

Counsel for Parties.

some other person than the grantee; that no formal words are necessary to create such an estate; and that, whenever a manifest intention is exhibited that another person shall have the benefit of the property, the grantee shall be declared a trustee. Section 2632 provides that every voluntary deed shall be void as against subsequent *bona fide* purchasers for value without notice of such voluntary conveyance. It follows, from these provisions, that as the deed in this case was recorded in due time, it was valid as against the defendant, who had notice of it before the mortgage to him of May, 1870, was executed, and before the sheriff's sale in 1876. This result is in accordance with the decisions of the Supreme Court of Georgia. *Gordon v. Green*, 10 Geo. 534, 543; *Horn v. Ross*, 20 Geo. 210, 223; *Cummins v. Boston*, 25 Geo. 277, 283; *Brown v. Spivey*, 53 Geo. 155; *Adair v. Davis*, 71 Geo. 769.

The decree of the Circuit Court is

Affirmed.

ZECKENDORF v. JOHNSON.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF ARIZONA.

Submitted November 21, 1887. — Decided December 12, 1887.

The value of the matter in dispute is to be determined by the amount due at the time of the judgment of the court below, which is brought here for review, including interest up to the time of the judgment of the Appellate Court, if the appeal is from an Appellate Court, and the judgment which is taken to the Appellate Court bears interest.

Findings of fact in the court below are conclusive, and cannot be reexamined here.

THIS was a motion to dismiss, with which was united a motion to affirm. The case is stated in the opinion of the court.

Mr. Van H. Manning and *Mr. J. B. Edmonds* for the motions.

Opinion of the Court.

Mr. E. M. Marble, opposing.

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

A judgment was rendered September 28, 1885, by the District Court of Arizona, in and for the county of Pima, against L. Zeckendorf & Co., the appellants, and in favor of Johnson, the appellee, for \$4304.93, "with interest on \$2800 of said sum, at the rate of two per cent per month from the date hereof until paid, and interest on \$1504.33, at the rate of ten per cent per annum from the date hereof until paid." This judgment was affirmed by the Supreme Court of the Territory, on appeal, November 8, 1886. From that judgment of affirmance this appeal was taken, which the appellee moves to dismiss, on the ground that the value of the matter in dispute does not exceed \$5000, as now required by law. Act of March 3, 1885, c. 355, 23 Stat. 443.

The value of the matter in dispute is to be determined by the amount due at the time of the judgment brought here for review, to wit, the judgment of the Supreme Court of the Territory, and not at the time of the judgment of the District Court. Adding the interest to the judgment of the District Court until the date of that of the Supreme Court, as we must for the purpose of determining our jurisdiction, *The Patapsco*, 12 Wall. 451; *N. Y. Elevated Railroad v. Fifth National Bank*, 118 U. S. 608, we find that the amount due at the time of the judgment of the Supreme Court was considerably more than \$5000. The motion to dismiss is, therefore, denied.

But, on looking into the record, we discover that the errors assigned relate only to the sufficiency of the evidence to support the findings. These we cannot consider. The findings of fact by the court below are conclusive, and cannot be re-examined here. *The Abbotsford*, 98 U. S. 440, and cases there cited. Upon the facts as found there can be no doubt of the correctness of the judgment. It is apparent if the case is kept here longer it will be for delay only. For that reason the motion to affirm is granted.

Affirmed.