

MONROVIA CITY CORPORATION, by and thru its  
Mayor, DANIEL JOHNSON, et al., Appellants, *v.* J.  
MAXWELL BROWN, Attorney-In-Fact for MRS. IDA  
POTTER PEAL, Appellee.

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

Heard: November 17, 1997. Decided: January 22, 1998.

1. A prerequisite to the completion of an appeal is that the appellant must secure the approval of the appeal bond by the trial judge and file the same within sixty days after the rendition of judgment.
2. A jurisdictional step for perfecting an appeal is that the appellant must apply to the clerk of the trial court for issuance of a notice of completion of appeal, serve the same on the appellee, and file the original thereof with the clerk of the trial court.
3. The purpose of an appeal bond is to secure to the appellee all costs or injury which may result in consequence of the appeal, if unsuccessful, and to assure the appellate court of compliance with its judgment.
4. It is the statutory obligation of a party appealing to the Supreme Court to comply with all of the legal requirements so as to enable the Court to acquire appellate jurisdiction over the person of the appellee.
5. The appeal statute provides that the Supreme Court may dismiss an appeal for failure of the appellant to appear for hearing of the appeal, to file an appeal bond, or to serve a notice of the completion of the appeal.

In an action of ejectment in which the appellants failed

to file an answer, and had therefore been ruled to a bare denial of the complaint, a jury trial was regularly held and, upon proof duly presented, a verdict was returned in favor of the appellee, ejecting the appellants from the premises, and finding a liability of ten thousand Liberian dollars. A motion for new trial having been filed, argued and denied, and final judgment having been entered confirming the verdict, an appeal was announced to the Supreme Court.

However, when the case was called for hearing, the Court was notified of the filing of a motion to dismiss the appeal because of the failure of the appellant to file an approved appeal bond and to file and serve a notice of completion of the appeal. Moreover, the appellant did not appear for the hearing of the appeal and to file a brief as required by the Rules of the Supreme Court, although duly notified by assignment of the hearing.

The Court, in disposing of the motion, agreed with the contentions of the appellee and ordered the appeal dismissed because of the failure of the appellants to file an approved appeal bond and to file and serve a notice of completion of appeal, both of which the Court noted were mandatory prerequisites for the completion of the appeal and to confer jurisdiction of the Court over the person of the appellee. The Court observed that the purpose for requiring an appeal bond was to secure the appellee against costs and injury in the event the appeal did not succeed, and to assure the Court of compliance by the appellants with the judgment of the Court. With respect to the notice of the completion of the appeal, the Court said that it could only acquire jurisdiction over the appellee and the subject matter of the case by the service of said notice on the appellee and filing thereof with the clerk of the trial court. Hence, the Court opined, in the absence of compliance with those requirements, the appeal was rendered

dismissible.

Moreover, the Court added that under the statute, the appeal was also dismissible for failure of the appellants, after due notice of the hearing, to appear for such hearing. On the basis of the foregoing, the Court *dismissed* the appeal, *ordered enforcement* of the judgment, and *suspended* the appellants' counsel from the practice of law for three months.

*No one* appeared for the appellants. *Marcus R. Jones* appeared for the appellee.

MR. JUSTICE SACKOR delivered the opinion of the Court.

The appellee, movant herein, Mrs. Ida Potter Peal, by and thru her attorney-in-fact, Mr. J. Maxwell Brown, of the City of Monrovia, Liberia, on February 22, 1995 instituted an action of ejectment in the Circuit Court for the Sixth Judicial Circuit Court, Montserrado County, against the appellants. Appellee claimed title to a parcel of land situated and lying in Old Kru Town, now West Point, upon the strengths of a government deed, and requested the trial Court to oust, evict and eject Momo Kai and Seah Barclay therefrom.

A writ of summons was accordingly issued, served and returned served. The records certified to us show that the appellants failed and neglected to file an answer to appellee's complaint, for which they were ruled to a bare denial, as provided for by the statute governing pleadings. The case was regularly tried and the trial jury, on January 6, 1997, returned a verdict holding appellants liable and awarding appellee the sum of Ten Thousand Liberian Dollars (LD10,000.00) as damages. To this verdict,

appellants excepted. A motion for new trial was filed, assigned, heard and denied. The trial judge, His Honour M. Wilkins Wright, rendered a final judgment on January 23, 1997, confirming and affirming the unanimous verdict of the jury. Appellants excepted to the judgment and announced an appeal to this Court of last resort for our final review and determination.

The records further show that on the 3<sup>rd</sup> day of February A. D. 1997, appellants filed a twelve-count bill of exceptions, one of the jurisdictional steps for perfection of an appeal to this Court. We observed from the records in this case the absence of an appeal bond and a notice of completion of the appeal.

On the 22<sup>nd</sup> day of May, A. D. 1997, appellee filed a two-count motion to dismiss appellants' appeal because of appellants' failure, neglect and refusal to file an appeal bond and a notice of completion of the appeal within the prescribed statutory period of 60 days. The motion was supported by a clerk's certificate dated April 5, 1997, over the signature of Jacob F. Nyumah, assistant clerk of court. Appellee therefore requests this Court to dismiss appellants' appeal and to mandate the trial court to resume jurisdiction over the case and enforce its judgment.

