

USSERY *v.* USSERY.

Opinion delivered November 1, 1915.

APPEAL—FAILURE TO ABSTRACT TRANSCRIPT.—An action on appeal will be affirmed where the appellant fails to file an abstract of the transcript, as required by rule 9 of the Supreme Court.

Appeal from Garland Chancery Court; *J. P. Henderson*, Chancellor; affirmed.

*Davies & Davies*, for appellant.

*A. Curl*, for appellee.

SMITH, J. Appellant states that she was the plaintiff in the complaint filed in the chancery court, which she denominated a bill of review. It is stated in the brief that "upon the presentation of plaintiff's bill of review the court finds as matters of law that the same does not contain facts sufficient to constitute a cause of action against either of the defendants, and as to the defendant or intervener *A. Curl* it shows on its face that there is no cause of action against him." It is not entirely clear from this recital of the court's findings whether the cause was disposed of on demurrer in the court below or not, as the brief does not contain an abstract of any evidence. Assuming, however, that the case was disposed of on

demurrer, the fact remains that the complaint is not sufficiently abstracted for us to determine whether this action was proper or not. Rule 9 of this court requires that the appellant shall file an abstract or abridgment of the transcript, setting forth the material parts of the pleadings, proceedings, facts and documents upon which he relies, together with such other statements from the record as are necessary to a full understanding of all the questions presented to this court for a decision. Appellant's brief does not meet this requirement. *Foster v Luck*, 112 Ark. 118; *Reisinger v. Johnson*, 110 Ark. 7; *Queen of Ark. Ins. Co. v. Royal*, 102 Ark. 96; *Springfield v. Steen*, 99 Ark. 242; *Files v. Tebbs*, 101 Ark. 207.

It follows, therefore, that the decree of the court below must be affirmed.

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