

**LAMCO J. V. OPERATING COMPANY and THE CHAIRMAN, BOARD OF
GENERAL APPEALS, Ministry of Labour, Appellants/Respondents, v. S. PETER
DOE-KPAR, Appellee/Movant.**

MOTION TO DISMISS APPEAL FROM THE CIRCUIT COURT FOR THE SIXTH
JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Heard: October 18, 1984. Decided: November 21, 1984.

1. It is mandatory that a party appealing to the Supreme Court fulfils the statutory requirements for completion of an appeal, viz: announcement of the taking of an appeal, the filing of a bill of exceptions, the filing of an approved appeal bond, and the service and filing of a notice of completion of appeal. A failure to comply with any of these requirements is ground for the dismissal of the appeal. Rev. Code 1 :51.4
2. A lawyer owes a duty to present by all fair and honorable means every defense permitted by law.
3. The law prescribes that no person shall be deprived of life, liberty, property or privilege but by due process of law.
4. Neither the Supreme Court nor any other lawyer has the authority to extrapolate the intent of the Legislature beyond the specific wording of the statute; and this limitation is more mandatory where the statute in question specifies the only manner in which the act may be done.
5. The only manner specified by law for the Supreme Court to review any appealable judgment is for the aggrieved person to comply with the statute governing appeals, specified in chapter 51 of the Revised Code.
6. Where a party fails to comply with the requirements for completion of an appeal, the party is not brought under the jurisdiction of the Supreme Court and the Court therefore has no legal authority to review and pass upon the case on the merits.

7. A neglect to file an approved appeal bond or an omission in the records certified to the appellate court of a copy of the appeal bond is a jurisdictional defect which renders the appeal dismissible, upon a motion properly made.
8. Appeals from labour courts are generally governed by the same principles as appeals from justices of the peace courts.
9. No appeal bond is required for appeals from a labor hearing. Therefore, as appeals from labor decisions are heard *de novo* in the circuit court of the appropriate judicial circuit, the legal technicalities which obtain in appeals from courts of record are not applicable to matters on appeal from justice of the peace court and labor forums less than the labor court.

Plaintiff/appellee filed a motion to dismiss the appeal taken by defendant/appellant from a ruling of the Civil Law Court for the Sixth Judicial Circuit, Montserrado County. The trial court had ordered the appellant company to pay to the appellee the amount of \$11,178.00 for having illegally dismissed him. In the motion, the appellee asserted that appellant had failed to file an approved appeal bond and to serve and file a notice of completion of appeal, as required by law, to bring the parties under the jurisdiction of the Supreme Court.

In resisting the motion to dismiss, the appellant contended that as it was operating a concession in Liberia, its management had the capacity to indemnify the appellee in case the trial court judgment was affirmed, and hence there was no need for a bond. In addition, the appellant asserted that the Supreme Court had opined in a number of cases that the statute does not require appeal bonds for appeals taken from labor courts.

The Supreme Court disagreed with the appellant and sustained the contentions contained in the motion. In rejecting the argument of the appellant, the Court stated that the appeal statute makes it mandatory that in all appeals from courts of record, the appellant must announce the taking of the appeal, file a bill of exceptions, file an approved appeal bond, and serve and file a notice of completion of appeal, all within the time allowed by the statute. Where a party fails to comply with these requirements, the Court said, the appeal is subject to dismissal. The omission from the records of an appeal bond gave rise to a jurisdictional

defect that warranted and justified the dismissal of the appeal, the Court opined.

The Court, reaffirming the stance taken by it in the *Kobina v. Abraham* case, rejected the interpretation given by the appellant to the Court's pronouncement made in that case. The Court, observed that no appeal bond was filed in the case, and it rejected the contention of appellant's counsel that because appellant had a concession to operate in Liberia, this relieved it of the legal duty to comply with the appeal statute. The Court therefore *granted* the motion and *dismissed* the appeal.

Morgan Grimes & Harmon Law Firm appeared for movant/ appellee. *Cooper & Togbah Law Firm* appeared for respondent/ appellant.

MR. JUSTICE KOROMA delivered the opinion of the Court.

S. Peter Doe-Kpar, in whose favour the Sixth Judicial Circuit Court had entered a ruling on June 5, 1984, awarding \$11,178.00 for having been illegally dismissed by Lamco J. V. Operating Company, has moved this Court to dismiss the appeal taken by the appellant for violation of the statute controlling the taking and perfection of appeals to this Court. The movant/ appellee contends that the respondent/appellant has failed, refused and neglected to file an appeal bond and to serve and file a notice of completion of appeal so as to bring the parties under the appellate jurisdiction of this Court.

In countering this motion, the respondent/appellant has filed a five count resistance, counts two (2) and four (4) of which we shall take judicial cognizance of in the determination of this motion. For the benefit of this opinion, we herein quote below the said counts:

2. "And also because appellant submits and says that the purpose of the filing of an appeal bond being only to indemnify the appellee from all costs or injury arising from the appeal, counsel for appellant strongly contends that the management of Lamco J. V. Operating Company, being a concession operating in Liberia, at any crisis management can indemnify all costs whenever judgment is rendered against her in any eventuality. Therefore, an appeal bond in a labor case involving management should not be required but flexible and reciprocal between both claimant and defendant, as the main purpose for filing an appeal bond is to guarantee the indemnification of appellee. Black's Law Dictionary defines

indemnify bond as "A bond for the payment of a penal sum conditioned to be void if the obligor shall indemnify and save harmless the obligee against some anticipated loss."

