

Case No. 4,822a.
[Hempst 82.]¹

FISHER v. REIDER.

Superior Court, Territory of Arkansas.

Nov., 1829.

APPEAL—REVERSAL ON TECHNICAL GROUNDS.

1. A party is not allowed to complain of a fault committed by him.
2. An appellate court will not reverse a judgment on technical grounds, where substantial justice has been done.

[Approved in *Cook v. Gray*, Case No. 3,156a.]

Appeal from Pulaski circuit court

At law.

Before JOHNSON, ESKRIDGE, BATES, and TRIMBLE, Judges.

OPINION OF THE COURT. This is an action of debt brought by the appellee against the appellant in the circuit court of Pulaski county, and Comes to this court by appeal. It appears from the record, that the defendant in the court below filed his plea of payment, to which the plaintiff replied; and the defendant refusing to join issue by adding a similiter, a judgment on that account was rendered against him, and he now contends that this judgment should be reversed.

The judgment, although not strictly and formally correct, is certainly substantially good, and ought not to be reversed at the instance of the appellant, who was in fault-in not completing the pleadings. Admitting the English practice, in a case like this, to be, to strike out the plea and enter judgment by default, it is not perceived what advantage it has over the practice heretofore adopted

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by this court in the case of Russell v. Flanakin [unreported], in which a judgment precisely similar was entered. The defendant in refusing to join issue abandoned his defence, and the plea, though not actually, was virtually, stricken out. It is a mere matter of form, and when substantial justice has been done between the parties, this court would be unwilling to reverse the judgment of the inferior court on mere technical objections of a doubtful character. Judgment affirmed.

¹ [Reported by Samuel H. Hempstead, Esq.]