Powell Vs. Biddle

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Court : US Supreme Court

Decided On : 1790

Appeal No. : 2 U.S. 70

Appellant : Powell

Respondent : Biddle

Judgement :

POWELL v. BIDDLE - 2 U.S. 70 (1790)
U.S. Supreme Court POWELL v. BIDDLE, 2 U.S. 70 (1790)

2 U.S. 70 (Dall.)

Powell
v.
Biddle, administrator de bonis non &'c. of S. Mifflin

Philadelphia Court of Common Pleas

August Sittings, 1790

This was an action of debt to recover a legacy, under the following circumstances. The testator by his last will and testament bequeathed 'unto his friend Samuel Powell, (son of Samuel Powell, of the City of Philadelphia, Carpenter), the sum of L 100 in specie, to be put out to interest by his executors; the whole principal and interest to be paid to the said Samuel Powell, when he shall attain 21 years of age: But in case he shall depart this life, in his minority, or before the said legacy be paid to him, then the same to sink into the residue of the testator's estate, &c.;' At the trial of the cause, evidence was offered,

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and admitted, to show, that though the legacy was bequeathed to Samuel Powell, it was, in fact, intended for the plaintiff, whose christian name is William: And a verdict was, thereupon, allowed to be taken in favour of the plaintiff, for the principal sum, and interest; subject to the opinion of the Court, on a rule to show cause why there should not be a new trial. The facts proved were, that William, the plaintiff, had attained the age of 21 years; that he was the younger son of the testator's deceased daughter, who had been married to Samuel Powell, the carpenter, named in the will; that he was well known to the testator; and that the testator usually, by mistake, or by way of nickname, called him Samuel; but that Samuel Powell, the carpenter, had another son, a mason, whose name was actually Samuel, the issue of a second marriage, and with whom the testator had no connection, or acquaintance, whatever.

On arguing the motion for a new trial, by Ingersoll for the plaintiff, and Mifflin for the defendant, it was agreed on both sides, that the misnomer was merely a mistake; but nevertheless it was contended for the

defendant, that the evidence to prove it, ought not to have been admitted; for, whatever might be the diversity of decisions under other circumstances, it was alledged, that in no instance had a legacy been awarded contrary to the express designation of the will, when a person of the name and description of the legatee existed, capable of taking the bequest. Parol proof can never be allowed to supply the intent of the testator, in a trial before a jury; though it is sometimes received on questions before the court, to inform the consciences of the judges. 1. Eq. Abr. 230. 3. Chan. Rep. 176. 2. Atk. 215. 3. P. Wm. 253. 254. 9. Mod. II. 2. Vern. 98. 252. 337. 625. 506. 2. Freem. 52 S. 60. 8. Vin. Abr. 198. S. 39. Nor will evidence ever be admitted to contradict a will, though, in cases of necessity, it may be received, to ascertain a person meant, where there are two persons of the same name, or where a man has been usually called by a nick-name. 2 Atk. 239. 372. 2 P. Wm. 141.

For the Plaintiff, it was said, that the rule which excludes the interpretation of deeds and wills by evidence dehors, must, like all general rules, be liable to reasonable exceptions. If, for instance, a resulting use would arise by implication; parol testimony may be admitted to rebut the implication. So, likewise, in the case of an executor, the intention of the testator respecting the disposition of his residuary personal estate, may be proved by extrinsic evidence. If, however, the controversy arose upon the will itself, the court would, probably, be inclined to confine their construction to the terms of the instrument; but when the difficulty proceeds from a fact, independent of the will, it must be obviated by the ordinary means, employed

to elucidate any other doubtful point. Suppose a man were to live many years under a fictitious name, which happened to be the real name of another person in the same community, could he not take a legacy under the fictitious name? Could he not, likewise, take it, after assuming his proper name? And if so, does not the claim depend on a fact dehors the will, which must be established by independent proof? The present dispute, in the same manner, resolves itself into this question, whether evidence may not be given, in the case of two persons of the same family, one called William, and the other called Samuel, that the testator knew the latter, though he did not know the former? And, consequently, that the legacy given by a mistake of names to the person he did not know, was intended, in fact, for the person he did know, who in the bequest is emphatically called his friend? It is admitted, from the authorities cited by the opposite counsel, that where there is not a person of the name mentioned in the will, explanatory evidence may be given of the testator's intention; and that if Samuel had not existed, William might have enjoyed the benefit of the legacy under Samuel's name. But the principle extends further than that admission; and as between William and the testator, an obvious mistake ought not to be enforced against all the truth and justice of the case. In P. Wm. 141. both the christian name and sir-name of the legatee were mistaken; and there were other persons capable of taking the legacy; yet the decree was favorable to the party intended, though not designated, by the bequest. All the authorities, indeed, concur in that point, that no injury can arise from admitting parol proof to ascertain the thing, or person, described by the testator. Rich. Law of Wills 163. 279. 281. 2 Vern. 593. 8 Vin. Abr. 197. Ca. in Eq. 212.

Shippen President.

The court entertain no doubt in this case; and, therefore, ought not to postpone a decision. The bequest was made to a person who was always called Samuel by the testator, though, in fact, named William; and whom the testator had nurtured and educated from his infancy; when, on the other hand, he did not even know the person really called Samuel. The evidence to explain those facts was proper to be laid before the jury; and their verdict perfectly accords with the law and equity of the case. Therefore,

Let the Rule be discharged.