owner; even though the receiver has gained complete possession. But what makes the actions of Judge Williams more reprehensible is the fact that the matter of the alleged contempt had been reviewed by the Supreme Court, and judgment rendered as aforesaid.

If there were any doubts in the mind of Judge Williams on this point, yet he was bound to stay proceedings in the matter of the alleged contempt, when the writ of prohibition issued by order of Justice Johnson was served on him; and his action under the circumstances was contemptuous and insubordinate.

Judge Williams is therefore adjudged to be guilty of contempt and fined in the sum of twenty-five dollars ($25.00). He is to remain the custody of the marshal until the fine is paid. And it is so ordered.

J. W. Cooper, for petitioners.

E. W. Williams, for respondent.

PERNELLA NORTH, Appellant, *v.* R. J. CLARKE, Appellee.

ARGUED DECEMBER 2, 1924. DECIDED JANUARY 6, 1925.

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

It is the notice of appeal duly issued and served upon appellee which confers jurisdiction upon the appellate court over the appellee.

Mr. Justice Witherspoon delivered the opinion of the court:

Objection to the Probation of a Will—Appellee's Motion to Dismiss Appeal. At the call of this case the appellee submitted a motion for the consideration of the court asking that the court dismiss the appeal for the reason that there had not been issued and served upon the appellee the notice of appeal as is required by law; and citing in his argument the Act of 1894 regulating how appeals are to be taken.

Appellant contended that the duty of giving notice to appellee in appeals is settled upon the clerk of the court, and his failure to do so should not prejudice the rights of appellant.

This contention at first sight might in sympathy carry great force; it is quite differently regarded in a court of justice. The paramount object of a court is to impart justice according to the law of the land, within the bounds of which it is confined.

This court is of the opinion that the notice of appeal occupies a

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,