

Opinion of the Court.

WOLFE v. HARTFORD LIFE AND ANNUITY
INSURANCE COMPANY.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF NEW YORK.

No. 162. Submitted March 23, 1893. — Decided March 27, 1893.

A complaint which avers that the plaintiff was, at the several times named therein, "and ever since has been and still is a resident of the city, county and State of New York," is not sufficient to give the Circuit Court of that circuit jurisdiction on the ground of citizenship of the parties, when the record nowhere discloses the plaintiff's citizenship.

THE case is stated in the opinion.

Mr. Robert S. Green and *Mr. Henry Thompson* for the plaintiff in error.

Mr. Herman Kobbe for defendant in error.

THE CHIEF JUSTICE: The complaint in this case avers that the plaintiff was at the several times mentioned therein, "and ever since has been and still is, a resident of the city, county and State of New York," but his citizenship is nowhere disclosed by the record.

It is essential in cases where the jurisdiction depends upon the citizenship of the parties that such citizenship, or the facts which in legal intendment constitute it, should be distinctly and positively averred in the pleadings, or should appear with equal distinctness in other parts of the record. It is not sufficient that jurisdiction may be inferred argumentatively from the averments. *Brown v. Keene*, 8 Pet. 112, 115; *Continental Ins. Co. v. Rhoads*, 119 U. S. 237; *Menard v. Goggan*, 121 U. S. 253.

Judgment reversed at the cost of plaintiff in error and the cause remanded for further proceedings.