

12804

No. _____

Supreme Court of Illinois

Granyang.

vs.

Merkel.

Nicolaus Granzow i. d. e.
279
Margarit Merkel i. d. e.

279

209

1859

State of Illinois }
Cook County } S.S.

Plas before the Honorable George Manierre
Judge of the Seventh Judicial Circuit of the State of
Illinois, and presiding Judge of the Circuit Court of
the County of Cook in said State, at a term thereof
begun and held at Chicago in said County of Cook,
on the third Monday (being the nineteenth day) of
November in the year of our Lord one thousand
eight hundred and fifty five, and of the Independence
of the United States the eightieth

Present:

The Honorable George Manierre, Judge of
the said Court

Daniel M. Hovey Esq. State Attorney
James Andrew, Sheriff of Cook County

Margaret Kerker Adm^t
of Christopher Kerker dec^d

vs.

Nicolaus Franzang Executor
of the last Will & Testament
of Mary Franzang deceased

Assumpsit

The Clerk of the Circuit
Court of Cook County with pleas^t issued a summons for the
defendant in the above entitled case returnable on the

first day of the next Term of said Court

and oblige yours vob,

Damages \$600.00,

Harvey & Tuley

Chicago 12th October 1853.

Plffs Attorneys.

Be it remembered, that on the twelfth day of October in the year last aforesaid, there was issued out of the Clerk's Office aforesaid a People's writ of summons directed to the Sheriff of Cook County aforesaid, which said writ is in the words and figures as follows to wit;

State of Illinois,
County of Cook } S.S.

The People of the State of Illinois
to the Sheriff of said County, Greeting,

We command you that you summon Nicolaus
Tranfang Ex^r of Mary Tranfang deceased - if he
shall be found in your County, personally to be and appear
before the Circuit Court of Cook County, on the first day
of the next term thereof, to be holden at the Court House,
in the City of Chicago, in said County, on the Fourth
Monday of October Inst: to answer unto Margaret
Merkel Adm^t of Christopher Merkel deceased in a
plea of Trespass in the cause in premises, to the damage
of the said Plaintiff, as is said in the sum of
Six hundred Dollars.

And have you then and there this writ,
with an endorsement thereon, in what



manner you shall have executed the same
Witness, Louis J. Heard,
Clerk of our said Court, and the seal
thereof, at the City of Chicago, aforesaid
this Twelfth day of October A. D.
1855.

L. J. Heard Clerk.

Which said writ of Summons was afterwards re-
turned by the said Sheriff, with the following endorsement
thereon, to wit:

Served by reading to the within named Nicholas
Pranyang Ex^r of Mary Pranyang Deceased this 12th
day of October.

Fees	1 Service	50.	
	3 Miles	15.	
	1 Return	10	75¢.

Harriet T. July Atty.
James Andrew Sheriff
by E. A. Hether Depty.

And afterwards there was filed on the 20th
day of October of the year last aforesaid, in the
Clerks Office last aforesaid the following Declaration,
in the words & figures as follows to wit:

State of Illinois
Margaret Merkel Adm^r
of Christopher Merkel dec^d
vs.

Nicolaus Pranzang Ex^r
of the last Will & Testament
of Mary Pranzang
Term A. D. 1855

Circuit Court of Cook County
of the October Term 1855.

Cook County Ss. Margaret Merkel
Administratrix of all and singular the goods, chattels, rights and
credits which were of Christopher Merkel dec^d at the time
of his death, who died intestate, by Harriet & Julia her
attornies complains of Nicolaus Pranzang ex^r of the last
Will and Testament of Mary Pranzang deceased, who has
been summoned &c of a plea of trespass on the case &c.

For that whereas the said Mary Pranzang in his lifetime
and in the lifetime of the said Christopher Merkel to wit
on the first day of March in the year A D Eighteen
hundred and fifty four at Chicago in the County aforesaid
was indebted to the said Christopher Merkel in the sum
of six hundred Dollars for meat, drink, washing, and
lodging goods and chattels and other necessities by the
said Christopher Merkel before the said first day of
March found and provided for him the said Mary
Pranzang at the special instance and request of the said
Mary Pranzang

And also in the further sum of six hundred
Dollars for divers goods, wares, and merchandize by the

said Christopher Merkell before the said first day of March A. D. 1854. sold and delivered to the said Mary Pranzang since deceased and at his special instance and request.

