IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN ITS MARCH TERM, A.D. 2012.

PRESENT: HIS HONOR: JOHNNIE N. LEWIS .....CHIEF JUSTICE
PRESENT: HIS HONOR: FRANCIS S.KORKPOR, SR.....ASSOCIATE JUSTICE
PRESENT: HIS HONOR: KABINEH M. JA'NEH.....ASSOCIATE JUSTICE
PRESENT: HER HONOR: JAMESETTA WOLOKOLIE.....ASSOCIATE JUSTICE
PRESENT: HIS HONOR: PHILIP A. Z. BANKS, III.....ASSOCIATE JUSTICE

Abdallah M. Housseini and Zeinab M. Houseini by and thru)
Their natural born father Mohammed Housseini of)
Monrovia, Liberia.....**MOVANTS**)
Versus) **MOTION TO DISMISS**
Abraham Kaydea/Liberia Petroleum Company, Clara Town) **APPEAL**
Gas Station, opposite Prestige Motor by and thru its General)
Manager Varney Sherman of Monrovia, Liberia)
.....**RESPONDENT**)
GROWING OUT OF THE CASE:)

Abraham Kaydea/Liberia Petroleum Company, Clara Town)
Gas Station, opposite Prestige Motor by and thru its General)
Manager Varney Sherman of Monrovia, Liberia) **APPEAL**
.....**APPELLANT**)
Versus)
Abdallah M. Housseini and Zeinab M. Houseini by and thru)
Their natural born father Mohammed Housseini of)
Monrovia, Liberia..... **APPELEES**)

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

Argued: April 26, 2011 & March 13, 2012 **Decided:** July 5, 2012

Ansu B. Kromah and T. Negbalee Warner of the Centre for Legal Assistance and Strategic Services (CLASS) appeared for Respondent/Appellant. Rogers K. Martin of the Martin Law Office and Cooper Kruah of the Henries Law Firm appeared for Movants/Appellees.

Mr. Justice Ja'neh delivered the opinion of the Court.

Abraham Kaydea of Liberia Petroleum Company, Respondent/Appellant in these proceedings, took an appeal to this Court from a final adverse judgment entered by His Honor, Yussif D. Kaba, on September 27, 2010, against said Respondent/Appellant in an action of summary proceedings to recover possession of real property, instituted by Movants/Appellees, Abdallah M. Housseini and Zeinab M. Houseini.

The case was tried in the Sixth Judicial Circuit for Montserrado County, sitting in its September Term, 2010. Dissatisfied with said final judgment, Respondent/Appellant announced an appeal consistent with the first mandatory requirement of section 51.4 of the revised civil procedure law.

Upon the call of the case for hearing, we discovered that counsel for Movants/Appellees, on February 28, 2011, filed a six-count motion to have this Court dismiss the appeal.

Of the many grounds appellees recounted in support of the motion, we have directed our attention to the fourth, fifth and sixth counts for examination of their material relevance. We would therefore quote the said counts verbatim as follows:

> ***"4. Appellees/Movants further say that strangely, it was not until the 13th day of October, A.D. 2010, that Appellant/Respondent, thru the same Attorney Dallamah J. Sulonteh and Counselor Ansu B. Kromah presented a Bill of Exceptions to the Trial Judge for approval and filing, which was approved on that day, at the same time with Appeal Bond and Notice of Completion of Appeal, all on the same 13th day of October, A.D. 2010. See hereto attached, copies of the said Bill of Exceptions, Appeal Bond and Notice of Completion of Appeal, marked in bulk as 'C' for easy reference by Your Honors."***
>
> ***"5. Appellees/Movants respectfully submit that <u>from September 28, A.D. 2010</u>, the day one of the Counsels for Appellant/Respondent received the Final Judgment of the Trial Court, Appellant/Respondent had up to, and including the 8th day of October, A.D. 2010 to file a Bill of Exceptions approved by the Trial Judge according to law; that by filing a Bill of Exceptions approved on the 13th day of October, A.D. 2010, Appellant/Respondent was outside the statutory period provided for filing of approved Bill of Exceptions;***

and, accompanying such illegal Bill of Exceptions with an Appeal Bond and Notice of Completion of Appeal served on the 13th day of October, A.D. 2010, did not cure and could not cure the fatal blunder on the part of Appellant and his Counsels."

