

MOSES TISDELL, Appellant, v. ZEONVONYON,
Appellee.

APPEAL FROM PROVISIONAL MONTHLY AND PROBATE COURT OF
THE TERRITORY OF MARSHALL.

Argued April 22, 1937. Decided April 30, 1937.

1. One of the essential prerequisites to the taking of an appeal is the payment of all costs; and should appellant have neglected this legal requirement the appeal will not be heard.
2. Nor will this Court hear an appeal where it appears that the appeal bond has not had the proper revenue stamp affixed.

In an action for trespass, judgment was rendered in the Provisional Monthly and Probate Court of the Territory of Marshall for plaintiff. On appeal to this Court on a bill of exceptions, *appeal dismissed*.

No appearance for appellant. *T. G. Collins* for appellee.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

At the July term, 1936, of the Provisional Monthly and Probate Court of Marshall Territory, in its Law Division, appellee, plaintiff below, instituted an action against appellant for trespass *vi et armis* upon real property. Said cause came on for trial before His Honor William H. Blaine, Judge presiding, who, after hearing the evidence *pro et con* and the law, rendered a final judgment against said appellant. He, the said appellant, being dissatisfied with the several rulings and final judgment of the trial judge, excepted and appealed to this Court upon a bill of exceptions for review. At the call of the case, appellee, through his counsel, tendered a motion to the Court praying that the said appeal be dismissed, appellee discharged, and appellant ruled to pay all legal costs, for reasons the relevant portion of which reads as follows, to wit:

"1. Because said appellant has failed and neglected to pay the costs accruing in the court below.

"2. And also because the appeal bond filed in this case is defective, in that it is not stamped as required by law."

This Court has repeatedly held that the payment of costs is one of the prerequisites to be observed in taking an appeal to this Court, and that when the costs are not paid the appeal will be dismissed.

The amendatory Judicial Act of 1894 (L. 1893-94, 10, par. 1) in reference to how appeals are to be taken to this Court, says *inter alia* that the appeal must be taken within sixty days after the rendition of final judgment and payment of costs.

By a very careful inspection of the records filed in this case we find that the prerequisites of the law have not been complied with in that the costs of the trial court were not paid within the time prescribed by law nor indeed were they paid at all; hence the purported appeal is not legally before this Court. Count one of appellee's motion being in perfect harmony with the law and previous rulings of this Court should receive the favorable consideration of this Court. *Farphiny v. McCarey*, 2 L.L.R. 50 (1911).

In the year 1906 the Legislature of Liberia, for the purpose of increasing the revenue, passed a statute entitled a "Stamp Act," which provides that certain documents shall be subjected to a stamp duty to be thereon affixed as per schedule then prescribed; among which are bonds etc. Said act was supplemented and enlarged by a subsequent stamp act approved January 24, 1923, which included appeal bonds etc., and provided that no document of the nature of those mentioned therein, issued after the thirtieth day of June, 1906, should be deemed valid, or be received as evidence in courts of justice unless it should have been properly stamped in accordance with the schedule above mentioned in said Act. Upon

careful examination of the records filed, we find that the bond filed in the cause was not stamped according to law, and is, therefore, void and of no legal effect. Acts of the Legislature, 1906, pp. 42-3; Acts of 1923, ch. VI, p. 12.

Therefore, in view of the said defects appearing upon the records in this case as are set forth and contained in appellee's motion to dismiss the appeal, this Court is of the opinion that said appeal should be dismissed and the trial court given permission to resume jurisdiction and execute its judgment; and appellant be ruled to pay all legal costs; and it is so ordered.

Appeal dismissed.