

**LEROY E. FRANCIS**, Appellant, v. **B. J. K. ANDERSON**, Appellee.

APPLICATION FOR AN ORDER TO THE CIRCUIT COURT OF THE SIXTH  
JUDICIAL CIRCUIT, MONTSERRADO COUNTY, TO RESUME  
JURISDICTION AND ENFORCE ITS JUDGMENT.

Argued March 13, 1956. Decided June 29, 1956.

Where an appeal from denial of a petition in equity has not been perfected within sixty days from rendition thereof, an application for an order to the court below to resume jurisdiction and enforce its decree will be granted.

Appellant petitioned the equity division of the court below for interpretation of a lease agreement and for relief against alleged fraud. Upon a decree denying the petition, appellant appealed to this Court but failed to perfect the appeal within the statutorily prescribed period of time. Accordingly, an application for an *order* to the court below to resume jurisdiction and enforce its judgment was *granted*.

No appearance for appellant. *B. J. K. Anderson*, appellee *pro se*.

MR. JUSTICE HARRIS delivered the opinion of the Court.

The above named appellant, Leroy E. Francis, instituted the above entitled proceedings in the Equity Division of the Circuit Court of the Sixth Judicial Circuit, Montserrado County, against B. J. K. Anderson, the above named appellee. The case was called for hearing during the December, 1954, term of said court, when the trial judge denied the petition. The appellant entered exceptions and prayed an appeal to this Court but failed to perfect the same within the time prescribed by law, that is, sixty days from the rendition of final judgment.

According to a certificate of the clerk of the court below the decree denying the petition was rendered on December 30, 1954; and according to a certificate issued by the clerk of this Court no records were sent up from the court below to the date of issuance of the certificate —October 6, 1955—a period of nine months and six days from the date of the decree.

Appellee filed an application addressed to this Court for an order to the court below to resume jurisdiction and enforce its judgment. "Every appeal must be taken within sixty days after final judgment." 1841 Digest, pt. II, tit. II, ch. XX, sec. 6; 2 Hub. 1578.

Appellant having failed to comply with the prerequisites governing an appeal, that is to say, the filing of a bill of exceptions, an approved appeal bond, notice of the completion of the appeal and its service upon the appellee, this Court is left with no alternative but to grant the application ; and it is hereby so ordered with costs against appellant.

*Application granted.*