Hoffman, Charles v. Weber, Charles 1860 St. Louis 450/4

Old Box 611/15

John Steiner Jr. conveyed land to Mary Steiner (wife of H)
W claimed under deed from Steiner
LC = H took nonsuit

F 57
O 60
Dio

ejectment

St Louis Dec 3. 1878

Mr Gladwell

Please take Notice that there is here in your Office, some papers lost or mislaid, in a case between Charles Hoffman plaintiff. and Charles Weber defendant, now therefore I give you Notice hereby, if you dont finish the said papers, on your own Exspenses, before the next grand Jury meets, I will report you to the Grand Jury, and bring a Suit of Damages of several Thousend Dolls against you besides for neglecting your Duty, and keeping me out of mine lawfull property.

Charles Hoffman
plaintiff

Mr Gladwell

Clerck of the Supreme Court

St Louis

Mo

Chas. Hoffman

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Omitted in the transcript Hoffman vs Weber
Order allowing Amendment /
Nonsuit &
Overruling Motion for New Trial

The State of Missouri, ss.

The State of Missouri, *To the Honorable the* Circuit Court of St Louis County *in said State, GREETING:*

WHEREAS, In the record and proceedings in a certain cause lately pending in the Circuit Court of St Louis County

wherein Charles Hoffman is Plaintiff and Charles Nelson Defendant

in an action of Ejectment manifest error hath intervened, to the great damage of said as by complaint we are informed.

NOW, we being willing that the error, if any there be, should be corrected, and full and speedy justice done to the parties aforesaid, in that behalf, COMMAND YOU, that you send to us, certified under your seal, the record and proceedings in the cause aforesaid, as fully as the same remain of record before you in said Court, so that we may have them before us at our Supreme Court, to be begun and held in the City of Saint Louis, in the County of Saint Louis, in said State, on the Monday in next, so that our Judges of our Supreme Court, on inspecting the record and proceedings aforesaid, may cause to be further done therein, for correcting the error, what of right, and according to law, ought to be done.

Witness, WILLIAM S. GLANVILLE, Clerk of our said Supreme Court, at office, in the City of Saint Louis, the day of in the year of our Lord one thousand eight hundred and fifty

Wm S Glanville,
CLERK.

State of Missouri }
County of St Louis } Be it remembered that heretofore to wit; on the 3d day of October A.D. 1857 there was filed in the office of the Clerk of the Circuit Court, within and for the County of St Louis a Transcript which is in the words and figures following to wit;

Transcript State of Missouri }
County of St Louis } Be it remembered that there was filed in the office of the St Louis Land Court, on the 3d day of April in the year one thousand eight hundred and fifty four a petition which is in the words and figures following to wit;

Charles Hoffman
vs
Charles Weber } St Louis County Land Court

The Plaintiff states that John Steiner Sr was on the 26th day of October 1835 the owner in fee of the following real estate to wit; the west half of the east half of the South West quarter of section fourteen township forty four, North Range, six east and also a piece or parcel of land of the South east side of the North west fractional quarter of the same section, township and range butted & bounded as follows to wit; beginning at a stake on the line between said section fourteen & section twenty three, from where the corner of sections fifteen, twenty two and twenty three & section fourteen making but one corner bears west 20 Chains distance to the South west Courner of said fractional quarter, thence North two chains & sixty two links to a stake, thence North eighty seven degrees east thirty chains to a stake from which a black oak twelve inches in dia=

meter bears North forty eight degrees, east distance forty links, thence south forty two chains to a stake on said line between said sections to the beginning and containing fifty acres more or less & said John by deed of that date duly executed conveyed the same to Mary Steiner The Plaintiff further states that he has been lawfully married to said Mary and has had issue by her & that said is now dead that he the Plaintiff was lawfully possessed of said property during said marriage. The Plaintiff further states that the defendant is now in the unlawful and wrongful possession of a portion of said premises to wit; a strip of ground containing about three acres and described thus commencing at a point in the Western boundary line of said tract, about one chain sixty links south of the extreme north western corner thereof thence north along said Western line one chain two links more or less to a post, thence east along the eastern boundary of said tract to an old stone at the South eastern corner thereof thence west to the beginning in a straight line or nearly so. The Plaintiff says that said defendant has unlawfully entered into & now holds possession of said last above described premises to the damage of the Plaintiff of one thousand dollars, and plaintiff asks judgement against the defendant for the possession of said property & also for his damages aforesaid

