Renner Vs. Marshall

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Court : US Supreme Court

Decided On : 1816

Appeal No. : 14 U.S. 215

Appellant : Renner

Respondent : Marshall

Judgement :

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Renner v. Marshall

14 U.S. (1 Wheat.) 215

ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF COLUMBIA

SYLLABUS

Where the action is brought for a sum certain, or which may be made certain by computation, as on a bill of exchange, judgment for the damages may be entered up by the court without a writ of inquiry.

The defendant in error, at June term, 1813, declared against the plaintiffs in error in assumpsit upon an inland bill of exchange drawn by one Rootes on Renner & Bussard and accepted by them, to which declaration they pleaded nonassumpsit, and issue was thereupon joined, and the cause was continued to December term, 1813. At that term, the plaintiffs in error appeared and

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pleaded

"That after the last continuance of the plea aforesaid, to-wit, the first Monday of June in the year 1814, from which day the plea aforesaid was further continued here until this day, to-wit, the fourth Monday of December in the year last aforesaid and before this day to-wit, on 19 October in the year last aforesaid, before the Superior Court of Chancery of the Commonwealth of Virginia, . . . the plaintiff exhibited his certain bill of complaint against the defendants, . . . and also against one Anthony Buck and one Miles Dowson, complaining and alleging in his said bill that on 12 October, 1812, Thomas R. Rootes drew his bill of exchange upon the defendants. . . . And the said defendants further say that the plea aforesaid, for which the said defendants, by the said plaintiff in the said bill of complaint mentioned are impleaded in the said superior court of chancery as aforesaid, is for the same identical matter and cause of action, of and for which the said plaintiff hath now impleaded the said defendants, Renner & Bussard. . . ."

To which the plaintiff replied the prior pendency of the suit in the circuit court, and the defendants rejoined in substance the same matters as contained in their plea, whereupon the plaintiff demurred specially. Upon which the court rendered judgment

"that the plea of the said Daniel Renner and Daniel Bussard by them above pleaded, to the writ and declaration of the said Horace Marshall, and the plea of the said Daniel Renner and Daniel Bussard by way

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of rejoinder to the said replication of the said Horace Marshall, and the matters therein contained, are not sufficient in law to preclude him, the said Horace Marshall, from maintaining his action aforesaid; therefore it is considered by the court here that the aforesaid Horace Marshall recover against the said Daniel Renner and Daniel Bussard, as well the sum of . . . , his damages. . . ."

STORY, J., delivered the opinion of the Court.

The first question in this case is whether the commencement of another suit for the same cause of action in the court of another state since the last continuance can be pleaded in abatement of the original suit. It is very clear that it cannot. A subsequent suit may be abated by an allegation of the pendency of a prior suit, but the converse of the proposition is, in personal actions, never true. The decision of the Circuit Court of the District of Columbia overruling the plea was therefore correct.

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The next question is whether the judgment rendered on the overruling of the plea ought to have been peremptory, or an award of *respondeat ouster.* This point is completely settled by authority. If matter in abatement be pleaded *puis darrein continuance,* the judgment, if against the defendant, is peremptory as well on demurrer as on trial.

The last question is whether judgment could be entered up for the plaintiff for the amount of his damages by the court without a writ of inquiry. This also is completely settled by authority in all cases whether the action is brought for a sum certain or which may be made certain by computation.

Judgment affirmed with costs.