

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2022

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

The Intestate Estate of Mrs. Elizabeth Barclay)
Cooper by and thru her Administratrices, Elise)
Cooper and Marjorie Cooper and Mai Barclay)
Roberts by and thru Chardina, Inc. represented by)
Charles B. Roberts and Juanita Ramirez, all of the)
City of Monrovia, Liberia.....Movants)

Versus)

MOTION TO DISMISS
APPEAL

William Johnson and William B. W. Tarr,)
Administrators of the Weh Estate, Paynesville)
Liberia.....Respondents)

GROWING OUT OF THE CASE:)

William Johnson and William B. W. Tarr,)
Administrators of the Weh Estate, Paynesville)
Liberia.....Appellants)

Versus)

APPEAL

The Intestate Estate of Mrs. Elizabeth Barclay)
Cooper by and thru her Administratrices, Elise)
Cooper and Marjorie Cooper and Mai Barclay)
Roberts by and thru Chardina, Inc. represented by)
Charles B. Roberts and Juanita Ramirez, all of the)
City of Monrovia, Liberia.....Appellees)

GROWING OUT OF THE CASE:)

The Intestate Estate of Mrs. Elizabeth Barclay)
Cooper by and thru her Administratrices, Elise)
Cooper and Marjorie Cooper and Mai Barclay)
Roberts by and thru Chardina, Inc. represented by)
Charles B. Roberts and Juanita Ramirez, all of the)
City of Monrovia, Liberia.....Plaintiffs)

Versus)
)
 William Johnson and William B. W. Tarr,) ACTION OF EJECTMENT
 Administrators of the Weh Estate, Paynesville)
 Liberia.....Defendants)

Heard: March 22, 2022

Decided: September 5, 2022

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

This motion to dismiss appeal was filed on March 10, 2021 by the Estate of Mrs. Elizabeth Barclay Cooper and Mrs. Mai Barclay Robert, movants herein against the Wreh Estate, respondent herein, alleging *inter alia*, that they are plaintiffs in an action of ejectment filed before the Civil Law Court, Sixth Judicial Circuit for Montserrado County against the respondent; that the said court, presided over by His Honor, Scheaplor R. Dunbar during the September Term, A. D. 2020 , entered a final ruling on December 9, 2020 confirming the unanimous verdict of liable returned by the trial jury against the respondent; that the respondent noted exceptions to the trial court’s final ruling and announced an appeal to the Supreme Court; that on December 21, 2020, the respondent filed its bill of exceptions within statutory time, but failed to file its appeal bond and notice of completion within the period allowed by law; that on February 23, 2021, the movant obtained a clerk’s certificate certifying the failure of the respondent to comply with the mandatory requirements to file an appeal bond, and to serve and file a notice of completion of appeal; and that the Civil Procedure Law Revised Code: 1:51.4 provides that failure to comply with any of the enumerated requirements thereunder within the time allowed by statute is a ground for the dismissal of the appeal. The movants therefore pray this Court to deny and dismiss the respondent’s appeal for reasons stated herein.

The respondent neither filed returns nor brief after three successive excuses. On the first instance, the respondent requested this Court to allow it retain the services of a counsellor-at-law because the counsel who represented it in the court below was an attorney-at-law and not qualified to appear before this Court. On the second and

third instances, Counsellor Morris Y. Massaquoi appeared and requested for additional time to allow him file the respondent's returns and brief in keeping with practice and procedure. Not having obeyed the order of this Court to file the respondent's returns to the motion and the brief after the grant of the excuses, the said Counsellor was fined the amount United States Dollars Two Hundred (US\$200.00) to be paid in government's coffer within 72 hours as of the time of that decision.

This Court says that in cases of this kind where the party or counsel, having been granted continuance of the cause to file returns or brief, failed to appear or file a brief, the Court shall proceed to hear argument of the appearing party and rule thereon. *Supreme Court Revised Rule IV, Part 6 (c)* provides as follows:

“If a party appears, and the other party does not appear, but files a brief, the Court will proceed to hear the argument of the party appearing. If one party appears, and a non-appearing party has not filed a brief, the non-appearing counsel shall be given forty-eight (48) hours to file a brief and appear for hearing of the case; and the party shall be simultaneously informed of the non-appearance of this counsel and the postponement of the hearing for forty-eight (48) hours. If, when the case is again called for hearing, the party or counsel again fails to appear or file a brief, the Court shall proceed to hear the argument of the appearing party and rule thereon.”

Although the counsel for the respondent appeared in the instant case, his failure to file the respondent's returns and brief for reasons which this Court deemed inexcusable, we shall enter upon the records and make a determination.

Our search of the records reveals that the respondents neither filed an appeal bond nor served and filed a notice of completion of appeal. Now, the single issue presented for our determination is whether the respondent not having filed its appeal bond and notice of completion of appeal, this Court has acquired jurisdiction to entertain the appeal on its merit? We answer this question with a resounding no.

The strict adherence or compliance with the requirements for the completion of appeal is a matter of settled law in this jurisdiction. A departure or failure to timely comply with any of the requirements enumerated under *Civil Procedure Law Revised Code: 1:51.4* for the completion an appeal is a ground for the dismissal of an appeal. *Catakaw et al v. Karweh, Supreme Court Opinion, March Term, A.D. 2010, Sheriff v. Parwon et al, Supreme Court Opinion, March Term, A.D. 2015, Mr. Jaimanie F. Tyler v. Mr. Lincoln Davis, Supreme Court Opinion, October Term, A.D. 2019, Intestate Estate of T. Q. Harris v. Alex Mulbah et al, Supreme Court Opinion, October Term, A.D. 2019, Esther Yeanay Barkpei v. Joseph L. Tompoe, Supreme Court Opinion, March Term, A.D. 2020, Trosteen MoKollie v. The Management of Lonestar Cell/MTN, Supreme Court Opinion, October Term, A.D. 2021.*

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss appeal is granted, and the appeal is dismissed. The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and give effect to the Judgment of this Opinion. Costs are ruled against the respondents/appellants. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor Joyce Reeves Woods appeared for the movants. Counsellor Morris Y. Massaquoi appeared for the respondents.