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## Florida Case Law

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BALOGH v. CLEYS, 181 So.2d 363 (Fla.App. 3 Dist. 1965)

JULIEN E. BALOGH, APPELLANT, v. HENRY CLEYS, APPELLEE.

No. 65-316.

District Court of Appeal of Florida, Third District.

December 14, 1965.

Rehearing Denied January 12, 1966.

Appeal from the Circuit Court for Dade County, James W. Kehoe, J.

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Fink & Syna, Miami, for appellant.

Guilmartin & Bartel, Richard M. Gale, Miami, for appellee.

Before HENDRY, C.J., and TILLMAN PEARSON and BARKDULL, JJ.

PER CURIAM.

The appellant sued the appellee, payee, upon an alleged indorsement of a series of notes. These notes had been transferred to the appellant when he purchased the stock and assets of the corporation making the notes. At the conclusion of a non-jury trial, the court found for the defendant, and this appeal followed.

The trial judge's findings of fact are as follows:

"\* \* \* the plaintiff failed to establish by a preponderance of the evidence that the instrument denominated Assignment and Endorsement was attached to the promissory notes here in issue at the time of its execution; the Court finding that such promissory notes were not themselves endorsed and that said instrument did not constitute an endorsement, but merely an assignment under which plaintiff took title to such notes, subject to all available defenses of the defendant, including notice of dishonor; that such notes were never intended by the parties to be part of a sales transaction entered into between plaintiff and defendant which was finally closed on November 28, 1958; that there was no consideration given by plaintiff in exchange for and to support enforcement of such promissory notes as against the defendant; and that the defendant, although failing to sustain his affirmative defense that the notes in issue were held for an unlawful, illegal or fraudulent purpose, having otherwise sustained his defenses to the plaintiff's claim, and the Court being otherwise fully advised in the premises, it is

thereupon,

"ORDERED AND ADJUDGED, that final judgment be and the same is hereby entered in favor of the defendant and against the plaintiff \* \* \*."

The record fully supports the trial judge's finding that the notes were not indorsed in the manner required by section 674.34, Florida Statutes, F.S.A., which provides:

"Indorsement. – The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement."

We also specifically find that the record fully supports the trial judge's finding that there was no consideration for the alleged indorsement.

Having reached this conclusion, it is not necessary to discuss the other findings of the trial judge.

Affirmed.

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