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No. _____

Supreme Court of Illinois

Bedell et al

vs.

Funkhouser.

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Monday November 3^d 1851

State of Illinois }
McGonough County }

Pleas before the Honorable William
A. Minshall, Judge of the Fifth Judicial
in Chancery sitting
Circuit of the State of Illinois at
a ~~several~~ Court ^{of chancery}, began and
held at the Court House in Macomb,
on the first Monday in the month
of November in the year of our Lord
one thousand eight hundred and fifty one

Present the Honorable

William A. Minshall Judge
Robert S. Blackwell State Attorney
William H. Randolph Clerk
William T. Head Sheriff

State of Illinois }
McGonough County }

McGonough Circuit Court
November Term AD 1851

Edward A. Beedell et al's dependants

vs

In Chancery on bill to foreclose Mortgage

R. M. Gunkhouse

Complainant

Be it remembered that on this the fourth
day of November AD 1851 the said Edward A. Beedell
one of the dependants in the above cause by his
Solicitors Warren & Edmunds moved the said
Court for a writ of Certiorari to be issued and
directed to the Clerk of the Circuit Court of said Hancock
County, requiring the said Clerk to transmit and
duly certify to this Court a full and complete transcript
of the record and proceedings, together with all the
papers, belonging to said cause in the office of
said Clerk in said County to this Court forthwith
on account of the insufficiency and incompleteness of the

transcript filed in this court and cause (which said
Transcript is in the words and figures following,
to wit;

State of Illinois)
Hancock County)

Proceedings in Chancery before the
Honorable Orinus H. Skinner At a Court
of Chancery in and for said County begun
and held at the Court House in Carthage
on the first Monday, ~~in~~ the month of June
in the Year of our Lord one thousand eight
hundred and fifty one being the
second day of said month

Present the Honorable

Orinus H. Skinner Judge of the
Fifteenth Judicial Circuit of

The State of Illinois
Robert M. Hunkhouser - Complainant
vs
Edward A. Bessell
Elizabeth Bessell
James C. Hunkhouser Partners
Cleveland W. Williams
George John W. Know
Susan Know & George Know

In Chancery
Defendants

Therefore, to wit, on the
twenty seventh day of September A.D. 1857 an
order awarding an alias summons and of
continuance was entered in the above entitled
Cause, which said order is in the words and
figures following, to wit.

Robert M Hunkhouser }
vs } In Chancery
Edward A Beede & als }

An Motion Ordered that
an alias summons issue herein against
the defendants not served, returnable to the
next term of this court, until which time
this cause is continued.

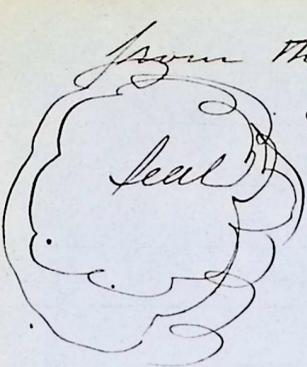
And afterwards to wit, on the fifth day of June
AD 1851 An order changing the venue of this
cause was entered in the foregoing entitled
cause which said order is in the words and
figures following that is to say

Robert M Hunkhouser }
vs } In Chancery
Edward A Beede & als }

An Motion Ordered that
the venue of this cause be changed to
the county of McDonough, the judge of this
court having been of counsel for the said
defendants.

State of Illinois }
McDonough county }

I David E Head Clerk of the
Circuit Court in and for said county and
State do hereby certify that the above and foregoing
Manuscript contains a true full and perfect
copy of all the orders entered of Record in the
foregoing entitled cause and that the
original papers herewith sent numbered
from 1 to 9 inclusive are all of the original
papers pertaining to said cause as appears



from the Records and files of my Office
 In Testimony whereof I have hereunto
 set my hand and affixed the seal of
 said Court at my Office in Carthage
 This twenty ninth day of August AD 1851
 David E. Heald Clerk

And to sustain said Motion and suggestions of
 diminution of the Record in said Cause, removed
 by change of venue from said Hancock to said
 McDonough Circuit Court, Affixed and filed in
 said last named cause an affidavit of C. A.
 Warren one of his solicitors, which said affidavit
 is in the words and figures following to wit:

State of Illinois } McDonough Circuit Court
 McDonough County } ss November Term AD 1851

Robert M. Flenkhouer

vs } Bill to foreclose mortgage } Change of venue from Hancock
 E. A. Bidell et al }

Personally appeared in open court C. A.
 Warren one of the solicitors for said E. A. Bidell one
 of the defendants in said Cause, who being first
 duly sworn, deposeth and saith, that the transcript
 of the record filed herein does not contain a true
 and complete copy of the orders of the Circuit Court
 of said Hancock Circuit Court (Changing the
 venue of said Cause to this County & Court) and a full
 transcript of the record and proceedings in said
 entitled Cause, and further that the Clerk of said
 Hancock Circuit Court has not certified and
 transmitted a full transcript of the record and
 proceedings in said Cause, together with all

transmitted a full transcript of the record and proceedings in said cause, together with all

papers filed in the cause and appertaining or forming part of the record of said cause in said circuit court, of said Hancock County. Wherefore said affiant suggests a diminution of said record and prays that a writ of certiorari be awarded and issued out of this court directed to the ~~said~~ Clerk of said Hancock Circuit Court, ordering said Clerk forthwith to transmit a full and complete copy of the record and proceedings and of all papers pertaining to said cause in his said office to the Clerk of this Court &c.

