

Bethell Vs. Mathews

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Court : US Supreme Court

Decided On : 1871

Appeal No. : 80 U.S. 1

Appellant : Bethell

Respondent : Mathews

Judgement :

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U.S. Supreme Court Bethell v. Mathews, 80 U.S. 13 Wall. 1 1 (1871)

Bethell v. Mathews

80 U.S. (13 Wall.) 1

ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF LOUISIANA

SYLLABUS

1. A plaintiff in error cannot take advantage of exceptions in his own favor even if erroneous, a matter often decided before.

2. Under the Act of March 3, 1865, authorizing the trial of facts by circuit courts, the court must itself find the facts in order to authorize a writ of error to its judgment. A statement of facts signed by counsel and filed after the judgment is insufficient.

3. Where, in a case tried under the above-mentioned act, the record, owing to the manner in which things have been done below, presents a case as of a judgment rendered on a general verdict in favor of the defendant in error, and does not present any question arising on the pleadings, nor any ruling against the plaintiff in error, the judgment will be affirmed.

The act of Congress of March 3, 1865, [[Footnote 1](#)] authorizing the circuit courts of the United States, on written stipulation of the parties or their attorneys filed, to try issues of fact in civil cases without the intervention of a jury, enacts that:

" 4. The findings of *the court* upon the facts . . . shall have the same effect as the verdict of a jury."

With this statute in force, Bethell sued Mathews in the court below on certain promissory notes. A written stipulation

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signed by the parties was filed, waiving a jury and submitting the cause for trial by the court. It was so tried accordingly. Six bills of exception, all by the defendant, were taken to testimony offered by the plaintiff, and all overruled. On the 2d of May, 1870, for reasons orally assigned, the court, *not having made any findings of fact*, ordered "that judgment be entered in favor of the defendant," and it was so signed accordingly four days afterwards. On the 10th of June, thirty-nine days after the judgment was rendered, the counsel filed a "statement of facts proved in the case," which statement was signed by them. The present writ of error was taken to review the judgment given in the case; the record disclosing the proceedings as above mentioned.

THE CHIEF JUSTICE:

It has been often decided that a plaintiff in error cannot take advantage of rulings upon exceptions in his own favor, even if erroneous. Nor can a statement of facts signed by

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counsel be noticed upon error. [[Footnote 2](#)] In this case, then, not only was the statement so signed, but it does not appear to have been made and filed until after the judgment.

There is therefore no error in the record, or none of which we can take notice. The judgment of the Circuit Court for the District of Louisiana must be

Affirmed.

[[Footnote 1](#)]

13 Stat. at Large 501.

[[Footnote 2](#)]

[Generes v. Bonnemer](#), 7 Wall. 564; [Avendano v. Gay](#), 8 Wall. 376; [Kearney v. Case](#), 12 Wall. 276.