

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2022

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

Beneta Aakah of the City of Monrovia, Republic)
of Liberia.....Movant)
)
Versus) MOTION TO DISMISS
) APPEAL
)
Liberia Electricity Corporation of the City of)
Monrovia, Republic of Liberia.....Respondent)
)
GROWING OUT OF CASE:)
)
Liberia Electricity Corporation of the City of)
Monrovia, Republic of Liberia.....Appellant)
)
Versus) APPEAL
)
)
Beneta Aakah of the City of Monrovia, Republic)
of Liberia.....Appellee)
)
GROWING OUT OF CASE:)
)
Beneta Aakah of the City of Monrovia, Republic)
of Liberia.....Petitioner)
)
Versus) PETITION FOR
) ENFORCEMENT OF
) JUDGMENT
)
Liberia Electricity Corporation of the City of)
Monrovia, Republic of Liberia.....Respondent)
)
GROWING OUT OF CASE:)
)
Beneta Aakah of the City of Monrovia, Republic)
of Liberia.....Complainant)
)
Versus) UNFAIR LABOR
) PRACTICE/WRONGFUL
) DISMISSAL
)
Liberia Electricity Corporation of the City of)
Monrovia, Republic of Liberia..... Defendant)

Heard: March 23, 2022

Decided: August 4, 2022

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

The movant, Beneta Aakah, on February 25, 2022, filed her motion to dismiss appeal alleging, *inter alia*, that she was a complainant in an unfair labor practice/wrongful dismissal action before the Ministry of Labour against the respondent herein, the Liberia Electricity Corporation (LEC); that the movant obtained a judgment by default which was made perfect by the production of evidence; that the movant obtained a clerk's certificate to the effect that the respondent failed to file its petition for judicial review within the thirty days period allowed by statute: that the movant subsequently filed a petition for enforcement of judgment before the National Labour Court for Montserrado County which petition was regularly heard and granted on May 13, 2021; that the respondent noted exceptions to the final ruling of the Labour Court Judge, His Honor Joseph M. Kollie, and announced an appeal to the Supreme Court; and that on May 24, 2021, the respondent filed its bill of exceptions, but that the respondent failed to file its appeal bond and serve and file its notice of completion of appeal in keeping with the mandatory requirements of the appeal statute. The movant therefore prays this Court to deny and dismiss the respondent's appeal for reasons stated herein.

In resisting the movant's application to dismiss its appeal, the respondent has principally contended that the default judgment against it was entered by the Hearing Officer on November 25, 2020; that on December 18, 2020, the respondent filed a motion for relief from judgment having been informed about the default judgment; that in spite of repeated efforts to have the motion for relief from judgment assigned and heard, the Hearing Officer failed to dispose of the motion; that the respondent not having excepted to and announced appeal, it was still within the jurisdiction of the Hearing Officer to dispose of the motion for relief from judgment during the thirty days period allowed by law for the filing of a petition for judicial review; that the respondent filed its appeal bond and notice of completion of appeal on September 24, 2021, but that the movant refused to receive the appeal bond and notice of completion of appeal; that the delay in the

filing of the appeal bond and notice of completion was due to an ongoing negotiation with the movant for a settlement; that the respondent had made an initial offer of US\$15,000.00 for settlement on June 18, 2021, but that the movant counter offered US\$18,000.00 which the respondent accepted; that predicated upon the acceptance of the movant's counter offer, the respondent proceeded to draft a settlement agreement, but that while the agreement was pending, on July 14, 2021, the movant served on the respondent a notice of change of counsel without the consent of the counsel of records in violation of *Civil Procedure Law Revised Code: 1:1.8(2)*; and that on September 17, 2021, the respondent communicated with the movant's new counsel informing him of the negotiation that was concluded with the movant's previous counsel. For reasons stated herein, the respondent prays this Court to deny and dismiss the movant's motion to dismiss appeal.

We gather from the averments of the movant a single argument which is that the respondent not having timely filed its appeal bond and notice of completion of appeal as mandatorily required by law, the respondent's appeal should be denied and dismissed. However, the respondent has assigned as errors the failure of the Hearing Officer to dispose of its motion for relief from judgment, and the failure of the movant to secure the consent of the counsel of records after the notice of change of counsel and as such all papers filed by the new counsel should be stricken. The respondent also argues that the mandatory sixty days period for the completion of an appeal tolled during the course of the negotiations between the parties.

The arguments presented by the parties urge upon this Court to address two issues in the determination of this case.

1. Whether the filing of the movant's papers including the motion to dismiss appeal violated *Civil Procedure Law Revised Code: 1:1.8(2)*?
2. Whether negotiations said to have been taking place between the parties tolled the mandatory sixty days period for filing of the appeal bond and the notice of completion of appeal?

We shall address these issues in the order in which they are presented.

