

No. 14671

Supreme Court of Illinois

Kirk

vs.

Vomberg.

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 261 137

J. W. Middleton & Co., Stationers, 196 Lake St.

Kirk
vs
Kornberg
Ready

5981

129ED

In Supreme Court of Illinois
This Court division
April Term 1864

James Kirk
vs
Frederick Combs

I Samuel H.
Fuller on oath say, that the
matters litigated in the
above entitled case, and
presented by the record, were
and are litigated in good faith
about a matter in actual
controversy between the parties
and that the opinion of this
Court is not sought with any
other design than to adjudicate
and settle the law relative to the
matter in actual controversy
between the said parties
to the record.
Samuel H. Fuller

Sworn to and subscribed before
me this 10th day of May A.D. 1864 }
L. Leland }
Clk.

²⁶¹
James Kirk

¹⁸
Frederick Tomberg

affidavit

Given May 12. 1864

J. L. and M.

UNITED STATES OF AMERICA,
STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the fourth day of April in the year of our Lord One Thousand Eight Hundred and Sixty seven and of the Independence of the United States of America the Eighty Eight

Present, The Honorable John M. Mason Chief Justice of the }
Superior Court of Chicago. }

Wm H. Higgins

Joseph H. Gray

Judges.

Joseph Tracy

Prosecuting Attorney.

Garret J. Hammond

Sheriff of Cook County.

Attest, Monas B. Carter Clerk.

Be it remembered that before to wit
on the Eighteenth day of April in the
year of our Lord one Thousand Eight &
hundred and sixty seven, said day being
one of the days of the April Term of said
Court the following proceedings were
had amongst others, and entered of record
in said Court to wit

60
2350

James Harte
vs
Andreas Homberg

Exemption

And now at this day again come the parties to this cause by their attorneys as of our aid, and the cause having been heretofore submitted to the Court for trial, and part of the testimony heard, (to wit on the seventeenth day of March A.D. 1864) the Court now here after hearing all the testimony and arguments of Counsel and being fully advised in the premises finds the said Defendant not guilty of withholding from the said Plaintiff the proceeds of the premises described in Plaintiff's declaration, to which ruling and decision of the Court the said Plaintiff then and there excepted.

Wherefore it is considered by the Court that the said Defendant do have and recover of and from said Plaintiff his costs and charges about his defense in this behalf expended and have execution therefor.

State of Illinois
County of Cook 1864

I Thomas B. Hart
Clerk of the Superior Court of Chicago.
within and for the County and State aforesaid
do hereby certify the above and foregoing
to be a true copy of a certain
order and judgment made and entered of
record in said Court on the Eighteenth day
of April A.D. 1864 in a certain cause
then pending in said Court on the Com-
mon Law side thereof wherein James Stutz
was Plaintiff and Frederick Wernberg
was Defendant.

In Witness Whereof I have here-
unto set my hand and af-
fixed the seal of said Court
at the City of Chicago in said
County this Thirtieth day of
May A.D. 1864
Thos B. Hart



Chas

261

137

James Kirk

^{vs}
Frederick Vomberg

Additional Record

We hereby acknowledge ser-
vice of a notice of a motion
for leave to file the within
as an additional record
and consent that it
may be filed

Goodrich Formell Clerk
for Sept in Court

May 14 1864

Filed May 14. 1864
L. Leland
Clerk

Supreme Court of Illinois
Third Grand Division
April Term A. D. 1864.

James Kirk	}	261
Plaintiff in error		
v.		
Frederick Vomberg		
Defendant in error		

And now comes the said James Kirk, and moves the Court that he be allowed to file an additional record in the above entitled cause, to remedy the defects in the record first filed, which were not discovered at the time of filing the first one.

Scammon, Mc Cagg & Fuller
Attys for Pff. in error.

May 14. 1864.

James Kirk

v
Frederick Vomberg.

~~~~~  
Motion for leave to  
file Additional record.  
~~~~~

Graced May 14, 1864.
L. L. Loomis clerk

State of Illinois
Cook County

vs.

In Superior Court
of Chicago -
As of the April Term
1864

Agreed Case.

James Kirk

vs.
Frederick Vomburg

~

In Ejectment.

This was an action of Ejectment brought by Kirk against Vomburg to recover the possession of the West Half of the South West Quarter of Section Twenty eight (28) Township thirty six (36) North Range Thirteen (13) East, lying in Cook County, Illinois.

It was agreed that William B. Egan became the owner in fee of the demanded premises by purchase from the United States Government in February 1836.

Both parties derive title under judgments against said Egan, and execution sales under said judgments, and it was agreed that the parties each held or claimed title under proper mesne conveyances subsequent to the several execution sales, and that Vomburg was in possession of the demanded premises at the commencement of this action.

It was further agreed that at the August term 1837 of the Circuit Court of Cook County, Illinois, Buckner S. Morris recovered a judgment against said William B. Egan for \$677.⁰⁰ and costs of suit, and that an execution issued on said judgment, directed to the Sheriff of Cook County aforesaid, which was levied on the premises in question and after being duly advertised, on the 27th day of December 1837, the said premises were by the Sheriff, duly sold to Buckner S. Morris, the Plaintiff in the execution. who afterwards received a Sheriff's deed of them, and the plaintiff James Kirk claims title under this sale to Morris.

It was further agreed that at the July term 1837 of the Municipal Court of the City of Chicago, in said Cook County, Erastus Bowen recovered a judgment against said William B. Egan for \$364.⁰⁰ and that an execution was issued on said judgment directed to the Sheriff of said County, dated July 31st 1837, which was afterward returned by said Sheriff "No property found on which to levy" and that afterwards an alias execution was issued from said Court dated ^{August} 10th 1837.

directed to the Sheriff of said County and which was duly levied on said lands on the 16th day of January 1839 and on the fifteenth day of March 1839, the said Sheriff duly sold said premises under and by virtue of said Execution to said Brown, who in due time, received a Sheriff's deed of the same, and that under this levy and sale, defendants Vamberger claim title to the lands in controversy.

It was also agreed, that the July term 1837 of the Municipal Court of Chicago adjourned before the August term 1837, of the Circuit Court of Cook County was ended.

Upon the foregoing facts the Court found the issues for the said defendant and rendered judgment in his favor, to which decision and finding of the Court the said Plaintiff then and there excepted, and the said parties Plaintiff and defendant do hereby agree that the foregoing agreed case, may be filed with the Clerk of said Superior Court and by him certified to the Supreme Court of this State at the April term 1844, in and for the Third Grand Division as is by law provided.

For Plaintiff
For Defendant

And now serves the said James Kirk, and says that in the foregoing record and proceedings there is manifest error in this: that the Court used in finding the issues for the Defendant. Imbrey

That the Court used in not ordering judgment for the said Kirk.

Seamus M. Caffrey & Fuller
for Kirk

friend in error. Goodrich Horace J. Smith

1261 137
In Superior Court of Illinois

Kirk
Imbrey
Record
and
Agreed Case.
Case of Imbrey

Filed April 21. 1864
L. Leland
Clerk

State of Illinois ss.
County of Cook ss.

I, Thomas B. Carter, Clerk of the Superior Court of Chicago, within and for the County and State aforesaid, do hereby certify that the within is a correct copy of a certain "agreed case," in a cause now pending in said court, on the law side thereof, wherein James Kirk is plaintiff, and Frederick Imbrey is defendant.

In Witness Whereof, I have hereunto set my hand, and affixed the Seal of said Court, at Chicago, this 19th day of April, A.D. 1864.

Thomas B. Carter, Clerk.

