

Phelps Vs. Holker

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Court : US Supreme Court

Decided On : 1788

Appeal No. : 1 U.S. 261

Appellant : Phelps

Respondent : Holker

Judgement :

PHELPS v. HOLKER - 1 U.S. 261 (1788)

U.S. Supreme Court PHELPS v. HOLKER, 1 U.S. 261 (1788)

1 U.S. 261 (Dall.)

Phelps et al.

v.

Holker et al.

Supreme Court of Pennsylvania

April Term, 1788

A Foreign attachment issued in Hampshire county, in the State of Massachusetts, against the Defendants, to which the Sheriff made return, that 'he had attached one Blanket, shown to him as the reputed property of the Defendants;' and no appearance being entered, Judgment was given for the Plaintiff at the second

Term. An action of debt was afterwards brought here, upon this Judgment, and a question stated for the opinion of the Court, to wit, 'whether the Judgment was conclusive evidence of the debt?'

Ingersoll, for the Plaintiff. An action of debt lies upon Foreign Judgments; though, it is true, they are only prima facie evidence of the debt, and may be enquired into. Doug. 1. But the Judgment, upon which the present action is brought, cannot be considered as a foreign Judgment, for, it is the record of a Court of one of the States of the Union, and, as such, it is entitled to full faith and credit in each of them. Art. of Confed. art. 4.

Bowie, for the Defendant. Judgments given in one State, are not made obligatory upon the Courts of another, by the Articles of Confederation; which only provide, that, in matters of evidence,

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mutual faith and credit shall be given to the records, acts, and judicial proceedings of the States. But even if they were not, in this respect, generally considered as foreign Judgments, the inconveniency and injustice of receiving them as conclusive evidence, when obtained by the process of a Foreign attachment, must necessarily create an exception. The present Judgment was obtained in a Foreign attachment, which is strictly a proceeding in rem. No defence was made, nor was any notice given to the Defendant, or to any person in his behalf; but the mere attachment of a blanket, reputed to be his property, is the sole foundation upon which the jurisdiction of the Court in Massachusetts has been exercised. If, therefore, the construction raised by the Plaintiff, were to be received by the Court, the most iniquitous and oppressive consequences would ensue. A Judgment might be entered in Georgia, or New Hampshire against a citizen of this State, upon a fictitious and fraudulent claim, and it would be impossible that he should obtain any redress, since his first knowledge of the suit, would be the production of that record, into the justice of which, it is contended, the Court cannot examine, but must admit the Judgment it recites, as conclusive evidence of the Plaintiff's demand. The Court will not construe the Articles of Confederation, so as to

introduce and tolerate an evil of such enormity; and of which the present case would be a striking example.

Ingersoll, in reply. The subject before the Court is naturally divided into two points: 1st, Whether a Judgment in a Sister State, is of no other force in Pennsylvania, than a Judgment in the Courts of England or Ireland? and 2ndly, Whether there is any difference between a Judgment in a Foreign attachment, and one obtained in any other species of action?

1st. Upon the first point, it is to be observed, that although the rule is established in Europe, that an action may be brought on a foreign Judgment, which is there received as prima facie evidence of the debt, there is still this difference between foreign and domestic records, that the former may be examined into, but the latter cannot be controverted or denied. Of this distinction the authors of the Articles of Confederation must have been perfectly apprized; and, therefore, it is reasonable to presume, that by introducing an express provision upon the subject, they intended to place the States upon a different footing with respect to each other, than with respect to foreign nations: for, if they did not mean to make any alteration in the system already established, between independent and unconnected countries, they would either have been totally silent, or they would have qualified the terms of the article, so as to have met their object fully and unequivocally. But, having premised, that 'the free inhabitants of each State shall be entitled to all privileges and immunities of free citizens in the several States' (so that, in fact, a citizen of New Hampshire the moment he enters South Carolina, derives from this sentence, a title to the privileges of citizenship in that Commonwealth also) the article concludes, that 'full faith and credit

