

**MITCHELL AND SONS DISTILLERY**, by and thru its President, **EDGAR MITCHELL, SR.**, Petitioner, v. **HIS HONOUR FREDERICK K. TULAY**, Resident Circuit Judge, Sixth Judicial Circuit, Montserrado County, and **JOSEPH SHYBIB**, Respondents.

JUDGMENT WITHOUT OPINION

Decided: February 4, 1983

At the call of this case Counsellor S. Raymond Horace appeared for the respondents/appellees but no one appeared for the petitioner/appellant. Counsel for appellees then moved this Court to dismiss the appeal for failure to proceed in accordance with Civil Procedure Law, Rev. Code 1: 51.16, "dismissal of appeal for failure to proceed." The Court having considered the application of counsel for appellees, as being in conformity with the statute which provides that an appeal may be dismissed by the appellate court after the filing of the bill of exceptions for failure of the appellant to appear at the hearing of the appeal, it is adjudged that the appeal be and the same is hereby dismissed with costs against the appellant. The Clerk of this Court is hereby instructed to send a mandate to the trial court commanding it to resume jurisdiction over the cause, and enforce its judgment. And it is hereby so ordered.

NOTE: Justice M. Kron Yangbe having heard this case in Chambers did not participate in the hearing and determination of this case; hence, did not sign this judgment.

Justice E. S. Koroma not being present when this case was heard did not take part in the determination of this case; hence, did not sign this judgment.