to dismiss the appeal is warranted, thereby denying appellant a final chance to have this case heard on the merits.

In deciding this very important issue, we must first of all remind ourselves of the case *King Peter's Heirs v. Gigger,* cited earlier, and of a very interesting point made in that case that: "while it is true that the statute provides that the appellant shall secure the approval of the bond by the trial judge, this presupposes that things are operating in a normal fashion." *Ibid.* Secondly, we must also recall the case *Adorkor v. Adorkor.* The opinion in that case said: "We would remark that the court does not favour deciding causes before it upon motion to dismiss, but would rather go into the merits of the case and decide same according to the law and evidence. But, so long as litigants fail and neglect to surround their causes with the safeguards of the law, so as to secure them against any serious miscarriage, and thereby pave the way to the securing of great benefits which they seek to obtain under the law, and which can only be enjoyed by them when the legal prerequisites of the law are fully met, we are bound to entertain and sustain any motion or motions in which said prerequisites are wanting."

In the *King Peter's Heirs* case, the foregoing citation was in effect saying that even though the statute provides that the appeal bond should be approved by the judge who tried the matter appealed from, it merely meant that in normal circumstances the judge who tried the matter should approve the appeal bond, and that in extraordinary circumstances another judge regularly sitting or assigned to the court appealed from may approve the bond.

On the other hand, the *Adorkor* case is saying in the foregoing

dictum that this Court does net favour motions for dismissal of appeals, but rather favors hearing appeals on their merits; and that it is only in cases where litigants and their counsels show indifference to the appeal statute, and refuse to make serious efforts to comply with it that its provisions will be strictly enforced to dismiss an appeal on a motion to dismiss.

In the first place we see that in fact the appellant and the trial judge, Judge Bailey, had had very serious misunderstanding, leading to contempt charges, to fines, to imprisonment, and even to a hot exchange of letters between Judge Bailey and Judge Reeves. This was all in an effort by appellant to secure approval of the appeal bond and to comply with the statute. No sound mind would therefore say that things had operated "in a normal fashion" in the said case. In fact the case had produced unforeseen difficulties for the appellant even though the indemnity was more than sufficient. Yet, the trial judge, for no reason, had refused to approve the appeal bond. We note that the statutory time limit of sixty (60) days within which to file the bond is not stagnant, but keeps running against the appellant.

Referable to the pronouncement in the *Adorkor* case, it can hardly be believed that from the circumstances of this case, appellant and its counsel had exhibited any carelessness or indifference in preparing their cause for this Court, as was done in the *Adorkor* case. Thus, this case is not one which in any way involves the situation contemplated by our predecessors in the *Adorkor* appeal. In fact, we are in agreement with the holding in the an *King Peter's Heirs* case that where extraordinary unforeseen circumstances prevent the trial judge from approving the appeal bond, a regular or assigned judge may do so, especially where the amount of the bond is sufficient, as in this case, to cover costs and to indemnify the appellee. Furthermore, the failure of the trial judge to approve the appeal bond is not one of the statutory grounds for dismissing an appeal in this jurisdiction.

We support our holding by resort to the concurring opinion of Chief Justice Grimes in the *Adorkor* case, in which he stated as follows:

"On the other hand the approval of an appeal bond is merely
a ministerial act on the part of the judge. And the main

> points to be considered by the judge in approving same is whether of not the bond contains the necessary statutory conditions, and the sureties are sufficiently able financially to indemnify the appellee within the limits of the amount fixed. These prerequisites, in my opinion, any circuit judge with a knowledge of the conditions prescribed by the statute on appeals, which he is already supposed to know, and with the aid of the assessment list of the district, can see have been met, and thereby approve of said bond." *Id.*

This is still true today for this Court. In actual fact, the opinions of this Court are to the effect that the appeal bond should be one and one-half times the value of the judgment; which is to say, as long as the appeal bond is in the amount of one and a half times the value of the judgment in order to satisfy the intent of our statute to indemnify the appellee, any judge of a court of record may approve it without prejudice.

