

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC
OF LIBERIA, SITTING IN ITS OCTOBER TERM, A.D. 2022

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

Kailondo Petroleum, Inc., by & thru its Chief Executive Officer)
Cllr. George B. Kailondo of the City of Monrovia, Liberia)
.....Movant)

VERSUS) MOTION TO DISMISS
APPEAL)

Guaranty Trust Bank (GT Bank) Liberia Limited, by and thru its)
Managing Director, Ikenna Anekwa, Deputies, Executive Director,)
Comptroller, and all other authorities of the Bank, all of the City)
of Monrovia, Liberia.....Respondent)

GROWING OUT OF THE CASE:)

Guaranty Trust Bank (GT Bank) Liberia Limited, by and thru its)
Managing Director, Ikenna Anekwa, Deputies, Executive Director,)
Comptroller, and all other authorities of the Bank, all of the City)
of Monrovia, Liberia.....Appellant)

VERSUS) APPEAL)

Kailondo Petroleum, Inc., by & thru its Chief Executive Officer)
Cllr. George B. Kailondo of the City of Monrovia, Liberia)
.....Appellee)

GROWING OUT OF THE CASE:)

Kailondo Petroleum, Inc., by & thru its Chief Executive Officer)
Cllr. George B. Kailondo of the City of Monrovia, Liberia)
.....Plaintiff)

VERSUS) ACTION OF DAMAGES
FOR WRONG)

Guaranty Trust Bank (GT Bank) Liberia Limited, by and thru its)
Managing Director, Ikenna Anekwa, Deputies, Executive Director,)
Comptroller, and all other authorities of the Bank, all of the City)
of Monrovia, Liberia.....Defendant)

HEARD: October 19, 2022 DECIDED: December 15, 2022

MR. JUSTICE NAGBE DELIVERED THE OPINION OF THE COURT.

This Court has been called upon by the movant, Kailondo Petroleum, Inc., to dismiss the appeal taken by the respondent, Guaranty Trust

Bank (Liberia) Limited (GT Bank), from the final ruling of the Civil Law Court, Sixth Judicial Circuit for Montserrado County, presided over by His Honor Yamie Quiqui Gbeisay.

The records show that on July 20, 2022, the trial court entered its final ruling in an action of damages for wrong instituted by the movant against the respondent, in which the court found for the former. The appellant/respondent noted exception and announced an appeal to the Honorable Supreme Court of Liberia, sitting in its October Term A. D. 2022. The movant further averred that the respondent filed its bill of exceptions within the ten (10) days allowed by statute and subsequently filed and served its appeal bond; that upon receipt of the appeal bond, it filed exception to the respondent's appeal bond and the respondent accordingly filed a motion to justify its appeal bond; that upon argument had on the exception and motion to justify the appeal bond, the trial court ruled, set aside the respondent's appeal bond and gave the respondent seventy-two (72) hours to file a new appeal bond along with a new surety, consistent with law.

The records further show that the respondent did not complete the appeal process to file a new appeal bond and its notice of completion of appeal within seventy-two hours as mandated by the trial court, but rather filed a petition for the writ of certiorari before the Chambers Justice, Her Honor Jamesetta H. Wolokolie, who cited the parties to a conference and at the end of the conference the Chambers Justice declined to issue the alternative writ prayed for by the respondent and mandated the trial court to resume jurisdiction over the case and proceed according to law. Upon the reading of the Mandate of the Chambers Justice by the trial court, the respondent, on September 30, 2022, filed its new appeal bond and on October 3, 2022, filed its notice of completion of appeal.

On October 6, 2022, the movant filed this motion to dismiss the appeal taken by the respondent, alleging that the respondent filed its appeal bond and notice of completion of the appeal outside the time allowed by statute, that is, the sixty-day period, in violation of Chapter 51, Section 51.4 of the Civil Procedure Law, 1LCLR.

The respondent resisting the motion to dismiss its appeal, rejected the movant's claim that it completed the appeal process beyond the sixty (60) days period allowed by statute and strenuously argued that in so far that the Chambers Justice issued a stay order on the trial court on September 16, 2022, the day it filed its petition for certiorari, the appeal statute time had ceased to run; hence, on September 30, 2022, upon the reading of the mandate by the trial court, it filed its new approved appeal bond the selfsame day in the amount of Four Million United States (US\$4,000,000.00) Dollars with the clerk of the trial court and served a copy of same along with its notice of completion of appeal on the movant and on October 3, 202, thus completing the appeal process. In support of its argument, the respondent cited and relied on the case: *Sipo Logging Int'l v. Kpomakpor et al*, 34 LLR 809 (1988), in which the Supreme Court held that "the issuance of a temporary stay order by a justice in chambers gives him jurisdiction over the matters and the parties".

