

Opinion of the Court.

JENKINS, Assignee, *v.* LCEWENTHAL & Another.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

Submitted January 7th, 1884.—Decided January 21st, 1884.

*Error—Practice.*

When the record discloses two defences to an action brought in a State court, one presenting a federal question, and one presenting no federal question, either of which if sustained was a complete defence to the suit, and that the State court gave judgment in favor of the defendant on both, and the cause is brought here by writ of error, this court will affirm the judgment below without considering the federal question.

*Mr. W. T. Burgess* for plaintiff in error.

*Mr. A. M. Pence* for defendants in error.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court. This suit was brought by Robert E. Jenkins, as assignee in bankruptcy of Samuel J. Walker, a bankrupt, to recover certain lands conveyed by the bankrupt to Eli Kinney, on the alleged ground that the conveyances, though absolute on their face, were intended as mortgages. Two defences were interposed among others, one that the defendants, who are the present owners of the property, are innocent purchasers for a valuable consideration, without notice of any outstanding equities in the assignee or the bankrupt; and the other that the suit was not brought within two years after the alleged cause of action accrued to the assignee. Rev. Stat., § 5057. Either of these defences, if sustained, bars the action. The second involves a federal question, the other does not. The court in its decree sustained them both, and, among other things, found as a fact that the defendants were innocent purchasers for value. As this finding is broad enough to maintain the decree, even though the federal question involved in the other defence was decided wrong, we affirm the decree, without considering that question or expressing any opinion upon it. *Murdock v. City of Memphis*, 20 Wall. 590, sustains this practice.

*Affirmed.*