***"6. That on the 8th day of October, A.D. 2010, the Counsel for Appellees/Movants herein addressed a letter to the Chief Clerk of the Civil Law Court, Sixth Judicial Circuit for Montserrado County, Madam Ellen Hall, requesting for a search to be made of the records in this case for the purpose of determining whether the Appellant/Respondent herein had filed a Bill of Exceptions after the granting of the Motion for* Summary Judgment, which under the law is a final judgment, it was not until the 13th day of October, A.D. 2010 that such CERTIFICATE was issued. See hereto proffered for Your Honors' easy reference, copies of the said letter of the 8th of October, and the CLERK'S CERTIFICATE of the 13th day of October, A.D. 2010 to authenticate the averments herein."**

To ascertain the correctness of the averments hereinabove stated, it is appropriate to take recourse to the certified records. On inspection thereof, we first discovered that Movants/Appellees have also annexed a Clerk's Certificate in further support of the averments set forth in the motion. The Certificate, dated October 13, 2010, appears to have been issued under the seal of the Civil Law Court of Montserrado County, and duly signed by the Clerk, Ellen Hall.

The certificate reads:

"This is to certify that from a careful perusal of the records of this Honorable Court, it is observed that the above named respondent has failed to file in this court a Bill of Exceptions approved by the Judge of this court, His Honor Yussif D. Kaba, who determined finally the Motion for Summary Judgment in keeping with court's minutes dated Sept. 27, 2010; HENCE THIS CLERK'S CERTIFICATE."

The Certificate, quoted verbatim, appears to be an irrefutable confirmation of the grounds submitted by appellees in support of the motion to dismiss the appeal. It confirms the correctness of appellees' averments that the final judgment, from which the appeal was announced and granted by the trial court, was entered on September 27, A.D. 2010. Further review of the records clearly shows that Respondent/Appellant's Bill of Exceptions bears October 13, 2010 as the date of filing and approval of said document. Also, the same October 13, 2010 is the recorded date on both the Appeal Bond as well as the Notice of Completion of the Appeal. So, unless there is a showing by the Respondent/Appellant of some evidence to the contrary, the overwhelming proof on record as transmitted to this court strongly admits to the veracity of Movants/Appellees' averments contained in the motion to dismiss the appeal.

The Clerk's Certificate annexed to Respondent/Appellant's motion to dismiss the appeal stands unchallenged. Where such assertions stand uncontested, the averments the certificate seek to support are deemed admitted in harmony with the law in this jurisdiction. ***Chenoweth v. Liberia Trading Corporation,*** 16LLR3 (1964); ***Tucker v. Brownell,*** 24LLR333 (1975); ***Abi-Jaoudi v.The Intestate Estate of the late Bendu Kaidii,*** 40 LLR 777, 784 (2001).

But Respondent/Appellant has mounted vigorous challenges to the jurisdiction of the Supreme Court to entertain the motion filed by Movants/Appellees, seeking to dismiss Respondent/Appellant's appeal. Respondent/Appellant also questions the authority of the Supreme Court to pass on a motion to dismiss an appeal where the Notice of Completion of the Appeal was not served and filed in keeping with statute.

In consideration of these challenges, we shall first examine the following related issues as follows:

(1) At what stage in the appeal process does the trial court lose jurisdiction, both judicially and administratively, and cease to act properly in a matter in which an appeal has been announced and duly granted?

