Lamar Vs. Micou

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Court : US Supreme Court

Decided On : 1881

Appeal No. : 104 U.S. 465

Appellant : Lamar

Respondent : Micou

Judgement :

Lamar v. Micou - 104 U.S. 465 (1881)
U.S. Supreme Court Lamar v. Micou, 104 U.S. 465 (1881)

Lamar v. Micou

104 U.S. 465

MOTION TO DISMISS AN APPEAL FROM THE CIRCUIT COURT OF

THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

A defendant, who made no defense except to reduce the amount of the recovery, cannot appeal from a decree against him for less than $5,000.

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

This is an appeal by the defendant below from a decree against him for less than $5,000. There is no claim of setoff or counterclaim except to reduce the amount of the recovery. In no event can he get any money decree in his favor. All he seeks to do is to defeat the claim of the appellee. Consequently the amount in controversy, so far as this appeal is concerned, is fixed by the decree. *Thompson v. Butler,* 95 U. S. 694 ; *Sampson v. Welsh,* 24 How. 207. In effect, he insists that under the rule of liability established against him in the court below, the decree should have been for more than $5,000, and that for this reason he is entitled to an appeal, so that he may show he is not liable at all. This, we think it clear, is not the law.

The case is not changed by the fact that if, under an appeal which is pending in another suit, it shall be found the appellant was credited in this suit with an amount which properly belonged to that, the decree in that suit will be reduced, while the one in this cannot be correspondingly increased. The appellee is satisfied with this decree, and has not appealed. The appellant cannot complain if it turns out in the end that, but

Page 104 U. S. 466

for a mistake which was made in his favor, the appellee might have recovered a larger amount.

Appeal dismissed.