

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.D. 2019

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

The Testate Estate of the late Antoinous A. K. Purser)
by and thru T. Nelson Purser, Attorney-in-Fact for)
Benjamin Purser II of USA.....APPELLANT)

Versus

APPEAL

Ciatta Bambara-Dukuly, Granddaughter of the late)
Antoinous A. K. Purser, of Monrovia.....APPELLEE)

GROWING OUT OF THE CASE:

Ciatta Bambara-Dukuly, Granddaughter of the late)
Antoinous A. K. Purser, of Monrovia.....MOVANT)

Versus

MOTION TO DISMISS
APPEAL

The Testate Estate of the late Antoinous A. K. Purser)
by and thru T. Nelson Purser, Attorney-in-Fact for)
Benjamin Purser II of USA.....RESPONDENT)

GROWING OUT OF THE CASE:

Ciatta Bambara-Dukuly, Granddaughter of the late)
Antoinous A. K. Purser, of Monrovia.....INFORMANT)

Versus

BILL OF
INFORMATION

The Testate Estate of the late Antoinous A. K. Purser)
by and thru T. Nelson Purser, Attorney-in-Fact for)
Benjamin Purser II of USA.....RESPONDENT)

HEARD: May 16, 2019

DEDIDED: February 7, 2020

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This appeal emanates from a ruling made on April 30, 2015, by the Probate Court of Montserrado County in a motion to dismiss an appeal filed by the appellee, alleging that the appellant by and through T. Nelson Purser, attorney-in-fact for Benjamin Purser, II, failed to file a bill of exceptions to a ruling made by the Probate Court in a bill of information filed by the appellee, Ciatta Bambara Dukuly, to the court. In her

bill of information, the appellee referred the Probate Court Judge to a complaint that she had previously filed, and in which she complained that the attorney-in-fact of her uncle, Benjamin Purser, II, was attempting to wrongfully evict her and others from the properties of her late grandmother, Sarah Purser, and her uncle, Sayon Purser, who was presumed dead as he has not been seen or heard from since the civil crisis. The appellee alleged that she as well as well as her uncle, Benjamin Purser, II was a beneficiary of the properties from which her uncle sought to evict her and others under her authority.

The Probate Court held a hearing on the bill of information and ruled on June 20, 2014 that it was misled in issuing out deeds of the properties of Mrs. Sarah Purser and Sayon Purser to Benjamin Purser, II, only; that both the appellee and Benjamin Purser, II were legitimate heirs of Sarah Purser and Sayon Purser and had equal rights to their properties. The Court therefore ordered that the deeds issued to Benjamin Purser, II for the properties of his mother, Mrs. Sarah Purser, and his brother, Sayon Purser, be withdrawn, declaring them void *ab initio*; and that the probate of the deeds also be cancelled as the appellee, granddaughter of Sarah Purser and niece of Sayon Purser, is also a beneficiary of their estates. The Court further ordered the appellee to administer the properties of her grandmother and her uncle since she resides in Liberia, and that she works along with the court until the return of her uncle Benjamin Purser, II to the country, when both parties would file the necessary papers for the closure of the estates to allow for proper distribution in accordance with the Decedent Estates Law.

The records reveal that the attorney-in-fact for the appellant was present in court when the ruling on the bill of information was made and that he was in communication with his counsel while at the court; that his counsel being absent when the case was called, the court appointed a counsel to take the ruling on behalf of the appellant. The records reveal that the appointed counsel excepted to the ruling entered by the court and announced that he would take advantage of the statute.

The appellee, a month later, on July 22, 2014, obtained a certificate from the clerk of the Probate Court stating that no bill of exceptions had been filed by the appellant or any step made by the appellant to pursue an appeal, and on July 24, 2014, filed a motion to dismiss the appeal. The Court, on May 30, 2015, ruled on the motion to dismiss the appeal, granting same. The appellant excepted to the court's ruling dismissing the appeal and appealed therefrom. It is the appellant's appeal on the motion to dismiss that is now before this Court.

The appellant in its bill of exceptions contends that the legal counsel appointed to take the ruling for the appellant did not announce an appeal but rather stated that

the appellant would take advantage of the statute; that taking advantage of the statute meant that the appellant would have pursued the matter by a remedial process and therefore the Probate Court erred when it ruled dismissing an appeal when there was no appeal announced by the appellant from which it had to file a bill of exceptions.

