N. 46

4/21

State of Missouri
v
Lambert Lajoye & Madeline Delor, his wife
St. Louis - December 1831 - #12
Petition to foreclose mortgage

STATE OF MISSOURI, }
Third Judicial District, } ss.

The State of Missouri, to the Honorable the Circuit Court of St. Louis County,

GREETING:

FOR AS MUCH *as in the record and process, as well as in the rendition of Judgment, on a certain plaint which was in our Circuit Court, for our County of St. Louis before our Judge thereof, between* State of Missouri

Plaintiff, *and* Lambert Lajoye & Madeline Delor his wife

Defendant,

in a plea of petition to foreclose mortgage *as it is said, manifest error hath happened, to the great damage of the said* Lambert Lajoye & Madeline Delor his wife *as by* their *complaint we are informed:* WE, *being willing that the error, if any there be, should be duly amended, and full and speedy justice done to the parties aforesaid in this behalf,* COMMAND YOU, *that if judgment be thereupon given, then a transcript of the record of the judgment, with all things touching the same, you certify and send (with this writ) to our Supreme Court, to be holden at the City of St. Louis, within and for the Third Judicial District, on the* fourth Monday *of* December *next, that our Judges of our said Court, inspecting the record of the judgment aforesaid, may cause to be done therein, for correcting the said error, what to them of right, and according to law, shall seem meet to be done.*

In Testimony Whereof, *I,* JOSEPH C. BROWN, *Clerk of our Supreme Court for the Third Judicial District, have hereunto set my hand and seal of Office, at Office, this* Second *day of* November *in the year of our Lord one thousand eight hundred and* ~~thirty~~ one *and of the Independence of the United States of America, the* fifty sixth

Jos. C. Brown clerk

Writ 1.50
Tax .62½
2.12½

Rec'd the above
from Col. Lawless
J. C. Brown
Clk

In obedience to the within writ I herewith certify a full transcript of the record and proceedings in said cases to the Supreme Court

Archibald Gamble
Clk

State of Missouri } ss.
County of St Louis }

Be it remembered that at a Circuit Court begun and held at the City of St Louis within and for the County of St Louis on the fourth Monday of November in the year of our Lord One Thousand Eight hundred & thirty one the following order was made by said court in the case of The State of Missouri against Lambert Lajoye and Madeline Delor upon Petition to foreclose Mortgage, to wit

"It is suggested here to the Court that the original Petition in this case is not on file and there being a Writ of Error from the Supreme Court in this case. On Motion leave is given to file a Petition nunc pro tunc."

Whereupon a Petition was filed in said case endorsed as follows. "This is a petition to foreclose Mortgage filed Nov 29th 1831 for the 11th Nov 1826 by Order of Court. A Gamble Clk" and which said Petition is in the words and figures following Towit.

To the Hon.ble Circuit Court for the County of St Louis

Your Petitioner The State of Missouri respectfully represents that heretofore to wit on the twelfth day of February in the year eighteen hundred and twenty two, towit at the County of St Louis aforesaid Lambert Lajoye and Madeline Delor made their certain Mortgage deed in writing which is now here to the Court shewn, and sealed with their seals the date whereof is the same day and year aforesaid and thereby then and there did assign and transfer to your Petitioner

two lots of ground situated in the Village of Carondelet with all the appurtenances thereto belonging, they being one hundred and fifty feet front by three hundred feet in depth, bounded on the East by the Mississippi river, west by a Main Street South by a lot of Paul Roberts and North by a cross street being the same lot purchased by said Lambert from said Madeline now his wife

Which said premises the said defendants thereby then and there did declare to be in Mortgage to your Petitioner for the payment of the sum of three hundred and fifty dollars with legal interest at the rate of six per centum per annum from the fifteenth day of February 1823 the time when due. And the said defendants did thereby then and there agree that the said Mortgaged premises might be exposed to sale if they the said defendants did not pay the said principal at the time the same became due and the interest that might accrue thereafter And your Petitioner further represents that the said defendants did not pay to your petitioner the said sum of Money to wit the sum of three hundred & fifty dollars, at the time when the same became due nor have they the said defendants, ever paid the same or any part thereof or the interest which has accrued thereon since the time when the same became due and payable, and that the said defendants are still in the possession and occupation of the said premises, Wherefore your Petitioner prays that the equity of redemption in and to the said premises may be foreclosed and the said Mortgaged premises sold to satisfy

the amount now due to your Petitioner."

