

Beatty's Administrators Vs. Burnes' Administrators

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Court : US Supreme Court

Decided On : 1814

Appeal No. : 12 U.S. 98

Appellant : Beatty's Administrators

Respondent : Burnes' Administrators

Judgement :

Beatty's Administrators v. Burnes' Administrators - 12 U.S. 98 (1814)

U.S. Supreme Court Beatty's Administrators v. Burnes' Administrators, 12 U.S. 8 Cranch 98 98 (1814)

Beatty's Administrators v. Burnes' Administrators

12 U.S. (8 Cranch) 98

ERROR TO THE CIRCUIT COURT FOR THE

DISTRICT OF COLUMBIA AT WASHINGTON

SYLLABUS

The statute of limitations of Maryland of three years is a good bar to an action of assumpsit for money had and received brought to try a title to lands in the City of

Washington under the 5th section of the Act of Maryland, Nov., 1791, ch. 45.

The statute of limitations has been emphatically declared a statute of repose, and the Court should not feel at liberty to break in upon its general construction by allowing an exemption which has not acquired the complete sanction of authority.

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The case as stated by STORY, J. in delivering the opinion of the Court, was as follows:

This is an action for money had and received brought by the plaintiffs as administrators of Charles Beatty, deceased, against the defendant as administrator of David Burnes, deceased. The declaration alleges the promise to have been made in the lifetime of the respective intestates. The defendant has pleaded the general issue and the statute of limitations of Maryland.

Upon the trial in the Circuit Court for the District of Columbia, the plaintiffs sought to support their action under the 5th section of the statute of Maryland of Nov. 1791, ch. 45, concerning the Territory of Columbia and the City of Washington. That section is as follows:

"And be it enacted that all the squares, lots, pieces and parcels of land within the said city which have been or shall be appropriated for the use of the United States, and also the streets, shall remain and be for the use of the United States, and all the lots and parcels which have been or shall be sold to raise money as a donation as aforesaid shall remain and be to the purchasers according to the terms and conditions of their respective purchases."

"And purchases and leases from private persons claiming to be proprietors and having, or those under whom they claim having, been in possession of the lands purchased or leased in their own right five whole years next before the passing of this act shall be good and effectual for the estate, and on the terms and conditions of such purchases and leases respectively, without impeachment, and against any contrary title now existing; but if any person hath made a conveyance or shall

make a conveyance or lease of any lands within the limits of the said city not having right and title to do so, the person, who might be entitled to recover the land under a contrary title now existing may, either by way of ejectment against the tenant or in an action for money had and received for his use against the bargainor or lessor, his heirs, executors, administrators or devisees, as the case may require, recover all money received by him

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for the squares, pieces, or parcels appropriated for the use of the United States, as well as for lots or parcels sold, and rents received by the person not having title as aforesaid, with interest from the time of the receipt, and on such recovery in ejectment where the land is in lease, the tenant shall thereafter hold under and pay the rent reserved to the person making title to and recovering the land, but the possession, *bona fide* acquired, in none of the said cases shall be changed."

The plaintiffs offered evidence that on 16 April, 1792, Charles Beatty, the intestate, returned into the land office for the Western Shore of Maryland a certificate of survey dated on 3 April, 1792, and then paid the usual caution money for the land described in said certificate. On 23 May, 1792, a caveat against the issuing of a patent for the lands on said certificate was filed by David Burnes, the intestate, which caveat was discontinued on 23 May, 1801, by virtue of a certain act of the State of Maryland. On the same day, a patent issued from the land office to Charles Beatty for the land described in said certificate, which land is within the limits of the City of Washington, and was taken up by Beatty as a vacancy; but Beatty never had actual possession thereof, nor ever claimed to make division thereof with the city commissioners as an original proprietor pursuant to the statute of Maryland, 1791, ch. 45. In fact the same land had been held and claimed by David Burnes in his own right for more than five years before the passing of the statute aforesaid, as included in the lines of a grant made as early as 1720. The plaintiff offered evidence however that the land included in Beatty's patent, was without the lines of the land to which Burnes was, under his grant, really entitled, and that it was vacant land of the State of Maryland. The warrant under which Beatty's patent was obtained was (before the location within the limits of

