

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS MARCH TERM, A.D. 2020

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

Liberia Baptist Theological Seminary, by and thru its President,)
Vice President and all Authorized Officers, the Board of)
Trustees of the Liberia Baptist Theological Seminary and all)
Authorized Officers, of the City of Paynesville, Liberia)
..... MOVANT) MOTION TO DISMISS
Versus)
Lincoln S. Brownell, Jr. of the City of Paynesville,)
Montserrado County, Liberia RESPONDENT)

Heard: January 15, 2020

Decided: June 25, 2020

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

Article 20b of the Liberian Constitution guarantees the right of an individual to appeal "*from a judgment, decree, decision or ruling of any court or administrative board or agency, except the Supreme Court...*" However, this constitutional right is not automatic or an imposition. In order to benefit from or enjoy said right, one must comply with certain rules and procedures prescribed by the Legislature for the easy, expeditious and inexpensive filing and hearing of an appeal.

The records reveal that on March 4, 2016, Lincoln S. Brownell, Jr., the respondent herein, filed an action of damages in the Civil Law Court, Sixth Judicial Circuit, Montserrado County sitting in its December Term A.D. 2015, against the Liberia Baptist Theological Seminary, the movant herein. On March 18, 2016, the movant filed its answer along with a motion to dismiss the complaint. On March 31, 2016, the respondent filed reply with a resistance to the motion to dismiss, and pleadings rested.

On May 13, 2016, after a hearing, the trial court dismissed the respondent's complaint on ground that the complaint is time barred. The respondent noted exceptions thereto, announced an appeal to the Supreme Court, and filed his bill of exceptions within the time allowed by the statute. The records show that having filed his bill of exceptions, the respondent did not procure an appeal bond to indemnify the movant, neither did he serve and file a notice of completion of the appeal on the movant and the trial court, respectively.

On October 21, 2016, the movant filed a motion to dismiss the respondent's appeal on ground that the respondent failed to file an appeal bond and a notice of completion of appeal. We note that the respondent also did not file resistance to the motion to dismiss.

At the call of the case for arguments on the motion to dismiss the appeal on May 2, 2017, Counsellor Winston A. Tubman appeared and informed the Court that he had filed a letter on behalf of the respondent requesting for a period of two (2) weeks to enable the respondent to decide as to whether or not he would pursue the case. The Court granted the request.

When the case was again called on January 15, 2020, the respondent appeared without a counsel. The Court made the following Ruling:

“The Court takes note of the presence of Counsellor Emmanuel B. James representing the movant in this case and also takes note of the absence of the counsel for the respondent. The records of the case show that many notices of assignment had been made for the hearing and that at all of the times the respondent through his lawyer had either been absent or sent in excuses that they were not ready to proceed.

During the last assignment of this case, the Court informed Dr. Brownell, party respondent, that he should find a lawyer to represent his legal interest in view of the fact that the lawyer-client relationship between him and Counsellor Powo C. Hilton had been severed. Dr. Brownell was further instructed to take due note that at the next call of the case, if no counsel appeared in his behalf, the Court would apply the Rules, enter upon the records and make the appropriate decision.

Today at the call of the case, the Court again notes the absence of a counsel for Dr. Brownell. In view thereof, the Court says that it will enter upon the records and make the appropriate decision without further notice to the parties to appear for hearing...”

The lone issue we must decide is whether or not the respondent’s appeal is dismissible as a matter of law.

This Court has held that the taking of an appeal is a journey to the Supreme Court wherein the appellant is required to complete the process step by step and that when one of the mandatory steps is missing or defective, the journey cannot be completed. Our Civil Procedure Law, Rev Code 1:51.4 provides thus:

“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.”

It is also stated in the statute that “failure to comply with any of these requirements within the time allowed by statute shall be ground for dismissal of the appeal.” *Id.*

The Supreme Court, in numerous Opinions, has held that:

“In as much as the Court has repeatedly expressed its strong preference for deciding cases on its merit and, consequently, is hesitant to dismiss a case by reason of a mere technicality, it is very important that an appellant, in pursuing an appeal takes the outmost care to ensure that the statute is strictly complied with; that the Counsel for the appellant must continuously and meticulously examine the appeal statute and

make sure that it is complied with to the letter and to the full intent of the Legislature as the Court is not prepared to sacrifice the appeal statute or turn a blind eye to accommodate the errors of the appellant in perfecting his appeal. To the converse, the position of the Supreme Court has been strict compliance; and any omission in fulfilling the requirements enounced in the appeal statute is deemed fatal and a warranty for the dismissal of the appeal as the Supreme Court has been un-wavering and uncompromising in its position that non-compliance with the mandatory statutory requirements for appeal cannot be deemed as mere technicality and that a case will in fact be dismissed where there are violations of the substantive statutory requirements by the appellant." Manakeh v. Toweh, 32LLR 207 (1984); Ezzedine v. Saif 33LLR 21 (1985); Blamo et al., v. The Management of Catholic Relief Services, Supreme Court Opinion, March Term 2006; Hussenni v. Brumskine, Supreme Court Opinion, March Term, A.D. 2013; National Elections Commission (NEC) v. Siebo, Jr., Supreme Court Opinion, March Term A.D. 2017.

The records establish that the respondent did not complete the last two mandatory steps by filing of appeal bond and service and filing of notice of completion of the appeal, thus divesting the Supreme Court of jurisdiction to hear and make a determination on the merits of the appeal and as such, the appeal is dismissible as a matter of law.

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

Motion to Dismiss Appeal Granted.

When this case was called for hearing, Counsellors Emmanuel B. James and Rosemarie B. James of the International Group of Legal Advocates & Consultants appeared for the movant. No Counsel appeared for the respondent.