

**ROLAND JONES and J. E. THOMPSON**, Informants, v. **R. J. HENRIC PEARSON**,  
Assigned Circuit Judge, People's Civil Law Court, Sixth Judicial Circuit, Montserrado  
County, the Sheriff for Montserrado County, and LEF INVESTMENT COMPANY, by  
and thru ALETHA JOHNSON, Attorney-in-fact, Respondents.

INFORMATION PROCEEDINGS GROWING OUT OF AN APPEAL FROM THE  
RULING OF THE CHAMBERS JUSTICE.

Argued: June 13, 1983. Decided: July 8, 1983.

1. The Supreme Court shall have jurisdiction of all appeals from courts of record and from rulings of Justices of the Supreme Court presiding in Chambers on application for remedial and extraordinary writs, including refusal to issue such writs, and shall be the court of final resort in all such cases.
2. A final decision by a Supreme Court Justice in a proceeding in certiorari, mandamus, or prohibition may be appealed to the Supreme Court en banc. The appeal shall be heard and determined, in or out of term time.
3. An appeal, when announced, serves as a supersedeas to any further disposition of the particular matter by the court from whose judgment an appeal has been so announced, except as otherwise provided by statute.
4. The right of appeal from ruling and judgment of all courts including that of the Justice in Chambers except the Supreme Court en banc, is a basic constitutional as well as statutory right which cannot be denied.
5. The provision of Rule XIII, Part 3 of the Revised Supreme Court Rules permitting the Chambers Justice to make an appeal from his or her ruling to the Supreme Court subject to such conditions as the Justice may prescribe cannot be used in any manner that would violate the basic right to appeal as provided under the statute.
6. A Justice in Chambers cannot order a judgment enforced after an announcement of an appeal on grounds that the appellant did not see to it that the records made before the Chambers Justice are forwarded to the Full Bench.

Informants filed an action of damages by attachment against Co-respondent LEF Investment Company in the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, during its June Term, 1980. Trial of the case was had and the jury returned a verdict in favour of informants, awarding them both special and general damages. It is against the enforcement of this judgment that the co-respondent company applied to the Justice in Chambers for a writ of prohibition, which was resisted, argued and granted, and from which ruling respondents appealed to the full Bench. The appeal was granted, but the Justice in Chambers requested the appellant to see to it that the records made before the Justice in

Chambers are forwarded to the Full Bench in two weeks. When informants failed to have the records forwarded, the Clerk of the Supreme Court sent a mandate to the Civil Law Court to resume jurisdiction and enforce its judgment, while the appeal to the Full Bench was still pending. In light of the development, informant filed information to the Full Bench.

The Supreme Court held that an appeal, when announced, serves as a supersedeas to any further disposition of the particular matter by the court from whose judgment the appeal was announced. The Court also held that even though the Justice in Chambers, in granting an appeal to the Full Bench, may subject it to certain conditions pursuant to the Rule XIII, Part 3, of the Revised Supreme Court Rules, such conditions, however, should not be imposed where to do so would violate the basic rights to appeal, as provided under the statute. Accordingly, the Court granted the information and ordered the trial court to put the parties in status quo ante prior to the receipt of the mandate to enforce the judgment.

Joseph M Kennedy for informants and Joseph Findley for respondents.

MR. JUSTICE MORRIS delivered the opinion of the Court.

The informants are respondents in a prohibition proceeding decided by the Justice in Chambers which is on appeal before this Court. The facts of this case as disclosed by the records are:

The informants filed an action of damages by attachment against the co-respondent company, the LEF Investment Company, in the Civil Law Court for the Sixth Judicial Circuit during its June Term, 1980. Trial of the case was had and the jury returned a verdict in favour of the Informants awarding them both special and general damages in the amount of \$15,513.00. It is against the enforcement of this judgment that the correspondents company had filed a petition for prohibition in the Chambers of Mr. Justice Smith who after entertaining arguments on the petition and the returns granted the petition. The respondents, the informants herein, appealed from the ruling of the Justice in Chambers to the Full Bench. While the appeal was still pending before the Full Bench, the Clerk sent down a mandate to the Sixth Judicial Circuit ordering the judge presiding therein to resume jurisdiction and enforce the ruling of the Justice in Chambers which had been appealed from.

The pertinent issue in the determination of this case is whether there is any set time for the perfection of an appeal from the ruling of the Chambers Justice to the Full Bench; and if so, what are the procedural steps to be taken? There are other complications which need some definite clarification by this Court but since we are only dealing with the information, it would be premature to delve into those issues now.

When the Justice in Chambers delivered his ruling and the counsel for informants announced his appeal to the Full Bench, this is what the Chamber Justice said in granting the appeal:

"THE COURT: As already stated hereinabove, the appeal is granted and the appellant is required to see to it that records made before the Chambers Justice are forwarded before the Full Bench within two weeks effective immediately, otherwise, it would be deemed that the appellant has no further intention to appeal and briefs must be filed accordingly designating the issues to be argued thereupon. As an accepted principle, all remedial processes may be heard by the Full Bench during and out of term time, and therefore the appeal announced by the appellant will not necessarily be argued during the March Term, as based upon the request of either counsel. And it is hereby so ordered. MATTER SUSPENDED."

The Justice, argued by respondents counsel, relied on Rule XIII, Part 3, of the Revised Supreme Court Rules, page 46. This rule states that:

"PART 3. Upon a hearing had under such alternative writ, an absolute writ may be issued directing the performance, or nonperformance, or cessation of any act, which to the Court or Justice thereof may seem just, legal or equitable, subject to appeal to the Supreme Court upon such conditions as the Justice may prescribe."