(2) Does the Supreme Court act within the contemplation of law by entertaining and granting a motion to dismiss an appeal where the service and filing of the notice of completion of an appeal disregarded statutory requirements?

In addressing the first question **when, or *at what stage during the appeal process the trial court loses jurisdiction and ceases to properly act in a cause from which an appeal has been announced and duly granted***, we will seek to review the various applicable provisions of our laws, including decisional laws. It is proposed that we begin by considering, one at the time, the four stipulated requirements of section 51.4 of ILCLR (Liberian Code of Laws Revised, title I (Civil Procedure Law, [1973]). We will then see how each of the requirements was fulfilled or otherwise disregarded in the appeal process before us.

Firstly, Section 51.4 of ILCLR, herein above referenced, states as follows:

The following acts shall be necessary for the completion of an appeal:

(a) Announcement of the taking of the appeal;

(b) Filing of the bill of exceptions;

(c) Filing of an appeal bond;

(d) Service and filing of notice of completion of the appeal

Also, it is important to indicate here that section 51.6, ILCLR (Liberian Code of Laws Revised, title I [Civil Procedure Law], (1973), in requiring the announcement of an appeal as a first mandatory step in the appeal process, clearly supports 51.4 ILCLR (Liberian Code of Laws Revised), title I [Civil Procedure Law], (1973). Section 51.6 provides:

An appeal shall be taken at the time of rendition of the judgment by oral announcement in open court. Such announcement may be made by the party if he represents himself or by the attorney representing him, or, if such attorney is not present, by a deputy appointed by the court for this purpose. [Our Emphasis].

As directed by statute, without the announcement of an appeal as required under sections 51.4 and 51.6 of ILCLR (Liberian Code of Laws Revised, title I [Civil Procedure Law], (1973), one forfeits a review and examination by the Supreme Court. In every such case, the alleged factual and legal errors reportedly committed by the trial judge, which otherwise might have warranted a reversal of the final judgment, would remain final as entered.

So clearly, a careful reading of both sections 51.4 and 51.6 ILCLR (Liberian Code of Laws Revised, title I [Civil Procedure Law], (1973), herein above referenced, leaves no room for ambiguity as to what is required of a party litigant desirous of an appellate review. According to these provisions, a party dissatisfied with a final ruling and desirous of taking advantage of an appellate examination of the case, has to announce an appeal from the final judgment. Hence, the announcement of an appeal is the first mandatory requirement that would authorize an appellate review of the case in which said final judgment was handed down.

Except from the final judgment of the Supreme Court of Liberia, to appeal a judgment is a right guaranteed to every person by the Liberian Constitution and the statute laws as articulated in numerous opinions of this Court. Article 20(b), Liberian Constitution (1986); Section 51.2, ILCLR (Liberian Code of Laws Revised, title I, (Civil Procedure Law, [1973]); ***The Bong Mining Company v. Benson,*** 34 LLR 592, 607 (1988).

However, where a party to a dispute neglected and failed to announce and take an appeal, the final judgment then entered in such a case is assumed under the law to have been accepted by the parties. The case is deemed concluded and the decision entered by the trial court taken as final. Under the circumstance, nothing is left to be done but the enforcement of the unappealed final judgment.

Mr. Justice Mabande, in ***The Liberian Bank for Development and Investment (LBDI) v. Holder,*** 29 LLR 310, 315 (1981) spoke for this Court on the finality of judgment from which no appeal was taken. He held that in every cause over which the court has jurisdiction and in exercise thereof, ***a judgment from which no appeal is announced is final.*** [Our Emphasis].

