

Opinion of the Court.

by the subsequent pleadings, were cured by the verdict, which must be assumed to have proceeded upon proof of facts which justified it; and, as it is apparent that the writ of error could only have been sued out for purposes of delay, the judgment is

Affirmed with ten per cent damages, interest and costs.

SPALDING *v.* MANASSE.SAME *v.* SAME.SAME *v.* VANACKER.SAME *v.* SAME.SAME *v.* YANADA.SAME *v.* FARWELL.SAME *v.* COHN.ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
NORTHERN DISTRICT OF ILLINOIS.

Nos. 278, 279, 280, 281, 282, 284, 285. Argued April 25, 1889.—Decided May 13, 1889.

No error can be examined in the rulings of the court at the trial of a cause by the court without a jury by agreement of parties, if there is no allegation in the record that the stipulation was in writing, as required by the statute. *Bond v. Dustin*, 112 U. S. 604, and *Dundee Mortgage Co. v. Hughes*, 124 U. S. 157, followed.

THESE were suits against a collector of customs to recover back duties paid under protest. Judgment in each case for plaintiff, to which defendant sued out a writ of error. The case is stated in the opinion.

Mr. Assistant Attorney General Maury for plaintiff in error in each case.

Mr. Percy L. Shuman for defendants in error.

Mr. CHIEF JUSTICE FULLER delivered the opinion of the court.

Counsel for Parties.

All of these cases were tried by the court without a jury, by agreement of the parties, as alleged in the record; but there is no allegation that the stipulation was in writing, as required by the statute; and, under the ruling in *Bond v. Dustin*, 112 U. S. 604, and *Dundee Mortgage Company v. Hughes*, 124 U. S. 157, no error can be examined in the rulings of the court at the trial. We can only inquire whether the declarations were respectively sufficient to sustain the judgments. As there appears to be no error in this regard, the judgments are severally

Affirmed.

ABENDROTH *v.* VAN DOLSEN.

ERROR TO THE CITY COURT OF NEW YORK.

No. 229. Argued April 12, 13, 1889. — Decided May 13, 1889.

The connection of the plaintiff in error with the partnership of Griffith & Wundram was not a matter in issue in the proceedings in bankruptcy against that firm.

An adjudication of the bankruptcy of a firm, and of the members in whose name the firm was doing business, in a bankrupt proceeding affecting them alone, to which a special partner was not a party, does not estop a copartnership creditor from setting up the liability of such special partner, imposed upon him by the statute, for non-compliance with its provisions.

A special partner in a partnership, who is not a party to proceedings in bankruptcy against the partnership and the general members of it, is not entitled to the stay of proceedings provided for in Rev. Stat. § 5118, until the question of the debtor's discharge shall have been determined.

A discharge of two general partners in bankruptcy cannot be set up in favor of a special partner in an action against the three as general partners on the ground that the special partner has made himself liable as a general partner.

THE case is stated in the opinion.

Mr. William H. Arnoux for plaintiff in error.

Mr. Carlisle Norwood, Jr., for defendants in error.