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as well the said Richard Penn Lessee as aforesaid by William Rose his attorney, as also comes William Perry and Eliza A. D. his wife, Elias Ichenay and Sarah Ann his wife by Johns Nelson and Frederick A. Schley their attornies. Whereupon as well the record and proceedings aforesaid and the judgment given in form aforesaid and the several bills of exceptions transmitted therewith as the matters aforesaid by the said Richard Penn Lessee as aforesaid above for error assigned being seen and by the court of Appeals here fully understood and mature deliberation thereupon had, for that it appears to the court here that there is no error in the opinion of the said county court as given and set forth in the first bill of exceptions certified with the record and proceedings aforesaid. It is considered by the court here that the said opinion of the said county court be affirmed and stand in full force and effect in law. But for that it appears to the court here that there is error in the opinion of the said county court, in their not instructing the Jury as given and set forth in the second bill of exceptions certified as aforesaid. It is considered by the court here that the said opinion of the said county court be reversed, annulled and held as void in law. Wherefore for that it appears to the court here that in the record and proceedings of the said county court, and also in the rendition of the judgment aforesaid there is manifest error. Therefore it is considered by the court here that the judgment aforesaid in form aforesaid given by the said county court be reversed, annulled and held entirely as void, and that the said Richard Penn Lessee as aforesaid, be restored to all things which by reason of the judgment aforesaid he hath lost. It is also considered by the court here that the said Richard Penn Lessee as aforesaid recover against the said William Perry and Eliza A. D. his wife and Elias Ichenay and Sarah Ann his wife the sum of two hundred and eighty dollars and twenty one cents, for his costs and charges by him laid out and expended about his prosecution of the said appeal of and upon the premises, and that the said Richard Penn Lessee as aforesaid have thereof execution.

Thereupon the court here pursuant to the directions of the acts of assembly in such case made and provided, order and direct a commission of the transcripts of the record and proceedings aforesaid to the clerk of the county court of Frederick, with the writ of the State of Maryland of Procedendo to the said county court directing them to proceed in the action aforesaid, and to a new trial thereof in the same manner as if no trial had taken place or any appeal had been prosecuted.

The Transcripts of the Record and proceedings aforesaid with the said writ of Procedendo are thereupon remitted to the clerk of the county court of Frederick accordingly &c.

Test

John Johnson Clk.