

SIDI MOHAMMED, Appellant, v. ZEKY
MATTER, Appellee.

APPEAL FROM THE DEBT COURT, NIMBA COUNTY.

Argued April 9, 1970. Decided January 21, 1971.

1. When appellant only appears at the call of the case, and applies to the Court for remand of the cause because a document necessary to his appeal has not been transmitted, the application will be granted and the judgment of the lower court reversed for the purpose of remand.

At the call of the case for argument, in an appeal from the judgment of the Debt Court affirming the judgment entered against defendant in an action of debt brought in the Magistrate Court, only appellants counsel appeared and applied to the Supreme Court for remand, because of a missing document on which his appeal was based. The application was granted and the lower court's *judgment* was *reversed* for the purpose.

Michael M. Johnson for appellant. No appearance for appellee.

MR. JUSTICE WARDSWORTH delivered the opinion of the Court.

On June 7, 1963, appellee in the above-entitled cause of action instituted an action of debt against appellant in the Magistrate Court of Sanniquellie, Nimba County, for the sum of \$120.75.

The case was tried and judgment rendered for plaintiff on July 17, 1963.

Defendant appealed to the Debt Court, Nimba County, where judgment was again entered against him. It is from the last judgment he has taken the appeal before this Court.

At the call of the case, appellant's counsel appeared, but appellee did not. An application was made by appellant at the time.

"In view of the absence of appellee and also the omission of the invoice which is the basis of this case, counsel for appellant requests the court to remand said case and reverse the judgment of the trial court in keeping with law and submitted."

In view of the application of appellant, the Court has no other alternative but to grant the request.

Therefore, the case is hereby remanded to the court of origin to be heard *de novo* at its next ensuing Term subsequent to the receipt of the mandate of this Court in said cause. Costs are to abide final determination.

Application granted; reversed and remanded.