

J. J. MENDES-COLE, Appellant, v. W. O. DESHIELD, *et al.*, Appellees.

APPEAL FROM THE MONTHLY AND PROBATE COURT OF
MONTERRADO COUNTY.

Argued November 9, 1961. Decided December 15, 1961.

Failure of an appellant to appear when a case is called for hearing before the Supreme Court is ground for dismissal.

On appeal from a ruling of the Commissioner of Probate denying objectives to the probation and registration of deeds to real property, *appeal dismissed*.

No appearance for appellant. *O. Natty B. Davis* for appellees.

MR. JUSTICE HARRIS delivered the opinion of the Court.

There seems to have been some land dispute between J. J. Mendis-Cole, for himself, Maude Fagans-Freeman, by and through her husband George M. Freeman, and Mabel Fagans-Hill, by and through her husband, Samuel D. Hill, surviving heirs of the late Edmund Chavers, of the City of Monrovia, and W. O. Deshield, James R. Deshield and Henrietta Williams-Banguri, heirs of the late John Chavers of the City of Monrovia; whereupon the aforesaid J. J. Mendis-Cole addressed the following letter to the clerk of the Monthly and Probate Court, of Montserrado County, under date of June 27, 1960.

“DEAR MADAM:

“Please take note and spread upon the records of the monthly and probate court that the heirs of Edmund Chavers, Montserrado County, have objections to the probation and registration of deeds or other instru-

ments affecting and relating to real property lying and situated in Sinkor, Monrovia, Montserrado County, from the heirs of John Chavers (Deshield) and the caveators will file their objections thereto after they have been notified in keeping with law.

“Very truly yours,

[Sgd.] J. J. MENDES-COLE.”

On July 5, 1960, the clerk of the monthly and probate court addressed a letter to the said J. J. Mendis-Cole, which letter, in its body, reads as follows:

“Please be informed that instruments (warranty deed from James H. Deshield to Emma A. Cooper, Lot Number 35 (Chavers estate) Block 13-1, Lot Number 12, situated at Sinkor, Monrovia, and warranty deed from James H. Deshield to Cecelia A. Dennis, Lot Number 35 (Chavers Estate) Block 13-1, Lot Number 13, situated at Sinkor, Monrovia) have been presented to this court for probation. In keeping with your caveat filed in this court, you will therefore file your said objections to the probation and registration of the instruments within ten days from the date of this notice.”

Upon the receipt of the information of the clerk of the monthly and probate court that deeds had been offered for probation and registration affecting the said land, objections to their probation and registration were promptly filed by the said Mendis-Cole for himself and rest of the caveators. The proceedings rested with the surrejoinder of the objectants, and the case, having been assigned for trial of the law, was heard on October 26, 1960. A ruling was handed down on November 4, 1960, by the commissioner of probate, denying the objections, and admitting the said deeds to probation and registration. To this ruling, the objectants excepted and announced an appeal to the Supreme Court at its March, 1960, term. Notice to all parties concerned was issued on November 7, 1961, informing them that the case was assigned for

trial on the following day. The said notice of assignment was served and returned by the marshal of this Court as well as acknowledged by counsel for both parties; but quite strangely, when the case was called for trial, counsel for the respondents-appellees appeared, but neither the appellants nor their counsel appeared; whereupon counsel for the appellees invoked Part 6 of Rule IV of the Revised Rules of the Supreme Court, which reads, in part, as follows:

“Dismissal for failure of counsel or party to appear—
When a case which has been bulletined is reached for argument and neither party appears, it may be dismissed at the cost of the appellant. If the appellant fails to appear when the case is called for hearing, the Court may, on motion of appellee or on its own motion, dismiss the appeal.”

There are indeed some interesting legal issues projected in the pleadings which we earnestly desired to have argued before us; but we are prohibited on account of the appellants' non-appearance and the invocation of the rule just above quoted. We, therefore, have no alternative but to dismiss the appeal with costs against the appellants. And it is so ordered.

Appeal dismissed.