

Mossman Vs. Higginson

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Court : US Supreme Court

Decided On : 1800

Appeal No. : 4 U.S. 12

Appellant : Mossman

Respondent : Higginson

Judgement :

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Mossman v. Higginson

4 U.S. (4 Dall.) 12

ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF GEORGIA

SYLLABUS

Neither the Constitution or the act of Congress regards the subject of the suit, but the parties. A description of the parties is therefore indispensable to the exercise of jurisdiction, which is limited by the law to suits between citizens and foreigners.

This was a writ of error to remove the proceedings on a bill in equity from the Circuit Court for the District of Georgia, tested 27 November, 1798, returnable on the next. The case, on the bill and pleadings, was briefly this:

Alexander Willy, an inhabitant of Georgia, being indebted to Higginson & Greenwood, British merchants, gave them a bond and mortgage, payable 1 January, 1773. In the year 1778, Willy was banished from the State of Georgia and his estate confiscated by law. The mortgaged premises were seized and sold by the commissioners for forfeited estates to certain purchasers, who afterwards sold the same to James Houston, and the property remained in his possession or in the possession of his executors until 12 September 1796, when it was levied upon, sold, and conveyed to William Mien by the creditors of Houston, notice of the mortgage having been given to Mossman, the executor of Houston, to Mien, the agent for his creditors, and to the marshal, before the sale. In March, 1797, Higginson, the surviving mortgagee, filed the present bill to foreclose the equity of redemption, stating himself to be a subject of Great Britain, but in no part of the proceedings were the defendants or any of them stated to be citizens of the United States. The defendants pleaded the confiscation laws of Georgia in bar and answered

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to the merits, but Washington, Justice, overruled the pleas and decreed, that unless William Mien paid the principal and interest of the debt before 17 February, 1799, the equity of redemption should be foreclosed.

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By the Court:

The decisions on this subject, govern the present case, and the 11th section of the Judiciary Act can and must receive a construction consistent with the Constitution. It says, it is true, in general terms, that the circuit court shall have cognizance of suits "where an alien is a party," but as the legislative power of conferring

jurisdiction on the federal courts is in this respect confined to suits between citizens and foreigners, we must so expound the terms of the law as to meet the case, "where indeed an alien is one party" but a citizen is the other. Neither the Constitution nor the act of Congress regards on this point the subject of the suit, but the parties. A description of the parties is therefore indispensable to the exercise of jurisdiction. There is here no such description, and of course

The writ of error must be quashed.

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