
Todd v. Daniell.

that advantage can be taken of it upon a motion to dismiss. The record shows that a judgment was rendered in the Circuit Court, over which this court undoubtedly have jurisdiction upon a writ of error. The plaintiffs allege that there is error in law in this judgment, and have brought it here for the ^{*289]} revision of this court. And upon the argument of the case it will be incumbent upon ^{*}them to show that the record presents, in some form or other, a statement of facts upon which a question of law arose in the Circuit Court, and which was there erroneously decided. And if he fails to do this, the judgment must be affirmed. But he is entitled to be heard, in order that he may show, if he can, that the error of which he complains appears in the record; and whether it does so appear or not, is a matter which cannot be inquired into in the form in which the case is now brought before us.

The motion must therefore be dismissed.

ORDER.

On consideration of the motion made in this cause on a prior day of the present term of this court, to wit, on Saturday, the 18th ult., by Mr. Webster, to dismiss this writ of error for the want of jurisdiction, and of the arguments of counsel thereupon had, as well in support of as against the said motion, it is thereupon now here considered and ordered by this court, that the said motion be and the same is hereby dismissed.

JAMES TODD, APPELLANT, *v.* OTIS DANIELL, DEFENDANT.

AN agreement in writing between the counsel, as well for the appellant as for the appellee, that the decree of the Circuit Court in this case shall be affirmed with legal damages and costs for the said Daniell, having been filed; it is thereupon considered and decreed by this court, that the decree of the said Circuit Court in this cause be and the same is hereby affirmed, with costs and damages, at the rate of 6 per centum per annum; and also that the said appellee recover of the said appellant, the further sum of \$125 for the costs of the transcript of the record in the Circuit Court according to the said agreement.