Washington) in part located upon and applied to other lands of the State of Maryland not within the said city or the county in which it was situate while belonging to Maryland. Burnes in his lifetime and before the statute of 1791, ch. 45, made a conveyance of the land in controversy as an original proprietor to certain trustees for the purposes named in

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that statute, and received of the city commissioners on account of parts of the same land appropriated to city purposes, the sum of \$7,343.82, in various sums paid between October, 1792, and June, 1796, and also received \$1,000 on account of other parts of said land which he sold and conveyed to individuals. Burnes died in May, 1799, and administration of his estate was granted in Prince George's County in the same year to his widow, who died in January, 1807. In April, 1803, administration of his estate was granted to the defendant by the Orphans' Court of Washington County in the District of Columbia. Beatty died sometime before May, 1805, and in that month administration of his estate was granted to the plaintiffs. The present action is brought to recover the money so received by Burnes upon the ground that it was the proceeds of the sale and disposition of land included in Beatty's patent. No demand or claim was ever made by Beatty on Burnes or his administrators in his lifetime for the same money, although both parties, from the year 1791 until their respective deaths, lived within the limits of the District of Columbia and within two miles of each other -- nor did the plaintiffs ever make any demand or claim upon the defendant until February, 1810. Under these circumstances, the court below was of opinion that the plaintiffs could not sustain the action, and upon that direction the jury found a verdict for the defendant.

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STORY, J. after stating the case, delivered the opinion of the Court as follows:

It is contended by the plaintiffs in error that the direction of the circuit court was erroneous 1. because the plaintiffs' intestate had a good and valid title to the land

surveyed under his patent, and was therefore entitled under the 5th section of the Maryland statute of 1791, to the money received by the defendant's intestate therefor; 2. that this right was not barred by the statute of limitations.

In support of the first point, the plaintiffs contend that the land belonging to the state did not, by the cession of the territorial jurisdiction under the statute of 1791, pass to the United States, and was consequently liable to be appropriated by individuals under warrants pursuant to the laws of Maryland. That until 1801, the jurisdiction of Maryland continued over the whole ceded territory, and titles therefore might legally be acquired therein according to the public laws, and the patent of Beatty, being obtained in pursuance of those laws, gave him a complete and valid title.

On the other hand, the defendant denies each of these positions and further contends that the plaintiffs are without the purview of the 5th section of the act of 1791, because that section extends only to titles then existing, and Beatty's title did not commence until April, 1792.

It is not necessary to consider the correctness of the positions urged by the respective parties as to this point, because we are of opinion that the case may well be decided upon the second point.

The action for money had and received is clearly embraced by the statute of limitations, and it is incumbent upon the plaintiffs to show that the present case forms an exception to its operation.

It is contended that the present suit, being a statute remedy, is not within the purview of the statute of limitations.

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But we know of no difference in this particular between a common law and statute right. Each must be pursued according to the general rule of law unless a different rule be prescribed by statute, and where the remedy is limited to a particular form of action, all the general incidents of that action must attach upon it. Upon any

other construction, it would follow that the case would be without any limitation at all, for it would be quite impossible, upon any acknowledged principles, when a right had assumed the shape of a claim *in personam*, to attach to it a limitation which exclusively applied to the realty. Now the statute of limitations has been emphatically declared a statute of repose, and we should not feel at liberty to break in upon its general construction by allowing an exception which has not acquired the complete sanction of authority.

It is further contended that by the operation of the act of 1791, ch. 45, Burnes must be considered as a mere trustee of Beatty, and trusts are not within the statute of limitations. We are of a different opinion. The land in controversy was claimed by Burnes in his own right, and adversely to the plaintiffs' intestate. The money was received by him for his own use and in his own right as an original proprietor. He never admitted or acknowledged the title of the plaintiff, and no claim or demand was ever made upon him in his lifetime. So far then from being received in trust, it was expressly received under a peremptory denial of any trust or right in the opposite party. Nor was the statute meant to make the adverse possessor without title a trustee for the party having title. It only substituted the action of assumpsit for the ordinary legal remedy by ejectment, and the adverse possessor of the land could no more be deemed a trustee of the money, than he could be deemed a trustee of the land itself, for the benefit of the rightful owner, against whom he held by an adverse title.

The Court is therefore of opinion that the statute of limitations is a good bar, and therefore that the judgment must be

Affirmed.