In the case under review, the trial judge rendered his final judgment concluding the summary proceedings to recover possession of real property. Consistent with the statutory requirement, and wishing to enjoy this appellate review, Respondent/Appellant excepted to and announced an appeal from said judgment. The appeal was also granted by the trial court in keeping with law. It can be said therefore that the appellant fulfilled the first mandatory requirement in the appeal process, which according to section 51.4 of ILCLR (Liberian Code of Laws Revised, title I (Civil Procedure Law, [1973]), is ***Announcement of the taking of the appeal.***

The second stage in the appeal process is guided by section 51.7, I LCLR (Liberian Code of Laws Revised) title I, Civil Procedure Law, (1973]). This provision states, *inter alia:* "*...**the appellant shall present a bill of exceptions signed by him to the trial judge <u>within ten days</u> after rendition of the judgment...**"* [Emphasis supplied].

The law cited above requires that the appellant submits to the trial judge a list of what appellant may consider as complaints against the trial proceedings. The complaint must highlight the issues appellant believes were done during the course of the trial that were adverse to appellant, resulting to the outcome and judgment rendered at the close of the proceedings. This catalogue of dissatisfaction arising from the trial is the *'bill of exceptions'*. It is mandatory that the Bill of Exceptions be presented to the trial judge within the specific time limit of ten (10) days after the announcement of the taking of an appeal. The ten (10) day period for presenting the Bill of Exceptions commences the day immediately following the day the final judgment was entered by the trial court.

Also it must be noted that the statute imposes consequences for non compliance to file the Bill of Exceptions within fixed statutory time. Section 51.16, I LCLR (Liberian Code of Laws Revised) title I, Civil Procedure Law, (1973), sets forth the following:

> ***"An appeal may be dismissed by the trial court on motion for failure of the appellant to file a bill of exceptions <u>within the time allowed by statute</u> ..."***

In the case at bar, we are informed from the certified records that the trial court rendered final judgment on September 27, 2010. This is a fact Respondent/Appellant does not deny. If the Respondent/Appellant were to remain within the ambit of the law as provided under section 51.7, herein above quoted, a simple analysis would show that the Bill of Exceptions should have been presented to the trial judge for approval not later than October 7, 2010. But the evidence is to the contrary.

The trial records before us copiously reveal that the bill of exceptions was infact filed on October 13, 2010, six days outside the period stipulated by statute. This being the case, it would seem that the Respondent/Appellant was in clear breach of the second requirement of the appeal process. Respondent/Appellant has not disputed this violation either.

Respondent/Appellant attempted to cure this legal defect by filing at the trial court: (1) the Bill of Exceptions, (2) the Appeal Bond, and (3) the Notice of Completion of the Appeal, all on one and the same day, same being October 13, 2010.

This development has prompted a question seeking this Court's clarity: ***In the face of appellant's failure to file the Bill of Exceptions within the time prescribed by statute, before which court is a motion to dismiss the appeal properly cognizable?*** Put differently, before which court, trial or Supreme Court, would the motion to dismiss the appeal be properly cognizable?

Here we must first take recourse to the controlling statutes. Section 51.16 cited above, is clear that the appellant shall place before the trial judge for approval a Bill of Exceptions ***within ten (10) days*** after final judgment is rendered. Ordinarily, and unless otherwise stated by law, the announcement and granting of an appeal from a judgment temporarily suspends the jurisdiction of the trial court over the execution of that judgment, although the case and the parties remain within trial. When the judge receives and affixes his/her signature of approval on the Bill of Exceptions within the ten (10) days limit prescribed by statute, the

suspension placed on execution of the judgment is converted to permanent removal from the trial court to the Supreme Court. As of that point, jurisdiction over the enforcement or otherwise of the judgment entered rests exclusively in the Supreme Court of Liberia. The trial court however retains continuing jurisdiction over the case itself in respect of performing such statutory tasks as approval of the Appeal Bond, in keeping with section 51.8, as well as the issuance of a Notice of Completion of the Appeal.

