

Opinion of the Court.

MARTIN v. SNYDER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS.

No. 131. Argued and submitted March 9, 10, 1893. — Decided April 10, 1893.

A defendant residing within a State in which an action is commenced in a court of the State, is not entitled, under the act of March 3, 1887, 24 Stat. 552, c. 373, to have the suit removed to the Circuit Court of the United States.

THE case is stated in the opinion.

Mr. D. W. Voorhees and *Mr. L. B. Hilles*, (with whom was *Mr. Reese H. Voorhees* on the brief,) for appellants. *Mr. G. W. Kretzinger* also filed a brief for appellants.

Mr. Allan C. Story for appellee.

THE CHIEF JUSTICE: This was a bill of complaint filed by Samuel F. Engs, George Engs and Henry Snyder, Jr., of the city, county and State of New York, against Morris T. Martin and Carrie E. Martin, in the Circuit Court of Lake County in the State of Illinois, on the 27th of October, 1887.

November 7, 1887, the defendants preferred a petition for the removal of the cause to the United States Circuit Court within and for the Northern District of Illinois on the ground of diverse citizenship, and the case was transferred accordingly.

The petition stated "that the controversy in said suit is between citizens of different States, and that the petitioners were at the time of the commencement of this suit and still are citizens of the State of Illinois, and that all the plaintiffs were then and still are citizens of the State of New York."

Under the act of Congress of March 3, 1887, 24 Stat. 552, c. 373, it is the defendant or defendants who are non-residents

Names of Counsel.

of the State in which the action is pending, who may remove the same into the Circuit Court of the United States for the proper district. The defendants here were not entitled to such removal, and the decree, which was in favor of complainants and from which the defendants prosecuted this appeal, must be reversed for want of jurisdiction, with costs against the appellants, and the case remanded to the Circuit Court with directions to render a judgment against them for costs in that court, and to remand the case to the state court. *Torrence v. Shedd*, 144 U. S. 527, 533.

Judgment reversed and cause remanded accordingly.

MEXIA *v.* OLIVER.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
NORTHERN DISTRICT OF TEXAS.

No. 182. Submitted March 23, 1893. — Decided April 17, 1893.

In Texas, a married woman, who owns land in her own right, cannot convey it by her husband, as her attorney, under a power of attorney from her to him, without herself signing and acknowledging privily the deed, although her husband joins in the deed individually.

Where a suit is brought in Texas by a married woman and her husband, to recover possession of land, her separate property, and the petition is endorsed with a notice that the action is brought as well to try title as for damages, it is error to admit in evidence against the plaintiffs such a power of attorney and deed, although there is an issue as to boundary and acquiescence and ratification.

It does not appear beyond a doubt that such error could not prejudice the rights of the plaintiffs.

THE case is stated in the opinion.

Mr. William S. Flippin and *Mr. A. H. Evans* for plaintiffs
in error.

Mr. S. L. Samuels and *Mr. A. C. Prendergast* for defendant
in error.