

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA SITTING IN ITS  
OCTOBER TERM, A.D. 2023

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

Mary Parker by and thru her Attorney-In-Fact, )  
Bob Parker, of Paynesville, Montserrado County )  
Republic of Liberia.....Movant )

Versus )

Andrienna Gbah and Suah Gbah of the City of )  
Paynesville, Montserrado County, Republic of )  
Liberia..... Respondents )

GROWING OUT OF THE CASE:

Mary Parker by and thru her Attorney-In-Fact, Bob )  
Parker of Paynesville, Montserrado County, )  
Republic of Liberia.....Plaintiff )

Versus )

Andrienna Gbah and Suah Gbah of the City of )  
Paynesville, Montserrado County, Republic of )  
Liberia.....Defendants )

MOTION TO DISMISS  
APPEAL

ACTION  
EJECTMENT

Heard: October 18, 2023

Decided: November 28, 20223

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

The records in this case show that the movant, Mary Parker, residing abroad, issued to the respondents, Andrienna Gbah and Suah Gbah, her daughter and son-in-law, a power-of-attorney, in September 2016, to manage her properties in Liberia. The movant became dissatisfied with the respondents handling of her trust, and allegedly revoked the power-of-attorney issued to them. Subsequently, the movant appointed her brother, Bob Parker, as her attorney-in-fact, and requested the respondents to turn over all her (movant) documents in their possession to Bob Parker. The movant further instructed her new attorney-in-fact to oust the respondents from her property. Based on that instruction, her attorney-in-fact, Bob Parker, filed an action of ejectment against the said respondents before the Sixth Judicial Circuit for Montserrado County, claiming Eighteen Thousand United States Dollars (US\$18,000.00) as special damages and Fifty Thousand United States Dollars (US\$50,000.00) for general damages.

The petitioner filed their answer, ninety-six (96) days after receipt of the movant's complaint. They admitted in their answer that the movant owns the property but raised the issue of the authenticity of the power-of-attorney said to be issued to Bob Parker by the movant. The respondents stated further that the movant intend to evict them from the property, she should compensate them for the value they added to the property and also pay for their services in managing the properties for one hundred and four (104) months.

The lower court, upon motion by the movant, had the respondents' answer stricken for late filing, and in view of the admission by the respondents, that the movant owns the property, the court granted the movant's motion for summary judgement on October 24, 2022. It ruled and ordered the respondents evicted from the movant's property.

Eight days after the court's ruling, that is, on November 1, 2022, the respondents filed a petition for prohibition before the Justice in Chambers, complaining that the judge below failed to appoint a counsel to take the court's ruling for the purpose of announcing an appeal on the respondent's behalf, as mandated by law.

The Chambers Justice cited the parties to a conference for November 7, 2022, but the movant failed to show up and the conference was not held. The respondents proceeded thereafter to file a bill of exceptions in the court below, on November 10, 2022, sixteen days after the final ruling. The Justice in Chambers cited the parties to another conference for December 7, 2022, but again the movant's counsel failed to appear for the conference and the Chambers Justice then ordered the alternative writ of prohibition issued on December 8, 2022, requesting the movant to file her returns.

The movant filed the instant motion to dismiss before this Court contending that though the respondents filed a bill of exceptions on November 10, 2022, however, they had failed to complete the appeal process within the required period of sixty days, by failing to file an appeal bond and a notice of completion of appeal. The respondents on the other hand contend that though they filed the bill of exceptions on November 10, 2022, as a fallback position from any adverse decision the Chambers Justice might have made on the petition for prohibition, the Chambers Justice subsequently issued the alternative writ on December 8, 2022, and that stayed the appeal process. The respondents contend further that the movant has failed to file her returns to the petition as ordered by the Chambers Justice, and the prohibition proceedings is still pending in Chambers undecided; that this Court of final appellate jurisdiction cannot properly acquire jurisdiction over the matter until the prohibition proceedings is concluded. The respondents state further that when a Justice in Chambers issues an alternative writ, a stay is placed on all further proceedings in the court below, and the stay applies to all parties in the matter. Therefore, the respondents could not have proceeded to complete the appeal that was deficient from the start, especially

when the alternative writ prayed for had been issued. The respondents therefore prayed the Court to deny and dismiss the appeal.

