

MADAM KOWE TOWEH, Appellant, v. SAMMY
GHOUSAINY, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE SEVENTH JUDICIAL
CIRCUIT, GRAND GEDEH COUNTY.

Argued October 17, 18, 1967. Decided January 18, 1968.

1. Where a document is entitled a bill of exceptions, but contains no single instance of an exception taken to any of the rulings of the trial judge, nor to the verdict of the jury, nor to the judgment in the case, and merely repeats matter in the pleadings and recites matters given in evidence at the trial, it will not be considered a bill of exceptions, though bearing the approval of the trial judge, and an appeal will be deemed to have not been taken for failure to submit a bill of exceptions on appeal, as required by law.

On appeal by the defendant from the judgment of the lower court, on the motion of the Supreme Court itself the appeal was dismissed for want of procedural compliance requiring a bill of exceptions, the *judgment* being *affirmed*.

M. Kron Yangbe for Appellant. The *Garber* law firm for Appellee.

MR. CHIEF JUSTICE WILSON delivered the opinion of the Court.

It is provided in our Civil Procedure Law, 1956 Code 6:1015:

“It shall be the duty of the clerk of the court from which the appeal is taken to make up a record containing certified copies of all the writs, returns, notices, complaints, answers, replies and other pleadings, motions, applications, certificates, minutes, verdicts, decisions, rulings, orders, opinions, judgments, bills of exceptions, and all other proceedings in the case. He shall transmit this record together with the appeal bond to the appellate court within one hundred fifty

days after the rendition of judgment. When the clerk of the appellate court receives this record, he shall forthwith docket it and forward a receipt to the clerk who sent him the record.”

Based on this procedure outlined, and by which this Court is governed and controlled, the next thing we have to consider in this appeal is whether or not all of these requirements have been met.

In all appeals the party appealing must proceed by a bill of exceptions, approved by the trial judge.

This makes the bill of exceptions a complaint of the dissatisfied party, which is the basis and guideline to our consideration of any appeal. When there is no legal bill of exceptions in the appeal record, there is no appeal before this Court.

So as to fairly and correctly determine whether or not the document submitted as a bill of exceptions does, in fact, constitute such, we must turn to the definition of a bill of exceptions as is contained in our Civil Procedure Law, 1956 Code 6:1012.

“A bill of exceptions is a written instrument stating the judgment, decision, order, ruling, or other matter excepted to and the basis of the exceptions and containing a motion or prayer for relief. The appellant must tender a bill of exceptions, signed by him, to the trial judge, within ten days after rendition of judgment. The judge must sign the bill of exceptions (and the appellant shall be entitled to a writ from the appellate court compelling the trial judge to sign such bill if he refuses), but he may note reservations thereon. After the judge has signed the bill of exceptions, it shall be filed with the clerk of the trial court.”

Throughout the document submitted there is not a solitary instance of any exception taken to any of the rulings of the trial judge, nor even to the verdict of the jury, nor the final judgment. On the contrary, it tends

to replead matter that has already been pleaded in the complaint and subsequent pleadings, and contains a recital of factual matter given in evidence at the trial.

We regret, under the circumstances, our inability, for the want of authority so to do, to enter upon a review of the case from which this appeal has emanated, since we have no bill of exceptions before us.

The appeal is dismissed, the judgment of the lower court affirmed, with costs against the appellant. And it is so ordered.

Affirmed upon dismissal.