It therefore follows, in the Opinion of this Court, that where the appellant fails or neglects to file the Bill of Exceptions, ***within the time permitted by law,*** as was done in the case before us, the trial court retains jurisdiction and could not be said to have lost same over the enforcement of the judgment rendered. The approval and filing of the Bill of Exceptions as such becomes simply a ceremonial gesture, having no legal effect and should be treated as if it was not filed at all. Under this circumstance, the trial court, on motion made by a party, may dismiss the appeal and properly proceed to execute its judgment. Numerous opinions of this Court support this position: ***Dopoe v. City Supermarket,*** 34 LLR 215, 216 (1986); ***Knuckles v. The Liberian Trading and Development Bank, Ltd (TRADEVCO),*** 40 LLR 49, 54 (2000); Firestone ***Plantations Company v. Kollie***, 42 LLR 159, 168(2004); ***International Bank (Liberia) Ltd. V. Leigh-Parker,*** 42LLR 140, 145 (2004).

It is interesting to note that while Respondent/Appellant has not denied its neglect and failure to file the Bill of Exceptions in compliance with statute, Respondent/Appellant has nonetheless questioned the motion to dismiss the appeal filed before us by Movant/Appellee.

The primary contention by Respondent/Appellant is that the motion is wrongly venued. Respondent/Appellant, both in the five - count resistance and in its appellate brief filed before this Court, has argued with forensic eloquence that Movants/Appellees having alleged that Respondent/Appellant failed to file the Bill of Exceptions within statutory time, and assuming that to be true, a question of jurisdiction would arise. According to Respondent/Appellant, the authority to entertain and pass on the motion to dismiss the appeal would be exclusively retained within the

trial court by operation of law. It is Respondent/Appellant's contention that the Supreme Court, not having acquired jurisdiction over the cause, the Court is precluded from entertaining Movants/Appellees' motion to dismiss the appeal.

But Movants/Appellees, in counter argument, have maintained that the facts in this case present a rather peculiar situation. Movants/Appellees recounted that Respondent/Appellant filed the Bill of Exceptions without statutory time concurrently with the appeal bond and also caused the service and filing of the Notice of Completion of the Appeal on the same date, October 13, 2010. According to Movants/Appellees, the trial court having received and approved the Bill of Exceptions, even if done outside the time allowed by statute, in effect divested the trial court of jurisdiction and precluded Movants/Appellees from filing the motion to dismiss the appeal at the trial court. To file a Motion to dismiss the appeal at the trial court, as contended by Respondent/Appellant, after the trial court had approved the Bill of Exceptions, and also after the issuance, service and filing of the Notice of Completion of the Appeal, which acts confer jurisdiction on the Supreme Court, would have been a violation of practice and procedure in this jurisdiction. Movants/Appellees have strenuously argued that although Respondent/Appellant failed and neglected to submit its Bill of Exceptions within ten (10) days as stipulated by statute, the service on the Movants/Appellees and filing of the Notice of Completion of the Appeal having been done nevertheless, the motion to dismiss the appeal would properly lie before the Supreme Court and same should be granted only by the Supreme Court.

From the review herein made, it has been made clear that the jurisdiction of the lower court over the cause and the parties thereto is not totally terminated with the trial judge receiving the Bill of Exceptions and affixing his signature thereon as evidence of approval. This is because the trial judge is required by law, long after approval of the Bill of Exceptions, to act on matters relating to the case on appeal. For instance, the trial judge is required to consider matters of the Appeal Bond and approve it within sixty (60) days after rendition of final judgment. This is a function the trial judge,

under section 51.8 ILCLR (Liberian Code of Laws Revised) title I, [Civil Procedure Law], (1973), is required to perform and has up to fifty (50) days after the ten (10) days permitted by statute for filing and approval of the Bill of Exceptions. It naturally follows that by imposing a statutory duty on the trial judge to approve the Appeal Bond, the law, in effect, retains jurisdiction in the trial court, at least for the sole purpose of enabling the appellant to perfect his or her appeal and thereby allowing the Supreme Court to entertain the appeal.

On the second question, when or at what period the Supreme Court acquires jurisdiction over both the cause and the parties, it behooves us to highlight certain settled principles hoary with time and practice in this jurisdiction.