Our review of the records confirms that that the lower court's ruling was made on October 24, 2022; that counsel for the respondents was absent when the ruling was rendered, and that the judge failed to appoint a counsel to take the ruling on behalf of the respondents to except and announce an appeal as mandated by our law. This Court has held that since the right to appeal is only exercised in open court by announcement of an appeal after the rendition of a final judgement, that in order for that this right to an appeal is not lost to an absent party, an attorney be appointed by the court to note exception to the judge's final ruling and announce an appeal on behalf of the absent party. (*LAMCO J. V. Operating Company V. His Honor Harper Bailey and Vonyeagan* 33 LLR 461, 469-470 (1985); *Beyan et al. V. King Peter's Orphanage*, Supreme Court Opinion, March Term 2013). This legal requirement not having been met in this case, the lower court erred and this error deprived the respondents of the right to except to the court's ruling and timely file its bill of exceptions.

Perhaps it was in recognition of her error, that the trial judge subsequently approved the respondents bill of exceptions, on November 10, 2022, and the movant does not challenge the late filing of the bill of exceptions but states that the respondents had forty-seven (47) days thereafter for perfecting their appeal, but they failed to do so and the fact that the lower court judge approved the respondents bill of exceptions on the November 10, 2022, the case was removed from the lower court.

The question now is whether the issuance of the alternative writ by the Justice on December 8, 2022 stayed the appeal process?

We agree with the respondents that when the Justice in Chamber issues a writ, this places a stay on the proceedings in the court below and all action of the parties in regards to the subject matter of the case. Until the order contained in the writ is lifted through a Mandate issued and sent down to the lower court by the Justice in Chambers or the full bench of the Court, the lower court or the parties are precluded from taking any further step in the case. *Kailonda Petroleum v. Guaranty Trust bank*, Supreme Court Opinion, October Term, 2022.

In this case, the final ruling of the court below was rendered on October 24, 2022; the sixty days for expiration of the appeal process was December 23, 2022; the respondents filed their bill of exceptions on November 10, 2022, but did nothing regarding the appeal process until the alternative writ was issued by the Chamber Justice on December 8, 2022, that is forty-five days after the ruling, this means that the appeal process was stayed fifteen days to the expiration of the appeal period by the issuance of the writ of prohibition by the Chambers Justice.

We note that the respondents filed their petition to allow the Justice in Chambers to allow them to appeal the judge's ruling, since the judge did not appoint a counsel to take the ruling and announce an appeal on

their behalf. In accordance with decisional laws of this court, the failure of the judge to ensure that the respondents were represented by a counsel, deputize by the court at the rendition of final ruling for the purpose of taking an appeal, amounts to proceeding contrary to the rules which ought to be followed at all times, and makes the issuance of the peremptory writ of prohibition imminent.

*Therefore, the respondents having begun the appeal process by filing the bill of exceptions, this Court in its bid to expeditiously disposed of cases, will assume jurisdiction and grant the respondent's petition, allowing it to proceed to perfect its appeal within the remaining fifteen (15) days that was stayed by the issuance of the writ by the Justice in Chambers.*

WHEREFORE AND IN VIEW OF THE FOREGOING, the movants motion to dismiss the respondents' appeal is denied and dismissed. The Clerk of this Court is ordered to send a mandate to the judge below to have the respondents perfect their appeal within fifteen (15) days as of the reading of the Mandate from this Court. Costs are disallowed. AND IT IS HEREBY SO ORDERED.

**WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR FESTUS K. NOWON APPEARED FOR THE MOVANT. COUNSELLOR T. EMMANUEL TOMAH APPEARED FOR THE RESPONDENTS**