

**ATEF EL ALI**, Plaintiff/Appellant, v. **KASSAYKRO CORPORATION**, represented by its General Manager, **WADI CISSEE**, Defendant/Appellee.

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

Heard: May 23, 1983. Decided: July 7, 1983.

1. Any judgment or decree rendered by a court without jurisdiction over the subject matter, territory and person of the parties involved is void ab initio.

On an appeal in an action of ejectment, appellee filed a motion to dismiss on grounds that there was no appeal bond filed and no notice of the completion of the appeal served on appellee within the statutory period. Appellant resisted by attaching an affidavit claiming that an oral agreement to compromise the matter was reached between the parties as a justification for not completing the appeal. The Court held that as the requisites for an appeal had not been fully complied with by the appellant, it was without jurisdiction to go into the merits of the claims asserted in the resistance and the affidavit regarding the compromise reached by the parties. The Court therefore granted the motion and dismissed the appeal.

Clarence E. Harmon appeared for the appellant. E. Winfred Smallwood appeared for appellee.

MR. JUSTICE YANGBE delivered the opinion of the Court.

This is an action of ejectment decided by the Civil Law Court, Sixth Judicial Circuit, Montserrado County, on the 9th day of December 1982. The appellant/respondent, plaintiff in the lower court, announced an appeal from a judgment rendered against him and accordingly filed an approved bill of exceptions within the time allowed by statute. However, he failed to file an approved appeal bond and to have the sheriff to serve a notice of the completion of the appeal within 60 days; consequently, a motion was filed by appellee to dismiss the appeal. As justification for such neglect, appellant claimed that both counsels for the parties orally agreed to compromise the matter and that appellant was to only settle the bill of costs. Annexed to the resistance is an affidavit sworn to by Messrs. Abdulia Kamara and Sidiki Kamara as deponents to substantiate the averment stated in the resistance.

The question which arises is whether or not we can pass upon the factual merits of the resistance in the face of the attack for lack of jurisdiction an attack which is conceded by the appellant? Our answer is no. This Court has held in the past and continues to hold that any judgment or decree rendered by a court without jurisdiction over the subject matters, territory and person is void ab initio. *Maurice v. Diggs et. al.*, 2 LLR 3 (1908). In this case, it

is the want of jurisdiction over the person of the appellee for failure by the appellant to serve the notice of the completion of the appeal. Civil Procedure Law, Rev. Code, 1:51.16. Another reason for not addressing ourselves to the merits of the resistance as far as it relates to the purported compromise is that it has unethical and unprofessional flavor and the Supreme Court has no original jurisdiction over same, except the Committee on Grievance and Ethic which is clothed with authority to probe into the unethical conduct of a lawyer.

Consequently, we have no jurisdiction over the appeal, hence, the motion to dismiss is granted, resistance overruled and the Clerk of this Court ordered to send a mandate to the trial court to resume jurisdiction in the case and enforce its judgment. The costs are ruled against the appellant. And it is hereby so ordered.

*Motion granted*