Given the facts and circumstances in this case and the arguments advanced by the counsels representing the parties, the singular issue that presents itself for our determination is whether or not, the appeal of the respondent is dismissible under the law?

In answering the issue raised, as to whether or not the appeal should be dismissed, it is important to first commence our discussion on the premise that there was a final ruling by the trial court in the action of

damages for wrong and from which the respondent announced an appeal and proceeded to perfect same up to the filing of a bill of exceptions and an appeal bond; that as of the filing of the bill of exceptions, the substantive matter of the case was vested in the Supreme Court; and that there was absolutely nothing intermittent before the trial court to review, correct, or warrant the issuance of the writ of certiorari. Hence, and in view of the aforesaid, this Court will not be remiss to characterize the respondent's petition praying for issuance of the writ of certiorari as a procedural ploy designed to delay and circumvent the ends of justice. This is so, because the writ of certiorari, according to the Civil Procedure Law and Opinions of the Supreme Court, as stated below is:

“...a special proceeding to review and correct decisions of officials, boards, or agencies acting in a judicial capacity, or to review an intermediate order or interlocutory judgment of a court.” Civil Procedure Law, Rev. Code, 16.21(1). The writ of Certiorari is for the purpose of correcting errors committed by a subordinate court order while a **matter is pending**, and when such errors materially prejudice the rights of the parties. (Our emphasis). *Friends of Liberia Association v. Thompson*, 41LLR 174 178 (2000); *TRADEVCO v. Mathies, et. al.*, 39LLR 578 585(1999); *William v. Clarke* 2LLR 130, 132 (1913).

In view of the above principle of law cited, we hold that because the writ of Certiorari was completely inapplicable to this present case, the respondent's petition for said writ was a misstep of the remedial process which this Supreme Court cannot countenance, but will act in the interest of justice, equity and the perfection of our remedial processes.

We also hold that the respondent cannot claim any protection or benefits from the stay order of the Chambers Justice owing to its failure

to complete the appeal process within statutory time; nor for its failure to apply to the court below for enlargement of time if it had calculated that the appeal statute would toll after the sixty (60) day since there was one day left for the completion of the entire appeal process. To do otherwise, will be a judicial endorsement of the respondent's failure to fully comply with the appeal statute, and by extension, an approbation for lawyers to abuse the remedial process and violate the appeal statute. This Court cannot circumvent or compromise the law on the appeal statute; hence, we hold that the appeal of the respondent not being fully satisfied by the appeal statute is dismissible.

A further recourse to the records shows that the 60 days statutory period for the completion of the respondent's appeal process commenced from July 20, 2022 and ended on September 20, 2022. The records also show that the Chambers Justice issued a stay order on the 59th day of the 60 day statutory period, that is, September 19, 2022; and that absent the Chamber Justice's stay order the respondent had only one (1) more day to complete its appeal and not eleven (11) days.

In light of the above, this Court says that the lifting of the stay order on September 30, 2022, automatically restored the one day remaining on the statutory period which was lost as a result of the Chambers Justice's stay order on all proceedings in the trial court. Hence, any failure to perfect the appeal within the remaining time restored, the one day, is a violation of the appeal statute as the Chamber Justice's stay order did not *sua sponte* extend the 60 day statutory period to 71 days. Therefore, the filing of the notice of completion of appeal two days after the lost time, that is October 3, 2022, was a violation of the 60 days statutory period and as such the appeal is dismissible as a matter of law.

Wherefore, and in view of the foregoing, the motion to dismiss appeal is hereby granted and the appeal is ordered dismissed. The Clerk of this Court is ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Opinion. Costs are ruled against the respondent. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors M. Wilkins Wright of the Wright & Associates Law Firm, Mamee S. W. Gongbah of the Liberty Law Firm and George B. Kailondo, pro se, appeared for the movant. Counsellors Abraham B. Sillah, Sr., and J. Awia Vankan of the Heritage Partners & Associates appeared for the respondent.