

ELIZZIE THOMPSON, et al., Petitioners/ Appellants, v. AMOS GEORGE, et al.,  
Respondents/Appellees.

**JUDGMENT WITHOUT OPINION.**

Decided June 29, 1978.\*

At the call of this case Counsellor *Moses Yangbe* appeared for the petitioners/ appellants, and Counsellor *Raymond Hoggard* appeared for the respondents/appellees. Petition for reargument and return thereto were argued by the parties and submitted. After studying the petition and the return, and after reviewing the opinion which had allegedly overlooked certain issues which petitioners claim had not been passed upon, it is adjudged that the petition for reargument should be and the same is hereby denied with costs against the petitioners/appellants because

1. The amount of indemnity, \$500, named in their appeal bond, being less than the money judgment awarded by the jury, was the responsibility of the appealing party; and this point had been passed on in the opinion when it is stated on page 7 thereof that "the final judgment of the lower court having awarded plaintiffs the amount of \$8,500, would not afford appellees to recover the full amount of the judgment in an action of damages for breach of contract." Hence this point was not overlooked.
2. The second count of the petition for reargument claims that no statute authorizes the dismissal of a case for insufficiency of an appeal bond. Besides the fact that filing an insufficient appeal bond is a ground for dismissal of appeal, Rev. Code 1:51.8, the opinion stated on page 7: "It is our opinion that appellees could not sufficiently recover under the condition of the appeal bond which is intended to indemnify them from all costs and injuries . . . if the judgment of the lower court is affirmed." This point in the petition had not been overlooked.
3. Count three of the petition for reargument contends that it was the responsibility of the court to have fixed the amount of the bond in keeping with statute; and therefore appellants could not be held responsible for the amount of \$500 which the judge fixed as the penalty of the bond. On page 4 of the opinion the Court said that "it is the responsibility of the appellants to have secured the approval of a sufficient appeal bond"; therefore this point was not overlooked in deciding the case.
4. That the penalty of an appeal bond be one and one-half of the amount of money judgment awarded by the trial court, does not find support in our law, and on page 3 of the opinion the Court said that "it is our opinion that appellees' contention that the bond should be one and one-half times the amount awarded in the court's judgment cannot stand." Therefore that point was passed upon and not overlooked.

These were the main points raised in the petition for reargument, and it has been shown that they were all traversed and passed upon in the opinion deciding the case; therefore the petition is without any merit. Rule IX, part 1, of the Revised Rules of the Supreme Court reads as follows: "For good cause shown to the Court by petition, a reargument of a cause may be allowed when some palpable mistake is made by inadvertently overlooking some fact or point of law."

It not having been shown that there were any points of law or issues of fact overlooked in the opinion which decided the case, the petition cannot be granted. The Clerk of this Court is therefore

ordered to send a mandate down to the court below commanding the judge therein presiding to resume jurisdiction over the case and proceed to enforce its judgment. And it is so ordered.

- **Mrs. Justice Brooks-Randolph did not participate in this decision.**