# SCH U LMAN-H ATFIELD-MARSON-G ENS, by

THOMAS P. CORON IS, Project Manager, Appellants,

e. ALH AJ I VERMUYAH CORN EH, Appellee.



Argued April 2, 1962. Decided June 1, 1962.

When an appellant has failed to complete the statutorily prescribed requisites for perfection of an appeal, the Supreme Court will grant a motion to direct the **court** below **to resume jurisdiction and** enforce **its judgment.**

# Following appellants’ Iailure to appear at the hearing of the case on appeal, the Supreme Court, on motion of appellee, ordered the court below to resume jurisdiction and enforce its judgment on the ground that appellants had Iailed to file an appeal bond within the prescribed period of time.

No appearance for appellant. J. *F. Dennis* for appel- lee.

**MR. JUSTICE MITCHELL** delivered the opinion of the

Court.

On March •7› 9\*•, Counsellor Joseph F. Dennis, of counsel for the above-named appellee, filed an application for the Court’s consideration, entitled: “Appellee’s Appli-

cation for Order of Court to Trial Court to Resume Jurisdiction and Enforce Judgment.”

The body of this application reads, word for word, as follows .

“Alhaji Vermuyah Corneh, appellee in the above- entitled cause, respectfully applies to this **Court for** the issuance **of an order to the** trial **court to** resume

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# jurisdiction and enforce its judgment, for the follow- ing reasons, to wit:

“i. Because the final judgment in the said cause, from which the appellants announced an appeal to this Court, was rendered on January 8, iq6z, but appellants have filed only their bill of ex- ceptions, and have not yet filed an appeal bond as the law requires, as will more fully appear from a copy of certificate issued by the clerk of the Circuit Court of the Sixth Judicial Circuit, Montserrado County, hereto annexed and marked Exhibit A to form a part of this appli- cation. Appellee submits that, although said appeal bond should have been filed within 6o days after rendition of the final judgment as a further step towards the perfection of the ap- peal, i 8 additional days have now gone by, making a total of y8 days since the rendition of the said judgment, quite contrary to the law

# governing appeals.

*“x.*

And also, because of the foregoing, appellants have failed to have perfected their appeal by taking all of the jurisdictional steps prescribed by law. Therefore this Court cannot entertain the said appeal, and such act is tantamount to a waiver of appellants’ right to have said appeal heard by this Court.”

# When the case was assigned for a hearing of the afore- said application, Counsellor C. L. Simpson of the Simpson Law Firm, of counsel for the appellants in the court be- low, was present in Court and knew of the same; but when the case was called, neither he nor a representative from the firm appeared, nor was the appellant present in person. Although it is not customary, according to our court practice, to delay the hearing of matters when they are regularly assigned, yet the Court anticipated that counsel, knowing of the assignment, would appear and answer for

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his lateness—hence a few minutes of indulgence were al- lowed ; after which there was no alternative other than to proceed with the hearing of the application ; and appel- lee’s counsel proceeded to argue in support of his appli- cation.

We have taken the time to include the grounds of the

application in this opinion, regardless of the fact that there are so many opinions of this Court predicated upon the same grounds, because we want to emphasize that courts are not authorized to do for parties in litigation that which is incumbent upon them to do for themselves in strictly conforming to the statutes in such cases made and provided.

Our statute provides as follows:

“When the defendant appeals, he or his counsel shall perform the following acts to perfect the appeal within the sixty-day period :

“ (c) Within ten days after rendition of judgment he shall tender a bill of exceptions to the judge for his approval and signature ;

“ (d) He shall file with the clerk of the court the bill of exceptions signed by the judge and an appeal bond approved by the judge.” iQ 6 Code, tit. 8, § 373-

The law does not make a closing point there, but also

specifies the following grounds for the dismissal of an appeal from a court of record:

“ ( a) I ailure to file an approved bill of exceptions within the time specified in section 373 ;

“ (b) Iailure to file an approved appeal bond or

material defect in such bond ;

" (c ) I ailure to have notice of appeal served on

appellee; or

“ (d) non-appearance of the appellant on appeal."

'9s6 Code, tit. 8, $ 3 -

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In this case, there was no necessity for appellants to appear, since they had not completed the jurisdictional steps required by statute, and had deliberately failed to file their appeal bond within the time prescribed by law, which failure is an incurable blunder.

It is obvious that the trial court lost jurisdiction over the case when appellants formally announced an appeal to this Court. Therefore, the court below was without legal competence to resume further jurisdiction over the matter without a mandate from this Court. When juris- dictional requirements for completion of an appeal are wanting, the appeal will be dismissed. I t follows that this appellee’s application should be, and it is hereby granted, and the clerk of this Court is hereby ordered to send a mandate to the court below ordering it to resume jurisdiction and enforce its judgment. And it is hereby so ordered.

*Mo lion granted.*