We see that the appellant has not stated that it was not aware of the ruling made on June 20, 2014, or contest the announcement made by the appointed legal counsel. In count 1 of its bill of exceptions, it states:

"And because your Honor erred when you ruled, holding that an appeal may be dismissed by the trial court on motion for failure of the appellant to file a Bill of Exceptions within the time allowed by statute, whereas, the respondent did not announce an appeal in these proceedings but rather took advantage of the statute."

It is unclear what advantage of the law the appellant intended to take since the only proper legal course to have been pursued by the appellant after the judge's final ruling, on June 20, 2014, was the announcement of an appeal to the Supreme Court and the perfection of said appeal in line with many Supreme Court Opinions which state that a party dissatisfied with the rendition of a final ruling/judgment may announce an appeal therefrom and pursue the steps required for perfecting an appeal – Civil Procedure Law Revised (1974), Sections 52.2, 51.4; *Salisbury Bros. v. Zoe et al.*, 37 LLR 165, 172-173 (1993); *Fahnbulleh v. LAMCO J. V. Operating Company*, 32 LLR 94, 95 (1994).

This Court has also held that when a final ruling is made and a counsel of a party is absent, the lower court must appoint a counsel to take the ruling on behalf of the absent counsel, and that counsel is appointed for the sole purpose of excepting and announcing an appeal from said ruling in fulfillment of the absent party's constitutional right - *LAMCO J.V. Operating Company v. His Honor Harper Bailey & Vonyeagan*, 33 LLR 461, 469 (1985); *Cooper Heirs et al. v. Swope Goffa et al.*, 39 LLR 220, 327 (1998); *Goffa et al. v. Scott-Goffa*, Supreme Court Opinion, March Term, A.D. 2011. The appellant has not proffered any evidence that it presented to the Probate Judge a bill of exceptions to his final ruling of June 20, 2014 and the judge refused to approve said exceptions because of the announcement made by the appointed counsel. Were that so, this Court would have issued an order for approval of the appeal *nunc pro tunc*, in line with precedence of this Court involving similar issue. But as previously stated, the appellant admits that it did not pursue an appeal from the final ruling made on June 20, 2014 by the Probate Judge. Since the appellant states in its bill of exceptions that it did not appeal from the final ruling, and there is no evidence that it even pursued another course intended to confer jurisdiction on the Supreme Court over the matter, we infer then that it accepted the

ruling on the motion to dismiss the appeal made by the Probate Judge on June 20, 2014.

The appellant's has raised issues in its bill of exceptions extraneous to the issue of the motion to dismiss. These issues raised which are complaints emanating from the ruling of June 20, 2014, cannot be considered by this Court since they are not the subject of the appeal. The appellant's failure to pursue an appeal from the Probate Judge's ruling of June 20, 2014, by filing a bill of exceptions to the said ruling, the granting of the motion to dismiss the appeal by the probate court was proper, and same is upheld by this Court.

This Court, in passing, says that probate courts must ensure proper handling and timely closure of estates in accordance with the Decedent Estates Law of Liberia, which provides that administrators of estates are to close the estates within twelve (12) calendar months unless the period is extended for good cause: *Nungbor v. Fiske*, 13 LLR 304, 308 (1958); *His Honor Holder et al. v. Sirleaf-Hage et al.*, Supreme Court Opinion, October Term A.D. 2013; *Peter Bonner Jallah, Jr. v. Rev Ola Ola Jallah et al.*, October Term, A.D. 2015; *Testate Estate of the late Bernard et al. v Intestate Estate of the late Stubblefield-Bernard*, Supreme Court Opinion, A.D. 2016.

In this case, the appellee having been designated by the court to administer the intestate estates of Sarah and Sayon Purser, she is under an obligation to carry out her duties as an administrator in consonance with the Decedent Estates Law; that is within twelve months, report to the court on all accounts relating to the estates, present an inventory of all the assets of the estates and petition for the closure of the estates, especially where Benjamin Purser, II, the other heir, has an attorney-in-fact to represent him in the matter.

IN VIEW OF THE FOREGOING, we uphold the ruling of the Probate Court dismissing the appeal. The Clerk of this Court is ordered to send a mandate to the court below, ordering the judge presiding therein to resume jurisdiction over the case and give effect to this Judgment. Costs are ruled against the appellant. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor Festus K. Nowon of the Dugbor Law Firm appeared for the appellant. Counsellor J. Laveli Supuwood of the Supuwood and Associates Law Offices appeared for the appellee.