The Court goes on record and says that where the existing conditions are not normal, and where diligent attempts are made in good faith to secure the approval of the trial judge of an appeal bond but some genuine efforts are abused and the approval is made impossible by the said judge for no tangible and legitimate reasons, a commissioned or assigned judge available can approve the appeal bond that meets the requirement of sufficient indemnification. While it is a statutory requirement that only the trial judge should be the one to approve the appeal bond, it is equally true that the same is not a statutory ground for dismissing an appeal where all the other requirements are met.

In *Lewis v. LEC, ibid,* this Court allowed an appeal to be heard in the face of a motion to dismiss, where the appellant had failed to supervise its own appeal procedure. In that case, the appellant, instead of presenting its appeal bond to the trial judge for approval as the statute directs, presented same to the clerk of the trial court who had allegedly promised appellant that he would ensure its approval by the trial judge. The clerk failed to do as promised and instead forwarded the bond to this Court without the same being first approved by the trial judge or by another judge. This was negligence on the part of appellant, and a fla-grant disregard of the statute which provided that (a) an

appellant should superintend its own appeal, and (b) that the appeal bond has to be presented to the trial judge for approval.

We can no longer maintain the holding granting the appeal and blaming the clerk of the trial court for negligence without an investigation, and call the motion to dismiss a mere legal technicality. Therefore, we are constrained to recall our opinion in *Lewis and Greenfield v. LEC,* 34 LLR 112 (1986), and the same is hereby so recalled. We accordingly hereby reaffirm the provisions of the statute that an appellant shall secure the approval of the appeal bond by the trial judge, but we also hold that where this proves impossible after every diligent effort to have it approved by the trial judge, then it may be approved by a commissioned or an assigned judge, provided that the said appeal bond is sufficient and adequate, and equal to or more than the value of the judgment appealed from to this Court. But an unapproved appeal bond cannot by any means be countenanced by this Court for any reason. We also hasten to reiterate that the approval of the appeal bond is not one of the grounds for dismissing an appeal, but rather a custom of this Court to compel seriousness into our Counsellors and their clients on appeal before us.

In this case, Judge Reeves, the regular commissioned judge, who had also granted the attachment bond and disposed of the issues of law in this case, was the judge who finally approved appellant's appeal bond. This situation also presents a special case and we believe the role played earlier in this case by Judge Reeves is such that it might not be wrong to refer to her as another trial judge in the same case. Being familiar with the case, and considering that the indemnification is more then adequate, Judge Reeves may be said to have had reason to do what she did
-i.e. approve the appeal bond.

The essence of our appeal statute is that the appellant... "will indemnify the appellee from all costs or injury arising from the appeal, if unsuccessful, and that it will comply with the judgment of the appellate court or of any other court to which the case is removed.. . . ."

The appeal bond filed by appellant in this case, along with the attachment bond filed at the start of the case in the lower court,

were adequate to indemnify appellee and to satisfy the judgment appealed from to this Court.

We also note that appellee has interposed no objections other than the fact that the bond was not approved by the trial judge. Given the circumstances of this case, we believe that allowing this appeal will practically do no harm to the appellee or to anyone else. Indeed, allowing the appeal is just to ensure justice to one who has reason to believe that it is being denied that right for no legitimate legal reasons. This Bench is compelled therefore, apart from other reasons given herein, to deny the motion to dismiss the appeal because the Court is interested in knowing how the defendant in an action of debt, who makes no counter claim at the trial, may end up with a money judgment in its favour for the sum of $72,362.62. The matter is interesting and it therefore deserves our superior judicial attention.

Wherefore, and in view of all that we have said, this Court sees it both just and equitable to deny the motion to dismiss this appeal. Accordingly, we allow this case to be heard on its merits. The Clerk of this Court is hereby ordered to have this appeal case docketed for the October 1988 Term of this Court to be heard an the merits. And it is hereby so ordered.

Motion denied.