Firstly, jurisdiction is conferred by law. It therefore goes without saying that the Supreme Court, as any tribunal of justice, could acquire jurisdiction, be it original or appellate, and properly exercise it only as granted by law. A judgment by a court of law has no legal effect where there is want of jurisdiction.

It is the law in vogue that jurisdiction in the appeal process is conferred on the Supreme Court when the appellant serves and files with the Clerk of the Supreme Court the notice of completion of the appeal. Restating and affirming a settled law in this jurisdiction in ***K. Rasamny Bros. v. Brunet,*** this Court said:

> ***"One of the main grounds for dismissal of an appeal is the lack of jurisdiction on the part of the court. Completion of the prerequisites for perfection of an appeal is necessary to give the Supreme Court jurisdiction over the subject matter and the parties in an appeal; and jurisdictional requirements cannot be waived even by the appellee in the absence of statutory authorization. This being so, this Court must of necessity, and if need be, upon its own motion, always consider the question of its***

jurisdiction primary over any issue brought before it, since it is bound to take notice of the limits of its authority." 21 LLR 271, 277 (1972). Restated in ***Jappeh v. Thian,*** 35 LLR 82, 89 (1988), in an Opinion by Chief Justice Gbalazeh.

It is also clear that the service and filing of the Notice of Completion of the Appeal removes the case from the trial jurisdiction and places the entire case and the parties before the Supreme Court, said service and filing having conferred appellate jurisdiction on the Supreme Court.

In ***Jarboe v. Jarboe,*** 24 LLR 352, 357 (1975), the Supreme Court of Liberia in an opinion by Mr. Justice Henries, held that: ***"It is the service of the notice of completion of appeal which alone gives the appellate court jurisdiction over the matter."*** This long held principle is enunciated in ***Morris v. Republic***, 4 LLR, 125, 126 (1934); ***Brownell v. Brownell,*** 5 L LR, 76, 79 (1936); ***Witherspoon and Greene v. Clarke et.al,*** 14 L LR 194, 197 (1960);

Commenting further on this jurisdictional question, Mr. Justice Henries said:

> ***"We take this to mean that after all the prescribed requisites for completion of an appeal have been performed, the lower court loses jurisdiction with the service on the appellee of the notice of completion of appeal..."***

This principle is further supported in the case, ***Jones v. Republic,*** 12 LLR 296, 298 (1956), where the Supreme Court declared the service of the notice of completion of the appeal on the appellee as the act that places the appellee under the Court's jurisdiction. See also: ***Societa Lavori Porto Della Torre v. Hilton***, 32 LLR 444, 446 (1984).

We construe this to mean that without the proper service and filing of the notice of completion of the appeal, the Supreme Court would lack jurisdiction over the subject matter of the appeal. In every such case, the Supreme Court is without authority to deal with the merits of the matter on appeal and is prohibited from delving into the file determining and addressing the legal and factual questions that may have been raised in the

matter on appeal. Also, the law has not simply granted powers to every court but has set limits to the exercise of those powers. These standards and guidelines are set to regulate the conduct of the court, including the method to be followed in instituting an action and bringing a person under the jurisdiction of the court. All of these stipulations by law must be complied with and observed by the court and those who avail themselves and desire to seek relief from the court. The appeal process is in the same vein regulated by statute and must be strictly obeyed, not only by the court but by all who come before it seeking its aid.

On its appellate powers and the stipulation regulating the appeal process, the Supreme Court is granted the powers of final review of various matters. In some instances, the Supreme Court is also granted original jurisdiction in limited cases. But in granting to the Supreme Court appellate review authority, the law also stipulated requirements which must be satisfied by every appellant in order for the Supreme Court to be authorized to examine the records of a case on appeal. Where a party has neglected and failed to comply with those requirements, the Supreme Court would act without authority to entertain the appeal.

