Miller Vs. Hall

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Court : US Supreme Court

Decided On : 1788

Appeal No. : 1 U.S. 229

Appellant : Miller

Respondent : Hall

Judgement :

MILLER v. HALL - 1 U.S. 229 (1788)
U.S. Supreme Court MILLER v. HALL, 1 U.S. 229 (1788)

1 U.S. 229 (Dall.)

Millar
v.
Hall

Supreme Court of Pennsylvania

January Term, 1788

RULE to show cause why an Exoneretur should not be entered on the bail-piece. The Defendant had obtained his discharge under the insolvent law in the State of Maryland, which law was enacted subsequent to the debt in question, and to the institution of this suit. It was stated, and allowed, that the money for which the

action was brought, had been paid to Hall in Maryland, on account of goods sold and delivered upon a commission as the partner of Millar; but that the original agreement under which they acted in the sale of those goods was executed in Philadelphia, and that the proceeds belonged to merchants residing in Pennsylvania, where, consequently, the payment was to be made. It was, likewise, admitted, that the Defendant was resident in, and subject to the laws of, Maryland, and that the Plaintiff was resident in, and subject to the laws of Pennsylvania: And it did not appear to the Court that the Plaintiff was returned as a creditor in the Defendant's schedule; nor was any notice of the time and place of surrender served upon him, though a general publication, of the Defendant's intention to take the benefit of the Insolvent law, was made, in the usual form, in the Baltimore Gazette.

Moylan, in showing cause against the rule, argued, that according to the strict idea of a municipal law, it was limited in its operation to the jurisdiction of the state that made it; for jus civile est quod quisque fibi populus constituit; and to a free people particularly, it must appear unreasonable that there should be legislation where there is no representation. 2 Inst. 98. There are, however, he acknowledged, cases in which an indirect effect is given to foreign statutes

in order to accomplish the rules of justice; as in the instance of contracts entered into in other countries; or of bargains which are unlawful where made; or of a certifcate obtained under a bankrupt law in a foreign nation, of which both debtor and creditor are members and subjects. Prin. of Eq 363. 1 Black. Rep. 234. 256. But still, in all these exceptions, the foreign statutes, as such, have no coercive authority extra territorium, but are received only by consent as far as they are necessary to justice. He then contended from the facts, that the Defendant did not come within the principle of any of the cases referred to; for, as the Plaintiff was not a subject of Maryland, it cannot be presumed that either by himself or his representatives, he has consented to the Defendant's discharge, or rather to the law, by which that discharge was authorized; that, as between the Plaintiff and Defendant, the place of the contract, which the law materially regards, was

Philadelphia, where the merchants to whom the money was, in fact, payable, resided; and that even if the contract had been made in Maryland, the Defendant would not be in a better condition on that account, as the law under which he was discharged, was enacted several years afterwards, and, therefore, could not have been in the contemplation of the parties in making their agreement. He urged, likewise, the inconveniencies that would attend the adverse doctrine, from a variety of considerations. Suppose there had been no bankrupt law in Pennsylvania, and that, in truth, our Legislature disapproved of it, yet, every debtor by going into Maryland and complying with the terms of their General Act, or, perhaps, by virtue of a special one, might obtain a certificate, which, it is contended, would discharge him from his creditors here; and thus another state would make laws for us, not only without our consent, but contrary to our interior policy. Again, if no other notice is required than an advertisement in a Maryland newspaper, which the citizens of Pennsylvania seldom read, the spoils may be shared among the creditors present, to the exclusion of the absent; who, at the same time, have been guilty of no fault or negligence, but, if they had been apprized of the transaction, might have suggested such circumstances of fraud, as would prevent the granting the very certificate, which is set up as a conclusive bar to their just demands. In England the king is not bound by the bankrupt laws, 1 Atk. 303. and shall we be bound, who are not in any degree connected with the government that made them? If Maryland had given a preference to her own citizens in the distribution of an insolvent's, or a bankrupt's estate, ought we, who are strangers, to be affected by the certificate of discharge, though we derive no benefit from the surrender of property? Where, or how, is the line to be drawn? If, indeed, the certificate is to be universally operative, so ought the assignment of the bankrupt's estate to be, since the words of the bankrupt laws are, in this respect, as comprehensive and forcible, as in that; and yet it is an established doctrine, that the assignment is only binding in the state in which the commission issues. Doug. 160. The act of

