

ROBERT F. JALLAH and **CHARLES R. JOHNSON**, Appellants, v. **SUSAN A. MILLER**, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
MONTSERRADO COUNTY.

Argued October 29, 1957. Decided December 20, 1957.

Where an appellant has failed to file a duly approved appeal bond, and has failed to serve notice of appeal upon the appellee, the appeal will be dismissed.

On appeal from a judgment of the court below in an ejectment action, this Court granted appellee's motion to dismiss the appeal with instructions to the trial court to resume jurisdiction and enforce its judgment.

M. M. Johnson for appellants. *Albert A. Reeves* and *Lawrence A. Morgan* for appellee.

MR. JUSTICE WARDSWORTH delivered the opinion of the Court.

The above-entitled cause was tried during the December, 1956, term of the Circuit Court of the Sixth Judicial Circuit, Montserrado County, by His Honor John A. Dennis, presiding by assignment. Final judgment was rendered in said cause on January 17, 1957. The defendants therein, being dissatisfied with said judgment, registered their exceptions thereto, and prayed an appeal to this Court of last resort for review.

At the call of this case for hearing, Susan A. Miller, plaintiff below, appellee herein, submitted a motion seeking an order of this Court for the lower court to resume jurisdiction and enforce its judgment. The two counts set forth in said motion read as follows:

"1. Because appellee says that, although appellants announced an appeal from a final judgment rendered against them by the trial Judge on January 17, 1957, and filed their bill of exceptions in the office of the clerk of the Civil Law Court, Sixth Judicial Circuit, Montserrado County, they have failed and neglected to complete said appeal as the law requires by filing an approved appeal bond, as of today's date, same being more than the ninety days allowed by law, as will more fully appear from certificate issued by the clerk of the Civil Law Court, Sixth Judicial Circuit, Montserrado County, annexed hereto to form a part of this motion.

"2. And also because appellee submits that no notice of appeal has been served on her as the law directs, which notice alone would place her under the jurisdiction of this Court."

Buttressing this motion is a certificate from the clerk of the aforesaid Civil Law Court, Sixth Judicial Circuit, Montserrado County, which we quote hereunder as follows :

"This is to certify that, on January 17, 1957, His Honor, John A. Dennis, Circuit Judge presiding by assignment over the December, 1956, term, Civil Law Court, Sixth Judicial Circuit, rendered final judgment in the above-entitled cause in favor of the plaintiff. Defendants then and there excepted to said ruling and announced an appeal to the Supreme Court of Liberia.

"On January 25, 1957, defendants filed in the office of the clerk of this court, an approved bill of exceptions, but neglected to file an approved appeal bond in the perfection of the appeal, according to the records filed in said case."

Notwithstanding we consider it unnecessary to incorporate herein the resistance filed by appellants to appellee's motion hereinabove quoted, yet we have decided to quote part of the first count of said resistance in order to show that appellants, instead of directing their appeal bond for approval to His Honor, John A. Dennis, the trial judge, elected to forward same to His Honor, R. N. Lewis—a perfect stranger to the case.

Count "1" of appellants' resistance reads as follows :

"1. Appellants submit that Counts '1' and '2' are false and misleading in principle because: (a) besides filing an approved bill of exceptions according to law, appellants have filed an approved appeal bond under date of March 12, 1957, which is within statutory time; and (b) their notice of appeal was served and returned on May 11 , 1957, due to His Honor, R. N. Lewis, the trial Judge, leaving this jurisdiction and returning home, from whence the approved appeal bond was in transit until after the sixty days period had elapsed."

Up to the issuance of the certificate of the clerk of Court quoted, *supra*, more than ninety days after rendition of final judgment in this case the appellants had not filed the appeal bond ; nor, as a result, was the notice of appeal served and returned.

In keeping with the mandatory provisions of the applicable statute it was the imperative duty of the clerk of the trial court to have transmitted the complete records in this case to this Court no more than ninety days after the appeal had been taken. Appellants having failed to meet provisions of said statute, the clerk of the aforesaid trial court was not in a position to forward the said records to the appellate court as the law directs ; hence the absence of the entire record in this case.

Despite the numerous decisions of this Court with respect to the failure of litigants to superintend their legal interests on appeal, and the baneful effects that inevitably follow, appellants have neglected and failed to take the prescribed legal steps in effecting their appeal in this case ; which failure deprives this Court of jurisdiction.

In passing we wish to observe that it is tragically painful when we consider the negligent, indifferent and careless manner in which some members of the legal profession trifle with the vital interests of their clients. Never before in the annals of our judiciary system has this condition been so pronounced. Diligence and prudence are outstanding characteristics of the successful lawyer. The opposite, as vividly exemplified in the instant case, not only tends to endanger and jeopardize the life, liberty and property of clients, but also reflects discreditably upon the judiciary as a whole. Worse than this is the disgusting fact, admitted by appellants' counsel in his argument before this bar in this case, that: "I prosecuted the interest of my clients in this case in the court below, but do not well remember who presided over the case; however, I think it was Judge Lewis who presided." This is borne out by the resistance of the said counsel which we quoted, *supra*.

This Court is fully determined to impose some appropriate penalty upon such gross dereliction on the part of any lawyer practicing before this bar. Therefore it would be well for the practicing members of the profession to awaken to a diligent sense of their responsibility in safeguarding and protecting the legal interests of their clients.

Appellants having failed to perfect their appeal in this case as the law directs, this Court has no alternative but to grant appellee's motion for an order of Court, with instructions to the trial court to resume jurisdiction and enforce its judgment.

Appellants are ruled to costs. And it is hereby so ordered.

Appeal dismissed.