

James R. EVANS and Erma F. EVANS
v. COMMERCIAL NATIONAL MORTGAGE
CO., FIDELITY ABSTRACT COMPANY
and James A. GRAY d/b/a FIDELITY
ABSTRACT COMPANY

CA 80-251

610 S.W. 2d 79

Court of Appeals of Arkansas
Opinion delivered December 3, 1980

APPEAL & ERROR — FAILURE TO PROPERLY ABSTRACT RECORD — AFFIRMANCE. — The appellate court does not accept references to allegations in a suit contained in the statement of the case as a substitute for the requirements of Rule 9 (d), Rules of the Supreme Court and Court of Appeals, that appellant's abstract consist of an impartial condensation of material parts of the pleadings, facts, documents and other matters in the record as are necessary to an understanding of all questions presented for consideration on appeal. *Held:* Although the Court of Appeals affirms this case for failure of appellants to comply to comply with Rule 9 (d), *supra*, a review of the evidence and arguments discloses that appellants have failed to demonstrate that the trial court erred in directing verdicts for appellees on the ground the evidence is insufficient to support verdicts for appellants based on misrepresentation or concealment on the part of appellees.

Appeal from Pulaski Circuit Court, Second Division,
Perry V. Whitmore, Jr., Judge; affirmed.

J. R. Nash, for appellants.

James L. Sloan, for appellees.

ERNIE E. WRIGHT, Chief Judge. Appellants bring this appeal from orders of the trial court granting directed verdicts in favor of the respective appellees.

Appellants' abstract and brief contains no abstract of the pleadings, findings and conclusions of the trial court, the orders from which the appeal stems or notice of appeal. The statement of the case in appellants' abstract and brief makes reference to allegations in the suit but we do not accept such matters in the statement of the case as a substitute for the requirements of Rule 9 (d) that appellant's abstract consist of an impartial condensation of material parts of the pleadings, facts, documents and other matters in the record as are necessary to an understanding of all questions presented for consideration on appeal.

From a review of the evidence, which is abstracted, it is evident this complicated case cannot be properly reviewed without a careful consideration of the pleadings, findings and conclusions or reasoning of the trial court and the others from which the appeal stems. The reasons for requiring an adequate abstract of the pleadings and proceedings to enable the appellate court to understand the issues are clearly set out in *Bank of Ozark v. Isaac*, 263 Ark. 113, 563 S.W. 2d 707 (1978), and we will not repeat those reasons here. The abstract is flagrantly deficient in failing to abstract crucial parts of the record necessary for a proper review of the issues as to whether the trial court erred in directing verdicts for appellees. *Reliable Finance Company v. Rhodes*, 252 Ark. 1077, 483 S.W. 2d 187 (1972).

Although we affirm for failure of appellants to comply with Rule 9 (d), we have reviewed the evidence as abstracted and considered the arguments in the briefs, and from a study of these matters we conclude appellants have failed to

demonstrate the trial court erred in directing verdicts for appellees on the ground the evidence is insufficient to support verdicts for appellants based on misrepresentation or concealment on the part of appellees.
