Riddle and Co. Vs. Mandeville and Jamesson

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Court : US Supreme Court

Decided On : 1809

Appeal No. : 9 U.S. 322

Appellant : Riddle and Co.

Respondent : Mandeville and Jamesson

Judgement :

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Riddle & Co. v. Mandeville and Jamesson

9 U.S. (5 Cranch) 322

ERROR TO THE CIRCUIT COURT FOR THE

DISTRICT OF COLUMBIA SITTING AT ALEXANDRIA

SYLLABUS

The endorsee of a promissory note in Virginia may recover the amount from a remote endorser in equity, though not at law.

Equity will make that party immediately liable who is ultimately liable at law.

The remote endorser has the same defense in equity against the remote endorsee as against his immediate endorsee.

The defendant has a right to insist that the other endorsers be made parties.

Error to the Circuit Court for the District of Columbia, sitting at Alexandria, in a suit in chancery, brought by Riddle & Co. against Mandeville and Jamesson, remote endorsers of a promissory note, dated March 2, 1798, at sixty days, for $1,500, drawn by Vincent Gray payable to the defendants or order, and by them endorsed in blank. Upon its face it was declared to be negotiable in the Bank of Alexandria. The note so drawn and endorsed was by Gray put into the hands of a broker who passed it to D. W. Scott for flour, which he sold for $1,200 in cash, and paid the money to Gray. Scott passed it, without his own endorsement, to McClenachan in the purchase of flour, and McClenachan endorsed it to Riddle & Co. the complainants, in payment of a precedent debt; Gray failed to pay the note, and was discharged under the insolvent act of Virginia upon an execution issued upon a judgment in favor of the complainants upon the same note. The complainants then brought a suit at law against the defendants upon their endorsement, and obtained judgment in the court below, which was reversed in this Court upon the principle that an endorsee cannot maintain a suit at law against a remote endorser of a promissory note. 5 U. S. 1 Cranch 290. Whereupon the complainants brought the present bill in equity, which was decreed to be dismissed in the court below, that court being of opinion that there was no equity in the bill. From that decree the complainants appealed to this Court.

The only facts stated in the bill were, that Gray made the note payable to the order of Mandeville and Jamesson, who put it in circulation. That it was afterwards delivered and transferred, for a valuable consideration, to McClenachan, who, for a

valuable consideration, endorsed and transferred it to the complainants. That Gray failed to pay it, and was discharged from execution under the insolvent act, whereby the complainants were unable to recover from him any part thereof, in consequence of which the defendants became liable in equity to pay the same, but have refused so to do.

Among the interrogatories contained in the bill, it is asked "with what view was the note made and endorsed?" and whether one of the defendants did not, upon inquiry, declare that the note was good and would be punctually paid?

The defendants pleaded the judgment at law in their favor in a suit brought upon the same note in bar of the relief in equity.

To this plea the complainants demurred, and the court sustained the demurrer and ruled the defendants to answer.

The answer states that the note was endorsed by them for the purpose of being discounted at bank for the use of the collector's office, in which Gray was the chief clerk or deputy and had the whole management of the business. That the defendants refused to endorse it until Gray promised to deliver to the defendants as security their bond to the United States, given for duties, to the amount of $1,168, which he never did, and they had to pay it. That they never received any value from any person for their endorsement; that they never gave circulation to the note otherwise than by endorsing it and delivering it to Gray to be discounted at bank, for which purpose only they endorsed it. They deny that they ever made any contract with any person touching the note, and say they have no recollection of any conversation with any person respecting the note before it became due.

The deposition of D. W. Scott stated that he gave 200 barrels of flour for the note, but before he

concluded the bargain, he asked Jamesson, one of the defendants, if the note was good and whether there was any objection to it, and informed him it was offered to

him for flour. Jamesson told him it was a good note, and observed that whenever he saw the name of Mandeville and Jamesson on any paper he might be sure it was good. That Scott sold the note to McClenachan for 207 barrels of flour, but did not endorse it, and it was expressly agreed that he should not be answerable for it in any event.

The deposition of McClenachan stated that before he would take the note of Scott, he informed Jamesson that he intended to deal for it, and inquired whether it was an accommodation note or a note given upon a real transaction. Jamesson told him it was a real transaction note, and not an accommodation note, and that it would be punctually paid. The deponent further stated that the complainants had released to him all claim on account of the note, and of the debt intended to be paid by the note, and that he had also been discharged under the bankrupt act.

These witnesses were objected to by the defendants as interested.

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

This suit is brought by the holder of a promissory note to recover its amount from a remote endorser. In a suit between the same parties, this Court had previously determined that the plaintiff was without remedy at law. It is now to be decided whether he is entitled to the aid of a court of equity.

If, as was stated by the counsel for the defendants, the question is whether a court of chancery

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would create contracts into which individuals had never entered and decree the payment of money from persons who had never undertaken to pay it, the time of this Court has been very much misapplied indeed in attending to the laborious discussion of this cause. The Court would, at once, have disclaimed such a power and have terminated so extraordinary a controversy.

But the real questions in the case are understood to be whether the plaintiffs, as endorsees of a promissory note, have a right, under the laws of Virginia, to receive its amount from the endorser on the insolvency of the maker; whether the defendants, as the original endorsers of the note, are ultimately responsible for it, and whether equity will decree the payment to be immediately made, by the person ultimately responsible, to the person who is actually entitled to receive the money.