Maryland is an insolvent, and not a bankrupt law, as it works no extinguishment of the debt, but leaves all future acquisitions of property liable to the creditors of the person discharged: And in the case of James et al. vs. Allen ant. 188. SHIPPEN, President determined that an insolvent law of New Jersey was local in its terms, and local in its nature. Ingersol, in support of the rule, having stated that an Exoneretur might be entered without an actual surrender of the principal: Barn. 194. 1 Com. Dig. 496. and proved that the Defendant had complied with the terms of the insolvent law of Maryland, observed, that imprisonment had been thought by very judicious writers, to be an act illegal in itself; Burgess on Insolv. and it seems, indeed, that the only reasonable justification of it, is to compel a debtor to surrender all his effects for the benefit of his creditors. When that is done, it is not only unreasonable and unjust, but, by the express provision of the Const. of Penn. S. 8, independent of the doctrines founded on the common law, it is illegal to restrain a man's personal freedom. He then contended, that from general principles, from positive authorities, arising under the bankrupt laws of different countries, from the reason of the thing, and from the mischievous consequences of a contrary position, the discharge of the Defendant in one state, ought to be sufficient to discharge him in every state; without this, perpetual imprisonment must be the lot of every man who fails; and all hope of retrieving his losses by honest and industrious pursuits, will be cut off from the unfortunate bankrupt. But a debt paid according to the law of a foreign country, though in a depreciated medium, has been decreed to be a satisfaction; and a cessio bororum in Holland, which is a discharge there, was decided to have the same effect in England. Co. Bank. Law 60.1. 2. 115. 347. Green Bank. Law 131. 260. 2 Stra. 738. 1 Atk. 119, Brown Cases in Chan. 376. These authorities apply here with additional force, under the sanction of the articles of Confederation, which declare, 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:' And also, that, the free inhabitants of each of these states, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state.' See Art. 4. The Chief Justice, after consideration, delivered the opinion of the Court.

M'Kean, Chief Justice. This comes before the Court on a motion for leave to enter an Exoneretur on the bail piece, upon this principle, that the defendant has been discharged under an insolvent law of the state of Maryland, which is in the nature of a general bankrupt law. To this it has been objected, that the insolvent law by which the defendant has been discharged, was made pending the action, and therefore, ought not to operate in the present case, even

if the laws of any particular country could be extended beyond the jurisdiction of that country, which has likewise been denied; and, it is said, that in order to give a binding force to laws, it is necessary that the person to be affected should have consented to them either by himself, or his representatives. But, having considered the principles of the law of nations, and the reciprocal obligation of the states under the articles of confederation, we are of opinion, that the act of assembly by which the Defendant has been discharged, must be considered as a general bankrupt law, made for general purposes, and equally advantageous to all his creditors. To execute, therefore, upon his person out of the state in which he has been discharged, would be giving a superiority to some creditors, and affording them a double satisfaction to wit, a proportionable dividend of his property there, and the imprisonment of his person here. It is true, that the laws of a particular country, have in themselves no extra-territorial force, no coercive operation; but by the consent of nations, they acquire an influence and obligation, and, in many instances, become conclusive throughout the world. Acts of pardon, marriage, and divorce, made in one country, are received and binding in all countries. In the state of Delaware there is a law, a narrow and contracted one indeed, which obliges executors or administrators to discharge the debts due from the deceased to his creditors within the state, in preference to every other. This the executor is obliged to comply with, because he is immediately under the coercion of the law which prescribes it; so that the distribution thus made, is certainly binding out of the state, and the law is in that respect every where received; for, it would be more unjust to compel the executor who acted legally in his own state, to pay the money out of his pocket, than that the creditor should

loose the amount of his demand. With respect to the argument, that no person can be bound by laws to which he has not either directly or virtually consented, it must be observed that, though Mr. Millar, the plaintiff, was not a citizen of Maryland, yet Mr. Hall was; and he by the law in question, has been obliged to transfer all his effects for the benefit of all his creditors. Having done this, we must presume that he has fairly done it, and therefore to permit the taking his person here, would be to attempt to compel him to perform an impossibility, that is, to pay a debt after he has been deprived of every means of payment, an attempt which would, at least, amount to perpetual imprisonment, unless the benevolence of his friends should interfere to discharge the Plaintiff's account. From the nature of the act then, it appears to be founded upon equitable grounds, for general and just purposes; it ought therefore to be regarded in all other countries, and should enjoy that weight, in our decisions, which it naturally derives from general conveniency, expediency, justice, and humanity. For, mutual conveniency policy, the consent of nations, and the general principles of justice

form a code which prevades all nations, and must be every where acknowledged and pursued.

Upon the whole, it is clear, that this transaction does not arise in fraudem legis, and that extending the law of Maryland to its present object, will be in no degree derogatory to the independence and sovereignty of this state: Therefore, let the exoneretur be entered.