

**Gibson Vs. Chew**

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**Court :** US Supreme Court

**Decided On :** 1842

**Appeal No. :** 41 U.S. 315

**Appellant :** Gibson

**Respondent :** Chew

**Judgement :**

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**41 U.S. (16 Pet.) 315**

*ERROR TO THE CIRCUIT COURT OF*

*THE UNITED STATES FOR MISSISSIPPI*

## **SYLLABUS**

The circuit courts of the United States have not cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee unless a suit might have been prosecuted in such court to recover the

said contents if no assignment had been made, except in cases of foreign bills of exchange.

An action was instituted in the Circuit Court of the United States for the Southern District of Mississippi by Beverly Chew, a citizen of the State of Louisiana, against John A. Gibson and Kinchen A. Martin, citizens of the State of Louisiana. The action was brought to recover the amount of a promissory note drawn by John A. Gibson in favor of and endorsed by Kinchen A. Martin for \$3,500 and endorsed over to the plaintiff.

The declaration set out the promissory note, the maker and endorser of the same being included in the same writ under the provisions of an act of the Legislature of Mississippi which had been adopted as a rule of practice in the circuit court by order of the district judge holding the circuit court. The defendants appeared to the action and, having demurred to the plaintiff's declaration, filed the following causes of demurrer:

1. this court has no jurisdiction, the plaintiff, in his declaration, being the assignee of Kinchen A. Martin who is a citizen of the same state with the maker of the note sued on, as declaration avers.
2. the declaration does not aver defendants to be residents of the Southern District of Mississippi.

The demurrer was overruled, and the defendants having refused to plead to the merits of the action, judgment was rendered in favor of the plaintiff. The defendants prosecuted this writ of error.

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WAYNE, JUSTICE, delivered the opinion of the Court.

This suit was brought in the Circuit Court of the United States for the Southern District of Mississippi by the defendant in error, as the endorsee of a promissory note made in Mississippi of which the plaintiff in error, Martin, was the payee, and

the plaintiff, Gibson, the maker, both maker and payee being citizens of the State of Mississippi when the note was made.

The jurisdiction of the court is denied, and the plea should have been sustained in the court below, as the circuit courts of the United States have not cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee unless a suit might have been prosecuted in such court to recover the said contents if no assignment had been made, except in cases of foreign bills of exchange. See the 11th section of the act to establish the judicial courts of the United States, 1 Story's Laws 53.

*The judgment of the court below is reversed.*

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