

GABRIEL ZAYZAY, Appellant, v. ZONDELL B.
JALLAH, et al., Appellees.

APPEAL FROM THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT,
MONTSERRADO COUNTY.

Argued November 27, 1975. Decided January 2, 1976.

1. If the description of property pledged can be established sufficiently by extrinsic factors, even though the description of the property is vague, the description will be deemed adequate to establish the lien of the appeal bond.
2. But if property pledged is so described as to not make finding it an easy exercise, it will be deemed inadequate and the appeal will be dismissed on motion by reason of a defective bond.

An appeal was taken from the judgment of the lower court and appellees moved to dismiss the appeal on the ground that the property pledged was not sufficiently described so as to establish the lien of the appeal bond. The property was merely described as being on UN Drive, Monrovia.

The Supreme Court stated that property should be so identified as to make finding it an easy exercise. The motion was *granted* and the appeal was *dismissed*.

O. Natty B. Davis for appellant. *Moses K. Yangbe* for appellees.

MR. JUSTICE AZANGO delivered the opinion of the Court.

When this case was called, appellees moved for its dismissal on procedural grounds. The motion to dismiss the appeal was opposed by appellant.

Closely examining the Civil Procedure Law relating to appeals, affidavits of sureties, and the required certificate of property valuation, we find that it is incumbent upon every appellant to "give an appeal bond in an

amount to be fixed by the Court, with two or more legally qualified sureties, to the effect that he will indemnify the appellee from all costs or injury arising from the appeal, if unsuccessful, and that he will comply with the judgment of the appellate court or of any other court to which the case is removed." Rev. Code 1:51.8. Unless the court orders otherwise,

"a surety on a bond shall be either two natural persons who fulfill the requirements of this section, or an insurance company authorized to execute surety bonds within the Republic. . . . A bond upon which natural persons are sureties shall be secured by one or more pieces of real property located in the Republic, which shall have an assessed value equal to the total amount specified in the bond, exclusive of all encumbrances. Such a bond shall create a lien on the real property when the party in whose favor the bond is given has it recorded in the docket for surety bond liens in the office of the clerk of the Circuit Court in the county where the property is located. Each bond shall be recorded therein by an entry showing the following: (a) the names of the sureties in alphabetical order; (b) the amount of the bond; (c) a description of the real property offered as security thereunder, sufficiently identified to clearly establish the lien of the bond; (d) the date of such recording; (e) the title of the action, proceeding or estate. . . . The bond shall be accompanied by an affidavit of the sureties containing the following: (a) a statement that one of them is the owner or that both combined are the owners of the real property offered as security; (b) a description of the property, sufficiently identified to establish the lien of the bond; (c) a statement of the total amount of the liens, unpaid taxes, and other encumbrances against each property offered; and (d) a statement of the assessed value of each property offered. . . . The bond shall also be accompanied by a

certificate of a duly authorized official of the Ministry of Finance that the property is owned by the surety or sureties claiming title to it in the affidavit and that it is of the assessed value therein stated." Rev. Code 1:63.2 (1, 2, 3, 4).

Appellee has laid emphasis upon the failure to describe the property sufficiently so as to establish the lien of the bond as required.

On the other hand, appellant's counsel has urged that the purpose of description in the sureties' affidavit, has been fully met.

From our point of view, we do not find it necessary to engage ourselves into research in order to determine the spirit and intent of the lawmakers, when they declared in the statutes, that each bond shall be recorded by an entry sufficiently describing the real property offered as security thereunder to clearly establish the lien of the bond. Rev. Code 1:63.2.

The language is plain and unambiguous. Therefore, we must take the view that the lawmakers meant that in the description of the real property to be incorporated in the affidavit of the sureties, they referred to that part of the deed, mortgage, contract or other instrument affecting the title to the real property which describes the property affected. That however general and indefinite the description may be, if by extrinsic factors it can be made practically certain what property it was intended to cover, it will be deemed sufficient.

Additionally, Mr. Chief Justice Pierre addressed himself to this point in *West Africa Trading Corp. v. Al-raine, Ltd.*, decided in our March 1975 Term.

"[I]n giving effect to the text of this statute, we must consider that description of land merely means designating the particular space occupied, or to be occupied, so as to enable anyone to find it, should this become necessary. Hence, in deeds which convey real property we have descriptions by metes and bounds,

to sufficiently and correctly identify the particular plot of land.

“With this as a background it is our opinion that description as used in this section means that land offered as security for appeal bonds must be described in the affidavit of the sureties sufficiently well to identify the particular piece of property intended to be encumbered by the bond. It is not sufficient to say that a surety owns an acre on a particular street; that property must be described in a manner to make finding it on the ground an easy exercise.”

Inspecting the certificate of property valuation from the Ministry of Finance, we hold that there is no reasonable certainty and particularity of description for the properties offered by appellant, which leads to the identification of the property. That is, with reference to the alleged property of the sureties, the certificate has failed to give the lot number. The location of the aforesaid property alleged to be on UN Drive, Monrovia, is indistinctively described.

In view of the foregoing, the motion to dismiss the appeal is granted and the appeal is hereby dismissed. It is so ordered.

Motion granted; appeal dismissed.