

Winchester Vs. Hackley

Winchester Vs. Hackley

SooperKanoon Citation : sooperkanoon.com/78327

Court : US Supreme Court

Decided On : 1804

Appeal No. : 6 U.S. 342

Appellant : Winchester

Respondent : Hackley

Judgement :

Winchester v. Hackley - 6 U.S. 342 (1804)

U.S. Supreme Court Winchester v. Hackley, 6 U.S. 2 Cranch 342 342 (1804)

Winchester v. Hackley

6 U.S. (2 Cranch) 342

ERROR TO THE CIRCUIT COURT

OF THE VIRGINIA DISTRICT

SYLLABUS

A creditor upon an open account who has assigned his claims to a third person with the assent of the debtor is still competent to maintain an action at law in his own name against the debtor for the use of his assignee, but the debtor is still

allowed to offset his claims against the assignee.

The defendant cannot offset a claim for bad debts, made by the misconduct of the plaintiff in selling the defendant's goods as factor, the plaintiff not having guaranteed those debts. But such misconduct is properly to be inquired into in a suit for that purpose.

The plaintiff's declaration stated the claim to be for money paid and advanced by him for the use of the defendant, now plaintiff in error. Upon the trial of the issue of nonassumpsit, two bills of exception were taken by the counsel for the defendant in the circuit court, which are brought up with the record. The jury found a verdict for the plaintiff for \$4,155 damages.

The first bill of exception stated that the plaintiff below offered in evidence sundry bills of exchange drawn

Page 6 U. S. 343

by the defendant upon the plaintiff to an amount equal to the balance demanded by the plaintiff of the defendant, and also several accounts current between the defendant, and the mercantile firm of Richard S. Hackley & Co. of the City of New York, of which the plaintiff and Seth B. Wigginton were two; that the said bills of exchange were debited to the defendant in the said accounts, as being due from him to the said Richard S. Hackley & Co., and that the said accounts contained various other articles of debit and credit to a considerable amount, commenced on the ___ day of _____ and continued till the ___ day of _____, when the firm of Richard S. Hackley was changed into that of Richard S. Hackley & Co., and concluded on the ___ day of _____.

That in these accounts the balance stated to be due from the defendant to the said Richard S. Hackley on the ___ day of _____ is transferred, with the consent of the said Richard S. Hackley, to the said Richard S. Hackley & Co., and that the account in which the said balance is so transferred to the said Richard S. Hackley & Co. and the formation of that firm were communicated by the said Richard S. Hackley himself to the defendant before the institution of this suit, and that the

defendant thereafter, made to the said Richard S. Hackley & Co. several remittances in money and commodities towards the discharge of the said balance, and addressed to them several letters concerning the same, which remittances and letters came to the hands of the said Richard S. Hackley & Co. Whereupon the defendant moved the court to instruct the jury that if the balance aforesaid was transferred as aforesaid to Richard S. Hackley & Co., it was not a subsisting debt from the defendant to the plaintiff alone at the commencement of this suit. But the court (consisting of Marshall, Chief Justice, and Griffin, district judge) overruled the motion, being of opinion that though the debt was in equity transferred to Richard S. Hackley & Co., yet the suit was maintainable for their benefit in the name of Richard S. Hackley. At the same time, the defendant was permitted to give in evidence any discounts which he might claim against Richard S. Hackley & Co.

The second bill of exceptions stated that the plaintiff, to support his action, gave in evidence sundry accounts

Page 6 U. S. 344

current between himself and the defendant in which the plaintiff had credited the defendant, as being in the plaintiff's hands for collection, for the proceeds of a quantity of flour, which he had sold for the defendant, but had afterwards charged to the defendant several sums on account of the alleged insolvency of some of the purchasers of the said flour. It also appeared that in the account current and accounts of sales, the proceeds of sale of the said flour were stated to be outstanding, subject to collection, and the plaintiff did not undertake to guarantee the debts. Whereupon the defendant, in order to repel that evidence, offered to prove that the sums so charged to the defendant were lost by the mismanagement and misconduct of the plaintiff, in having made the sales to persons known by him to be unworthy of credit; but the court refused to permit such proof to be made to the jury in this action, being of opinion that such misconduct was properly to be inquired into in a suit for that purpose.

This case being submitted without argument, the judgment was

Affirmed with costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com