

No. 13690

Supreme Court of Illinois

Pogue et al

vs.

Clark

71641  7

In the Supreme Court of the State of Illinois.

JANUARY TERM, 1861.

WILLIAM H. POGUE, JOSEPH
POGUE, HUGH C. POGUE, and
JOSEPHINE E. POGUE, Appellants,
v.
S. F.
SAMUEL F. CLARK, Appellee.

ABSTRACT OF RECORD.

ACTION---TRESPASS ON THE CASE UPON PROMISES.

Page of Record.

1 & 2.

The 1st count in the declaration filed in the case states that the appellants on the 9th day of March, A. D. 1858, at Bond county, Illinois, made their joint note to the appellee, by which said note appellants "promise to pay on the ninth day of March, A. D. 1860, to the order of Samuel F. Clark, the sum of fourteen hundred and four dollars and four cents, with interest at the rate of ten per cent. per annum, payable in currency, for value received."

2 & 3.

Declaration also contained another count on note, payable in two years from said date. Damages \$2000 00.

8.

Appellants appeared and filed plea of general issue.

9.

Cause was tried by the Court.

7 & 10.

The appellee to support the issues on his part, offered in evidence under the 1st count of the declaration, the following note :

"BOND COUNTY, ILLINOIS, March 9, 1858.

"\$1404 04-100

"Two years after date we, or either of us, promise to pay to the order of Samuel F. Clark, the sum of fourteen hundred and four dollars and four cents, with interest at the rate of ten per cent. per annum, for value received, payable in currency.

(Signed) W. H. POGUE,

(Signed) H. C. POGUE,

(Signed) JOS. POGUE,

(Signed) JOSEPHINE E. POGUE."

10.

Which was all the evidence offered on the trial of said cause.

11.

To the offering of which said note in evidence under the 1st count in said declaration, said appellants, at the time, objected; but the Court overruled said objection and admitted the same to be read in evidence under said first count—to the overruling of which said objection of said appellants to the introduction of said note, said appellants, at the time, excepted.

9.

And the Court found the issue for appellee, and assessed his damages at the sum of \$1700 05.

11.

Appellants moved for a new trial—which motion the Court overruled, and appellants, at the time, excepted.

Appellants bring the cause to the Supreme Court, and assign the following errors :

1st. That the Court erred in admitting the note to be read in evidence under the 1st count of the declaration, because the note offered in evidence, does not correspond with the note described in said 1st count.

2d. That the Court erred in admitting improper evidence to be read on the trial of said cause, under said 1st count.

3d. That the Court below erred in rendering judgment for the appellee, when he should have rendered judgment for the appellants for cost of suit.

4th. That the Court erred in overruling appellants' motion for a new trial.

W. H. POGUE, *Att'y for Appellants.*