And also in the further sum of six hundred Dollars for the work, labor, care and diligence of the said Christopher Merkell before the first day of March A. D. 1854. by the said Christopher Merkell, done, performed and bestowed in and about the business of the said Mary Pranzang since deceased and for him the said Mary Pranzang at his special instance and request,

And also in the further sum of six hundred Dollars for money by the said Christopher Merkell before the said first day of March A. D. 1854. advanced to, paid, laid out and expended for the said Mary Pranzang, and at his the said Mary Pranzang special instance and request.

And also in the further sum of six hundred Dollars for other money by the said Mary Pranzang before the said first day of March A. D. 1854. had and received to and for the use of the said Christopher Merkell, and being so indebted, he the said Mary Pranzang in consideration thereof afterwards and in his lifetime and in the lifetime of the said Christopher Merkell to wit on the said first day of March in the said year Eighteen hundred and fifty four, at the County aforesaid, undertook and then and there faithfully promised the said Christopher Merkell to pay him the said sum of money when he the said Mary Pranzang should be therunto

afterwards requested.

And Whereas also the said Mary Pranzang in his lifetime and in the lifetime of the said Christopher Merkel on the second day of March A. D. Eighteen hundred and fifty four was indebted to the said Christopher Merkel in the further sum of six hundred Dollars for that the said Christopher Merkel had before that time found and provided other meat, drink, washing, lodging and necessaries, goods and chattels for the said Mary Pranzang, he the said Mary Pranzang undertook and then and there faithfully promised the said Christopher Merkel to pay him so much money as he the said Christopher Merkel reasonably deserved to have of him the said Mary Pranzang when he the said Mary Pranzang should be therunto afterwards requested.

And the said plaintiff as Administratrix as aforesaid avers that the said Christopher Merkel therefore reasonably deserved to have of the said Mary Pranzang the further sum of Six hundred Dollars to wit in the lifetime of the said Mary Pranzang and of the said Christopher Merkel at the County aforesaid on the said second day of March A. D. 1854, whereof the said Mary Pranzang afterwards to wit in his lifetime on the day and year last aforesaid then had notice.

Yet the said Mary Pranzang in his lifetime and the said defendant as executor as aforesaid since the death of the said Mary Pranzang not regarding his said several promises and undertaking of the said

Mary Prangaz, but contriving yet to deceive and defraud the said Christopher Merkel in his lifetime and said plaintiff as Administratrix as aforesaid after the death of the said Christopher Merkel (to which plaintiff after the death of the said Christopher Merkel to wit on the (29th) day of September in year One Thousand eight hundred and fifty five at Chicago in the County and State aforesaid Administration of all and singular the goods and chattels, rights and credits which were of the said Christopher Merkel at the time of his decease who died intestate, by the County Court of Cook County State of Illinois in due form of law was granted in his behalf hath not as yet paid the said sums of money or any part thereof to the said Christopher Merkel in his lifetime or to the said plaintiff since the death of the said Christopher Merkel (although after requested so to do) But to pay the same or any part thereof to the said Christopher Merkel or to the said plaintiff since his said Christopher Merckel's death the said Mary Prangaz and the said defendant have hitherto wholly refused and the said defendant still refuses so to do, to the damage of the said plaintiff as administratrix as aforesaid of six hundred Dollars, therefore she brings suit &c.

And the said plaintiff brings into Court here the letters of Administration of the said County Court of Cook County which give sufficient evidence to the said Court here of the grant of Administration to the said plaintiff as aforesaid the date whereof is a certain day and year therein mentioned to wit the day and year in that

behalf above mentioned &c

Warwick & Tuley
plff Attys.

Copy of Account recd. in case of
Margaret Merkel Administratrix &c
vs. Cook Co. Court
Nicolaus Pranzany Executor &c.
No. 5.

