

James Vs. Allen

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Court : US Supreme Court

Decided On : 1786

Appeal No. : 1 U.S. 188

Appellant : James

Respondent : Allen

Judgement :

JAMES v. ALLEN - 1 U.S. 188 (1786)

U.S. Supreme Court JAMES v. ALLEN, 1 U.S. 188 (1786)

1 U.S. 188 (Dall.)

James et al.

v.

Allen

Court of Common Pleas, Philadelphia County

September Term, 1786

The case was this: The Plaintiffs and the Defendant had been concerned together in trade; and upon settling their accounts, a considerable ballance appeared against Allen; for the recovery of which an action was brought in the State of New Jersey in May 1782; and judgment was therein obtained in November following,

when a Fi. fa. issued, and on a return of Nulia bona to that writ, a Ca. Sa. was sued out returnable to May 1783 In the mean time, the Defendant, on the 27th of April 1783, was arrested in Pennsylvania for the same debt, and gave bail; but, on his return to New Jersey, he was there taken on the Ca. Sa. which

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had issued in that State against him; and, afterwards, in October, 1783, was discharged by their Act of Insolvency. A rule to plead had been entered in the action brought in Pennsylvania at June Term 1783, and judgment was signed for want of a plea, at the ensuing September Term. Bradford moved to set the judgment of this Court aside, or to open it in order to admit the Defendant to plead the proceedings and discharge in New Jersey. Upon the argument it was stated, and agreed, that no person was entitled to relief under the Insolvent Law of New Jersey, who was not born in that state, or had not resided in it one year free from arrest; that a man indebted to any amount was entitled to the benefit of it; that a person not in execution was not excluded; that the Act requires notice to be inserted in the public papers of New York if the debtor lives in East Jersey, or in those of Pennsylvania if he lives in West Jersey; and that every debtor, who complied with the terms of the Act, became thereby expressly discharged from all debts due at the time of the assignment of his effects for the use of his creditors, or contracted for before that time and payable after, 'so far as regards the imprisonment or detention of his person.' Bradford and Lewis, in support of the motion, contended that the benefit and effect of the New Jersey law ought, in the present case, to be extended to Pennsylvania, as well by the general principle of the law of nations, as by the particular obligation arising from the articles of confederation. 1. They observed, that by the Law of Nations, every transaction, not yet compleated, which has a view to its completion in a foreign country, must be determined according to the municipal law of that country: But, if perfectly compleat in the country in which it originated, the Lex Loci that decided, must protect it in every other country where the validity of the transaction is called in question. 1 Black. Rep. 258. 2 Burr. 1078. Finch 186. 2 Show. 231. If the validity of a contract depends upon the laws of a foreign country in which it is perfected, and

cannot be affected by any arguments drawn from the laws of the country where a subsequent action is brought, certainly a judicial decision (which, like an Act once in force, but afterwards repealed, vests a right in the party, though its immediate operation is impeded) cannot be otherwise expounded and enforced than by the laws of the country where it is pronounced: And proceedings under the Insolvent Act amount to a judicial decision; for, they determine a debt, and give a remedy. Sir T. Raym. 473. They might, indeed, be said to amount to more; as, in giving the creditor all the advantage of the debtor's effects they become a species of execution, and, therefore, may be considered a satisfaction. It is no small injustice, when a debtor has been compelled to assign all his effects, when he has given every satisfaction that he possibly can, to pursue his footsteps, on every charge of situation, and commit him again and again into custody. If the suit in New Jersey had terminated in another manner, for instance,

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by a verdict in favor of the Defendant, that would clearly have been a bar to the action here. 2. But, should the Defendant find no protection under the law of nations, the 4th Article of the Confederation, effectually supplies that defect. The article declares, that 'full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings, of the Courts and Magistrates of every other State.' Now, if a judgment, or other judicial proceeding in New Jersey had not been evidence before, this provision (to the true sense of which the law of Pennsylvania is subservient) would have made it so-if it was only prima facie evidence before, this would render it conclusive. What Lord Mansfield declares in Doug. 5. to be the case with respect to certain Courts in Westminster Hall (whose decisions and proceedings are unexaminable evidence) is also true when applied to the several Courts of Justice in the States of the American Union; and the discharge in New Jersey may be carried about by the Defendant into each of those states, as an impenetrable suit of armour to guard him from all future attacks upon his liberty, for a cause of action existing at the time it was granted. The motion was opposed by Coxe, Ingersol, and Sergeant, who argued that judgments in foreign Courts were only prima facie evidence, except in Courts of Admiralty,

