

Snell Vs. Delaware Ins Co

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Court : US Supreme Court

Decided On : 1806

Appeal No. : 4 U.S. 430

Appellant : Snell

Respondent : Delaware Ins Co

Judgement :

SNELL v. DELAWARE INS CO - 4 U.S. 430 (1806)

U.S. Supreme Court SNELL v. DELAWARE INS CO, 4 U.S. 430 (1806)

4 U.S. 430 (Dall.)

Snell et al.

v.

The Delaware Insurance Company.

Circuit Court, Pennsylvania District.

October Term, 1806

COVENANT on an open policy, for 2500 dollars, at a premium of 10 per cent., upon the brig Hound, on a voyage from Jamaica to New-York. The facts were these: the brig and cargo, belonging to the plaintiffs, sailed on a voyage from New-York to Curocoa, and back again; but, upon the return voyage, she was captured

by a British cruiser, and carried into Jamaica, where vessel and cargo were libelled and condemned, on the 31st of July 1804, for a breach of blockade. The captain, conceiving that the vessel would be sold under her value, requested Messrs. Campbell and O'Harra, of Kingston, to buy her in for the owners, which was accordingly done, at the price of 1020l., equal to about 3,500 dollars. For the price of the vessel, amount of repairs, outfits, &c.; (in the whole 1939l. 4s. 11d.) advanced by Campbell and O'Harra, those gentlemen took from the captain an hypothecation of the vessel, to guarantee the payment of a bill of exchange, which he drew upon the owners: and, on the 9th of August 1804, they requested Messrs. Savage and Dugan to procure insurance, upon the vessel for 5000 dollars; which was effected at the office of the Phoenix Insurance Company, upon the following instructions:

'Brig Hound, Thomas W. Fuller master, at and from Jamaica to New-York. We expect she sailed on or about 16th ult. and is represented as a fine coppered vessel: 5000 dollars.

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'Said vessel was condemned at Jamaica and purchased for the former owners. This insurance was made to cover the sums advanced, whether the same be secured by bottomry bond or conditional assignment or otherwise howsoever. Premium five per cent.

'Phoenix Insurance Company.'

The owners of the vessel being advised of these proceedings, stated to Savage and Dugan, that the above insurance was not sufficient to cover her real value, and directed a further insurance for 2,500 dollars, which was effected by the present policy. The vessel sailed from Jamaica in August 1804; but was never heard of afterwards. At the expiration of a year, the Phoenix Insurance Company paid the amount of their subscription; but the defendants refused payment, on which this suit was instituted.

At the trial of the cause, the only disputed question was, whether the plaintiffs could go into evidence, to prove the actual value of the vessel insured; or were bound by the price, which was paid for her, under the condemnation, at Jamaica? On the first ground, the sums insured upon both policies, would be about the value; and, on the second ground, the amount received from the Phoenix Insurance Company, would be about sufficient to cover the loss. [[Footnote 1](#)]

Dallas, for the plaintiffs, maintained the first ground, and cited, 2 Marsh. 529. 534, 535. Park. 282. 287. 1 Emerig. 263. Val. art. 8. p. 64. 56. 136. Mill. 247. 251. 264. 1 Carnes, 573. 2 Carnes, 20. 23.

Rawle and Condry, for the defendants, urged, that the plaintiffs had no right to insure more than the vessel cost them at Jamaica; that the Court ought not to direct the jury to inquire into the value there, beyond the cost; and that the plaintiffs, having recovered the original value from the underwriters, upon the voyage to Curacoa, had no right to resort to that criterion of value, on the present occasion.

THE COURT.

But the COURT were clearly of opinion, that the plaintiffs were entitled to prove and to recover the actual value of the vessel, at the time she was insured. They said a contrary rule, would operate as injuriously to the underwriters, as to the merchant. For, if the merchant could not insure a ship, or goods, bought at a depreciated

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price, under a forced sale, at their real value; neither would the underwriter, in a case of loss, be entitled to show, upon an open policy, the actual value of the property, independent of a fortuitous enhancement of the price, in a foreign market.

The jury found a verdict for the plaintiffs, for 2,378 32/100 dollars, taking, it is presumed, the value in the outward policy, as the basis of their calculation.

Footnotes

[Footnote 1](#) It appeared in evidence, that the vessel was built in 1802, when she cost 8,500 dollars; that when she sailed from New-York, in May 1804, she was worth between 7000 and 7,500 dollars; that she was insured on the voyage to Curacao, in a valued policy, at 7000 dollars; and that she had been completely repaired at Jamaica.

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