Nicolaus Pranzany Executor of the last Will & Testament of
Mary Pranzany To Margaret Merkel & adm^r of all
and singular the goods & chattels, rights & credits of Christopher
Merkel deceased

Of

To. Meat, drink, provisions, washing, lodging & other expenses furnished by Christopher Merkel to Mary Pranzany	\$600.00,
" Boarding Mary Pranzany 200 weeks by Christopher Merkel at \$3.00 per week,	" 600.00
" Money had & received by Mary Pranzany to & for the use of Christopher Merkel	" 600.00
" Services, work & labor done & performed by Christopher Merkel in & about the business of Mary Pranzany	" 600.00
" Goods sold & delivered	" 600.00

State of Illinois }
County of Cook } S.S.

Be it remembered that herefore to wit:

on the 29th September A. D. 1855 same being one of the days
of the September Term of the year 1855 of the County Court
of Cook County - Present Thereat

Honorable Henry L. Tucker Judge

Charles B. Farwell Clerk

James Andrew Sheriff

the following among other proceedings, were by the said Court had
and done to wit;

Merkel, Christopher?

Estate of.

} Application for Administration

This day comes into Court Margaret Merkel,
and makes application for Administration of the Estate of
Christopher Merkel deceased.

And it appearing to the Court by satisfactory
proof that Christopher Merkel, late of Cook County, died in
said County on or about the 4th day of October A. D. 1854.
leaving property and effects in this County but leaving no
last Will and Testament

And it appearing to the Court, that the
said Margaret Merkel is the Widow of said intestate,
and by law entitled to the administration of the effects of
said deceased, whereof he died possessed, it is,

Ordered, that administration of the estate of
said deceased, be granted to said Margaret Merkel,
upon her entering into Bond in the penal sum of,
Two Hundred Dollars, payable and conditioned as the
law directs. And the said Margaret Merkel

having produced the Bond with Frederick Tenck and Christopher Thilmont as her securities, which is approved by the Court, and taken the oath of Office as such Administratrix it is.

Ordered that Letters of Administration be granted to her accordingly. Whis said letters of administration are recorded in words and figures following to wit:

State of Illinois,
Cook County } 3 Oct.

The People of the State of Illinois to all to whom these Presents shall come, Greeting.

Know Ye, that whereas Christopher Merkel of the County of Cook, and State of Illinois, died intestate, as it is said, on or about the 4th day of October A. D. 1854 having at the time of his decease, personal property in this State, which may be lost, destroyed or diminished in value, if speedy care be not taken of the same; to this end, therefore, that said property be collected and preserved for those who shall appear to have a legal right or interest therein, we do hereby appoint

"Margaret Merkel" of the County of Cook and State of Illinois, Administratrix of all and singular the goods and chattels, rights & credits, which were of the said Christopher Merkel at the time of his decease; with full power authority to secure and collect said property and debts, wheresoever the same may be found in this State,

and in general to do and perform all other acts which now
and, or hereafter, may be required of her by law.



Witness Charles B. Farnwell Clerk
of the County Court of said County,
and the Seal thereof, at the City of
Chicago in said County, this 29th day
of September A. D. 1855.

C. B. Farnwell
Clerk of the County Court

State of Illinois }
County of Cook } I Charles B. Farnwell Clerk
of the County Court ^{of Cooks County} do hereby certify that the above &
foregoing is a true & correct transcript of the Records of
said Court of proceedings had and done by said Court
in matter of grant of Administration to Margaret Morkel
of the Estate of Christopher Morkel deceased, and a true
and correct copy of the Letters of Administration granted to
said Margaret Morkel as Administratrix of said Estate,
and I do further certify, that the said Letters are in full
force and unrevoked



In testimony whereof I have hereunto
set my hand and the Seal of said
Court at my Office in the City of
Chicago this twelfth day of October,
A. D. 1855

C. B. Farnwell
Clerk

And afterwards there was filed on the 20th day of
November of the year last aforesaid, by the Attorney of the
defendant as executor aforesaid, in the Clerk's Office of
the Circuit Court of Cook County aforesaid the following
Plea in the words as followed to wit:

Nicolaus Pranzani Executor
of the last Will & Testament of.

