

Reily Vs. Lamar

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Court : US Supreme Court

Decided On : 1805

Appeal No. : 6 U.S. 344

Appellant : Reily

Respondent : Lamar

Judgement :

Reily v. Lamar - 6 U.S. 344 (1805)

U.S. Supreme Court Reily v. Lamar, 6 U.S. 2 Cranch 344 344 (1805)

Reily v. Lamar

6 U.S. (2 Cranch) 344

APPEAL FROM THE CIRCUIT COURT OF THE COUNTY

OF ALEXANDRIA IN THE DISTRICT OF COLUMBIA

SYLLABUS

When an appeal is prayed and granted in the circuit court during the session of the court, a citation to the appellee is not necessary.

By the separation of the District of Columbia from the State of Maryland, the residents in that part of Maryland which became apart of the District ceased to be citizens of that state.

A citizen of the District of Columbia could not be discharged by the insolvent law of Maryland.

Page 6 U. S. 345

This was an appeal from the decree of the Circuit Court of the County of Alexandria in the District of Columbia, in which court the appellant, Reily, had filed a bill in equity against the appellees claiming to be relieved from a judgment recovered against him by Lamar for the use of Beall, an exemplification of which had been filed by Beall in the clerk's office of the Circuit Court of the District of Columbia for the County of Alexandria, and execution issued thereon, with intent to levy the same, to stay which, and all other proceedings at law, the bill prayed an injunction, &c.; The circumstances upon which the appellant claimed the benefit of the equity jurisdiction of the court were not considered by the court as supported by evidence. He also claimed to be discharged from the debt under the provisions of an act of the Legislature of Maryland passed 3 January, 1810, and by the certificate of discharge, under the law, granted by the chancellor of Maryland on 4 April, 1801.

To the allegation of the appellant that he was discharged from the judgment of the insolvent law of Maryland the appellee, Beall, replied that he admitted that it appears by the proceedings that the deed from Reily to his trustee, under the insolvent law, for the benefit of his creditors, was dated on 23 December, 1800, and his discharge on 4 April, 1801, during all which time Reily lived either in the City of Washington or Town of Alexandria, and contends that as the court below had determined that the jurisdiction of Maryland and Virginia over the ceded territory ceased on the first Monday of December, 1800, the Legislature or chancellor of Maryland had no power to pass such law, or give such discharge to the said Reily.

At February term, 1804, a preliminary question was suggested by Mason for the appellees whether a citation was not necessary in cases of appeals, as well as in cases of writs of error, under the twenty-second section of the Judiciary Act of 1789.

Page 6 U. S. 356

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

In this case the Court has attentively considered the record, proceedings, and evidence. The only equity of the complainant's bill as to Lamar and Beall arises out of the transactions between him and the defendant Smith, and the Court is of opinion that that equity is not supported, and that the material allegations of the bill as to the defendant Smith, and which are denied by his answer, are also unsupported by the evidence. Nor are the allegations of the complainant respecting his certificate of discharge sufficiently proved.

By the separation of the District of Columbia from

Page 6 U. S. 357

the State of Maryland, the complainant ceased to be a citizen of that state, his residence being in the City of Washington at the time of that separation.

As the complainant was entitled to a discharge upon executing the deed of assignment of all his effects to the trustee appointed by the chancellor, his certificate would relate back to the date of the deed. It has been said that the true date of that deed was 23 December, 1800, and that the certificate of the chancellor, which states the date to be 23 March, 1801, is correct.

But the certificate of the chancellor is the only evidence before the court as to that subject. It is therefore not material to inquire whether the inhabitants of the City of Washington ceased to be citizens of Maryland 27 February, 1801, or on the first Monday of December, 1800, as it is not contended that they were under the jurisdiction of Maryland so late 23 March, 1801.

The complainant therefore, not being a citizen of Maryland at the time of executing the deed, did not bring himself within the provisions of the insolvent law under which he claims relief.

I was inclined at first to think that an account might have been directed between the complainant and the defendant Smith, but the Court is of opinion that if he has any remedy against Smith, it is at law, and not in equity. The bill must be dismissed with costs, but without prejudice.

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