4. "And also because counsel for appellant further contending says that in the opinion of this Honourable Court delivered by Mr. Justice Mitchell in the case *Kobina et. al. v. Abraham*, 15 LLR 502, 507 (1964), the Court had this to say:

"In truth, our statutes do not require an appeal bond from the Labour Court. The reason is quite understandable. Matters before that court are heard summarily; and therefore the practice does not favor technicalities. Mr. Justice Barclay concurring also had this to say: "The modern practice does not favor too many technicalities but rather prefers to dip in and hear the merits or facts in a controversy; especially where such technicalities are not clearly supported by statutory law and the observance thereof is not mandatory."

Carefully giving these two counts a judicial analysis, it appears to us that as the science of law steadily progresses, some practitioners are rapidly retrogressing and their practice not in cadence with the profession. The statute on appeal from courts of record to the Supreme Court is so elementary that it is lamentably inconceivable that a counsellor of this Court could condescend and say that it is not necessary for a concession appealing to this Forum to file an appeal bond because the concession is physically and permanently stationed and can indemnify the appellee at any time. This indeed is not only a misstatement of fact, but a complete misconstruction, distortion and disregard for the statutory provision specifically laid down to control appeals to this Forum.

The statute makes it mandatory that a party appealing to this Court from any appealable judgment performs the following acts, deemed to be necessary requirements for the completion of such an appeal:

1. Announcement of the taking of the appeal.
2. Filing of the bill of exceptions.
3. Filing of an appeal bond.

4. Service and filing of a notice of completion of the appeal.

Failure to comply with any of these requirements within the time allowed by statute shall be ground for dismissal of the appeal. Civil Procedure Law, Rev. Code I: 51.4. The language of this appeal statute being so unequivocally mandatory and elementarily clear, one wonders whether the counsel for the appellant, who filed the resistance to the motion to dismiss the appeal, ever thought about a lawyer's duty to his client under the *Code of Moral and Professional Ethics*? For a lawyer's duty to his client binds him by all fair and honorable means to present every defense that the laws of the land permit, and that no person shall be deprived of life, liberty, property or privilege but by due process of law. CODE OF MORAL AND PROFESSIONAL ETHICS, Rule of Court, Rule 4. In the instant case, this Court is deprived of the opportunity of deciding this case on its merits because of the gross disregard by appellant's counsel of the law of this land controlling appeals to this Court. Neither the Supreme Court, nor any lawyer for that matter, has any authority to extrapolate the intent of the Legislature beyond the specific wording of the statute; and this limitation is all the more mandatory where the statute in question specifies the only manner in which an act may be done. *George v. Republic*, 14 LLR 158 (1960). The only manner specified by law for the Supreme Court to review any appealable judgment is for the aggrieved person to comply with chapter 51 of the Civil Procedure Law, Rev. Code 1, under appeals from courts of record. This not having been done, the parties have not been brought under the appellate jurisdiction of this Court and therefore it has no legal authority to review and pass upon this case on its merits. An omission in the records certified to the appellate court of a copy of the appeal bond is a jurisdictional defect which will result in the dismissal of the appeal. *Liberty and Johns v. Republic*, 9 LLR 437 (1947). Where there is no approved appeal bond filed, the appeal will be dismissed. *Ammons v. Republic* 9 LLR 413 (1947). Also, a neglect to file an approved appeal bond will result in the dismissal of the appeal upon motion properly made. *King et. al. v. King*, 7 LLR 301 (1941).

In count four of the resistance to the motion to dismiss the appeal, counsel for the respondent/appellant, who has so glaringly exposed himself to possible damages for professional neglect and mishandling of this case, has quoted out of context the opinion of this Court. In *Kobina et. al. v. Abraham*, 15 LLR 502 (1964), the opinion of this Court referred to by said counsel, Mr. Justice Mitchell, speaking for this Court, unequivocally stated that appeals from labour courts are generally governed by the same principles as appeals from

justice of the peace courts and that no appeal bond is required on appeal from a labor court. (*See Kobina v. Abraham*, 15 LLR 502, Syl. 1 and 2.) Elaborating on these declarations, and relying upon titles 6 and 19 of the 1956 Code, which were then the laws controlling, Mr. Justice Mitchell said that appeals from labour courts shall be heard *de novo* in the circuit court of the appropriate judicial circuit, and that legal technicalities which obtain in appeals from courts of record are not applicable to matters on appeal from justice of the peace and labor courts. *Id.*, at 506. What this Court has said through Justice Mitchell is clear, simple and elementarily understandable, and there is nowhere in the opinion hereinabove cited, in which Justice Mitchell stated that in a labor case appealed from the circuit court to the Supreme Court, the appealing party is not required to file an appeal bond. For clarity on the point of appealing from judgments in courts of records, we herewith quote Mr. Justice Mitchell:

"Consequently, we are of the opinion that the trial court erred in confusing the dictates of the law governing the tendering of bonds in such matters with the requirements of the statutes applicable to matters on appeal from courts of record." *Id.*, at 507.

This Opinion was delivered in 1964. Exactly twenty years later, we share the same lamentation with Justice Mitchell. A counsellor of this Court should not confuse the dictates of the law governing the tendering of bond and the law governing the tendering of bonds in matters summarily heard with the requirements of the statutes applicable on appeal from courts of record. The citation the respondent/appellant relies upon is not applicable in the instant case and we hold that the absence of an appeal bond is fatal to the appellant's appeal.

Wherefore, and in view of the laws cited and the facts in this case, the motion to dismiss the appeal be, and the same is hereby granted and the appeal is dismissed. Costs are ruled against the appellant. And it is hereby so ordered.

Motion to dismiss granted; appeal dismissed.