

8694

No. _____

Supreme Court of Illinois

P. Aldes

vs.

George Abbott

Proceedings in the Monroe-
County Circuit Court, in the
State of Illinois:

George Abbott,

vs.
Phillip Aldes.

Ejectment.

On the 14th day of September A.D. 1857.
the following declaration was filed to wit:

State of Illinois,

Monroe County,

A.D. 1857.

Of the September Term of the
Monroe County Circuit Court
A.D. 1857.

Phillip Aldes the defendant in this suit
was summonsed to answer George Abbott plaintiff in
this suit of a plea of trespass in ejectment and thereupon
the said plaintiff complains. For that whereas heretofore to wit
On the 3rd day of March A.D. 1857. the said plaintiff was
possessed in fee of a Claim No. 697. Survey No. 710. con-
taining One Hundred Acres and situate in the County of
Monroe aforesaid and patented to John Singleton - and
being so possessed thereof that the said defendant on the
4th day of March A.D. 1857. entered into the said pre-
mises and ejected the said plaintiff therefrom unlaw-
fully, willfully & unjustly withholds from the said
plaintiff the possession thereof to the damage of the
said plaintiff of \$200.⁰⁰ and therefore he brings his
suit.

George Abbott.
Plaintiff.

And Whereas afterwards to wit: On the 10th day of
May A. D. 1859. the following plea was filed, to wit:

George Abbott,
vs. } And the said defendant answers and
Philip Alder. } defends the force and injury when &c.
and that he is not guilty in manner & form that
the said pliff hath above thereof complained against him
& of this he puts himself upon the Country.
Hoerner & Morrison

And Whereas afterwards to wit: In the May Term
A. D. 1859. of the Monroe County Circuit Court, Tuesday 10th,
the following Order was rendered and duly entered into Re-
cord, to wit:

George Abbott,
vs. } Ejectment.
Philip Alder. }
Now comes the plaintiff by
Underwood his Atty. and also comes the defendant by
Hoerner & Morrison his Atty. and the parties being ready
for trial by consent this cause is submitted to the Court
for trial without the intervention of a Jury and the Court
having heard the testimony of Witnesses and argument
of counsel, finds the defendant guilty of withholding the
premises in the plaintiffs declaration mentioned to wit:
Claim N^o. 697. Survey N^o. 713. containing 100 acres and situate
in Monroe County, Illinois, and that the plaintiff is entitled
to said premises in fee simple as complained in his declaration.

It is thereupon ordered and adjudged by the Court, that said plaintiff recover against the said defendant the possession of said premises and that he have a writ of possession for the same and recover his cost by him expended in behalf of suit and that he have execution therefor, the defendant thereupon moves for a new trial, which is denied by the Court, whereupon the said defendant prays an appeal to the Supreme Court, which is allowed by the Court on said defendant entering into bond in the sum of \$ 100.⁰⁰ with security to be approved by the Clerk within sixty days, bill of exception to be presented by next term of this Court.

And Whereas afterwards to wit: On the 12th day of May A. D. 1859. the following bill of exceptions was filed, to wit:

Abbott, } May Term of the Monroe Circuit Court 1859.
 vs. } Exemption. ~
 Atles. } Be it Remembered, that upon the trial of the above cause, the plaintiff in order to show title and sustain his action introduced the following Certificate of the Register of the Land Office of Springfield:

U. S. Land. Office.

Springfield Ill. April 26. 1859.

I, William C. Keefer, Register of the Land. Office at Springfield, Illinois, hereby certify, that it appears from the Records of the late Kaskaskia. Land. Office now on file in this Office, that a Certificate was granted by the Register of the said Kaskaskia Office, on the 27th day

day of May 1817, and numbered 218, to John
Singleton, "Present Claimant" Isaac Crook original
Claimant" for Claim N^o. 697. Survey N^o. 712, for 100
acres in conformity with acts of Congress, passed April
26th 1816.

Given under my hand this day & year first above
written.

W^m C. Keefer,

Register.