whose decrees were conclusive, because founded upon the law of nations, which is common to all the world; that as a judgment without satisfaction could not bar an action for the same debt in another country, 3 Atk. 598. much less would the proceedings under the Act in question, which did not extinguish, or even alter the debt; but only discharged the person of the debtor from arrest within the State of New Jersey. That this was entirely a municipal regulation, calculated to protect the inhabitants of New Jersey from their creditors in New York and Pennsylvania; to the inhabitants of which states, the citizens of New Jersey (owing to their having no sea port, and paying an interest of 7 per Cent. for money) were constantly indebted; so that the extension of the Act did not deserve to be favored here. That in the case of Lopez, in the Court of Appeals, and in the cause between Connecticut and Pennsylvania, depositions taken in Connecticut, according to one of their statutes, were not admitted to be read, because contrary to the common law. That the payment of interest for money lent, was the only instance regulated by foreign laws. That a certified English bankrupt, was liable to arrest in Ireland. That, even if the validity of a foreign proceeding is admitted, a right to examine the ground, upon which it was founded, remains; and, therefore, that it might be proved, that the Defendant was not entitled to the benefit of the Act; as he was not a native of New Jersey, nor had he resided there one year previous to the arrest. That, upon the whole, it would be extremely hard, after the creditors on the spot who, having joined in the petition according to the directions of the Act, had shared the spoils; an absent creditor, who never knew of the discharge, should be barred.

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SHIPPEN, President. This is a motion, in effect, to discharge the Defendant from execution, on the ground of his having been confined by a Ca. Sa. for the same Debt in the State of New Jersey, and there discharged as an insolvent Debtor, by virtue of an Act of Assembly of that State: And the question is, whether the discharge of his person from imprisonment there, will intitle him to a like discharge here? It is contended, that the decisions of even foreign Courts of Justice, shall have a binding force here; and that in the situation in which we stand with regard to New Jersey, a Sister State, we are under an additional obligation to pay respect

to the decisions of the Courts there, by the terms of the Articles of Confederation. The Judgment of a foreign Court establishing a demand against a Defendant, or discharging him from it, according to the laws of that country, would certainly have a binding force here: And not only the decisions of Courts, but even the Laws of foreign countries, where no suits have been instituted, would in some cases be taken notice of here; where such laws are explanatory of the contracts, and appear to have been in the contemplation of the parties at the time of making them; as if the interest of money should be higher in a foreign country where the contract was made, than in that where the suit was brought, the foreign interest shall be recovered, as being understood to be part of the contract. But it does not follow that every order of a foreign Court with respect to the imprisonment of the Defendant's person, or any local laws of that country, with regard to his release from confinement, can have the effect of restraining us from proceeding according to our own laws here. The insolvent law of New Jersey relates not to the substance of the Plaintiff's demand, which had already been established, but merely authorizes the Court to make an order, on certain terms, for the discharge of the Defendant's person from imprisonment; which order has no connection with the merits of the cause, and cannot with any propriety be called the judgment of the Court in that action; and the law itself on which the order was founded, is a private act, made for that particular purpose; it is local in its nature, and local in its terms. Insolvent laws subsist in every State in the Union, and are probably all different from each other; some of them require personal notice to be given to the creditors, others do not, as in the present case; and they have never been considered as binding out of the limits of the State that made them. Even the Bankrupt Laws of England, while we were the subjects of that country, were never supposed to extend here, so as to exempt the persons of the Bankrupts from being arrested. The Articles of Confederation, which direct that full faith and credit shall be given in one State to the Records, Acts, and judicial proceedings, of the others, will not admit of the construction contended for, otherwise executions might issue in one State upon

the judgments given in another; but seem chiefly intended to oblige each State to receive the records of another as full evidence of such Acts and judicial proceedings. [*](#)

Whatever might have been the effect of an order or judgment of the Court of New Jersey, if it had actually discharged the Defendant from the Plaintiff's demand, the present order, as well as the Act of Assembly on which it is founded, is local in its terms, and goes no further than to discharge him from his imprisonment in the Gaol of Essex County in the State of New Jersey; which, if the fullest obedience were paid to it, could not authorize a subsequent discharge from imprisonment, in another Gaol, in another State.

The motion is, therefore, not granted. Footnotes

[[Footnote *](#)] See post. Phelps vs. Holker, and Mittar vs. Hall in the Supreme Court.

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