Marks Pranzani.

advs:

Margaret Muerke Administratrix
of Christopher Muerke.

And the said Defendant by Bryan Crocker and
Morras his attorney comes and defends the wrong and injury
when sets and says that the said Marks Pranzani in his
lifetime, and the defendant since his decease did not nor
did either of them undertake or promise in manner and
form as the said plaintiff hath above thereof complained
against the said defendant and of this the said defendant
puts himself upon the country & the plaintiff doeth
the like

Bryan Crocker & Morras
Dftrs Attorneys

State of Illinois }
Cook County }

George F. Crocker being duly sworn
says that he is the Attorney of the Defendant in the above

entitled said and that this Affiant verily believes that he
has a good defence to the said suit upon the merits
George F. Crocker.

Subscribed and sworn to before
me this 20th day of November,

A. D. 1855.

L. O. Hoard, Ck.

And afterwards to wit on the 28th day of December
of the year last aforesaid, being one of the days of the November
Term of the Court last aforesaid in the County aforesaid
the following amongst other proceedings were had and entered
of Record to wit:

Margaret Merkel Adm^x of }
Christopher Merkel Dec^d }
v.s. } Ass^t
Nicholas Pranzang Ex^r }
of Marx Pranzang dec^d }

This day came the said
parties by their Attornies, and issue being joined herein, it is
ordered that a Jury come, and thereupon come the Jurors
of a Jury of good and lawful men, to wit: James Turner,
W. B. Nightman, William Justice, Alfred Lambert, S. A.
Chapman, David Morley, J. H. Irwin, J. H. Perdue,
Charles Nelson, Isaac Strain, James Crawford and
Isa. Gaines, who being duly elected tried and sworn well
and truly to try the issue joined between the parties according
to law and the evidence and they hearing the testimony of
witnesses, arguments of counsel and instructions of the Court

retire under charge of an Officer of the Court to consider of
their verdict, and afterwards come into Court and say we of
the Jury find the issue for the plaintiff and assess her
damages at the sum of Two hundred and thirty six Dollars
and twenty five cents.

Therefore it is considered that the said plaintiff
do have and recover of the said defendant her damages of
\$236.25 Two Hundred and Thirty Six Dollars and twenty five cents
assessed as aforesaid together with her costs and charges
about this suit herein expended and have execution therefor
against the said defendant as executor aforesaid, the same
to be levied and collected of the goods and chattels of the
said Mary Pransang deceased, in said executors
hands unadministered.

State of Illinois }
Cook County } S. S.

I, Louis D. Hoard Clerk of
the Circuit Court in and for the County of Cook, in the State
of Illinois do hereby certify that the above and foregoing
is a true, perfect and complete copy of all the papers filed
and proceedings had and entered of Record in said Court
in a cause wherein Margaret Merkel Admt was plaintiff
& Nicolas Pransang Ex^r was defendant.

In Witness whereof I have
hereunto set my hand and
affixed the seal of said

In the Supreme Court of the State of Illinois
This Division, June Term A.D. 1856,
Nicholas Granger Ex^r &c
Plaintiff in Error,

vs.
Margaret Merkel
Adm^x &c Deft, in Error

Error,

Brief written and filed in the cause as
above entitled by Arthur H. Hendell, of
counsel for Plaintiff in Error,

The judgement of the Court
below must be reversed;

First because
it awards execution against the goods
and chattels of the testator, remaining
in the hands of the Executor, unad-
-maintained by her. It is very clear
that such a judgement is erroneous,
Possibly the execution of such a judg-
-ment, in strict compliance with its terms
would exhaust the whole effect, to the
prejudice of other creditors of the testator,
this would be an complete subversion of
the whole letter, spirit and policy of the
Law, of this State regulating the Admin-
-istration of Estates, The prudent holder
of such a judgement would be able to

deprive other more scrupulous than him-
self; and make observant of the formalities
of the Law than himself of every chance
of payment, by violating that Law, which
they obey; adding the consequence and
further hardship that he would be re-
-arded for disregarding that Law, obedience
to which is the sole cause of their advantage.
The judgment is contrary to the express
letter, meaning, and policy of the Law,
as shown by Statute, and as declared
in construction of the Statute, by this Court
in its repeated decisions upon this very ques-
-tion, The case of Welch vs. Wallace 3, Gilman
497, and Peck v. Heven 5, Gilman 127,
are conclusive upon this feature of the case.