Yours &c. for the State

The Answer of the said Lambert Lajoye & Madeline his Wife filed in the said Circuit Court on the 5th day of April in the year 1827 to the said Original Petition is in the words and figures following Towit.

"The separate answer of Lambert Lajoye and Madeline Delor his Wife to a petition filed in the Circuit Court of St Louis County wherein the State of Missouri is Complainant and the said Lambert Lajoye & Madeline Delor are defendants.

The defendant saving and reserving to himself &c answereth and saith, that he admits the execution of the Mortgage in the Complainants bill mentioned on the 12th day of February 1822 for the sum of three hundred & fifty dollars in Loan Office Money with six per Centum interest thereon, to become due and payable the 15th day of Febry 1823. That an Act was passed on the 2nd day of June 1821 establishing a Loan Office, under the provisions of this Act your respondent borrowed $350 Loan Office or State paper payable at the expiration of the first year that is on the 15th day of February 1823 by instalments of not more than ten per Cent every six Months, and that according to the Condictions of his contract, the said respondent the debt specified in said Mortgage is not due And this respondent further answereth saith that the Supreme Court of the State this the Complainant solemnly decided that the Act

of the State loaning the said sum of money to your respondent was a violation of the Constitution of the United States and was void, and the said complainant not only by the said conduct of the Supreme Court but by its agents, the Secretary of State, the Attorney General, the Judges of the Circuit Courts & depreciated the value of the said loan office paper lent by the complainant to your respondent in such manner that your respondent could only get in market 75 cents for each dollar, when at the time he borrowed the money & executed the mortgage he considered the loan office worth par, and that after the said complainant had fraudulently and in violation of all good faith reduced the value of the said loan office money 75 per cent, on the 13th day of December 1822 an act was passed by the State alias the complainant which again increased the value of the said loan office paper requiring immediate payment: That the complainant by acts done & performed destroyed the value of the loan office money borrowed and reduced its current value 75 cents in the dollar at which rate of depreciation your respondent was obliged to part with it, and immediately after by various acts practices and arts again increased its current value to 82½ cents in the dollar.

This respondent does not admit that he has ever been called upon in the legal and proper manner for any part of the said sum of money borrowed from the complainant.

This ~~Complainant~~ defendant humbly apprehends that if the contract made between the complainants and the defendant was forbidden by the Federal Compact that the said contract is void, that the deed of mortgage growing out of that contract is a legal nullity and that if the contract was not void and the deed of mortgage a nullity that the said complainant will only be entitled to a claim for $7.75 the sum for which the defendant was compelled to part with the $350 loan office paper for which the mortgage was executed in consequence of its loss of value by the of the said complainant & his agents.

All which matters & things this defendant is hereby to aver maintain & prove as this Honorable court shall award and humbly prays to be hence dismissed with his several costs & charges in this behalf wrongfully expended. Strother Solicitor

The answer of Madeline Delor. This Respondent reserving &c for answer saith that at the period when she executed the deed of mortgage in the complainants petition mentioned she was femme covert the wife of Lambert Lafaye, that she has no knowledge of the transaction for which the deed was executed that this respondent was not legally capable of executing a deed & conveying real Estate in the form and manner as described in the said deed or of making a contract subjecting her to

be brought into this Court in the character of a defendant, she prays to be dismissed hence with her costs & damages in this behalf expended &c Strother Solicitor

Thereupon the said cause was continued from term to term untill the November term of said Court in the year Eighteen hundred and twenty seven at which said term towit on the 17th of January 1828 the said State filed her demurrer to said plea in the words following towit

State of Missouri
vs
Lambert Lajoie & Madeline Delor } Nov Term 1827

And the said State as to the said plea (or answer) of the said defendants by them pleaded & set forth says that the same and the matters therein contained in manner and form as the same are therein pleaded and set forth are not sufficient in law to bar or preclude the said State from having and maintaining its aforesaid action thereof against them, and that the said State is not bound by law to answer the same, and this the said State is ready to verify; wherefore for want of a sufficient plea in this behalf the said State prays judgement &c
Farris Atty for State

