

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. YUOHCHIEF 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

The Intestate Estate of John G. Rancy by and thru its)
Administrator, Alphonso G. Rancy of the City of)
Monrovia, Liberia.....Movant)

Versus)

) MOTION TO DISMISS
)

Ndu Adighibe, Mathias Omejla, Jr. and all occupants)
under their control, also of the City of Monrovia, Liberia)
.....Respondents)

GROWING OUT OF THE CASE:)
)

Ndu Adighibe, Mathias Omejla, Jr. and all occupants)
under their control, also of the City of Monrovia, Liberia)
.....Appellants)

Versus)

) APPEAL
)

The Intestate Estate of John G. Rancy by and thru its)
Administrator, Alphonso G. Rancy of the City of)
Monrovia, Liberia.....Appellee)

Heard: October 19, 2023

Decided: November 28, 2023

MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This motion to dismiss appeal filed by the plaintiff/movant, the Intestate Estate of John G. Rancy, emanates from a ruling made by the presiding judge of the Sixth Judicial Circuit, Montserrado County, His Honor Nelson B. Chineh, in which he denied the motion to intervene filed by the respondents, Ndu Adighibe, Mathias Omejla, Jr et.al.

As a basis and justification for its motion to dismiss the respondents' appeal, the movant alleges that the respondent, Ndu Adighibe, Mathias Omejla, Jr. et al. failed to follow the mandatory steps required by the appeal statute for perfecting an appeal to this Court as outlined in Civil Procedure Law, Rev. Code 1: 51.8; that the respondents appeal is also untimely as the ruling from which this appeal grows is interlocutory and not a final judgment, hence a remedial writ would have been the proper office of this appeal.

The facts as gleaned from the records reveal that on June 2, 2023, an action of ejectment was instituted by the respondents, the Intestate Estate of John G. Rancy by and thru its Administrator, Alphonso G. Rancy against the movants, Ndu Adighibe, Mathias Omejla, Jr et.al in the Sixth Judicial Circuit Court, Montserrado County; that after the ejectment action was filed, pleadings were exchanged and the case was ruled to trial on its merits. After the movant had rested with its production of oral and documentary evidence, the respondents requested for continuance to enable them prepare their witnesses; that the said continuance was granted for May 29, 2023. At the call of the case on the said date, the respondents again requested another continuance which was granted for June 5, 2023; that after the second continuance was granted, the respondents instead of continuing with the case, filed a motion to intervene on behalf of Mr. Ndu Adighibe who had already filed an answer through Counselor Omejla to the court in the same case and hence was under the court's jurisdiction.

The motion to intervene was heard and denied by the trial judge; the respondents excepted and announced an appeal to this Court sitting in its October Term A.D. 2023. The respondent filed his bill of exceptions on June 30, 2023, but failed to perfect his appeal process within statutory time.

On October 18, 2023, the movant filed this motion to dismiss the appeal announced by the respondents, contending that the announcing of an appeal to the full bench of this Court by the respondents from a ruling denying a motion to intervene is untimely as the respondent should have filed a remedial writ since the said ruling was not final but interlocutory; that the respondents have failed to follow the mandatory steps for the filing of an appeal before this Court and therefore the appeal should be dismissed.

In responding to the motion to dismiss their appeal, the respondents concedes that they didn't perfect their appeal because Mr. Ndu Adighibe resides in the United States of America with his family where his wife is now a vegetable after suffering a massive stroke about two years ago and all efforts to procure a bond proved futile as the Sky International Insurance Company was temporarily closed down and when the next available insurance company, the American Underwriters Group (AUG) was contacted, they charged Five Hundred United States Dollars (US\$500) and that he did not pay because he did not have the money. The respondents have requested this Court to deny this motion to dismiss.

The movant's first contention is that the appeal is premature, in that the ruling denying the motion to intervene was interlocutory. We reject this argument of the movant as it is in stark contrast with our holding that: *the ruling denying the motion to intervene is appealable "because it was by the granting of the motion to intervene that would have made petitioner/intervenor a party to the suit and once denied, petitioner/intervenor had no more standing as a party in the case. Hence, the denial of the motion, therefore, puts finality to petitioners/intervenors side of the case; and since intervention is a matter of right, petitioners/intervenors would have appealed from the ruling despite the judge labeling said ruling as interlocutory."* Insurance Company of Africa v. Koroma and Dennis, 31 LLR 528 (1983).

A final judgment is one which disposes of the case, either by dismissing it before a hearing is had upon the merit, or after trial by rendering judgment and the lower court's ruling denying the respondent motion to intervene was a final judgment as to the respondent, both in its form and effect, and is therefore appealable.

The movant second contention is that the failure by the respondents to file a valid appeal bond within statutory time renders this appeal dismissible.

Our Civil Procedure Law, Rev. Code 1: 51.8 provides that, *failure to provide a sufficient bond within the time specified is a ground for dismissal of the appeal*; moreover, this Court has held in plethora of opinions that the appeal statute is strict and must be strictly followed and that a violation of any portion of the appeal statute warrants a dismissal of the said appeal. *Kailondo Petrouleum Inc. V. Guaranty Trust Bank (GT Bank) Liberia Limited, Supreme Court Opinion, October Term, 2022, Chase Manhattan Bank v. Chicri Brothers, 36 LLR 391, (1989), Porte v. Citibank NA, 37 LLR 126, (1993).*

We need not belabor this point of law in this opinion. The respondent's concession that he did not file an appeal bond within the time specified by the appeal statute renders this appeal dismissible. *Civil Procedure Law Rev. Code 1: 25.8.*

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss is granted and the appeal is dismissed as a matter of law. The Clerk of this Court is ordered to send a mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and enforce its final ruling. Costs are ruled against the respondents. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING COUNSELLOR JOYCE REEVES WOODS APPEARED FOR THE MOVANT. COUNSELLOR MATTHIAS OMEJIA APPEARED FOR THE RESPONDENTS.