It does not appear from
the declaration by averment or otherwise
that at the time this action was begun
in the Court below that the Plaintiff there
had any right of action whatever. An
action at the common Law does not lie
against an Executor. The right of action
is only given by Statute. It exists only upon
compliance with the terms of the Statute, the
existence of the Statute is a condi-
-tion precedent to the right to sue. The
Plaintiff in his own name, must show a right

of action, he must shew that he has complied with the Statute, when the Statute only gives the right to sue, and so bring himself within its terms. It is otherwise with the matter of defence. Whatever may be alleged to destroy a right of action which has once been vested, must be pleaded, and need not be noticed in the declaration. In this case two things are absolutely necessary - a demand made - and the lapse of a year from the issuance of letters testamentary, or of administration - When a Statute gives a right of action, not before existing, the party suing under the Statute must shew not only a cause of action, but also a right to sue, he must bring himself within its terms - otherwise his suit is not maintainable. Especially in the case in Statute, which in their enacting clauses, contain express, peremptory, prohibitions of suit, unless in the cases, or upon the conditions particularly specified, or which in the enacting clauses, contain explicit exception to the exercise of the right they confer. In this case, one clause of the same sentence, which gives the right to sue, contains an exception in express terms

absolutely prohibiting the right to sue
 unless - i.e., excepting one year has elap-
 sed from the grant of letters testamentary
 the Plaintiff must bring herself within
 the Statute, must exclude the operation of
 the exception by actual agreement, this
 is a condition, without which she never
had a right to sue, It is a condition
 precedent both to the cause and power
 of maintaining the action, In pleading
 upon Statute, where there is an exception
 in the enacting clause the Plaintiff
 must show that the Defendant is not
 within the exemption - 1, Whit. Pl.
 256, 257 page, reasons there cited. A
 fortiori they must show that an excep-
 tion in an enacting clause does not ap-
 ply to himself - each party must show
 his own case - the Plaintiff his right
 - the Defendant his defence, In this
 case there must have been a demand
 before suit brought, The Statute posi-
 tively requires it, The demand must
 be proved, that must be proved
must also be pleaded, But nothing
more is avowed in this Declaration
 In this respect we submit
 to the Court that the Court below

med in its judgment. Besides the
Statute absolutely prohibits the main-
-taining of any action until after the
lapse of a year from the grant of
letter ~~to~~ - And we submit the
Record to the Judgment of the Court

Arthur W. Windell
Of Counsel for Plff. in error
June 30, 1856.

Granyang & c

vs.

Merkel & c

Written Argument
for Aff in Error,

June 30, 1856

Filed July 3, 1856,
L. Leland
Clerk

Arthur W. Wendell
Attorney & c,

Granyang

vs

Merkel

State of Illinois

In the Supreme Court

Of the June term 1856

Nicholas Gangany &c

plaintiff in error

vs

Mary and Merkle &c^{so}

defendant in error

Docket Number
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It is hereby stipulated that if the above case has been reached & dismissed ~~that~~ before the filing of this stipulation that there is shall be remain without prejudice to either party, but if it has not been dismissed that plaintiff in error shall comply with the rule in respect to printing & filing abstract & shall also furnish to defendant in error copy of brief and that the cause shall be submitted on briefs to be filed, during present term.

June 16. 1856

Andrew Davis

Atty for deft in error
Arthur W. Wendell.
Atty for Plff. in error

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Nicolaus Grunberg
vs

Margaret Merkel

Stipulation

Filed June 18, 1886,
Leland
Clerk

At the June Term at Ottawa A. D. 1856.
In the 3^d Grand Division of the Supreme
Court of the State of Illinois.
Error to Cook County Cir-
cuit Court.

Nicholas Granjang, executor of the
last Will and Testament of Marx
Granjang, deceased, Plaintiff in error,
v.

