

Telfair Vs. Stead's Executors

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Court : US Supreme Court

Decided On : 1805

Appeal No. : 6 U.S. 407

Appellant : Telfair

Respondent : Stead's Executors

Judgement :

Telfair v. Stead's Executors - 6 U.S. 407 (1805)

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Telfair v. Stead's Executors

6 U.S. (2 Cranch) 407

WRIT OF ERROR TO THE

CIRCUIT COURT OF GEORGIA

SYLLABUS

The lands of a deceased debtor in Georgia are liable in equity for the payment of his debts without making the heir a party to the suit.

Writ of error to the Circuit Court of Georgia to reverse a decree on the chancery side of the circuit court rendered in favor of the defendants in error.

The defendants in error filed a bill in the circuit court against Telfair and others, executors of Rae and Somerville, for the recovery of a debt due to Stead, a British subject, on an account amounting to 3,864 sterling. In the circuit court the amount of the debt was ascertained and the court decreed the payment of the same by the executors of the debtors, and that for the satisfaction of the debt the real estate of the deceased debtors should be sold. From the decree of the circuit court the case was brought to this Court; various errors in the proceedings and decree of that court were assigned as matters of exception, on none of which was there an opinion of the court given but upon the following:

That a court of chancery has no power to order the sale of real estate, especially as the heirs at law are not parties to the suit, inasmuch as the title to the real estate was not the subject matter of the bill and proceedings.

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

The only doubt which the Court had was whether, by the laws of Georgia, the land could be made liable unless the heir was a party to the suit.

We have received information as to the construction given by the courts of Georgia to the statute of 5 Geo. II making lands in the colonies liable for debts, and are satisfied that they are considered as chargeable without making the heir a party.

Decrees affirmed.