Beatty Vs. Maryland

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Court : US Supreme Court

Decided On : 1812

Appeal No. : 11 U.S. 281

Appellant : Beatty

Respondent : Maryland

Judgement :

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ERROR TO THE CIRCUIT COURT FOR THE

DISTRICT OF COLUMBIA AT WASHINGTON

SYLLABUS

Decided: a final account settled by an administrator with the orphans' court, is not conclusive evidence in his favor upon the issue of *devastavit vel non.*

This was an action of debt brought at the instance and for the use of Thomas Corcoran against Thomas Beatty upon the administration bond of Mrs. Doyle, administratrix, with the will annexed, of Alexander Doyle. The defendant was one of her sureties in that bond. The defendant, after oyer, pleaded a special performance of every item in the condition of the bond. To which the plaintiff replied a judgment *de bonis testatoris* obtained by him, in May, 1799, against the administratrix, *fieri facias* upon that judgment and a return of *nulla bona.* The replication also avers that the administratrix had in her hands at the time of the judgment goods of her testator sufficient to satisfy the debt, but that she wasted them. The defendant took issue upon the *devastavit.*

Upon the trial of this issue, the defendant below took a bill of exceptions which stated that the plaintiff offered in evidence the record of the judgment in May, 1799, against the administratrix for $357, and the *fieri facias* returned *nulla bona.* And also the inventory which she had exhibited to the Orphans' Court of Montgomery County, in Maryland, in January, 1795,

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amounting to 3,701 2s. 7p. Maryland currency, of which 200 is stated in the inventory to be cash. Also an account of the administratrix with the estate of her testator, rendered by her to the orphan's court upon oath on 17 August, 1799, in which she charges herself with the sum of 1,085 in addition to the former inventory, making in the whole 4,786 and claims credit for sums paid to other creditors whose claims were not entitled to preference, amounting to 3,566 -- leaving a balance still in her hands of 1,220, equal to $3,253, and also a second account rendered by her upon oath to the orphan's court in November, 1799, charging herself with a further sum of assets to the amount of 463 15s. 5p. in addition to the former balance, and claiming credit for 1,607 16s. 11p. paid to sundry creditors not entitled to preference, and still leaving a balance of 76 in her hands to be administered. The defendant then offered in evidence a third account rendered by the administratrix to the orphan's court in 1801 in which she charges herself with the former balance of 76 and claims allowance for payments and commissions to the amount of 123, leaving a balance in her favor of 47. To this

account, as well as to the two former, was annexed a certificate from the register of wills, that the administratrix made oath on the Holy Evangels of Almighty God that the account was just and true as it stood stated, and that she had *bona fide* paid or secured to be paid the several sums for which she claimed an allowance "which after due examination passed by order of court."

This account was offered as conclusive evidence for the defendant on the issue. But the court instructed the jury that it was not conclusive evidence in favor of the defendant upon that issue, and further, at the request of the plaintiff's counsel, instructed the jury that the said record of the judgment, the inventory, and the two accounts of the administratrix offered in evidence on the part of the plaintiff were conclusive evidence in his favor to prove the *devastavit* on the part of the administratrix to the amount of the plaintiff's claim, to which instructions of the court the defendant excepted, and the verdict and judgment being against him, he brought his writ of error.

DUVALL, J.

The account was only binding upon the representatives of the estate, the distributees, and they might still open it in the general court. But the creditors are no parties to the settlement of the account, and cannot be bound by it.

There can be no doubt that the judgment against the administratrix, the inventory and two first accounts were conclusive evidence of a *devastavit.*

MR. CHIEF JUSTICE MARSHALL.

I believe that is the law throughout the United States.

The Court is unanimously of opinion that the settlement of the account by the orphan's court is not conclusive evidence for the defendant upon the issue joined.

Judgment affirmed.