Counsel for respondents strenuously contended before us that because the statute is silent as to the jurisdictional steps to be taken from the Justice in Chambers to the Full Bench, this rule authorizes a Justice presiding in Chambers to provide the conditions under which he grants an appeal from his ruling. Therefore, the conditions under which the appeal was granted were for the informants to superintend the forwarding of the records to the Full Bench within two weeks and briefs were also to be filed; otherwise, it would be deemed that informants had no further intention to appeal.

The Judiciary Law, Rev. Code 17:2.2, under appellate jurisdiction, provides that:

"The Supreme Court shall have jurisdiction of all appeals from courts of record and from rulings of Justices of the Supreme Court presiding in Chambers on applications for remedial and extraordinary writs, including refusal to issue such writs, and shall be the Court of final resort in all such cases."

The Civil Procedure Law, Rev. Code 1: 16.26, states:

"A final decision by a Supreme Court Justice in a proceeding in certiorari, mandamus, or prohibition may be appealed to the Supreme Court en banc. The appeal shall be heard and determined immediately, in or out of term time."

An appeal when announced serves as a supersedeas to any further disposition of the particular matter by the court from whose judgment an appeal has been so announced. *Sodatonou v. Bank of Liberia. Inc.* 20 LLR 512, 514 (1971).

The rule relied upon by counsel for respondents to justify the position of the Justice in Chambers has been interpreted by this Court in the case *In re James Doe Gibson, Counsellor-at-law, appeal from ruling in Chambers in contempt proceedings*. Mr. Justice Pierre acting for Mr. Justice Wardsworth had held Counsellor James Doe Gibson in criminal contempt for failure to file returns in prohibition proceedings as ordered by the Justice in Chambers. Counsellor James Doe Gibson was found guilty of contempt and fined \$300.00 which the Justice ordered to be deposited into the revenues and an official receipt obtained therefor. Although Counsellor James Doe Gibson had appealed from the ruling of the Chamber Justice, yet, the ruling was ordered enforced predicated upon Rule XIII Part 3, *supra*.

The right of appeal from ruling and judgments of all courts including that of the Justice in Chambers, except the Supreme Court en bane, is a basic constitutional as well as statutory right which cannot be denied. Likewise is the basic rule that an appeal serves as a supersedeas to the enforcement of a judgment, except as otherwise provided by statute.

We are in complete agreement with the opinion of this Court delivered on the issue that we have deemed it expedient to quote extensively portion of the opinion regarding the interpretation of Rule XIII Part 3 of the Revised Supreme Court Rules.

Mr. Justice Harris speaking for the Court said, among other things:

"Though not expressly stated in the ruling of the Chambers Justice, we have every reason to feel that in the enforcement of the ruling in this case, even though an appeal was announced and granted, the Justice acted on what he considered the correct application of this rule.

We desire to remark that the statute which prohibits the enforcement of a ruling or judgment of a court from which an appeal is announced and taken cannot but be general in character and makes no exceptions under which a rule vests in any court from which an appeal can be taken. If the authority to enforce a ruling or judgment were held to be a discretionary right of any judge or Justice, this would be an abuse that would destroy the very essence, intent and purpose of an appeal.

What purpose could be served by an appeal if its enforcement leaves the party against whom a ruling is made with no alternative but to serve prison sentence in satisfaction of said ruling, due to his inability to pay the fine imposed where the ruling of the Chambers Justice is reversed upon review by the Court en bane, especially where the rule provides no redress for this unlawful injury? By logical deduction, it is reasonable to conclude that this rule could by

no means permit the enforcement of a ruling when an appeal therefrom has been announced and taken.

Liberally considering or interpreting this rule might include instances where, for the conservation of perishable property, or the continuity of the flow of income, a Chambers Justice may permit an appeal on the condition that a trust be established in the interim of the prosecution and finalization of the appeal, so that the assets accruing to the estate be held in escrow and the property secured from loss or damage might be available to the party who may be successful at the termination of the case on appeal. This is an extraordinary circumstance under which the Justice may enforce his ruling without prejudice to either party during the pendency of an appeal, but not an arbitrary enforcement of a ruling in disregard of an appeal. But the claimed authority of this rule which gives the Justice the right to say under what condition an appeal may be taken to the Supreme Court not only violates a basic right which one appealing enjoys under the statute, but tends to make worthless and ineffective a judgment of the Supreme Court reversing said ruling.

The act of the Chambers Justice in enforcing this ruling, sentencing Counsellor James Doe Gibson to a fine of \$300 for contempt of Court, or imprisonment upon failure to pay, when notice of appeal was announced and granted from said ruling, was arbitrary, oppressive and an abuse of the rule cited in this opinion; hence, it is hereby declared illegal and a misinterpretation of the rule." In re James Doe Gibson, Counsellor-at-law, 16 LLR 204, 206 (1965) . What is more alarming in this case is that the Clerk of this

Court had already sent a mandate down to the court below ordering it to resume jurisdiction over the matter and vacate the judgment of the lower court. It is our holding that the mandate sent down to the lower court in the prohibition proceedings ordering the judge presiding therein to resume jurisdiction and vacate the judgment of the lower court in the action of damages is hereby declared null and void.

In view of all that we have said, the law relied upon, it is our considered opinion that the information should be and the same is hereby granted. The Clerk of this Court is instructed to send a mandate to the trial court ordering the judge presiding therein to resume jurisdiction over this matter and place the parties in status quo prior to the receipt of the mandate in the prohibition proceedings. That is if there were any attachment or levy made by orders of the lower court, same to remain in full force and effect until the appeal in the prohibition proceeding is finally determined by this Court.

The Clerk is further ordered to docket the appeal from the ruling of the Justice in Chambers in the prohibition proceedings. And it is so ordered.

*Information granted.*