

UNION & PLANTERS' BANK & TRUST CO. v. ELDER.

Opinion delivered April 16, 1928.

APPEAL AND ERROR—JUDGMENT ON SUPERSEDEAS BOND.—On affirming a judgment for a certain proportion of the assets in the hands of a receiver, the judgment on the supersedeas bond should not be for a specific sum, but should fix liability and remand the case with directions to ascertain the amount of such liability.

Appeal from Prairie Chancery Court; *Frank H. Dodge*, Chancellor; judgment modified.

*Emmet Vaughan*, for appellant.

*Daggett & Daggett*, for appellees.

HUMPHREYS, J. This case was affirmed (*Purvis v. Elder*, 175 Ark. 780, 1 S. W. (2d.) 36), whereupon appellee moved for judgment on the supersedeas bond, which was granted. In keeping with the order, the clerk of this court entered a judgment for \$2,592, using as his guide the amount shown by the receiver's report in the record. The judgment rendered in the trial court was not for a specific sum. Our attention has been called to the fact that the judgment was not for a specific amount but for a portion of the assets in the hands of the receiver, and that the receiver's report appearing in the record was not his final report but, on the contrary, was his first report, which did not show all legal disbursements. In view of this fact it was error to enter a judgment here for a specific sum on the supersedeas bond,

but the same should have fixed the liability on the bond, and the case should have been remanded with direction that the amount thereof be ascertained by the trial court after allowing the receiver such amounts as have been paid out by him on order of the trial court.

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