The handwriting of said Register having been proved, also
proved that Thomas & John Singleton are the only heirs
at law of John Singleton mentioned in said certificate, also
introduced the deed from said Thomas & John to plaintiff:

This Indenture, made this third (3^d) day of March
in the year of our Lord One Thousand Eight Hundred and
Fifty Seven, between Thomas Singleton & John Singleton
& Emily his wife, of Monroe County, Illinois, of the first part
and George Abbott of Monroe County, Illinois, of the
second part, Witnesseth: That the said party of the first part for
and in consideration of the sum of One Hundred dollars,
to them paid by the said party of the second part, the receipt
whereof is hereby acknowledged, have transferred, remised, released
and quit-claimed, and by these Presents do transfer, remise
release and quit-claim to the said party of the second part,
and to his heirs and assigns forever, all that certain piece
or parcel of land, situate, lying and being in the County
of Monroe and State of Illinois and known, designated
and described as follows, to wit: Claim 697. Survey 712.
situate and being in the County of Monroe and State of

Illinois, together with all the privileges and appurtenances to the said land in any wise appertaining and belonging. And also all the Estate, Right, Title, Interest, Property, Possession, Claim and Demand whatsoever, as well in law as in equity of the said party of the first part, of in or to the above described premises and every part and parcel thereof with the appurtenances. —

To Have and to hold the above described premises to the said party of the second part and to his heirs and assigns to his own use and behoof forever. —

In Testimony Whereof, the said party of the first part have hereunto set their hands and seals the day and year first above written. —

Signed, Sealed and Delivered, } Thomas Singleton. (L.S.)
In the Presence of, } John Singleton. (L.S.)
Emily Singleton. (L.S.)

State of Illinois, }
Monroe County, } ss. Be it Remembered, That on this 3^d day of March A.D. 1857. before me William Ord, Clerk of the Monroe County Circuit Court, came Thomas Singleton, personally known to me, to be the real person, whose name is subscribed to the foregoing deed as having executed the same, and acknowledged that he signed, sealed and delivered said deed for the uses and purposes therein mentioned.

Given under my hand and seal at Office in Waterloo, County aforesaid, the day and year above written. —

(L. S.)

William Ord
Clerk.

State

State of Illinois, } This day personally appeared before me,
Monroe County, } The undersigned Justice of the Peace in
and for said County, John Singleton and Emily Singleton,
his wife, who are personally known to me to be the Real
Persons described in and who executed the foregoing deed
and acknowledged the signing and releasing their claim
to the premises therein, conveyed to be their free and voluntary
act for the uses and purposes therein mentioned. The said
Emily Singleton having been by me made acquainted with
the contents of the foregoing deed and examined separate
and apart from her said husband acknowledged the sign-
ing the foregoing deed and relinquishing her right of dower
in said Estate, freely and voluntarily and not by constraint
through fear or any undue influence of her said husband
or any other person. Given under my hand and seal this
21st day of March A. D. 1857.

A. Boston, J. P.

Filed March 31/57 & Recorded June 16. 1857.

and there rested his case. — The Court upon this evidence,
which was all the evidence introduced found a verdict for
the plaintiff, the cause by consent of parties having been sub-
mitted to the Court for trial. The defendant objected at the
time to the introduction of said papers introduced by plain-
tiff, but the Objections were overruled & the defendant
by his counsel at the time, excepted to the decision of
the Court. The defendant made a motion for a new trial
because the Court found against law & evidence, which
motion was overruled & the decision of the Court, in over-

ruled.

ruling said motion was at the time excepted to.

Defendant prays the Court to sign & seal this bill of exceptions & make it part of the Record.

H. F. J. Melvany,
Judge 3: 3:

And Whereas Afterwards to wit: On the 31st day of May A. D. 1859. the following appeal bond was filed, to wit:

Know All Men By These Presents, That We Philipps Aldes and Gatson Harver of the County of Monroe State of Illinois ^{are} held and firmly bound, unto George Abbott of said County and State, in the penal sum of One Hundred dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs and executors, jointly and severally, by these presents.

In Witness Whereof We have hereunto set our hands and seals, this 31st day of May A. D. 1859.

