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Cole v. Rush

Roger J. Traynor

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[L. A. No. 22358. In Bank. Jan. 20, 1953.]

DOROTHEA COLE et al., Appellants, v. PAUL RUSH et al.,
Defendants; FRANK VAN STONE, Respondent.

[1] Appeal—Orders Appealable—Orders on Demurrers.—An order sustaining a demurrer without leave to amend is nonappealable, and an appeal from such order will be dismissed by the Supreme Court on its own motion.

APPEAL from an order of the Superior Court of Los Angeles County sustaining a demurrer without leave to amend. Philbrick McCoy, Judge. Appeal dismissed.

John C. Stevenson and Lionel Richman for Appellants.

Parker, Stanbury, Reese & McGee and A. P. G. Steffes for Respondent.

THE COURT.—[1] This is an appeal from an order sustaining a demurrer without leave to amend. Such an order is nonappealable (*Evans v. Dabney* (1951), 37 Cal.2d 758, 759 [235 P.2d 604], and authorities there cited; 3 Cal.Jur.2d 476), and this court must, therefore, dismiss the appeal of its own motion. (*Collins v. Corse* (1936), 8 Cal.2d 123, 124 [64 P.2d 137]; *Estate of Brady* (1948), 32 Cal.2d 478, 480 [196 P.2d 881]; *Rosenberg v. Knesboro* (1947), 80 Cal.App.2d 36, 38 [180 P.2d 750]; see, also, 4 Cal.Jur.2d 337, and cases there cited.)

The appeal is, therefore, dismissed.

[1] See Cal.Jur.2d, Appeal and Error, §§ 48, 498; Am.Jur., Appeal and Error, § 71.

McK. Dig. Reference: [1] Appeal and Error, § 40.