C. Gibson P de

The State of Missouri County of St Louis

Charles Hoffman being sworn says he believes the matters in the above petition as therein stated are true

Sworn to and subscribed before me this 3d day of April 1854

Charles Hoffman

Chas H. Mantz Clerk.

3 (attached to the foregoing petition was the following
"commence at a point being the extreme north western
"corner of the tract above described thence South 48¾
" east 31 Chains, 56 links to the north eastern corner
" of said tract, thence north 87¼ west. 31 chains 50
" links to a point one chain 46 links north of the South
" west corner of the north west fractional quarter
" of Section 14. thence South one chain 62 links to
" the beginning and containing one acre eighty three
" hundredths of an acre.
" This description inserted in lieu of the one in the pe
" tition by leave granted)

3. The State of Missouri

To the Sheriff of St Louis County Greeting

We command you to summon Charles Weber to appear before the Judge of our St Louis Land Court on the first day of the next term thereof to be held at the City of Saint Louis within and for the County of St Louis on the first Monday of October next, then and there to answer the complaint of Charles Hoffmann as set forth in the annexed petition: and have you then and there this wris

Witness Charles A. Mantz Clerk of our Said Court with the seal thereof hereto affixed at Office in the City of St Louis this Fifth day of April in the year of our Lord one thousand eight hundred and fifty four

Charles A Mantz Clk

Executed on the first day of June 1854 by delivering to Charles Weber a copy of the writ and petition as furnished by the Clerk in St Louis County

John M. Winner Sheriff
by J H. Douglass Deputy

And afterwards the following further proceedings were

had in this cause to wit.

Saturday October 7th 1854

Charles Hoffman
vs
Charles Weber } Answer filed

Which answer is in the words and figures following to wit;

Charles Hoffman
vs
Charles Weber } St Louis Land Court
St Louis County

Defendant denies that John Steiner was at any time before commencement of this suit the owner in fee of the real estate in said petition described. Defendant denies that said John Steiner once conveyed the land in said petition to Mary Steiner. Defendant admits that plaintiff intermarried with Mary Steiner and had issue by her, but defendant denies that said Hoffman ever had possession of the land described in said petition as the husband of said Mary Steiner, defendant denies that he is in the unlawful possession of any portion of said premises defendant denies that he has unlawfully entered into the possession of said land and ask's for judgment for his costs.

Carl Weber

State of Missouri
County of St Louis } ss Charles Weber the defendant in this case, makes oath and says that he believes the above answer & the matters therein as stated are true. Carl Weber

Subscribed & sworn to before me this seventh day of October 1854.

Frank, A, H, Schneider a Notary Public in and for said

county

And afterwards the following further proceedings were had in this cause to wit;

Friday April 6th 1855.

Charles Hoffman
vs
Charles Weber

Order of Survey

Now at this day comes the defendant by his attorney and moves the Court to grant an order of survey of the real estate described in the plaintiffs petition. Whereupon by consent of parties, the Court doth order that survey of said Real Estate be made by Joseph Indest Esquire and that he make report of his proceedings herein according to law, cause continued until next term of this Court.

And afterwards the following further proceedings were had in this cause to wit;

Wednesday October 17th 1855.

Charles Hoffman
vs
Charles Weber

Continued

And afterwards the following further proceedings were had in this cause to wit;

Thursday April 24th 1856.