The Condition of the above Obligation is such, that Whereas the said George Abbott, did at the May Term 1859. of the Circuit Court in and for said County of Monroe, recover, in a certain suit of ejectment, between said George Abbott plaintiff and Philipps Aldes defendant, a certain tract of land mentioned in the declaration and the costs of suit against the said Philipps Aldes, from which said judgment the said Philipps Aldes prays an appeal to the Supreme Court of the State of Illinois.

Now if the said Philipps Aldes shall duly prosecute the said appeal and shall pay all damages and costs in case said judgment shall be affirmed in said Supreme Court, upon the hearing of the appeal in said suit, then the said bond

on

proppm. last of March
and now committed
that is manifest error
and appears to have
materially and
error in error
for a further

42 Phillips

George Abbott

Phillips Atlas

Winnipeg

Appeal
from
Monroe

G. K. ...

Filed Nov. 14, 1859.
Ch. Robinson
Filed by Geo. B. ...

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or Obligation to be void, otherwise to remain in full force and effect.

Entered into and approved
by me, this 21st day of May
A. D. 1859.

Wm. Erd Clerk.

Phillips Atlas. (real.)
Jason Weaver. (real.)

State of Illinois
Monroe County
of the Circuit Court, in and for said County, in said
State, hereby certify the foregoing to be true copies
of the declaration, plea, order of Court, entered at
the May Term A. D. 1859, bill of exceptions and
appeal bond all of which appears of record and
on file, in the foregoing entitled cause, in my
office.

Witness William Erd Clerk of said
Circuit Court and the seal thereof
herein affixed at office in State of Illinois, this
1st day of November A. D. 1859
William Erd



Supreme Court of Illinois. }
First Division, Mount Vernon. }

Philip Aldes, appellant, }
vs. } Appeal from Monroe.
George Abbot, appellee. }

Action of Ejectment. Declaration in the usual form for Claim No. 697, Survey No. 713. Aldes filed his plea of not guilty. Trial by Court, May Term of Monroe Circuit Court 1859. Verdict and judgment for plaintiff.

In order to sustain his title, the plaintiff introduced the following certificate :

Springfield, Ills., April 26, 1859.

I, William E. Keefer, Register of the Land office at Springfield, Illinois, hereby certify, that it appears from the Records of the late Kaskaskia Land office, now on file in this office, that a certificate was granted by the Register of the said Kaskaskia office on the 27th day of May 1817 and numbered 218 to John Singleton, "Present Claimant," Isaac Enoch "original Claimant," for Claim No. 697, Survey No. 713, for 100 acres, in conformity with acts of Congress passed April 26th, 1816.

Given under my hand and seal this day and year first above written.

WM. E. KEEFER, Register.

This certificate as also the deed to Abbot founded thereon were objected to by defendant's counsel, but objection overruled. Motion for new trial overruled.

The Errors assigned are that the Court allowed the introduction of said papers in evidence. Overruled motion for new trial. That judgment ought to have been given for defendant.

Defn's Brief: —

G. KÖERNER, for Pltff.

- 1- The certificate of the Register was good evidence under our statute p 541 Sec. 4, 3 Scam. R. 166, 4 Id. 7, 11, ~~227~~, 471
- 2- The certificate referred to in the Register certificate was based on the laws of congress. 3 U. S. Statutes at Large p ~~125~~, 308 Sec 6.
- 3- Such certificates are good evidence at common law 17 Ill R. 97. Such certificates are good in ejectment to prove title. 19 How. R. 202, 334, 336.

Supp. Stat. p. 541 Sec 4, Delaunoy vs Burnett
4 Gil. R. 471, 487, 3 Seam R. 166, 4 Id 7,
11, 337.

See 376 Statutes at Large page 308 Sec
308, Sec 6, & page 125

It is good evidence at common law
Law vs. Boumela 17 Ill R 97.

Case of certificate of title 19 How,
R 202, It is a sufficient title
in execution, Id 334, 336.

42 = 2

Stiles

D

Robert

appeal from

Common

No 42 — 2 —

No Term 1859.

P Aldes

my

Abbott Geo

Appl. from Monroe

Rev. Remondell

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