

TERM, 1871.]

Bass et al. v. Haney.

## BASS et al. v. HANEY.

PRACTICE—*When decree affirmed with damages.*—Where it appears from the record that the appeal is taken for delay, the decree or judgment, of the court below, will be affirmed with damages.

## APPEAL FROM HOT SPRING CIRCUIT COURT.

Hon. JOHN WHYTOCK, *Circuit Judge.*

*M. L. Jones*, for Appellants.

*Garland & Nash*, for Appellee.

GREGG, J.—On the 15th of February, 1870, the appellee, commenced his suit, in Hot Spring county, to foreclose a mortgage given to secure \$900. At the March term, following, both parties appeared and the appellants filed a set-off which appellee admitted to be correct and no further defense was made. This cause was submitted to the court and a finding of \$470.95, in favor of appellee, for which a decree was rendered, the mortgage foreclosed, and an order to sell the property in case payment was not made. On the 7th of next September, after a *fiery facias* had been issued for the sale of the property, the appellants presented to the clerk of this court, a transcript and supersedeas bond, and prayed an appeal, which was granted and proceedings stayed; since which time they have taken no steps whatever to prosecute their appeal, and the appellee has filed his motion for an affirmance of the decree, etc.

The record is clear, and the case fully appears to be one for delay.

The decree is therefore affirmed, with ten per centum damages on the amount recovered, and ordered to be certified to the Circuit Court, in chancery, of Hot Spring county, to be there carried into effect.