

INTRUSCO CORPORATION, by and thru its President, **WILLIAM MERRIAM, JR.**,
Appellant, v. **MAHMOUD OSSEILY**, Appellee.

JUDGMENT WITHOUT OPINION

Decided: February 3, 1983.

S. Edward Carlor appeared for appellant. Joseph Andrews appeared for appellee.

When this case was called for hearing on the 22nd day of November, A. D. 1982, Counselor S. Edward Carlor appeared for appellant whilst Counselor Joseph Andrews appeared for appellee. Counsel for appellant then called our attention to the motion to dismiss the appeal filed by the appellee and the resistance thereto filed by the appellant.

Appellee raised the issue of insufficiency of the appeal bond to indemnify the appellee, in that, the amount awarded by the court below is \$4,960.00; and therefore the penal sum of the appeal bond should have been one and one half times of the same, that is, \$7,440.00 and not \$7,280.00, as stated in the appeal bond. Copies of the final judgment, appeal bond, certificate of deposit of the \$7,280,00 and affidavit are annexed to the motion as exhibits.

Appellant has resisted the motion in the negative.

Appellee cited in support of his argument several opinions of this Court, including *Agip (Liberia) Corporation v. Sodatonow*, 20 LLR 222 (1971) and the Civil Procedure Law, Rev. Code 1: 51.8.

There is no statute extant to support the argument that the penal sum of appeal bond must be one and one half times the principal amount awarded the appellee by the trial Court.

However, in Thompson et al v. George et. al, 26 LLR 239 (1977), citing by reference Karneh v. Republic, 18 LLR 91 (1907), this Court held that an appeal bond is inadequate when the indemnity provided therein is less than the amount of the judgment.

In that case the amount awarded appellee in the trial court was \$8,500.00 and appellant tendered only \$500.00 appeal bond which was attacked as being insufficient.

In our opinion the sum of \$7,280.00 is over and above the \$4,960.00 awarded by the trial Court; therefore, it is quite sufficient to indemnify the appellee from all cost and injury appellee may sustain by reason of the appeal, if the Appellate Court finally confirms the judgment of the trial court. In view of this, it is therefore adjudged that the motion to dismiss the appeal be and the same is hereby denied, and the resistance is sustained. The Clerk of this Court is ordered to re-docket the case for hearing on its merits during the 1983 March Term of this Court. Costs to abide final determination of the case. And it is so ordered.

NOTE: Mr. Justice E. S. Koroma being absent due to illness when this case was called for arguments, did not sign this judgment.

NOTE: Mr. Chief Justice Gbalazeh and Mr. Justice Yangbe being absent during the hearing of this cause, did not sit; and hence, did not sign this judgment.