Charles Hoffman
vs
Charles Weber

Judge Lord having been heretofore counsel for the defendant in this cause, it is ordered that this cause be certified up to the St Louis Circuit Court and that the Clerk of this Court make out a full and correct copy of the proceedings and record in the Cause and deliver the same duly certified to the Clerk of the St Louis Circuit ~~Court~~ as the law requires.

State of Missouri
County of St Louis } ss I. Charles H Mantz Clerk of the St Louis Land Court within & for the County ~~of St Louis~~ aforesaid certify the foregoing to be a true and correct copy of the record and proceedings in the above entitled cause our said Court as fully as the same remains of record in my office

In Testimony whereof I hereto set my hand and affix the seal of our said Court at Office in the City of St Louis this twentieth day of June A. D 1856.

(SS)

Charles H. Mantz

And afterwards on the 27th day of May A. D 1857 the following Bill of Exceptions were filed herein viz:

Bill of Exceptions Hoffman vs Weber } On the trial of this cause it was admitted by both parties that John Steiner Senior was originally seized in fee of the premises in dispute. That the plaintiff married Mary the daughter of said John Steiner Sr & had issue by her living & that said Mary is now dead. That said Mary was previously married & had two sons by her first husband both of whom are now alive. That the defendant was now in possession of the premises in dispute at the time mentioned in the petition and that all the deeds hereinafter mentioned cover the premises in dispute, & that the same is worth one dollar per annum

The Plaintiff then offered the following deed in evidence

Whereas by deed bearing date the twenty fifth day of April in the year of our Lord one thousand eight hundred and ~~twenty~~ four by and between John Steiner of the one part and Mary Steiner his daughter of the other part; both of

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7 of the County of St Louis and State of Missouri he the said John Steiner for and in consideration of the sum of one dollar to him in hand paid and other considerations in the said deed mentioned did grant, bargain sell and convey unto the said Mary Steiner her heirs and assigns forever a certain tract or parcel of land lying and being situate in the County aforesaid and containing the quantity of fifty acres and to be taken off the west side of the North west fractional quarter of section fourteen in Township forty four, north of range six east in the district of lands offered for sale at St Louis Missouri as appears reference being had to the record of said deed in the recorders office of said County, Book T. page (427) four hundred and twenty seven and following, and whereas a manifest error in the situation limits, meets, ~~bounds~~ bounds, and descriptions of the said tract of land, and the parties aforesaid being desirous to have the same corrected and well established according to their former intention, and to have the above recited deed cancelled and declared null and void as they do hereby declare, confess, and acknowledge, the above recited deed null and void to all intents and purposes either in law or equity. Now therefore be it known that the said John Steiner for and in consideration of the premises and the yearly rent of six dollars payable in each and every year, on the 25th day of April unto the said John Steiner, by the said Mary, - he the said John Steiner hath granted bargained and sold and by these presents, doth grant bargain and sell unto the said Mary her heirs and assigns the west half of the east half of the South west quarter of section fourteen, township forty four, North range 6 East and also a piece or parcel of land of the South

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east side, of the North west fractional quarter of the same section, Township and range, bounded and bounded as follows to wit; beginning at a stake on the line between said section fourteen, and section twenty three from where the corner of sections, fifteen, twenty two, twenty three, and said section fourteen, making but one corner, bears west twenty chains distance thence North forty chains to a stake, thence North eighty seven degrees, West twenty chains, to the South west corner of the said fractional quarter, thence north two chains and sixty two links to a stake, thence north eighty seven degrees, east thirty chains to a stake from which a black jack twelve inches in diameter bears north forty eight degrees, east distance forty links, thence South forty two chains, thence South forty two chains, to a stake on said line between said sections to the beginning, and containing as aforesaid fifty acres be the same more or less, and which shall be in lieu of the fifty acres first above mentioned and hereby relinquished by the said Mary to the said John Steiner his heirs and assigns. To have and to hold the said last described fifty acres of land unto her the said Mary Steiner heirs and assigns and to their proper and only use benefit and behoof forever, together with the free liberty of ingress egress regress, way and passage from the said premises to the spring of water laying on the land of said John Steiner and to have, use, take, and carry away for their use the water of said spring, doing no wilful injury to the same and the said Mary her heirs and assigns do hereby promise, covenant, and agree well and truly, to pay the said yearly rent of six dollars, at the time afore said unto the said John Steiner and no other. In wit=

9 ners whereof the parties to there presents have hereunto set their hands and seals this twenty six day of October eighteen hundred and thirty five

The words "his daughter being first underlined."