And the said cause was continued untill the March Term in the year 1828. at which said term towit on the 3rd day of April in

the year aforesaid the following Judgement was entered in said case to wit

The State of Missouri
vs
Lambert Lajoie and
Madelene Delor

Now at this day come the parties aforesaid by their respective attornies aforesaid whereupon all and singular the premises are by them submitted to the Court which being seen and heard and by the Court here fully understood and mature deliberation being thereupon had for that it appears to the Court that the said plea (or answer) of the said defendants by them above pleaded and set forth says that the same and the matters and things therein contained in manner and form as the same are therein pleaded and set forth are not sufficient in law to bar or preclude the said State from having and maintaining its aforesaid action thereof against him and that said State is not bound by law to answer the same, therefore it is considered that the said demurrer be sustained wherefore inasmuch as the said defendant hath not otherwise answered the petition of the said plaintiff, and it appearing to the Court that the sum of Three hundred and fifty dollars is due on the said Mortgage to the said petitioner and that there is also due the sum of One hundred and Nine dollars thirty seven and one half cents for interest thereon up to this date which said sums the said petitioner is entitled to recover. it is thereupon ordered by the Court that the said Mortgaged premises

towit two lots of ground situated in the Village of Carondelet with all the appurtenances thereto belonging they being one hundred and fifty front by three hundred feet in depth bounded on the East by the Mississippi River west by a main street south by a lot of Paul Roberts and North by a cross Street be sold to pay and satisfy the said sums of Money so found to be due. that is to say the sum of four hundred and fifty nine dollars thirty seven and one half cents with costs and legal interest on said sum untill paid and that the said State have her Execution thereof according to the Statute in such case made and provided.

State of Missouri }
County of St Louis } ss

I Archibald Gamble Clerk of the Circuit Court for the County of St Louis do certify the above and foregoing to be a true and perfect transcript of the record & proceedings to final judgement in the case of Lambert Lajoye and Madeline Delor at the suit of the State as the same still remains in my Office.

Given under my hand and Seal of Office at St Louis this 22nd day of December Eighteen hundred & thirty one

Archibald Gamble Clerk

No 13.

December Term 1831

The State

vs

Lambert Lajoye &
Madeline Delor

Transcript —	$2.10
Certf & Seal —	50
Tax — — — —	62½
	$3.22½

47

filed Decr 24 1831

Jos. C Brown Clk

Examined

STATE OF MISSOURI, } ss.
Third Judicial District,

The State of Missouri, to the Honorable the circuit Court of St. Louis County, **GREETING:**

FOR AS MUCH *as in the record and process, as well as in the rendition of Judgment, on a certain plaint which was in our Circuit Court, for our County of* St. Louis *before our Judge thereof, between* State of Missouri

Plaintiff, *and* Lambert Lajoye & Madeline Delor his wife

Defendant,

in a plea of petition to foreclose mortgage *as it is said, manifest error hath happened, to the great damage of the said* Lambert Lajoy & Madeline Delor his wife *as by* their *complaint we are informed:* WE, *being willing that the error, if any there be, should be duly amended, and full and speedy justice done to the parties aforesaid in this behalf,* COMMAND YOU, *that if judgment be thereupon given, then a transcript of the record of the judgment, with all things touching the same, you certify and send (with this writ) to our Supreme Court, to be holden at the City of St. Louis, within and for the Third Judicial District, on the* fourth Monday *of* December *next, that our Judges of our said Court, inspecting the record of the judgment aforesaid, may cause to be done therein, for correcting the said error, what to them of right, and according to law, shall seem meet to be done.*

In Testimony Whereof, *I,* JOSEPH C. BROWN, *Clerk of our Supreme Court for the Third Judicial District, have hereunto set my hand and seal of Office, at Office, this* Second *day of* November *in the year of our Lord one thousand eight hundred and* ~~thirty~~ one *and of the Independence of the United States of America, the* fifty seventh

Jos. C. Brown clerk

In obedience to the within Writ I herewith certify to the Supreme Court a transcript of the record & proceedings in said case

Archibald Gamble Clerk

Writ 1.50
Tax .62½
$2.12½

Rec'd the above from Col. Lawlis

J. C. Brown
Clerk

State of Missouri } ss
County of St Louis } Be it remembered that on the Eleventh day of November in the year One Thousand eight hundred and twenty six Robert P Farris Esquire Circuit Attorney for the Third Judicial Circuit filed in the office of the Clerk of the Circuit Court for the County of St Louis The Petition of the State of Missouri to foreclose Mortgage against Lambert Lajoye and Madeline Delor which said petition is in the words and figures following to wit

To the Honble Circuit Court for the County of St Louis.

