

MOSS AD. VS. SMITH.

Where a motion for a new trial is filed, the exceptions previously taken, and not made grounds of the motion, will be regarded as having been abandoned. (*Nevill vs. Hancock et al.*, 15 Ark. 515.)

Unless a party moving for a new trial except to the decision of the Court overruling it, he will be regarded as acquiescing. (*Vaden vs. Ellis*, 18 Ark. 360, and previous cases.)

Appeal from Van Buren Circuit Court.

HON. BEAUFORT H. NEELY, Circuit Judge.

WILLIAM, & WILLIAMS, for the appellant.

JORDAN, for appellee.

Mr. Chief Justice ENGLISH delivered the opinion of the Court.

Smith brought an action of ejectment against Moss, in the Circuit Court of Van Buren county, for a tract of land.

The cause was tried upon the general issue, and verdict and judgment for the plaintiff.

Pending the trial, defendant excepted to several decisions of the Court, relating to the admission and exclusion of evidence, the charge to the jury, etc. He also moved for a new trial, which the Court refused, and he appealed.

It does not appear that the appellant made any of the exceptions previously taken by him, grounds of his motion for a new trial, and they must, therefore, under an often repeated decision of this Court, be regarded as having been abandoned. See *Nevill vs. Hancock, et al.*, 15 Ark. 515, and the previous decisions there collected.

The record recites that the appellant excepted to the decision of the Court overruling his motion for a new trial, and took a bill of exceptions, etc. ; but the only bill of exceptions contained in the transcript before us, relates exclusively to the exceptions taken during the trial, and makes no reference to the motion for a new trial, or the decision of the Court upon it.

Unless a party moving for a new trial except to the decision of the Court refusing it, he will be regarded as acquiescing. *Hopkins et al. vs. Dowd*, 6 *Eng. R.* 627 ; *Vaden vs. Ellis*, 18 *Ark.* 360 ; *Sawyers vs. Lathrop*, 4 *Eng.* 68.
