

RUSSELL v. LUCAS.

{Hempst. 91.}¹

Superior Court, Territory of Arkansas. July, 1830.

PAYMENT—HOW APPLIED—PRINCIPAL AND INTEREST.

1. Payments should be applied to extinguish the interest, and then the principal.
2. Proper mode of computing interest stated.

{This was a judgment at law, obtained by William Russell against James H. Lucas. Heard on motion for a scire facias.}

Scire facias to revive judgment.

Before JOHNSON, ESKRIDGE, and CROSS, JJ.

OPINION OF THE COURT. The only question to be decided is as to the mode of calculating interest. We are of opinion that the correct mode of casting interest when partial payments have been made is to apply the payment in the first place to the discharge of the interest then due, and, if the payment exceeds the interest, the surplus goes towards discharging the principal, and the subsequent interest is to be computed on the balance of principal unpaid. If the payment be less than the interest, the surplus interest must not be taken to augment the principal, but interest continues on the principal until the period when the payments taken together exceed the interest due, and then the surplus is to be applied towards discharging the principal, and the interest is to be computed on the balance of the principal as above stated. {Tracy v. Wikoff} 1 Dall. [1 U. S.] 124, 6 N. J. Law, 408; Smith v. Shaw [Case No. 13,107]; 5 Cow. 331. Judgment for plaintiff.

¹ {Reported by Samuel H. Hempstead, Esq.}

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