The Ann

The Ann

SooperKanoon Citation : sooperkanoon.com/78682

Court : US Supreme Court

Decided On : 1815

Appeal No. : 13 U.S. 289

Appellant : The Ann

Judgement :

The Ann - 13 U.S. 289 (1815)
U.S. Supreme Court The Ann, 13 U.S. 9 Cranch 289 289 (1815)

The Ann

13 U.S. (9 Cranch) 289

APPEAL FROM THE CIRCUIT COURT

FOR THE DISTRICT OF CONNECTICUT

SYLLABUS

If a seizure by a collector for a violation of the revenue laws of the United States be voluntarily abandoned and the property restored before the libel or information be filed and allowed, the district court has not jurisdiction of the cause.

Jurisdiction as to revenue forfeitures was intended by the Act of 24 September, 1789, to be given to the court of the district not where the offense was committed, but where the seizure was made.

Appeal from the sentence of the Circuit Court for the District of Connecticut, which reversed that of the district court and restored the property to the claimant.

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

This is an information against twelve casks of merchandise, part of the cargo of the brig *Ann,* alleged to have been imported or put on board with an intent to be imported contrary to the Non-importation Act of 1 March, 1809, ch. 91, § 5.

It appears from the evidence that the *Ann* sailed from Liverpool for New York in July, 1812, having on board a cargo of British merchandise. She was seized by a revenue cutter of the United States on her passage toward New York, while in Long Island Sound, about midway between Long Island and Falkland Island, and carried into the port of New Haven about 7 October, 1812, and immediately taken possession of by

Page 13 U. S. 290

the collector of that port as forfeited to the United States. On the morning of 12 October, the collector gave written orders for the release of the brig and cargo from the seizure in pursuance of directions from the Secretary of the Treasury, returned the ship's papers to the master, and gave permission for the brig to proceed without delay to New York. Late in the afternoon of the same day, the present information was allowed by the district judge, and on the ensuing day the brig and cargo were duly taken into possession by the marshal under the usual monition from the court. On the trial in the district court, the property now in controversy was condemned, and upon an appeal that decree was reversed in the circuit court.

It has been argued that the decree of the circuit court ought to be affirmed because, on the whole facts, the district court had no jurisdiction over the cause,

and this argument is maintained on two grounds -- first that the original seizure was made within the Judicial District of New York, and secondly that if the seizure was originally made within the Judicial District of Connecticut, the jurisdiction thereby acquired by the district court was, by the subsequent abandonment of the seizure and want of possession, completely ousted.

It is unnecessary to consider the first ground, because we are of opinion that sufficient matter is not disclosed in the evidence to enable the Court to decide whether the seizure was within the District of New York or of Connecticut or upon waters common to both.

The second ground deserves great consideration. By the Judicial Act of 24 September, 1789, ch. 20, § 9, the district courts are vested with

"exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction, including all seizures under laws of impost, navigation, or trade of the United States where the seizures are made on waters navigable from the sea by vessels of ten or more tons burden within their respective districts, as well as upon the high seas."

Whatever might have been the construction of the jurisdiction of the district courts if the legislature had stopped at the word s "admiralty and maritime jurisdiction," it seems manifest by the subsequent clause that

Page 13 U. S. 291

the jurisdiction as to revenue forfeitures was intended to be given to the court of the district not where the offense was committed, but where the seizure was made. And this with good reason. In order to institute and perfect proceedings *in rem,* it is necessary that the thing should be actually or constructively within the reach of the court. It is actually within its possession when it is submitted to the process of the court; it is constructively so when, by a seizure, it is held to ascertain and enforce a right of forfeiture which can alone be decided by a judicial decree *in rem.* If the place of committing the offense had fixed the judicial forum where it was to be tried, the law would have been in numerous cases evaded, for

by a removal of the thing from such place the court could have had no power to enforce its decree. The legislature therefore wisely determined that the place of seizure should decide as to the proper and competent tribunal. It follows from this consideration that before judicial cognizance can attach upon a forfeiture *in rem* under the statute, there must be a seizure, for until seizure, it is impossible to ascertain what is the competent forum. And if so, it must be a good subsisting seizure at the time when the libel or information is filed and allowed. If a seizure be completely and explicitly abandoned and the property restored by the voluntary act of the party who has made the seizure, all rights under it are gone. Although judicial jurisdiction once attached, it is divested by the subsequent proceedings, and it can be revived only by a new seizure. It is in this respect like a case of capture, which, although well made, gives no authority to the prize court to proceed to adjudication if it be voluntarily abandoned before judicial proceedings are instituted. It is not meant to assert that a tortious ouster of possession or fraudulent rescue for relinquishment after seizure will divest the jurisdiction. The case put (and it is precisely the present case) is a voluntary abandonment and release of the property seized, the legal effect of which must, as we think, be to purge away all the prior rights acquired by the seizure.

On the whole it is the opinion of the majority of the Court that the decree of the circuit court ought to be

Affirmed.