In addressing the first issue, we take recourse to the certified records. The records reveal that on April 21, 2021, the movant filed a notice of additional counsel with the clerk of the National Labour Court announcing Counsellor Molley N. Gray, Jr. as additional counsel. Prior to the said notice however, a petition for enforcement of judgment was filed on March 19, 2021 by the counsels of record other than Counsellor Gray, Jr. The records further reveal that on May 13, 2021, the date of the ruling on the petition for enforcement of judgment, Counsellor Molley N. Gray, Jr. announced representation for the movant and gave notice that Attorney Herbert F. Glasgow, one of counsels of record will join him later without any objection from the respondent's counsel. Two months later, that is on July 14, 2021, the movant notified the National Labour Court and the respondent that Attorney Herbert Glasgow no longer represents her interest and that Counsellor Molley N. Gray, Jr. is her only legal representative in the labor matter at bar. Nothing in the movant's letter dated July 14, 2021 indicated change of counsel as alleged by the respondent's counsel. The letter specifically relieved Attorney Herbert Glasgow of movant's legal representation in the case.

We note that by virtue of the representation made by Counsellor Molley N. Gray, Jr. on May 13, 2021, Attorney Herbert Glasgow acquiesced to Counsellor Gray being an additional counsel in the case. More than that, on September 17, 2021, the respondent's counsel wrote a letter to Counsellor Gray, as a new counsel in the case, informing him that the previous counsel had concluded a negotiation for a settlement and presented Counsellor Gray a draft of the alleged settlement agreement. This Court says that the act of communicating with the movant's new counsel means that the respondent also acquiesced and recognized the new counsel of the movant.

Having set the records straight, we are of the opinion that the respondent's contention respecting the representation of Counsellor Molley N. Gray, Jr. for the movant is nothing more than a drowning person holding unto a straw in an attempt to salvage a damaged cause of his client. This attempt by a Counsellor of the Supreme Court's Bar is disingenuous and therefore reprehensible. In this connection, this Court admonishes Counsellor Benedict F. Sannoh and all other lawyers that, in as much as it is expected of a lawyer to do his all in defending or

prosecuting his client's cause, he must do so with candor and the general truthfulness that will aid the courts to make a fair and impartial dispensation of justice.

Coming to the second issue, whether the sixty days mandatory period for the completion of an appeal tolls at the instance of the parties' negotiation to have the case amicably settled? After a diligent search of the law, we find no support for the tolling of the appeal statute except as provided for under *Civil Procedure Law Revised Code: 1:51.10* as follows:

“If, after an appeal is announced, the counsel for the appellant dies or becomes physically or mentally incapacitated or is disbarred or suspended before the expiration of the time for filing of a bill of exceptions or appeal bond, the time for the doing of such act shall commence to run anew from the date of the death, incapacitation, disbarment or suspension of such counsel. A bill of exceptions or appeal bond shall not be filed by a new attorney of record within the extended time allowed by this section until he has applied for and received permission of the court.”

This Court says that the negotiation said to have been taking place between the parties was not only without court's order or direction, but that the said negotiation cannot be treated as a basis for the tolling of the sixty days allowed by statute for a party taking an appeal to have same perfected. This Court also says that the filing of the respondent's appeal bond and notice of completion of appeal on September 24, 2021, two months after the deadline on July 14, 2021, was an exercise in futility.

Needless to mention that the filing of the respondent's motion for relief from judgment at the Ministry of Labor while the thirty days period for a petition for judicial review still runs was another dilatory tactics employed by the respondent to frustrate the expeditious determination of the case. This Court notes that a petition for judicial review filed before the National Labour Court would have been the proper course to correct errors the respondent believes were committed during the investigation at the Ministry of Labour. We therefore see no error on the part of Hearing Officer not to have entertained the motion for relief from judgment.

We note that the strict adherence or compliance with the requirements for the completion of appeal is a matter of settled law in this jurisdiction. A departure or failure to timely comply with any of the requirements enumerated under *Civil Procedure Law Revised Code: 1:51.4* for the completion of an appeal is a ground for the dismissal. *Catakaw et al v. Karweh*, Supreme Court Opinion, March Term, A.D. 2010, *Sheriff v. Parwon et al*, Supreme Court Opinion, March Term, A.D. 2015, *Mr. Jaimanie F. Tyler v. Mr. Lincoln Davis*, Supreme Court Opinion, October Term, A.D. 2019, *Intestate Estate of T. Q. Harris v. Alex Mulbah et al*, Supreme Court Opinion, October Term, A.D. 2019, *Esther Yeanay Barkpei v. Joseph L. Tompoe*, Supreme Court Opinion, March Term, A.D. 2020, *Trosteen MoKollie v. The Management of Lonestar Cell/MTN*, Supreme Court Opinion, October Term, A.D. 2021.

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss appeal is granted, and the appeal is dismissed. The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and give effect to the Judgment of this Opinion. Costs are ruled against the respondent/appellant. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor Molley N. Gray, Jr. of Jones and Jones Law Firm appeared for the movant. Counsellor Benedict F. Sannoh of Sannoh & Partners, PC appeared for the respondent.