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shall be given in each of these States to the Records, acts, and judicial proceedings of the Courts and Magistrates of every other State.' See Art. 4. This then is a Union of which no precedent is to be found in any other part of the globe (for the Swiss Cantons do not furnish a strict analogy) and its design must certainly have been to form a stronger cement, than that by which the States

themselves were hitherto connected, or by which they are, at this day, connected with other nations. If, indeed, it was intended by this article, that a judgment in a Sister State should have no greater force, or validity, than a judgment in France, or England, would it not have been absurd to say that 'full faith and credit shall be given,' when nothing more was required, than that the record should be considered as prima facie evidence of a fact, which was still liable to exception and denial? On the other hand, if it is admitted that by this article, the authors of the system intended to make a Judgment in New Jersey as binding in Pennsylvania, as if it had been obtained in any County of this State, no other form of words, or mode of expression, could have been selected more clearly to convey that intention. The very term Record must be conclusive; for what is a record in one State, by this article, becomes such in every State, and it is the nature of a record to preclude every idea of scrutiny and contradiction. 2nd. With respect to the second point; there can be no difference between a Judgment in a Foreign attachment, and one obtained in any other species of action, since the Defendant, by entering special bail at any time before payment of the money, may dissolve the attachment, and contest the Plaintiff's demand in that Court, in which it was originally made. Nor is it a greater hardship to compel him to do so, than it is to require the Plaintiff to bring all his witnesses hither from a distant State. Besides, in cases of attachment, Judgment is never given before the second term, and the Garnishee has it always in his power to send notice to the Defendant. The Court expressing a desire to hear the laws of Massachusetts, upon the subject of Attachments, Ingersoll, read the following sections from a law of that State passed anno 32. G. 2. Sect. 2. 'It shall and may be lawful for any persons entitled to any action &c.; against any person absconding or absent out of this Province to cause the goods and estate of such absconding or absent person to be attached in whose hands soever the same are or may be found: and the attaching any part thereof shall secure and make the whole that is in such persons hands liable in the law to respond the Judgment to be recovered upon such process, if so much there be, and no farther, and shall be subjected to be taken in execution for satisfaction thereof, or so far as the value thereof will extend, and the person in whose hands they are shall expose them accordingly.' Sect. 3. prescribes the notice (i.e. a summons and copy of the declaration) to be given to the agent &c.; of the debtor,

in case no goods appear, which being duly served and returned, is made sufficient to bring forward a trial, without further summons, 'unless the principal

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be an inhabitant, or hath for sometime had his residence within this province;' in which case, a like summons and copy of the declaration shall be left at his last place of abode 14 days before the Court. The principal shall be received to defend the suit, 'and an imparlance shall be granted at two terms successively, and at the 3rd term, without good cause the action shall be tried;' and, if Judgment be rendered for the Plaintiff, all the goods, effects, or credits of such absent or absconding person in the hands of such attorney &c.; at the time of being served with the summons to the value of such Judgment (if so much there be) shall be liable and subjected to the execution granted upon such Judgment for or towards satisfying the same &c; 'Sect. 4. provides, that, if the attorney & c. summoned shall come in the first term and swear that he has no effects, the Plaintiff shall be nonsuited with costs.' Sect. 8. 'Any absconding or absent person against whom Judgment shall be recovered as aforesaid, shall be entitled to a review of the same at any time within three years after such recovery.'

M'Kean, Chief Justice.

This is a proceeding in rem, and ought not certainly to be extended further than the property attached. If that is sufficient to satisfy the Plaintiff, he has done well to secure himself; but in the present action the Judgment obtained in Massachusetts cannot be considered as conclusive evidence of the debt, and, therefore, the Defendant ought still to be at liberty to controvert and deny it. The articles of Confederation must not be construed to work such evident mischief and injustice, as are contained in the doctrine, urged for the Plaintiff.

Rush, Justice.

If this Judgment were as conclusive as the Plaintiff contends, might he not issue an execution at once? But I am likewise of opinion, that it is examinable in the

present action. [264-Continued.]

Bryan, Justice.

By the very words of the Massachusetts act, it is declared, that the judgment and execution in a Foreign attachment, shall only go against the goods attached.

Atlee, Justice.

Concurred.

By the Court: The Judgment obtained in the Court of the State of Massachusetts, in a Foreign attachment, between the same parties, is not conclusive evidence, in this cause, of the debt claimed by the Plaintiff.* Footnotes

[[Footnote *](#)] The accuracy of this decision will appear from the Journals of Congress, of the 12 of January 1777, when that honorable body was considering certain articles which were proposed to be added to the Confederation. To the clause, 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,' it was moved to add, 'and an action of debt may be commenced in a Court of law of any State for the recovery of a debt due on a judgment of any Court in any other State; provided the judgment creditor shall give bond with sufficient sureties before the said Court, in which the action shall be brought, to answer in damages to the adverse party, in case the original judgment shall be afterwards, revised and set aside, and provided the party against whom such judgment may have been obtained had notice in fact of the service of the original writ upon which such judgment shall be founded.' But this motion was rejected.