

BAILEY v. BANK OF DOVER.

4-8476

209 S. W. 2d 864

Opinion delivered April 12, 1948.

APPEAL AND ERROR.—Appellant's abstract, in failing to contain an abstract of appellee's answer, the findings of fact and of law made by the court and the motion for new trial is not a sufficient compliance with rule IX of this court.

Appeal from Pope Circuit Court; *Audrey Strait*, Judge; affirmed.

Bob Bailey, Jr., and *Bob Bailey*, for appellant.

Reece Caudle and *Robt. J. White*, for appellee.

Per Curiam. Appellee has moved for affirmance of the judgment appealed from on the ground that appellant has failed to comply with Rule 9 of this court. This rule requires that in each case the appellant make an abstract of material portions of the "pleadings, proceedings, facts and documents upon which appellant relies, . . ."

In the case at bar no abstract was made of the complaint, it being thus referred to in appellant's brief: "Complaint was filed in this case, wherein the usual allegations were made on February 20, 1946." Only this reference to the answer is made: "Answer was filed by the Bank of Dover on November 7, 1946." The lower court made findings of fact and of law. These findings are not abstracted. No abstract of contents of motion for new trial is made. Manifestly such an abstract does not comply with our rule. See *Droke v. Rogers*, 210 Ark. 938, 198 S. W. 2d 180; *Golden v. Wallace*, 212 Ark. 732, 207 S. W. 2d 605, and cases therein cited.

The judgment appealed from is affirmed.

The Chief Justice dissents.