the other executor; because until the entire cause of suit has been barred or satisfied, each executor is liable for the whole, so far as he may have assets. And so upon a bill of revivor against several, although but one of the defendants by his answer insisted, that he had no title to revive: it was held, that the plaintiff must at the hearing shew, that he had a good title to revive, or he could take nothing by his suit.(*l*)

A bill was filed in the Court of Chancery of New York, by *Morris* and *Mowatt*, as assignees of *Sands*, a bankrupt, against *Clason* and *Stanly*. From which case, among a variety of other circumstances, it appears, that the defendants had been partners in trade, and as such had obtained a judgment at law against *Sands*, and had also obtained a right to another judgment against him by assignment. After which *Sands* became a bankrupt; and some time before the institution of this suit, the partnership between the defendants had been dissolved. The bill prayed a discovery of what was due to the defendants, or from *Clason* to *Sands*, &c.; that satisfaction might be entered up on the judgments; and that an injunction issue to restrain the defendants from proceeding by execution, &c. The defendant *Clason* put in his answer relying on a variety of facts and circumstances in his defence, &c. *Stanly*, residing out of the State, the bill, as against him, was taken *pro confesso*, for want of appearance, after a regular advertisement to come in and answer. Testimony having been taken, and the case heard, it was decreed, that the two judgments were to be deemed fully satisfied, and to be so entered accordingly. From this decree *Clason* appealed, and the Chancellor, in assigning the reasons for his decree to the appellate court, says, speaking of the circumstance of *Clason* only having answered and made defence in the Court of Chancery, that "There was evidence, that the copartnership between *Clason* and *Stanly* was long since dissolved; and the bill having been taken *pro confesso* against *Stanly*, which entitled the plaintiffs to a decree against him, and the proceedings against the defendant *Clason* concluding to the same point, it was useless to trace what might have been the effect of a different state of things."

The judge, with whose opinion a majority of the members of the appellate court concurred, among other things, says, in relation to the matter under consideration in this case—"The first question

---

(*l*) Harris *v.* Pollard, 3 P. Will. 348.