Along this line, it is the law in this jurisdiction that the service of the notice of completion of the appeal is a sort of summons which confers jurisdiction of the appellate court over the parties and the case, ***Kamara v. Kamara***, 29L LR 485, 489 (1982). Also, Mr. Justice Pierre, speaking for this Court in ***Karpeh-Buchanan v. Buchanan-Ratazi et al*** held:

> "***Upon completion of all jurisdictional steps by the appellant, and especially the service and return of the Notice of Completion of Appeal, the trial court would seem to have completely lost jurisdiction over the case. In every such instance, the case is legally before the Supreme Court for hearing and determination***" 15 LLR 510 (1964).

But while that is the case, we must indicate that when the trial court has approved a Bill of Exceptions filed consistent with statute, the case in respect of the judgment is removed from the trial court's jurisdiction.

The authority at that point to say that other mandatory steps for perfection of the appeal have not been complied with rests exclusively with the Supreme Court. The Supreme Court may properly entertain a motion for the purpose of making such declaration and for issuing the appropriate orders to an inferior tribunal. But these powers are limited, under the circumstances, to motion to dismiss only and not for the purpose of dealing with the merits of the matters on appeal.

Going back to the records, it is observed that the arguments made by the parties present an important question for our consideration: whether the mere issuance, service and filing of the Notice of Completion of the Appeal confer jurisdiction on the Supreme Court, even where the Bill of Exceptions was filed and approved outside the statute? Raised differently, whether within the contemplation of the laws applicable, a motion to dismiss an appeal is properly cognizable before the Supreme Court where the trial court neither received nor approved the Bill of Exceptions within the time prescribed by statute?

The records before us have clearly established that the Respondent/Appellant, on October 13, 2010, six (6) days outside statutory time, procured the judge's approval of the Bill of Exceptions and proceeded to file the Appeal Bond and the Notice of Completion of Appeal, concurrently. By operation of law, it would seem that the filing of the Bill of Exceptions, as done in the case at bar, renders it virtually meaningless.

It would therefore follow that all subsequent processes undertaken by Respondent/Appellant such as the filing of the Appeal Bond and the Service and Filing of the Notice of Completion of Appeal were, at best, mere formalities, having no legal effect. In which case, no issuance, service and filing of the Notice of Completion of the Appeal could be deemed to have occurred in the eye of the law. A conclusion ought to be reached therefore that the Supreme Court did not acquire jurisdiction over the parties and the case.

We are therefore in perfect agreement with Respondent/Appellant that the trial court, not having received and approved the Bill of Exceptions within the ten (10) days permitted by statute, cannot be said to have lost jurisdiction over the case and the parties. Nor could it be said that the Supreme Court acquired jurisdiction over the parties and the case on account of perfunctory issuance, service and filing of the Notice of Completion of the Appeal where the laws regulating matters of the Bill of Exceptions were desecrated and dishonored.

Accordingly, we hold that all cases previously decided by this Court to the effect that the Supreme Court has jurisdiction by mere service and filing of the Notice of Completion of the Appeal, are hereby recalled.

Consistent herewith, we have to agree with the Respondent/Appellant that the motion to dismiss the appeal is improperly venued before this Court and for this reason must be dismissed for want of jurisdiction. This we do however without prejudice. Movants/Appellees may proceed to the trial court which retains jurisdiction over the cause and the parties where a motion to dismiss the appeal may be properly entertained. It should be clear that when the motion to dismiss the appeal is filed as contemplated in this Opinion, it shall be granted by the trial court forthwith. No appeal may be granted from the judgment granting the motion as that would have the net effect of attempting to appeal the decision of the Supreme Court, an act that is within strict constitutional prohibitions. Article 20 (b), Liberian Constitution.

The Clerk of this Court is hereby directed to send a mandate to the judge in the court below to give effect to this judgment. **AND IT IS HEREBY SO ORDERED.**