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Ray Vs. Law

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Court : US Supreme Court

Decided On : 1805

Appeal No. : 7 U.S. 179

Appellant : Ray

Respondent : Law

Judgement :

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SYLLABUS

A decree for the sale of mortgaged property upon a bill filed for the foreclosure of a mortgage is a final decree from which an appeal will lie to this Court from a circuit court.

The Court will not take notice of proceedings in the circuit court upon the petition of a party who complains of such proceedings, the act of Congress having pointed out the mode in which the court is to exercise its appellate jurisdiction, and only

having authorized an appeal and writ of error on a final judgment.

Law having a mortgage on real estate in the City of Washington, and Ray having a subsequent mortgage on the same estate, Law had filed his bill in chancery in the Circuit Court of the District of Columbia for a foreclosure and sale of the mortgaged property and made Ray a defendant. The bill having been taken for confessed against Ray, a decree was obtained by Law for a sale. The sale had been made under the decree, and notice given, that on a certain day the sale would be ratified unless cause was shown. On that day Ray appeared, but not showing good cause in the opinion of the court, the sale was confirmed. Ray prayed an appeal to this Court on the decree for the sale, which the court refused on the ground, as it is understood, that the decree for the sale was not a final decree in the cause.

Ray on this day presented a petition to this Court setting forth those facts, among others, praying relief, and that this Court would direct the court below to send up the record. At the same time he produced sundry papers purporting to be the substance of that record, but not properly authenticated.

MR. CHIEF JUSTICE MARSHALL.

We can do nothing without seeing the record, and the papers offered cannot be considered by us as a record.

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The Court however is of opinion that a decree for a sale under a mortgage is such a final decree as may be appealed from. We suppose that when the court below understands that to be our opinion, it will allow an appeal if it be a case to which this opinion applies.

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