This note came to the hands of McClenachan, endorsed in blank by Mandeville and Jamesson. McClenachan had a right to fill up the endorsement to himself, and he has done so. The law, as understood in Virginia, immediately implied an assumpsit from Mandeville and Jamesson to McClenachan to pay him the amount of the note, if he should use due diligence, and should be unable to obtain payment from the maker. McClenachan endorsed this note to the plaintiffs, and by so doing became liable to them in like manner as Mandeville and Jamesson were liable to him.

The maker having proved insolvent, the plaintiffs have a legal right to claim payment from McClenachan, and, on making that payment, McClenachan would be reinvested with all his original rights in the note and would be entitled to demand payment from Mandeville and Jamesson.

If there were twenty successive endorsers of a note, this circuitous course might be pursued, and

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by the time the ultimate endorser was reached, the value of the note would be expended in the pursuit. This circumstance alone would afford a strong reason for enabling the holder to bring all the endorsers into that court which could, in a single decree, put an end to litigation. No principle adverse to such a proceeding is perceived. Its analogy to the familiar case of a suit in chancery by a creditor against the legatees of his debtor is not very remote. If an executor shall have distributed the estate of his testator, the creditor has an action at law against him,

and he has his remedy against the legatees. The creditor has no action at law against the legatees. Yet it has never been understood that the creditor is compelled to resort to his legal remedy. He may bring the executor and legatees both before a court of chancery, which court will decree immediate payment from those who are ultimately bound. If the executor and his securities should be insolvent, so that a suit at law must be unproductive, the creditor would have no other remedy than in equity, and his right to the aid of that court could not be questioned.

If doubts of his right to sue in chancery could be entertained while the executor was solvent, none can exist after he had become insolvent. Yet the creditor would have no legal claim on the legatees, and could maintain no action at law against them. The right of the executor, however, may, in a court of equity, be asserted by the creditor, and as the legatees would be ultimately responsible for his debt, equity will make them immediately responsible.

In the present case, as in that which has been stated, the insolvency of McClenachan furnishes strong additional motives for coming into a court of chancery. Mandeville and Jamesson are ultimately bound for this money, but the remedy at law is defeated by the bankruptcy of an intermediate endorser. It is only a court of equity which can afford a remedy.

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This subject may and ought to be contemplated in still another point of view. It has been repeatedly observed that the action against the endorser is not given by statute. The contract on which the suit is maintained is not expressed, but is implied from the endorsement itself, unexplained and unaccompanied by any additional testimony. Such a contract must of necessity conform to the general understanding of the transaction. General opinion certainly attaches credit to a note, the maker of which is doubtful, in proportion to the credit of the endorsers, and two or more good endorsers are deemed superior to one. But if the last endorser alone can be made responsible to the holder, then the preceding names

are of no importance and would add nothing to the credit of the note. But this general opinion is founded on the general understanding of the nature of the contract. The endorser is understood to pass to the endorsee every right founded on the note which he himself possesses. Among these is his right against the prior endorser. This right is founded on an implied contract, which is not, by law, assignable. Yet if it is capable of being transferred in equity, it vests as an equitable interest in the holder of the note. No reason is perceived why such an interest should not, as well as an interest in any other chose in action, be transferable in equity. And if it be so transferable, equity will of course afford a remedy. The defendant sustains no injury, for he may defend himself in equity against the holder as effectually as he could defend himself against his immediate assignee in a suit at law.

The case put of the sale and delivery of a personal thing is not thought to be analogous to this. The purchaser of a personal thing does not, at the time of the contract, look beyond the vendor. He does not trace the title. It passes by delivery. But suppose the vendor held it by a bill of sale containing a warranty of title, and should assign that bill to his vendee; is it clear that, on loss of the property for defect of title, no recourse could

be had to the warrantor of that title? The Court is not prepared to answer this question in the affirmative.

It is contended that the endorsee of the note holds it subject to every equity to which it was liable in the hands of the endorser.

If this be admitted, it is not perceived that the admission would in any manner affect this case.

It is also contended that the plaintiff can only recover what he actually paid.

Without indicating any opinion on this point, the Court considers it is very clear that the endorsement is *prima facie* evidence of having endorsed for full value, and it

is incumbent on the defendant to show the real consideration, if it was an inadequate one.

Usury has been stated in the argument, but it is neither alleged in the pleadings nor proved by the testimony.

It is urged that Mandeville and Jamesson are securities who have received no actual value, and that equity will not charge a security who is discharged at law. In support of this argument, the case of a joint obligation is cited.

It is true that in the case of a joint obligation, the court has refused to set up the bond against the representatives of a security. But in that case, the law had absolutely discharged them. In this case, Mandeville and Jamesson are not discharged. They are not released from the implied contract created by the endorsement. It is the legal remedy which is obstructed; the right is unimpaired, and the original obligation is in full force.

It is, then, the opinion of this Court that without referring to the depositions to which exceptions have been taken, a right exists in the holder of a promissory

note, at least where he cannot obtain payment at law, to sue a remote endorser in equity.

Certainly in such a case the defendant has a right to insist on the other endorsers being made parties, but he has not done so, and in this case the Court does not perceive that McClenachan is a party so material in the cause that a decree may not properly be made without him.

The decree is reversed and the defendants directed to pay the amount of the note to the plaintiffs.

The decree of the Court was as follows:

This cause came on to be heard on the transcript of the record of the Circuit Court for the County of Alexandria and was argued by counsel, on consideration whereof the Court is of opinion that the decree of the said circuit court dismissing the bill of the plaintiffs is erroneous and ought to be reversed, and this Court doth reverse the same, and this Court, proceeding to give such decree as the said circuit court ought to have given, doth decree and order that the defendants pay to the plaintiffs the sum of $1,500, that being the amount of the note in the bill mentioned, together with interest thereon from the time the same became due.