Margaret Merkel, administratrix
of the goods and chattels, &c of Chris-
topher Merkel, deceased, defendant
in error.

Action of Assumpsit—

The said Nicholas
Granjang ex^r- comes by A. W. Windett
and H. Hays his attorneys, and as-
signs before the Court gross and manifest
errors apparent from the record in
said cause as follows— to wit—

The Circuit Court erred
1st In its Judgment in awarding
costs to the pl^{ff} below without any
avowment in her declaration that
the claim sued on was filed at or
before the Term of the County Court
of said County filed upon by said ex^r-

for the settlement of accounts against said Testator's estate - and without any averment that said claim was demanded of said ex^r before suit brought -

2nd In its Judgment in awarding execution to be levied upon the goods and chattels of said Testator in the hands of said executor unadministered -

3^d In rendering said Judgment when there is no averment in, nor does it in any wise appear from said declaration that twelve months had elapsed after the issuance of the letters testamentary and before suit brought -

4th When there is no good and sufficient count in said declaration to sustain said Judgment -

By reason of which said
(besides, numerous other errors)
Several manifest errors, the said
Nicholas Granjang, ex^r, avers that
great injustice has been done him as
such ex^r and prays the Court that
said judgment may be wholly set aside,
reversed and for nothing esteemed and that
he may recover his just and reasonable
costs herein - Nicholas Granjang
by Windell & Hayes, his atty

And the said Margaret Merkel
Administratrix of Christopher Merkel deceased
comes & joins in such ways there is no
error in the record of record. It says that
said judgment may be affirmed and
for her costs in that behalf.

Margaret Merkel Adm^xtr
By Andrew Harris her Atty

27/8

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Meadow Grange

or

Margaret Merkel

Filed Feb. 18 1856

L. Leland
Clerk

Grainier vs
Marble Adm't

The 1st error that no demand of
payment made or claim filed.

This is not required by law.
It is necessary in order to hold the estate
for costs that the claim should be filed
or notice given. There is no
Bill of exceptions nothing to show
upon what state of facts the court
did order these costs to be paid & this
court in the absence of such show-
ing will presume the court
~~act~~ below acted correctly.

3^d That 12 mos had not intervened.

This is mere matter in
abatement, suspending right of
officer admitting such to be
the law, & if true is matter of defense
& should be set up by plea in
the Court below & not raised for
the first time in this court.

Kesson & Drupp

Nicolaus Graunag Executor
of Mrs Graunag, plaintiff in error
vs.

Margaret Muehle Adm^r of
Christophen Muehle, defendant in error. -

The grounds of Error are
1st Judgment awards execution against the
goods and chattels of the Testator in the
hands of the Executor undistributed.

This is correct. 1 Scam. 55. H. 113.

2 Scam. 504. 4 Scam 403. 5 Bil 127. 1 Bil. 491.

3 Bil 490. 11 Ws. 390.

If however the court should consider
the form of the judgment wrong, it will
not send the case back for trial to the
Court below, but will enter a correct
judgment in the cause (1 Scam. 415. Bruce
224. 300. 1 Scam 206. 417. 405. 507. 3 Scam.
478. 5 Bil. 127.

2^d There is no averment in narr. of a demand of
claim before suit

3^d No averment in narr. that 12 months have elapsed
after issuing of letters and before suit brought

Both defects are cured by pleading over 1 Chit Pley 672
and by verdict 1 Chit Pley 673 (note 1.)

16 Mass. 94. 17 Mass. 229. 9 Mass. 198. -

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Grangery Ex^t

vs.

Mercile admt

Brief. -

Filed April 21 1858
L. Leland
Clerk

Attest H. Briggs

State of Illinois
County of Cook
City of Chicago, I, I Philip A. Hogue
Clerk of the Recorder's Court of the City
of Chicago do hereby certify that Leander
Reed is good and sufficient security for
the sum of Two Thousand Dollars, to
the best of my knowledge and belief
Witness my hand and the Seal of
said Court this 9th day of Feb'y 1856
P. A. Hogue
Clerk

Filed Feb. 15, 1856,
Leland Clk

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Nicolaus Grant & Co.

vs

Margaret Merkel & Co.