Your Petitioner the State of Missouri respectfully represents that heretofore to wit on the eleventh day of March in the year of our Lord One Thousand eight hundred and twenty five, to wit at the County of St Louis aforesaid Lambert Lajoye and Madeline Delor made their certain Mortgage deed in writing which is now here to the Court shewn, and sealed with their seal the date whereof is the same day and year aforesaid and thereby then and there did assign and transfer to your petitioner one lot of ground situated in the City of St Louis containing thirty front meaning thereby thirty feet front on Third Street by one hundred and fifty in depth French Measure, bounded on the North by a cross Street which seperates it from the lot of Vital Beaugenon on the east by said Third Street, on the South by a lot belonging to said Lambert which said premises the said defendants thereby then and there did declare to be in Mortgage to your

Petitioner for the payment of the balance due by said Lambert Lajoye to the Loan Office of the fourth district upon a loan of the sum of three hundred and fifty dollars which said Loan was made on the fifteenth day of February eighteen hundred and twenty two with legal interest accruing upon said balance of said Loan thereafter. And the said defendants did thereby then and there agree that the said Mortgaged premises might be exposed to sale if they the said defendants did not pay the said principal at the time when the same became due and the interest that might accrue thereon thereafter.

And your petitioner further represents that the said defendants did not pay to your petitioner the said sum of Money, three hundred and fifty dollars at the time when the same became due, nor have they the said defendants ever paid the same or any part thereof or the interest which has accrued thereon since the time when the same became due and payable and that the said defendants are still in possession and occupation of the said premises. Wherefore your petitioner prays that the Equity of redemption in and to the said premises may be foreclosed and the said Mortgaged premises sold to satisfy the amount now due to your petitioner

James Filly for State by
Joseph Charles Jr

upon which Petition the Clerk of the said Circuit Court endorsed a writ of summons in the words and figures following to wit

The State of Missouri County of St Louis Set

To the Sheriff of said County Greeting

We command you to summon Lambert Lapoye Madeline Delor that they be and appear before the Judge of our Circuit Court at the next term thereof to be held at the City of St Louis within and for the County of St Louis on the fourth Monday of November instant then & there to answer to the State of Missouri and shew cause if any they have why the Mortgage in the petition of said State mentioned should not be foreclosed and the said Mortgaged premises sold to satisfy the amount now due to said petitioner. And have you then & there this writ

L S

Witness Archibald Gamble Clerk of our said Court at Office this 11th day of November 1826

Archibald Gamble Clerk

And the Sheriff of St Louis County to whom the said writ was directed returned the same into Court on the return day thereof with his return thereon endorsed as follows

"Came to hand too late to Execute Nov 11th 1826

P Simpson Sheriff

Whereupon an Alias writ was prayed in said case and issued in words & figures following to wit

County of St Louis ss

The State of Missouri

To the Sheriff of St Louis County

Greeting

We command you summon Lambert Lapoye and Madeline Delor that they be and appear before the Judge of our Circuit Court at the next term thereof to be held at the City of St Louis within and for the County of St Louis

on the fourth Monday of March next then and there to answer to the State of Missouri and shew cause if any they have why the Mortgage in the petition of said State mentioned should not be foreclosed and the said Mortgaged premises sold to satisfy the amount now due to said petitioner. And have you then there this writ

Witness Archibald Gamble Clerk of our said Court at Office this 7th day of February 1827

Archibald Gamble Clerk

And the sheriff of St Louis County to whom the said Writ was directed returned the same into our said Court with his return thereon endorsed as follows to wit "Executed this writ on Lambert Lajoye & Madeline Delor his Wife March 9th 1827 in the City of St Louis by reading the same to them. R Simpson Sheriff By Ind Simonds Jr Dt Sheriff"

And the said term to wit on the 5th day of April in the aforesaid the said defendant Lambert Lajoye by his attorney filed in said Court his answer to said petition in the words & figures following to wit.