Peter D Barrada J. P. Josomnug Struner Sen (Seal)
P. L Mc Laughlin Charles Hoffman (Seal)
Mari Hoffman (Seal)
Jos V Truner (Seal)

State of Missouri }
County of St Louis } ss Be it remembered that on this twenty six day of October in the year of our Lord one thousand eight hundred and thirty five before me Peter D Barrada, one of the Justices of the Peace within and for the County aforesaid came the within named John Steiner and Mary Steiner both personally known to me to be the persons whose names are subscribed to the foregoing instrument in writing as having executed the same and severally acknowledged the said instrument to be their act and deed for the purposes therein mentioned. Taken and certified the day and year aforesaid Peter D. Barrada. Justice of the Peace

Recorded 30th of October 1855

Archibald Gamble Recorder

State of Missouri }
County of St Louis } ss I. John Ruland Clerk of the Circuit Court and ex officio Recorder within and for the County aforesaid certify the foregoing to be a true and correct copy of a deed of conveyance from John Steiner to Mary Steiner as the same now remains of record in my office, Book V. page 108.

In Testimony whereof I have hereunto set my hand and affixed the seal of said Court as

office in the City of St Louis this twenty third day of May 1838.

Ino Ruland Recorder

To the admission of which the defendant objected. The Court overruled said objection & admitted the said deed to be read in evidence to which defendant at the time excepted. The defendant then offered the following documents to be read in evidence (here insert deed from John Steiner Jr to John Steiner Jr. This document is not among the papers, to which the Plaintiff objected because the same was not properly authenticated & proved. The certificate of acknowledgment was defective & was not legal. The Court overruled Plffs objection & allowed said deed to be read & the Plff duly excepted at the time.

The Deft then offered in Evidence the following deed (here insert deed of John Steiner Jr to Deft) this was all the evidence in the case. × This deed is not among the papers in the C. O.

× The plaintiff then asked the following instruction × which the Court refused to give. whereupon the plaintiff became non suit with leave to move to set the same aside, and afterwards in due time made the following motion

Charles Hoffman
vs
Charles Weber

The plaintiff moves the court to set aside the nonsuit & to grant a new trial for the reasons following:

1st That the Court erred in admitting illegal & incompetent testimony offered by Defts & objected to by Plaintiffs.

2nd That the Court erred in overruling instructions asked by plaintiffs.

Gibson
Krum & Harding for Plff.

And which the Court overruled to which the plaintiff at the time excepted & prays the court to sign & seal this his bill of exceptions which

11 is accordingly

A Hamilton
Judge D.C.

Instruction Refused

The following instruction it is believed is the one called for above although there is wanting in the Bill of Exceptions "here insert same", If John Steiner whose name is last subscribed to the deed read in evidence by the Plaintiff is the same John Steiner who signed the deed to the defendant dated January 26th 1836 then the Defendant is Estopped from claiming the land in controversy, if the jury find from the Evidence that the land in Controversy is not charged incumbered within the boundaries contained in the said deed read in Evidence by the plaintiff & dated Oct 26th 1835.

138 ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~

(15)

October Term 1860

Charles Hoffman P.E.

vs

Charles Weber D.E.

Transcript.

Filed 3d October 1859

Wm. S. Glanville Clk.

Fee $6.50

138 ~~[illegible]~~

Reg. divs. 5 Apr. 59 / Death of Hoffman suggested /

Dismissed 8th Dec. 1860 by C. Gibson atty