Writ of Error

This Writ of Error is made
a Supersedeas & as such
should be obeyed by all
concerned.

L. Leland Clerk

by J. B. Rice Dep.

Filed Feb. 15. 1856

L. Leland Clerk

by J. B. Rice Dep.

STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the county of Cook Greeting:

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a
 which was in the circuit court of Cook county, before the Judge there-

on Margaret Merkel Administratrix of Christopher
 Merkel deceased.

plaintiff, and Niclaus Granjang Executor of the last Will and
 Testament of Ma^{ry} Granjang deceased
 chngers.

defendant it is said manifest error had intervened, to the injury of the aforesaid Niclaus

Granjang as we are inform-
 ed by his complaint, and we being willing that error, should be corrected if any there be in due
 form and manner, and that justice be done to the parties aforesaid, command you that if judgment there-
 of be given, you distinctly and openly without delay, send to our Justices of the Supreme Court
 the record and proceedings of the plaint, aforesaid, with all things touching the same, under your seal,
 so that we may have the same before our Justices aforesaid at Ottawa, in the county of La Salle,
 on the Second Monday of June next, that the record and proceedings, being inspected,
 we may cause to be done therein, to correct the error, what of right ought to be done according to law;

WITNESS, the Hon. ~~Walter B. Seates~~ ~~SAMUEL H. TREAT~~, Chief Justice

of our said Court, and the Seal thereof, at Ottawa, this 15th Day of February
 in the Year of Our Lord One Thousand Eight Hundred and Fifty-six

L. Leland

Clerk of the Supreme Court.

by J. B. Rice Dep. Clk

STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the county of Cook Greeting:

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a
 which was in the circuit court of Cook county, before the Judge there-

on Margaret Merkel Administratrix of Christopher
 Merkel deceased.

plaintiff, and Niclaus Granjang Executor of the last Will and
 Testament of Ma^{ry} Granjang deceased
 chngers.

defendant it is said manifest error had intervened, to the injury of the aforesaid Niclaus

Granjang as we are inform-
 ed by his complaint, and we being willing that error, should be corrected if any there be in due
 form and manner, and that justice be done to the parties aforesaid, command you that if judgment there-
 of be given, you distinctly and openly without delay, send to our Justices of the Supreme Court
 the record and proceedings of the plaint, aforesaid, with all things touching the same, under your seal,
 so that we may have the same before our Justices aforesaid at Ottawa, in the county of La Salle,
 on the Second Monday of June next, that the record and proceedings, being inspected,
 we may cause to be done therein, to correct the error, what of right ought to be done according to law;

WITNESS, the Hon. ~~Walter B. Seates~~ ~~SAMUEL H. TREAT~~, Chief Justice

of our said Court, and the Seal thereof, at Ottawa, this 15th Day of February
 in the Year of Our Lord One Thousand Eight Hundred and Fifty-six

L. Leland

Clerk of the Supreme Court.

by J. B. Rice Dep. Clk

State of Illinois }
County of Cook } Sol.
City of Chicago }

H. Hayes of said city states under oath that he is informed and believes, that Louis Mattzacker, who is joint obligor with Nicolas Granjang on a bond of this date in favor of Maryant Merkel administratrix of Christopher Merkel decd, in the penalty of \$500. conditioned for the prosecution &c. of a Writ of Error issued from the Supreme Court of said State in favor of said Granjang as ex^{te} &c. against said Merkel as adm^r &c. is the owner and proprietor of a store house on Lake Street in 2^d City which is worth \$20,000. - and that he is also informed that 2^d Mattzacker is probably worth \$50,000. - or upwards -

Subscribed and sworn to
before me this 31st Jan'y '56

C. B. Hosmer

Notary Public

H. Hayes

State of Illinois

Rock County

I, the affiant Leander Read
being duly sworn upon oath says
that he owns and is possessed of property to
the amount of at least one thousand
dollars or and above all his just debts
notwithstanding ~~the~~ or demands for
them with out

Leander Read

Sworn & subscribed to before
me this 2nd day of July 1854

J. D. Read

(M)

Filed Feb. 15. 1856
L.