"The seperate answer of Lambert Lajoye to a petition filed in the Circuit Court of St Louis County wherein the State of Missouri is complainant and Lambert Lajoye and Madeline Delor his Wife are defendants.

This defendant saveing and reserving to himself &c Answereth and saith, that he admits that he executed the Mortgage; That an act was passed by the State of Missouri (the complainant) on the 27th day of June in the year

1821 establishing Loan Offices and emitting a paper circulating medium. That your respondent in February 1822 borrowed from the Officers appointed by the State clothed with full power to lend $350 in loan office money payable in 12 months with six per cent interest and to secure the payment of the said $350 loan office money executed the Mortgage described in the complainants petition, that by the terms of the contract the principal sum of $350 was payable by instalments of ten per cent to commence from 12 months after the loan office money was borrowed every six months and that according to the conditions of the said contract the money is not due to secure the payment of which the Mortgage was executed. And this respondent further answereth saith that the Supreme Court of this State (alias the complainant solemnly decided the law erecting the Loan Office and the act of the State alias the complainant lending the said $350 to this respondent a violation of the Constitution of the United States and void, and your respondent not only by their said conduct of the Supreme Court but by other its agents; the Circuit Court Judges, the Secretary of State Attorney General &c so depreciated the Loan office rent by the complainant to the defendant that your respondent could only pass the said loan office paper thus borrowed at twenty five cents in the dollar when at the time he borrowed the money and executed the Mortgage he considered the loan office paper worth par or dollar for dollar for the purpose he intended to employ it. That after the said complainant

had fraudulently and in violation of all good faith reduced the value of the loan office paper seventy five per cent. on the 13th of December 1822 an act was passed by the State of Missouri alias the complainant requiring the immediate payment of all sums of loan office paper borrowed from the Government upon such conditions as increased the value of the loan office paper to 82½ cents in the dollar. That the complainant by acts done and performed destroyed the currency of the loan office paper and depreciated its value to 75 per cent or to 25 cents in the dollar at which rate of percentum your respondent was obliged to part with it, and immediately after by various acts and devices raised its current value to 82½ cents in the dollar to the manifest injury of this respondent and all others who borrowed loan office paper from the complainant. This respondent denies that he has been called upon in a legal or proper manner according to the terms of his contract for any part of the said $350. This respondent humbly apprehends that if the contract between the complainant and defendant was forbidden by the Federal compact, that the contract is void and that the deed of Mortgage growing out of and standing upon that contract must be a legally nullity, and is not a foundation for a Decree; and if the contract is legal and the deed of Mortgage operative the complainant can only in equity and justice be entitled to a decree for $87.75 cents the sum for which the defendant was compelled

to sell the $350 of loan Office paper in consequence of its loss of value by the representations of the said Complainant and his agents All which matters and things this defendant is ready to aver maintain and prove as the honorable Court shall award, and humbly prays to be dismissed hence with his reasonable costs and charges in this behalf wrongfully expended. Strother Solicitor

"The Seperate answer of Madeline Delor

This respondent reserving &c for answer saith at the period when the deed of Mortgage mentioned in the Complainants petition purports to have been executed she was a femme covert and is now a femme covert, the wife of Lambert Lajoye, was not at that time legally capable to execute a deed conveying real estate in form and manner as described in said deed or of making any contract which could subject her to be brought into this Court as a defendant this respondant has no knowledge of the transaction which produced the Execution of Sd deed, and prays to be dismissed hence with her costs. Strother Solicitor

Thereupon this cause was continued to the July term in the year aforesaid and at said term continued untill the November in the year 1827 at which said term to wit on the 17th day of January in the year 1828 the said Petitioner the Circuit Attorney aforesaid filed her Demurrer to said Answer in the words & figures following

State of Missouri
vs
Lambert Lajoye &
Madaline Delor

Nov Term 1827

And the said State as to the said plea (or answer) of the said defendants by them pleaded & set forth, says that the same, and the matters therein contained, in manner and form as the same are therein pleaded and set forth, are not sufficient in law to bar or preclude the said State from having and maintaining its aforesaid action thereof against them, and that the said State is not bound by the law to answer the same and this the said State is ready to verify wherefore for want of a sufficient plea in this behalf the said State prays judgment &c Farris Atty for State.

