most conspicuous place in an appeal. It is the notice that completes the appeal, and it can not be contended with legal force that the appellate court should enter upon the trial of a case with an incomplete record. We are of the opinion that it is the notice in appeal cases that gives the appellate court jurisdiction over the appellee, and this has been repeatedly set forth in the decisions handed down from time to time by this court.

The notice of appeal in the appellate court performs the same office that the writ of summons performs in the court of original jurisdiction. And where it appears that the notice has been given this court is bound to take notice and give the necessary relief. (See *Kwasi Adai v. Jackson et al.,* Lib. Semi Ann. Series, No. 4, p. 23.) See also the opinion of this court handed down at the June term, 1913 of this court; a very elaborate comment was made upon the effect of the failure of serving notice of appeal upon the appellee, which we feel should be upheld by the court, there being no reason shown to the contrary. (See the case *Greaves v. Johnstone,* Lib. Semi Ann. Series, No. 2, p. 14.)

This case should be dismissed with costs against appellant. And it is so ordered.

J. W. Cooper, and *John W. Taylor,* for appellant.

R. E. Dixon, for appellee.

SOLOMON HILL, Appellant, *v.* JACOB C. TETTEH, Appellee.

HEARD DECEMBER 10, 1924. DECIDED JANUARY 6, 1925.

Johnson, C. J., Witherspoon and Bey-Solow, JJ.

1. Any demurrer or plea a party may desire to raise in a case should be plead in the answer.
2. It is therefore error to raise any such plea by a motion when the case is called for trial. *Judgment reversed; case remanded.*

Mr. Chief Justice Johnson delivered the opinion of the court:

Ejectment. This was an action of ejectment brought in the Circuit Court of the first judicial circuit, Montserrado County, by Solomon Hill, plaintiff in the court below, against Jacob C. Tetteh, defendant in said action, to eject said defendant from a piece of land owned by said plaintiff.

The facts in the case are substantially as follows: the appellant is owner of the western part of the northern half of lot number 302,

in Monrovia, Republic of Liberia. He leased same to one Serra Guimerra a Spanish merchant for a period of twenty (20) years from January 1, 1920, at the yearly rent of six hundred dollars ($600.00) with option of renewal for another term of equal duration with the right to sub-lease if he so desired.

On the 25th of June, the said Serra Guimerra sub-let to appellee a piece of the western part of said land for ten (10) years at a rental of ten pounds sterling (£10. -. -), and finding out that he could not carry out the terms of his contract with appellant, relinquished his rights and cancelled his lease; Hill the said appellant consenting to the understanding that C. Woermann should have same. Appellant now seeks to eject appellee from said premises, and the case of ejectment having been dismissed by the judge of the court below, appellant has brought the case, by bill of exceptions, to this court for review.

From the bill of exceptions filed in the case, and judgment of the court below, it appears that said court dismissed the case on a motion of appellee. To this appellant excepted on the ground that the motion contained questions of law and fact which should have been raised in the pleadings, and that the court below committed an error in entertaining said motion.

This exception in our opinion is well taken; this court has repeatedly ruled that the defendant, if he is intend to take advantage of defects in plaintiff's case, is bound by rules of pleadings to point them out in his answer (see *Attia v. Payne,* I Lib. L. R. 205) and this ruling is in keeping with the legal forms and principles in the statute of Liberia, which provides as follows: "The fundamental principles upon which all complaints, answers, or replies shall be constructed, shall be that of giving notice to the other party of all new facts which it is intended to prove whether they are consistent with the facts already stated to the court, or being inconsistent with the present existence of such facts admit or imply their former existence or show that existing they can have no legal effect." (See Lib. Stat., ch. V, p. 45, sec. 8.)

The judge of the court below therefore erred in sustaining the motion and dismissing the case. The case should therefore be remanded to the court below with instructions to the judge of said court to hear and determine said case; costs to abide results of said determination.