

HURLEY v. OWENS

5-3410

385 S. W. 2d 636

Opinion delivered January 11, 1965

APPEAL AND ERROR—EFFECT OF FAILURE TO ABSTRACT RECORD.—Chancellor's decree affirmed under Supreme Court Rule 9 (d) where the pleadings, exhibits, and decree were abstracted but there was no abstract of the testimony which was essential to a decision on the merits, it being contrary to the practice of the Supreme Court to explore the record to determine the facts.

Appealed from Union Chancery Court, Second Division, *Claude E. Love*, Chancellor; affirmed.

Ben D. Lindsey, for appellant.

Shackleford & Shackleford, for appellee.

CARLETON HARRIS, Chief Justice. This appeal relates to the validity of three deeds to lands located in Union County, appellant apparently contending that there was not, under the law, proper delivery of the deeds, and further contending that the court erred in admitting certain testimony.

We do not reach the merits of the case, for under Rule 9 (d) of this court, it is necessary that the judgment be affirmed. We have stated numerous times that we are not required to explore a transcript that is lodged with us, and that the duty rests on the appellant to supply this court with such an abridgment of the record as will enable us to understand the matters presented. *Vire v. Vire*, 236 Ark. 740, 368 S. W. 2d 265; *Weir v. Hill*, 237 Ark. 922, 377 S. W. 2d 178.

The pleadings, exhibits, and decree are abstracted, but there is no abstract of the testimony, although several witnesses testified. The testimony is essential to a decision on the merits, and to determine the facts, we would be required to explore the record, which, as stated, is contrary to our practice.

Affirmed.