Thereupon this case was continued to the March term in the year Eighteen hundred and twenty eight at which said term to wit on the 29th day of ~~April~~ March in the year aforesaid "Come the parties aforesaid by their respective attorneys aforesaid whereupon all and singular the premises are by them submitted to the Court which being seen and heard and by the Court here fully understood and mature deliberation being thereupon had, for that it appears to the Court that the said plea (or answer) of the said defendants by them above pleaded and set forth says that the same, and the matters ~~and things~~ therein contained in manner and form as the same are therein pleaded and set forth are not sufficient in law to bar or preclude the said State from having and maintaining its aforesaid action thereof against them, and that the said State is not bound by

law to answer the same therefore it is considered that the said Demurrer be sustained, wherefore in asmuch as the said defendant hath not otherwise answered the petition of the said plaintiff and it appearing to the Court that the sum of Three hundred and fifty dollars is due on the said Mortgage to the said petitioner and that there is also due the sum of One hundred and twenty eight dollars fifty six cents for interest thereon up to this date which said sums the said Petitioner is entitled to recover, it is therefore ordered by the Court that the said Mortgaged premises to wit "One lot of ground containing thirty feet front on Third street by one hundred and fifty feet in depth French Measure bounded on the North by a Cross street which seperates it from the lot of Vital Beaugenon on the East by said Third street on the South by a lot belonging to said Lambert" be sold to pay and satisfy the said sums of Money so found to be due that is to say the sum of four hundred and seventy eight dollars fifty six cents with costs and legal interest on said sum until paid and that the said State have her Execution thereof according to the Statute in such cases made and provided.

State of Missouri }
County of St Louis } ss I Archibald Gamble Clerk of the Circuit Court for the County of St Louis do certify the above and foregoing to be a true and perfect transcript of the record and proceedings to force judgement in the case of the State vs Lambert Lajoie & Wife, as the same still remains in my Office

Given under my hand and the seal of said Court at Office this 27th day of November 1851

Archibald Gamble Clerk

12

December Term 1831

The State
vs
Lambert Layoye &
Madeline Dellor

46

Transcript $2.50
Certificate — 50
Tax ——— 62½
$3.62½

filed Decr 24. 1831
Jos. C Brown Clk

Examined

Lambert Cassage & wife
v.
State of Missouri } In Error

S. Court Dec. term 1831

Afterwards to wit on the first day of the December term of the supreme court come the said Lambert Cassage and his wife and say that in the record and proceedings aforesaid as also in the rendition of the judgment aforesaid there is manifest error in this to wit that whereby said record it appears that judgment is given for said State of Missouri against said Lambert Cassage and wife nevertheless the said judgment by the law of the land ought to have been given for the said Lambert Cassage and wife against said State of Missouri

And they pray that said judgment for that error and others in the record & proceedings aforesaid being may be revoked annulled & held entirely void and that said Lambert Cassage & wife may be restored to all things which they have lost by reason of the judgment aforesaid and that said State of Missouri to those errors may rejoin

Cawl
J. F. Hopp — Error

No. 12 –

Cambert Casey & wife

State of Missouri

Assignt. of Drawers

filed Dec. 24. 1831

Jos C Brown Clk

48

Lamb
Hoffer – Dra

Cambert Lafayette & wife } In Error
State of Missouri }

S. Court Dec. term 1831 –

Afterwards to wit on the first day of the December term of the Supreme Court of the State of Missouri come the said Cambert Lafayette and wife by their attorney and say that in the record and proceedings aforesaid there is manifest error in this to wit that by the record aforesaid it appears that the judgment aforesaid was given for the said State of Missouri against the said Cambert Lafayette and wife when by the law of the land that judgment ought to have been given for said Cambert Lafayette & wife against said State of Missouri and therefore in that ~~therefore~~ there is manifest error

And they pray that the judgment aforesaid for these & other errors being in the record & proceedings aforesaid may be reversed and held as entirely void and that they may be restored to all things which they have lost by reason of the judgment aforesaid and that said said State by its attorney to the errors aforesaid may rejoin

Cambert
Pl. Pltff – Error

No. 13

Pamphil Lafosse & Wife

Acts of Missouri

Assignt of Evans

filed 24th Decr 1831

Jos C Brown Clk

Pamphil

Lafosse Evans