

J. J. ROSS, Plaintiff in Error, vs. RUSSELL MINUS, Defendant in Error.

LRSC 8; 1 LLR 519

Damages.

[January Term, A. D. 1884.]

Before His Honor C. L. Parsons, Chief Justice, and the Honorable Associate Justices, Henry J. Neyle and Z. B. Roberts.

MOTION TO DISMISS APPEAL.

Russell Minus, defendant in the above entitled cause, respectfully motions this honorable court to dismiss this case and to rule the plaintiff to pay costs, first, because the plaintiff in error has failed to file in this court a complete record; as the original deed from the Republic of Liberia to S. H. Crayton, and a transfer deed from S. H. Crayton to Russell Minus, for the remnant lot alleged to be appurtenant to lot No. 58, in Greenville, Sinoe County, part of the written evidence in the above entitled cause, can nowhere be found in the record filed in the office of the clerk of this honorable court. Second, and also because the above entitled cause was brought into this court before the rendition of the final judgment in said case, by the Court of Quarter Sessions and Common Pleas of the County of Grand Bassa, as will appear by the record filed in the office of the clerk of this honorable court.

Respectfully submitted,

RUSSELL MINUS,

By J. NANSTEDLAW LEWIS and ARTHUR BARCLAY, Counsellors at Law.

COURT'S RULING.

This was an action of damages, tried in the Court of Quarter Sessions of Grand Bassa County, at its September term, A. D. 1883, and upon a writ of error was brought up to this court for review. In this case the defendant in error submits for the consideration of this court a motion to dismiss the case, first, because the record is incomplete; second, because certain deeds used as evidence of the defendant's title in the court below have not been sent up as a part of the record in this case.

Upon inspection of the record the court finds that a verdict has been returned by the jury in favor of the defendant, to which the plaintiff took exceptions; but for some cause which does not appear on the record, the exceptions were not allowed. So it was on account of this, and also because the defendant was allowed to withdraw certain deeds used as evidence at the trial of the cause, that the plaintiff brings his case before this court upon a writ of error.

And here it is proper for the court to state that according to the statute of this Republic regulating appeals, there can be no appeal until final judgment. Therefore the court says that a writ of error does not lie from the verdict of the jury. And the court further says, that it was not error in the court below to allow the defendant to withdraw deeds which he put in evidence during the trial of the case; for if it was the intention of the plaintiff in error to appeal from the rulings of the court, it was his duty to request the judge to order the clerk to take copies of all papers used in the trial of the cause, and his not doing so is his own neglect, for which he alone is blamable.

This court therefore adjudges that the writ of error is hereby dismissed, and that the defendant in error recover from the plaintiff in error all costs.

Supreme Court, January Term, 1884.

Key Description: Appeal and Error (Conclusiveness of record; Enforcement of judgment or order; Necessity of formal judgment or order)