The case was assigned for hearing twice, but counsel for appellants failed and neglected to file a brief and to appear in obedience to the notices of assignments duly issued and served on both parties by this Court. Counsel for appellee moved this Court in pursuant to the Rules of Court to dismiss the appeal for the failure, neglect and refusal of appellants' counsel to file a brief and to appear for the hearing of the case at bar, which act he considered as an abandonment of the appeal. He therefore prayed the Court to dismiss the appeal and order the trial court to resume jurisdiction and enforce its judgment.

The issue which we consider pertinent for the determination of this case is:

Whether the failure of appellants to appear for a hearing, file an appeal bond and to serve and file a notice of completion of the appeal renders the appeal dismissible?

We observe from the records certified to us that appellants failed and neglected to file an approved appeal bond and to serve and file a notice of completion of the appeal, both of which are jurisdictional steps required by law to perfect an appeal to this Court. Section 51.8 of our Civil Procedure Law, Rev. Code 1, provides that "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." Further, the appellant shall also apply to the clerk for the trial court to issue a notice of completion of the appeal, serve same on the appellee and file the original thereof in the office of the clerk of the trial court. Civil Procedure Law, Rev. Code 1: 51.9.

The purpose of an appeal bond is to secure to the appellee all costs or injury in consequence of the appeal, if unsuccessful, and to also assure the appellate court of compliance with its judgment. Civil Procedure Law, Rev. Code 1: 51.8. The object of securing, serving and filing a notice of completion of an appeal is to confer appellate jurisdiction over the person of the appellee. *Citibank N.A. v. Barrow*, 37 LLR 754 (1994). It has been, and still is, the statutory obligation of a party litigant wishing to perfect an appeal to this Court to comply with all the legal requirements so as to enable this Tribunal to acquire appellate jurisdiction over the person of the appellee.

The appeal statute provides that the Supreme Court shall dismiss an appeal for failure of the appellant to appear for

hearing of the appeal, to file an appeal bond, or to serve a notice of completion of the appeal. Civil Procedure Law, Rev. Code 1: 51.16. This Court has also held in the past, and still holds today, that "it is the requirement of the law that failure of the appellant to file an approved bond and secure and file a notice of completion of the appeal within 60 days deprives the Supreme Court of jurisdiction over the case and the person of the appellee, and constitutes grounds for dismissal of the appeal." *Carlton Petroleum Incorporated v. Kennedy et al.*, 38 LLR 348 (1997), decided July 18, 1997; *Sherman and Sherman v. Silah et al.*, 36 LLR 918 (1989), decided on January 9, 1990.

This Court also observed the non appearance of counsel for appellants, Counsellor Joseph H. Constance, upon whom two notices of assignment were duly issued, served and acknowledged, and returned served by the Marshal. Further, this Court noticed the absence of a resistance to appellee's motion to dismiss appellant's appeal as well as the absence of a legal brief. Some lawyers constantly continue to recklessly and carelessly handle cases entrusted to them against the legal interest of their clients notwithstanding a long line of cases decided by this Court relating to the grounds for dismissal of an appeal to this Court. We take note further that in acting as they do, our lawyers regularly disregard the injury that they cause their clients in failing to perfect appeals before this Court of last resort. This Court disfavors the conduct of Counsellor Joseph H. Constance, who, upon receipt of two notices of assignment from this Court for the hearing of this case, disregarded, disobeyed and failed to appear without any justifiable reason. Counsellor Constance is therefore suspended from the practice of law in all courts of the Republic for the period of three months, as of the date of rendition of this opinion, for gross disrespect and disobedience to the precept of this

Honorable Court, and for neglecting the interest of his client, contrary to his oath of ethics to the legal profession.

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This Court reiterates that clients of our legal practitioners have always entrusted their cases to their lawyers with the hope and expectation that they would exhibit a high degree of legal professionalism, and thereby justify the confidence reposed in them in handling the client's cases in the interest of the clients. We therefore sound a strong warning to our legal practitioners to always carefully handle their clients' cases so as to safe-guard the interest of their clients, and that a reoccurrence of such outright neglect, by a lawyer of his client's interest, will result in a disbarment rather than just suspension from the practice of law.

The failure of appellants to comply with the jurisdictional steps in perfecting their appeal to this Court deprives this Court of appellate jurisdiction over the appellee, and this neglect constitutes a ground for the dismissal of the appeal.

Wherefore, and in view of the foregoing, it is the considered opinion of this Court that the motion to dismiss appellants' appeal should be and the same is hereby granted, and the appeal is dismissed. Counsellor Joseph H. Constance is hereby suspended from the practice of law in all courts in the Republic of Liberia for the period of three months, as of the date of rendition of this opinion, for acts of gross disrespect and disobedience to the precept of this Honourable Court, and for his neglect of the interest of his client, contrary to his oath of ethics of the legal profession. The Clerk of this Court is hereby ordered to send a mandate to the trial court informing the judge presiding therein to resume jurisdiction over the case and to enforce its judgment. Costs are assessed against appellants. And it is hereby so ordered.

*Motion granted; appeal dismissed.*