

BROWN v. HARDY.

Opinion delivered May 16, 1910.

APPEAL AND ERROR—SUFFICIENCY OF ABSTRACT.—Unless there is something in appellant's abstract and brief which shows that an error was committed, and that the same was properly objected to, and that exceptions were saved, the judgment will be affirmed.

Appeal from Ouachita Circuit Court; *George W. Hays*, Judge; affirmed.

Gaughan & Sifford, for appellant.

Powell & Taylor, for appellee.

McCULLOCH, C. J. This is an action instituted by appellee against appellants to recover a balance claimed to be due on his salary as manager of a cotton oil mill at Camden, Arkansas, owned and operated by the appellants. Appellants answered, admitting the employment of appellee by them as such manager at the salary mentioned in the complaint, but they alleged that appellee, by virtue of his contract of employment, agreed to manage the business in a careful, capable and business-like manner, and had failed to do so. They seek to recoup damages alleged to have been sustained by reason of the negligence of appellee in his management of the mill, and set forth numerous specifications as to said acts of negligence and mismanagement. The case was tried before a jury, and seems to have resulted in a verdict and judgment in favor of appellee, though the amount of the verdict is not set forth in appellant's abstract. In fact, the abstract furnished by counsel is so incomplete that we are precluded, under the rules of this court announced in previous decisions, from considering the case on its merits. The only assignment of error referred to in the abstract and brief is the giving of an instruction at appellee's request. This instruction is quite a lengthy one, and contains numerous separate paragraphs. Whether this instruction was objected to or not, or, if so, what part was objected to, nowhere appears in the abstract or brief. In fact, the abstract and brief contains no reference to a motion for new trial or to an exception saved at the time of the trial. In order to determine whether or not error was committed, we would be compelled to thoroughly explore the record to ascertain what instructions were given, and whether or not exceptions were saved. This we are not

called on to do. On the contrary, unless there is something in the abstract and brief which shows that an error was committed, and that the same was properly objected to below and exceptions saved, nothing is left for us to do but to affirm the judgment. *Wallace v. St. Louis, I. M. & S. Ry. Co.*, 83 Ark. 359; *Files v. Law*, 88 Ark. 449; *Haglin v. Atkinson-Williams Hardware Co.*, 93 Ark. 85.

Appellant's abstract of the testimony shows that there was sufficient evidence to sustain the verdict in favor of appellee. The judgment is therefore affirmed.
