

CUTTER & Co. vs. GUMBERTS & Co.

Assumpsit by attachment; bond executed by defendants, and goods released; defendants entered their appearance, demurred to the declaration, and filed exceptions to the affidavit made by plaintiffs on suing out the writ; the court adjudged that the exceptions be sustained, the attachment dissolved, the defendants' bond discharged, and that the suit proceed as other suits at law: plaintiffs excepted and appealed—HELD that the judgment of the court below was not final, and no appeal would lie from it.

Appeal from the Phillips Circuit Court.

ASSUMPSIT, by attachment, determined in the Phillips Circuit Court, May term, 1846, before the Hon. WM. C. SCOTT, Judge.

The attachment was levied upon the goods of defendants, Gumberts & Co., they gave bond, and the goods were released.

At the return term, defendants entered their appearance to the ac-

tion, demurred to the declaration, and filed exceptions to the affidavit made by plaintiffs on suing out the writ. The court sustained the exceptions to the affidavit, and gave judgment that the attachment be dissolved, defendants' bond discharged, and that the suit proceed as other suits at law; to which plaintiffs excepted.

Plaintiffs conceded the grounds of demurrer to several counts of the declaration, and amended, and the court overruled the demurrer as to the other counts. Plaintiff then appealed from the judgment of the court sustaining the exceptions to their affidavit, &c.

CUMMINS, for appellees, moved to dismiss, upon the ground that there was no final judgment, or order, in said cause, in the court below, from which an appeal would lie.

RINGO & TRAPNALL, for appellants.

CONWAY B, J. Cutter & Co. instituted suit with attachment against Gumberts & Co. The attachment was levied on property of defendants. They gave bond and their property was released. They appeared at court and filed exceptions to the attachment affidavit; and they were sustained. Plaintiff excepted to the decision of the court and prayed an appeal. It was granted, and appellees now move for its dismissal, on the ground that there was no final judgment or decision.

This court has no jurisdiction of appeals in civil cases, unless they come from final judgments or decisions. We are advised of no exception. A final judgment or decision determines the legal rights of the parties, and puts an end to the action. There was no such adjudication in the present cause. The judgment was but interlocutory. It did not finally determine or complete the suit.

The appeal is, therefore, dismissed for want of jurisdiction.