

Morgan Vs. Curtenius

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Court : US Supreme Court

Decided On : 1856

Appeal No. : 60 U.S. 8

Appellant : Morgan

Respondent : Curtenius

Judgement :

Morgan v. Curtenius - 60 U.S. 8 (1856)

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Morgan v. Curtenius

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APPEAL FROM A STATE COURT

OF THE STATE OF ILLINOIS

SYLLABUS

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Where there appears to be an omission in the record of an important paper, which may be necessary for a correct decision of the case of the defendant in error who has no counsel in court, the Court will, of its own motion, order the case to be continued and a certiorari to be issued to bring up the missing paper.

This case stood upon the trial docket, coming from the State of Illinois. It was submitted on a printed argument by Mr. Washburne for the plaintiff in error, no counsel appearing for the defendant.

Whereupon, upon an inspection of the record, the Court expressed the following opinion:

MR. CHIEF JUSTICE TANEY delivered the opinion of the Court.

Upon examining the transcript of the record filed in this case, we find that it is imperfect, and that a paper has been omitted which may be important to the decision of the matter in controversy between the parties.

The bill of exceptions upon which the cause is brought before this Court, after stating that the defendants read in evidence the deed from Bogardas, to Underhill, under which they claim title, proceeds in the following words:

"The defendants next offered in evidence to the jury a certificate of the register of the land office at Quincy, dated _____, which is in the words and figures following, to-wit:"

But the certificate thus referred to is not inserted in the exception, nor its contents stated in any part of the transcript. And as this paper was offered in evidence by the defendants, it must have been deemed material to their defense, and the Court thinks it would not be just to them to proceed to final judgment without having this paper before us.

And as the defendants have no counsel appearing in their behalf in this Court, the Court of its own motion order the case to be continued and a certiorari issued in the usual form to the circuit court directing it to supply the omission above

mentioned and return a full and correct transcript to this Court on or before the first day of the next term.

ORDER

Upon an inspection of the record of this cause, it appearing to the Court here that the bill of exceptions states that

"the defendants offered in evidence to the jury a certificate of the

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register of the land office at Quincy, dated _____, which is in the words and figures following, to-wit:"

and that the said certificate, thus referred to, is not inserted in the exception nor its contents stated in any part of the transcript, on consideration whereof, it is now here ordered by this Court that a writ of certiorari be and the same is hereby awarded, to be issued forthwith and to be directed to the judges of the Circuit Court of the United States for the District of Illinois commanding them to supply the omission above mentioned and return a full and correct transcript to this Court with this writ on or before the first day of the next term of this Court.