

Janet N. Ngafua-Yekeson of the City of Monrovia, Liberia MOVANT v **Nassan Jebbeh**, by and thru his authorized representatives, **John B. Kpouh** and **Aaron Segbeh: Gasumu Doley**, represented by **Joseph Fon** and **Philomena Williams**, all of the City of Monrovia, Liberia RESPONDENTS

MOTION TO DISMISS APPEAL

LRSC 13

JUDGMENT WIHTOUT OPINOIN

When the case was called for hearing, Counsellor Amara Sheriff of Sherman and Sherman Inc. appeared for the movant/appellee and Counsellor Lawrence Yeakula of Liberty Law Firm appeared for the respondents/appellants.

Following the announcements of representation, Counsellor Amara Sheriff, counsel for the movant/appellee, brought to the attention of the Court that the movant had filed a motion to dismiss the appeal because of the failure of the respondents/appellants to fulfill the statutory grounds for perfection of the appeal taken from the judgment of the lower court, in that the respondents had failed to file an approved appeal bond and to serve and file a notice of completion of appeal, two of the grounds necessary for the perfection of the appeal and prerequisites for the conferral of jurisdiction upon this Court to hear the case on the merits. The inspection of the file and the records in this case disclose that the information provided by the counsel for the movants regarding the noncompliance with the statutory requirements by the respondents to be true and does constitute a legal basis for granting a motion to dismiss an appeal.

Our further inspection of the records also shows that following the filing of the motion to dismiss by the movant/appellee, counsel for the respondents/appellants, on July 29, 2013, addressed to and filed with the Clerk of the Supreme Court a letter, wherein the following was stated:

July 29, 2013

Dear Honourable Clerk:

Upon receipt of this communication you will please spread upon the minutes of this Honourable Court that the respondent in the below captioned case is not within the bailiwick of the country. We contacted the authorized representatives who informed us that though they decided to have an out of court settlement of the case but their principal has not shown seriousness since.

All efforts made to contact him on his telephone No. + 417 882 082 62 proved futile and that he refused to respond to the messages left on his answering machine.

In the circumstances, we humbly beg the Honourable Supreme Court to take the appropriate recourse in the premise.

Thank you very much.

Very sincerely yours,

Lawrence Yeakula

Counsellor-At-Law

The minutes of this Court further reveal that upon this Court being informed by counsel for movant/appellee that a motion to dismiss had been filed with the Clerk of Court, counsel for the respondents/appellants interjected that while the respondents/appellants acknowledged the truthfulness of the allegations set out in the motion to dismiss and conceded to the legal soundness of the said motion, the matter had been resolved by the parties and a stipulation and notice of withdrawal had been prepared for filing with the Court, the truthfulness of which was admitted by counsel for movant/appellee. Whereupon, this Court entered upon the records the following:

Within forty-eight (48) hours, you are ordered to file the appropriate documents. With the filing of such document, or even in the absence of such filing, the Court will proceed to open the file, enter upon the records relative to the motion to dismiss, and proceed to make the ruling in this case. (See Minutes of Court, 14th Day's Session, December 31, 2013, page 4).

Our inspection of the records shows that no documents were filed as directed by this Court. Accordingly, in the absence of such filing, and consistent with this Court's ruling, made on December 31, 2013, this Court hereby enters upon the records to ascertain if there is merit to the motion to warrant the dismissal of the appeal.

After a careful examination of the records in this case, including taking due note of the announcement of the appeal, the filing of the bill of exceptions, the Clerk's Certificate issued by the Clerk of the lower court, the letter addressed to the Clerk of the Supreme Court, quoted above, the motion to dismiss the appeal, to which there was no resistance filed, and the acknowledgment made by counsel for the respondents/appellants that the respondents/appellants had not complied with the requirements of the appeal statute; and being satisfied and convinced that the motion has sufficient legal merits and is supported by the records, it is hereby

ADJUDGED:

That the motion to dismiss the appeal being sound in law and supported by the records in the case, showing that although the respondents/appellants announced and was granted an appeal by the trial court and thereafter filed their bill of exceptions as required by law, they failed and neglected to file an approved appeal bond and to serve and file a notice of completion of appeal, both of which are statutory prerequisites to the completion of the appeal taken to this Court and for the conferral of jurisdiction on this Court to entertain the appeal on the merits, the said motion is hereby granted. The appeal taken from the judgment of the trial court to this Court is therefore hereby dismissed. We note however that the dismissal of the appeal is without prejudice to the parties to entertain into any stipulations or withdrawal of the action from the lower court, should they so desire.

The Clerk of this Court is hereby ordered to send a mandate to the lower court directing the judge presiding therein to resume jurisdiction over the case and to proceed to enforce the judgment of that court. Costs are adjudged against the respondents/appellants.

GIVEN UNDER OUR HANDS AND SEAL OF THE HONOURABLE SUPREME COURT
OF THE REPUBLIC OF LIBERIA THIS 16TH DAY OF JANUARY, A. D. 2014.

Please see pdf for signatures.