

**The Venus**

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**Court :** US Supreme Court

**Decided On :** 1820

**Appeal No. :** 18 U.S. 127

**Appellant :** The Venus

**Judgement :**

The Venus - 18 U.S. 127 (1820)

U.S. Supreme Court The Venus, 18 U.S. 5 Wheat. 127 127 (1820)

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**18 U.S. (5 Wheat.) 127**

*APPEAL FROM THE CIRCUIT*

*COURT OF GEORGIA*

## **SYLLABUS**

A question of proprietary interest on further proof. Restitution decreed.

Captors' costs and expenses ordered to be paid by the claimant, it being his fault that defective documents were put on board.

On further proof, the affidavit of the claimant is indispensably necessary.

This cause was continued for further proof at February term, 1816, see 1 Wheat. 112. Owing to various accidents, the further proof was not received until the last term, and the case was now argued upon the further proof then produced and filed. It consisted of invoices of the cargo; bills of lading; accounts of sale; accounts of disbursements; the original correspondence between the

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claimant and Mr. Jones, his agent in London; and the original procuration from the claimant to Mr. Jones, recited in the power given from the latter to Diamond, the supercargo, one of the original papers found on board; to which was added the affidavit of Mr. Jademerowsky, the claimant, verifying the correspondence and explaining the circumstances of doubt and suspicion which appeared upon the original evidence.

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MR. JUSTICE JOHNSON delivered the opinion of the Court.

When this case was first brought to the view of this Court, it was accompanied by some others in which Russian claimants presented themselves under circumstances which satisfied this Court that their claims were false and fraudulent. On comparing those cases with this, there was such a striking similitude in their machinery that it was impossible not to suspect that they were all fashioned upon the same model and adapted to the same end. With *The St. Nicholas* and *The Fortuna* full in view, this Court could not adjudge the case of this vessel to be a case of restitution. Still, however, there was a possibility that those may have been the forged copies and

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this the genuine prototype. This Court therefore, trusting that a Russian character of high standing could not have pledged himself for the fairness of the transaction,

but without better evidence than was then presented our view, gave the most liberal indulgence for procuring evidence to support the claim. We now express our satisfaction in having done so, inasmuch as it has enabled an honest man both to save his property and vindicate his reputation. And we cannot omit this opportunity to remark how much it becomes the interest, as well as principles of the fair neutral to discountenance the conduct of him who indulges himself in fraudulent practices. The claimant in this case had nearly fallen a sacrifice to the bad faith of some of his countrymen, a great loss from it he must unavoidably incur, for this is one of those cases in which, by the course of the admiralty, we shall be obliged to throw the costs and expenses upon the claimant although we decree restitution. It is altogether upon the evidence of Jones and the test affidavit of the claimant introducing and verifying their original correspondence, that restitution is now decreed. Unsupported and unexplained by the evidence introduced as further proof, the condemnation was unavoidable. It is therefore the claimant's misfortune, not that of the captors, that the agent Jones had furnished the vessel with the defective documents which accompanied her.

*Decree reversed.*

DECREE. This cause came on to be heard on the transcript of the record of the Circuit Court for the

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District of Georgia and on the further proof exhibited in this cause, and was argued by counsel. On consideration whereof it is DECREED and ORDERED that the decree of the Circuit Court for the District of Georgia in this case condemning the cargo of the ship *Venus* be and the same is hereby reversed and annulled. And this Court proceeding to pass such decree as the said circuit court should have passed, it is further DECREED and ORDERED that the said cargo of the ship *Venus* be restored to the claimant, and it is further decreed that the said claimant pay to the libellants the costs and expenses incurred in the prosecution of this suit.

