

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS OCTOBER TERM, A.D. 2022

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

Emmet Taylor of the City of Monrovia, Liberia)
.....Movant)

Versus)

Rebecca Facin Blama Sando, Washington)
Clarke, TSS and Falla T. Bondo, all of the)
City of Brewerville, Montserrado County,)
Liberia.....Respondents)

GROWING OUT OF THE CASE:)

Rebecca Facin Blama Sando, Washington)
Clarke, TSS and Falla T. Bondo, all of the)
City of Brewerville, Montserrado County,)
Liberia.....Appellants)

Versus)

Emmet Taylor of the City of Monrovia, Liberia)
.....Appellee)

GROWING OUT OF THE CASE:)

Emmet Taylor of the City of Monrovia, Liberia)
.....Plaintiff)

Versus)

Rebecca Facin Blama Sando, Washington)
Clarke, TSS and Falla T. Bondo, all of the)
City of Brewerville, Montserrado County,)
Liberia.....Defendants)

Heard: October 31, 2022

Decided: November 4, 2022

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

Mr. Emmet Taylor, movant herein, filed his four count motion to dismiss appeal alleging in substance that he is the appellee in an action of ejectment now on appeal; that on November 18, 2013, His Honor J. Boima Kontoe presiding by assignment over the Sixth Judicial Circuit for Montserrado affirmed the unanimous verdict of the trial jury and adjudged the respondent, Rebecca Facin, liable; that the

respondent having excepted to the trial judge's final ruling and announced an appeal, filed her bill of exceptions within statutory time, but that the respondent failed to file her appeal bond and to serve and file her notice of completion of appeal; and that he obtained a clerk's certificate to substantiate his averments herein. The movant prayed this Court to grant his motion pursuant to *Civil Procedure Law Revised Code: 1:51.8, 1:51.9 and 1:51.16*.

In traversing the averments contained in the motion to dismiss appeal, the respondents contend that they were represented by Counsellor Fomba O. Sirleaf of the Tulay & Associates Law Offices, Inc.; that upon the filing of their bill of exceptions, Counsellor Sirleaf was attacked by a stroke which made him paralyzed and disable, a condition he suffered until his demise; that after the death of Counsellor Sirleaf, the principal respondent in the case, Ms. Rebecca Facin also died; that the other respondents being laymen and unaware of the procedures relating to the situation, were of the mistaken belief that the death of their lawyer, the movant, Emmet Taylor, and co-respondent, Rebecca Facin, ended the case; that the movant having died while the case is pending on appeal, his estate should be made to file for a substitution of party as required by law before the matter can be ordered assigned for final disposition. The respondents therefore prayed this Court to afford them the opportunity to secure an appeal bond and to serve and file their notice of completion of appeal pursuant to *Civil Procedure Law Revised Code: 1:51.16* and the *Revised Rules of the Supreme Court*.

We certify a singular issue for the determination of this case as follows:

1. Whether the facts and circumstances surrounding the incapacitation and subsequent death of Counsellor Fomba O. Sirleaf are sufficient grounds for tolling the appeal statute in this case?

In addressing the issue, we take judicial cognizance of the records certified to this Court. The records reveal that final ruling in the action of ejectment was entered on November 18, 2013. The respondents having excepted and announced an appeal from the final ruling, filed their bill of exceptions on November 23, 2013. Thereafter, the respondents failed to file their appeal bond and to serve and file

their notice of completion of appeal. It is the contention of the respondents that immediately after the filing of their approved bill of exceptions, Counsellor Fomba O. Sirleaf fell critically ill and as a result of counsel's illness and subsequent death together with the death of co-respondent Rebecca Facin who, according to them, was the principal defendant in the lower court, as well as the death of the movant, they had the mistaken belief that the case was abated and terminated.

Our search of records reveals that on November 18, 2013, the date of the final ruling rendered by His Honor J. Boima Kontoe, the Tulay & Associates Law Offices, Inc. announced representation by and thru Attorney Schadrack N. Kanneh who received the said ruling. It is clear from the certified records that the respondents were represented by the Tulay & Associates Law Offices, Inc. and that Counsellor Fomba O. Sirleaf of sainted memory was not the only counsel of record in the case. So, the allegations contained in the respondents' returns to the motion to dismiss appeal are unsupported by the records.

More besides, assuming that Counsellor Sirleaf was a lone counsel in the case for the respondents, the medical certificate attached to the respondents' returns, show that the said counsellor died on August 2, 2016, that is, more than two years after the filing of the respondents' bill of exceptions. This Court says that it takes judicial notice of the fact the law firm has been actively representing its clients before and after the death of Counsellor Sirleaf. It follows that the contention of the respondents that they were of the mistaken belief that the case terminated on the death of their counsel, co-respondent Rebecca Facin and the movant, is not tenable in law. This Court also says that the under the facts and circumstances as gather from the certified records, *Civil Law Revised Code: 1:51.10* which the respondents rely upon is inapplicable in this case.

The records having established that the respondents failed to file their appeal bond and to serve and file their notice of completion of appeal and considering the lapse of the time this case has been pending on the dockets of our courts, this Court is of the considered opinion that the appeal must be dismissed. The strict adherence or compliance with the requirements for the completion of appeal is a matter of settled law in this jurisdiction. A 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 Kuku Y. Dorbor of the Henries law Firm appeared for the movant. Counsellor Emmanuel Tulay of the Tulay & Associates Law Offices, Inc. appeared for the respondents.