State of Illinois
Circuit Court } S

This affiant James H. Wayne
being duly sworn upon oath says that he is
& is possessed of property to the amount of at least
one thousand dollars over and above all
his just liabilities, claims debts or demands
and further saith not

J. R. Haynes

Given & subscribed to
 before me this 12th day, 1886
 L. D. Hoard Clerk
 Cir. Ct. Cook Co.

Filed Feb. 15. 1856.
L.

Chicago May 30 '86

H. Lir,

Enclosed I send assignment of error in the case of Loanjang ex v. Muellet adm't. which I must ask you to do me the favor to attach to the copy of the record on file in your office.

and also an abstract of the record except the judgment - I rely upon the judgment for reversal, and as I have not a copy of it, you will greatly oblige me if you will have it copied in full on the abstract, pagged &c. that is if you think the Court will require the record to be printed in so short a case.

The rule tho' a good one in long cases, it seems to me to be useless in so short a case - Yet it may be invariable and without any exception - Of this you are informed -

Very respectfully

L. Leland. Esq }
Clerk Sup. Court }
Ottawa }

H. Hays

52
18

STATE OF ILLINOIS,

Supreme Court,

} ss.

The People of the State of Illinois,

To the Sheriff of the County of Cook ———— Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of Cook ———— county, before the Judge thereof, between Margaret Merkel Administratrix of Christopher Merkel deceased Plaintiff and Niclaus Granjang Executor of the last Will and Testament of Marx Granjang deceased ————

defendant, it is said that manifest error hath intervened, to the injury of the said Niclaus Granjang ————

as we are informed by his complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Margaret Merkel ————

that she be and appear before the Justices of our said Supreme Court, at the next term of said court, to be holden at Ottawa, in said state, on the second Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if she shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said Margaret Merkel ————

notice, together with this writ.

Walter B. Scates

WITNESS, the Hon. ~~Samuel H. Treat~~, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 17th day of February in the Year of Our Lord One Thousand Eight Hundred and Fifty-six.

L. Leland

Clerk of the Supreme Court. Do
by J. B. Rice Deputy Clerk.

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S. Nicolam's Granting 40
18 27 vs
Margaret Merkel

Seire Facias

The within named Margaret
Merkel not found in my
County the 7th day of June 1886

Fees 1 Return 10

James S. Beach Coroner &
Acting Sheriff of Cook County
By John H. East Deputy -

See Ja

Filed March 23/87
L. Leland
Clk

Know all men by these presents, that we, Nicolas
Granjung and Lewis Malzacher are held and firmly
bound unto Margaret Merkel, administratrix of Chris-
topher Merkel, deceased, in the penal sum of five hun-
dred dollars, lawful money of the United States, for the
payment of which well and truly to be made we bind
ourselves, our heirs and administrators jointly sever-
ally and firmly by these presents.

The condition of the above obligation is such, that
whereas, the said Margaret Merkel, as administra-
trix as aforesaid, did on the 28th day of December
A. D. 1853, in the Circuit Court of Cook County, Il-
linois, recover a judgment against the above bound-
en Nicolas Granjung, as executor of the last
Will and Testament of Marx Granjung, deceased, for
the sum of \$236²⁵/₁₀₀ and costs of suit; and whereas
the said Nicolas Granjung has prayed a Writ of
Error and Supersedeas from the Third Grand Di-
vision of the Supreme Court of the State of Illinois,
for the suspension and reversal of said judgment,

Now if the said Nicolas Granjung shall duly pro-
secute his said suit, and pay or cause to be paid
such judgments, costs, interest and damages as
the said Supreme Court shall adjudge against
him in this behalf, in case said judgment is
affirmed, then this obligation is to be void, oth-
erwise to remain in full force and effect.

Witness our hands, and seals this 31st day of
January A. D. 1856

Nicolas Granjung (Seal)
Lewis Malzacher (Seal)

182 18.
Nicolas Granjane
v.

Margaret Mestel

Don't

Filed Feb. 15. 1856

L. Leland Clerk