

JACKSON VS. RUTHERFORD.

The finding of the Circuit Court sitting as a jury will not be disturbed, where it does not appear that it was against evidence, nor without any evidence on which to rest.

Appeal from Pulaski Circuit Court.

Hon. JOHN J. CLENDENIN, Circuit Judge.

GARLAND & RANDOLPH, for appellant.

HEMPSTEAD, for appellee.

Mr. Justice FAIRCHILD delivered the opinion of the court.

Previous to the time of settlement between the parties, Jackson had deposited swamp land script, and had drawn out different sums.

On the 20th of December, 1856, the parties settled and Rutherford paid to Jackson, as the amount of script undrawn, seventeen thousand, eight hundred and fourteen 81-100 dollars,

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which he claims to have been seven hundred and eight 50-100 dollars more than was due to Jackson, and to recover the overpayment this suit was brought. The court sitting as a jury found for the plaintiff, and we see no reason to disturb the judgment rendered upon its finding, since we cannot say that the finding of the court is against the evidence, or without any evidence on which to rest.

Let the judgment be affirmed.
