

The Nereide

The Nereide

SooperKanoon Citation : sooperkanoon.com/78711

Court : US Supreme Court

Decided On : 1816

Appeal No. : 14 U.S. 171

Appellant : The Nereide

Judgement :

The Nereide - 14 U.S. 171 (1816)

U.S. Supreme Court The Nereide, 14 U.S. 1 Wheat. 171 171 (1816)

The Nereide

14 U.S. (1 Wheat.) 171

SYLLABUS

Under the Prize Act of June 26, 1812 c. 430, and the Act of 2 August, 1813, c. 527, allowing a deduction of thirty-three and one-third percent on "all goods captured from the enemy, and made good and lawful prize of war," &c.;, and brought into the United States, are not included goods captured and brought in for adjudication, sold by order of court, and ultimately restored to a neutral claimant as his property, but such goods are chargeable with the same rate of duties as goods imported in foreign bottoms.

This cause was originally brought into the circuit court by appeal from the District Court for the Southern District of New York, in which the property, claimed by Mr. Pinto, had been condemned as prize of war. The decree of the district court was affirmed in the circuit court, September term, 1814, *pro forma*, for the purpose of taking the cause, by appeal, before the Supreme Court for its final determination, which was accordingly done and the decree of the circuit court reversed, February term, 1815, except as to the undivided fourth part which Mr. Pinto claimed of certain goods, part of the cargo, his claim to which was relinquished by his counsel on the argument of the cause before the Supreme Court. All the other property claimed by Mr. Pinto for himself and others was ordered to be restored to him. The cause was then remanded to the circuit court with directions to carry the decree

Page 14 U. S. 172

of the Supreme Court into effect, and the mandate for that purpose was filed in the circuit court, April term, 1815, and an order made in pursuance of the mandate. It was then stated and made to appear to the satisfaction of the circuit court that after the *Nereid* and her cargo had been libeled by the captors as prize of war in the district court and after the condemnation thereof, except the parts of the cargo which were claimed by Mr. Pinto, and during the pendency of such claim, Peter H. Schenck, the prize agent of the *Governor Tompkins*, entered the whole of the cargo of the *Nereid* at the custom house of the City of New York, and secured the duties thereon, Mr. Pinto having consented that the goods which he claimed should be entered with the others, and be subject to the payment of such duties as they were by law liable to, without prejudice to his rights under his claim; that the prize agent did enter the goods so condemned (as also the said goods of which Mr. Pinto claimed the one-fourth) as prize goods, and bonded therefor for prize duties, but was required by the collector of the customs, and did enter all the residue of the goods, claimed by Mr. Pinto, as neutral property, subject to the full duties payable on goods regularly imported in foreign bottoms, and bonded for the same accordingly. The goods claimed by Mr. Pinto were afterwards, and before condemnation, sold by the marshal of the district, together with the goods condemned, in pursuance of an order of the district court, to which Mr. Pinto also

consented, subject to the same reservation of his rights, and the proceeds

Page 14 U. S. 173

of the sales of the goods claimed by Mr. Pinto, after deducting the duties, were paid into court, the amount of the said duties having been paid by the marshal to the prize agent, with the consent of Mr. Pinto, for the prize agent's indemnity. The difference between the duties thus secured to be paid by the prize agent on the goods finally restored to Mr. Pinto, according to the decision of the Supreme Court, and those which would have been payable on them, as prize goods, under the Act of 2 August, 1813, entitled, "An act for reducing the duties payable on prize goods captured by the private armed vessels of the United States," amounted to \$11,079.59. After the mandate and decree of the Supreme Court, respecting the restitution of the goods claimed by Mr. Pinto, was carried into effect by the circuit court, there remained in the district court the sum of \$18,771.63, being the amount of the net proceeds of the fourth part of the goods, Mr. Pinto's claim to which had been relinquished.

A motion was made in the circuit court on behalf of Mr. Pinto that the prize agent should be ordered to pay to him, out of any of the proceeds of the sales of the condemned part of the *Nereid* and cargo, and which were in, or might come to, his hands, the said sum of \$11,079.59, the difference between the two rates of duties on the goods finally restored to Mr. Pinto, as before mentioned.

It then appeared to this Court that three bonds had been given by the prize agent for the duties on those goods which were thus ordered to be restored

Page 14 U. S. 174

to Mr. Pinto; that the two of those bonds which first became due had been paid by the prize agent; but that the last, which became payable on 9 February, 1815, and which was for the sum of \$8,782.97, the collector had suffered, as he said, to remain unpaid until it should be ascertained whether the property on which said duties were thus secured was condemned to the captors or restored to the claimant. That after the mandate of the Supreme Court was returned to the circuit

court, the collector required the prize agent to pay this bond, and he paid the same accordingly on 7 April, 1815.

The court was divided in opinion on the point respecting the rates of duties chargeable on the goods so restored to Mr. Pinto, whereupon it was ordered that the said sum of \$11,079.59 shall remain subject to the opinion of the Supreme Court, and that the residue of the \$18,771.65 be paid to Mr. Schenck as the prize agent. And that the point on which the disagreement of the judges of the circuit court took place should be certified to the Supreme Court for its final decision thereon.

Page 14 U. S. 178

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court that the goods were chargeable with the same rate of duties as goods imported in foreign bottoms, according to the decision in the case of [*The Concord*](#), 9 Cranch 387, at the last term.