

JOHN GOAH, Appellant, v. **EDNA NIMLEY-FAHN**, Proprietor of E.M.M.E. GAS TRANSPORT COMPANY, by and thur her husband, **MOHAMMED FAHN**, Appellee.

JUDGMENT WITHOUT OPINION

Heard: May 3, 1983. Decided: July 7, 1983.

At the call of this case, Mr. John Goah himself and Counsellor David Gbala appeared for the appellant, whilst Counsellor Daniel Draper appeared for the appellee and informed Court that he had filed a motion to dismiss appellant's appeal for failure to file an appeal bond and cited the Civil Procedure Law, Rev. Code 1:51.8 in support thereof. That law reads:

..."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."

After studying the motion and applying the law, it is hereby adjudged that because of appellants and his counsel's failure to oppose the motion even though they were physically present in court, the motion to dismiss the appeal is granted.

The Clerk of this Court is commanded to send a mandate to the trial court instructing the presiding judge to resume jurisdiction over the case and give effect to this ruling. Costs are disallowed. And it is hereby so ordered.

NOTE: Mr. Justice Frank W. Smith being trial judge in the court below prior to his elevation did not sit; hence, did not sign this judgment.