

Kempe's Lessee Vs. Kennedy

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Court : US Supreme Court

Decided On : 1809

Appeal No. : 9 U.S. 173

Appellant : Kempe's Lessee

Respondent : Kennedy

Judgement :

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Kempe's Lessee v. Kennedy

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ERROR TO THE CIRCUIT COURT

OF THE DISTRICT OF NEW JERSEY

SYLLABUS

The Inferior Court of Common Pleas for the County of Hunterdon, in the State of New Jersey, in May, 1779, had a general jurisdiction in all cases of inquisition for

treason, and its judgment, although erroneous, was not void, inasmuch as the court had jurisdiction of the cause.

Error to the Circuit Court of the District of New Jersey in an action of ejectment brought by John Den, lessee of Grace Kempe, a British subject, against R. Kennedy and M. Cowell, citizens of the State of New Jersey, for land in that state.

Upon the trial of the cause upon the general issue, a bill of exceptions was taken by the plaintiff which presents the following case:

Grace Coxe, the lessor of the plaintiff, being seized in fee of the land in question, before the year 1772 intermarried with John Tabor Kempe, who died in August, 1792. They resided in New York before and during the war with Great Britain, and went to Great Britain when New York was evacuated

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by the British army. Grace Kempe, since the death of her husband, has continued to reside and now resides in Great Britain, where he died, having been in possession of the land in right of his wife, on the first of March, 1776, and until the same was seized by the authority of the State of New Jersey.

The defendants relied upon several acts of the Legislature of New Jersey; an inquisition taken under the authority of those acts; a judgment of the Inferior Court of Common Pleas for the County of Hunterdon, in May, 1779, upon that inquisition, confiscating the estate; a judgment of the Inferior Court of Common Pleas for the County of Sussex; an execution upon that judgment; and a deed from Joseph Gaston, an agent for the State of New Jersey, to the defendant Kennedy, whose tenant the other defendant was, and proved that he had always been in possession under that deed from the day of its date to the day of trial.

Upon this case the plaintiff prayed the court to instruct the jury that it ought to find a verdict for him, which the court refused and directed the jury that it ought to find a verdict for the defendants, to which refusal and direction the plaintiff excepted, and brought his writ of error.

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court as follows:

In this case two points are made by the plaintiff in error.

1. That the judgment rendered by the court of common pleas which is supposed to bar the plaintiff's title is clearly erroneous.
2. That it is an absolute nullity, and is to be entirely disregarded in this suit.

However clear the opinion of the Court may be on the first point in favor of the plaintiff, it will avail her nothing unless she succeeds upon the second. Without repeating, therefore, those arguments which have been so well urged at the bar, to show that the inquisition in this case did not warrant the judgment which was rendered on it, the Court will proceed to inquire whether that judgment, while unreversed, does not bar the plaintiff's title.

The law respecting the proceedings of inferior courts, according to the sense of that term as employed in the English books, has been correctly laid down. The only question is was the court in

which this judgment was rendered, "an inferior court," in that sense of the term?

All courts from which an appeal lies are inferior courts in relation to the appellate court before which their judgment may be carried, but they are not therefore inferior courts in the technical sense of those words. They apply to courts of a special and limited jurisdiction, which are erected on such principles that their judgments, taken alone, are entirely disregarded, and the proceedings must show their jurisdiction. The courts of the United States are all of limited jurisdiction, and their proceedings are erroneous, if the jurisdiction be not shown upon them. Judgments rendered in such cases may certainly be reversed, but this Court is not prepared to say that they are absolute nullities, which may be totally disregarded.

In considering this question, therefore, the Constitution and powers of the court in which this judgment was rendered must be inspected.

It is understood to be a court of record possessing, in civil cases, a general jurisdiction to any amount, with the exception of suits for real property.

In treason, its jurisdiction is over all who can commit the offense.

The Act of 4 October, 1776, defines the crime, and that of 20 September, 1777, prescribes the punishment. The act of 18 April, 1778, describes the mode of trial, and the tribunal by which final judgment shall be rendered. That tribunal is the inferior court of common pleas in each county. Every case of treason which could arise under the former statutes is to be finally decided in this Court. With respect to treason, then, it is a court of general jurisdiction, so far as respects the property of the accused.

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The Act of 11 December, 1778, extends the crime of treason to acts not previously comprehended within the law, but makes no alteration in the tribunal before which this offense is to be tried, and by which final judgment is to be rendered.

This act cannot, it is conceived, be fairly construed to convert the court of common pleas into a court of limited jurisdiction, in cases of treason. It remains the only court capable of trying the offenses described by the laws which have been mentioned, and it has jurisdiction over all offenses committed under them.

In the particular case of Grace Kempe, the inquest is found in the form prescribed by law and by persons authorized to find it. The court was constituted according to law, and if an offense punishable by the law had been in fact committed, the accused was amenable to its jurisdiction so far as respected her property in the State of New Jersey. The question whether this offense was or was not committed, that is whether the inquest which is substituted for a verdict on an indictment, did or did not show that the offense had been committed, was a question which the court was competent to decide. The judgment it gave was

erroneous, but it is a judgment, and until reversed cannot be disregarded.

This case differs from the case from Third Institute in this. In that case, the court was composed of special commissioners authorized to proceed not in all cases of treason, but in those cases only in which an indictment had been taken before fifteen commissioners. Their error was not in rendering judgment against a person who was not proved by the indictment to have committed the crime, but who, if guilty, they had no power to try. The proceedings there were clearly *coram non judice*.

It is unnecessary to notice the eleventh section of

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the act, since, without resorting to it, this Court is of opinion that there is no error in the judgment of the circuit court. It is

Affirmed with costs.

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