Calvin A. Warren

Sworn to and subscribed
before me on this November
4th 1851

W. H. Randolph Clerk

Which said motion for said writ of certiorari was overruled and denied by the court and to which said decision of the court, in overruling said motion the said defendant by his said solicitor at the time excepted and now excepts. Whereupon the said defendant by his solicitor then moved the said Court to dismiss the said suit, for the want of a sufficient transcript and certificate by said Clerk in said cause as shown by said affidavit, transcript and certificate herein set forth, which said motion to dismiss was then and there by said Court overruled, and to which said opinion and decision of said Court in overruling said motion to dismiss said suit the said defendant by his solicitor at the time

excepted and now excepts wherefore because
 said several errors of said Court in Overruling
 said several Motions and proceeding to
 render a final decree, in said Cause,
 in favor of said Complainants, and the
 exceptions to said decisions severally taken
 do not appear by the record of said Cause
 Said defendant by his said solicitor prays
 that this his bill of Exceptions may be
 allowed signed and sealed by the Court
 and made a part of the record of said
 Cause which is accordingly done

William A Minshall Seal

And afterwards to wit on the 4th day of November
 AD 1851 The following was made in the Cause
 aforesaid to wit

State of Illinois } ss

Mc Donough County } In the Circuit Court of said County
 do the November Term AD 1851

Robert M. Funkhouser } Complainant in Chancery
 vs } an Bill to foreclose mortgage

Edward A. Bodell

Elizabeth Bodell

James E. Furness

Perkins Cleveland

William Geiger

John W. Knose

Susan Knose

George S. Knose

Defendants

This day again came the said
 Complainant by his solicitor and also the said
 defendant Edward A. Bodell by his solicitor and

This day again came the said Complainant by his solicitor and also the said defendant Edward A Bevell by his solicitor, and

The said Edward A Bevell, by his solicitor moved the court for a certiorari to the Clerk of the Circuit Court of Hancock County, commanding him to send up to this court, a full and complete copy of the record and proceedings, and all of the papers, and of all the papers pertaining to said cause in his said office, to the clerk of this court which motion was overruled, by the court and therefore the said defendant Edward A Bevell by his solicitor further moved the court to dismiss said suit from this court, for the want of a sufficient transcript, from the Clerk of the Hancock Circuit Court, which motion was also overruled by the court, and thereupon came on to be heard, the demurrer heretofore filed by said defendant in said cause to said Complainant's bill filed herein and the same was overruled by the court, and thereupon the said defendants, not further answering, nor anyone for them, were three times solemnly called and came not, but made default, It is therefore ordered and decreed by the court, that said Complainant's bill, and the matters and things therein alleged, be taken and held as confessed and true, And thereupon on motion of complainant's solicitor, this cause came on to be heard, upon said Complainant's bill Exhibits, pro confesso oaths and proofs, And it appearing to the satisfaction of the court, that the matters and things alleged in said bill are true in manner and form as therein stated and that there is due to the said Complainant upon said note and mortgage the sum

of six hundred and eighty two dollars principal
and interest, And that the same is a lien
upon the mortgaged premises, in said bill
mentioned, It is ordered and decreed
that the said defendant have until the
tenth day of November AD 1851 to pay the same
unto the Master in Chancery of said McGonough
County, And that in default thereof the said
Master in Chancery be directed to sell
said mortgaged premises to wit: the east
forty two feet of lot Number seven in Block
Number twenty one in the town of Warsaw
~~Madison~~ County of Hancock and State of
Illinois, to satisfy the same and costs said
same to be made upon the premises to the
highest and best bidder for Cash, And notice
of the time and place and terms of said sale
to be given by publication in the Warsaw
Signal a weekly Newspaper published
in said town of Warsaw for three consecu-
-tive weeks preceding said sale, And that
said Master in Chancery apply the proceeds
of said sale first to the payment of the costs
of this suit, second to the payment of whatever
sum principal and interest which may
appear to be due to said Complainant on this
deed, And that he bring the balance if
any remain in his hands into this Court
at the next term hereof to be disposed of
according to the rights of the defendants, And
that said Master report all his proceedings
herein to the next term of this Court to
which time, this cause stands continued.
So be Recorde
William A Minshall

Filed 4th of November 1851

Wm H Randolph Clerk

State of Illinois }
McDonough County } set

I William H Randolph Clerk of the Circuit Court in and for said County and State do hereby certify that the above and foregoing Transcript contains a true full and perfect copy of the Transcript of the Clerk of the Circuit Court of Hancock County of the affidavit filed bill of Exceptions filed herein and of the final decree entered herein and of all the orders of Record in this cause as appears from the Records and files of my Office

In Testimony whereof I have hereunto set my hand and affixed the seal of said Court at my Office in Macomb this Twenty seventh day of November A.D. 1851

William H Randolph
Clerk

Edward A. Redell Et al

vs.

R. M. Funkhouser

Error to McDonough

- 1st And the said Plaintiff in Error, Appear for Error, that the Court erred in Overruling their Motion for a Certiorari upon suggestion of a denunciation of Record -
- 2^d The Court erred in proceeding with the Cause to judgment without a Complete Record -
- 3^d The Court erred in rendering judgment in favor of said deft. in Error and against said Plffs in Error upon said incomplete Record -

Wherefore they pray that a Supplicatio ipse habeat -
That upon the hearing of this Cause ~~that~~ said Judgment be reversed
and the Cause remanded with a proadudo, and a Certiorari
to complete said Reversal -
Marrin & Edmunds
For Plaintiff in Error

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E. A. Redell et al.

W. S. Corcoran & W. D. Donogh

H. M. Fancher

Record & Argument of Error

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E. A. Redell et al

~~A. M. Fancher~~
443 ~~Warrin & Edmunds~~
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