

Siglar and Nall Vs. Haywood

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Court : US Supreme Court

Decided On : 1823

Appeal No. : 21 U.S. 675

Appellant : Siglar and Nall

Respondent : Haywood

Judgement :

Siglar & Nall v. Haywood - 21 U.S. 675 (1823)

U.S. Supreme Court Siglar & Nall v. Haywood, 21 U.S. 675 (1823)

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21 U.S. 675

ERROR TO THE CIRCUIT

COURT OF TENNESSEE

An executor or administrator is not liable to a judgment beyond the assets to be administered, unless he pleads a false plea.

If he fail to sustain his plea of *plene administravit*, it is not necessarily a false plea within his own knowledge, and if it be found against him, the verdict ought to find

the amount of assets unadministered, and the defendant is liable for that sum only.

In such a case the judgment is *de bonis testatoris*, and not *de bonis propriis*.

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This was an action of debt brought in the court below by Haywood, the defendant in error, against Siglar & Nall, the plaintiffs in error, upon a judgment obtained against their intestate, William Nall, in the Superior Court for the District of Hillsborough in the State of North Carolina for the sum of \$2,980.05. The defendants pleaded (1) *nil debet* and (2) *plene administravit*. The plaintiff replied to the second plea, that the defendants have, and on the day of commencing this suit had, divers goods, &c.;, whereof they could have satisfied the plaintiff for the debt aforesaid. On the trial, it appeared by the accounts exhibited by the defendants that a part of the intestate's goods and chattels remained in their hands unadministered. On which, the plaintiff's counsel moved the court to instruct the jury, that the plea of *plene administravit* was therefore false, and that on that ground the plaintiff was entitled to his verdict on the whole issue. The instruction was given by the court, to which the counsel for the defendants excepted. The jury returned a verdict for the plaintiff, for the sum of \$2,565.16 debt, and \$4,429.53 damages, for the detention thereof, and also found

"that the defendants have not fully administered all and singular the goods and chattels, rights and credits, which were of the decedent, and which came to their hands to be administered, previous to the issuing of the writ of *capias* in this cause, as the plaintiff in replying hath alleged. "

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Upon which, judgment was entered as follows:

"Therefore it is considered by the court that the plaintiff recover against the defendants \$2,565.16, the residue of the debt aforesaid, in form aforesaid assessed, and also his costs,"

&c.; And the cause was brought by writ of error to this Court.

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

This case presents several questions of some difficulty, but as the argument has been *ex parte* and there are other points on which the judgment must necessarily be reversed, the Court will confine its opinion to those on which no doubt can arise.

At the trial of the issue of fully administered, the plaintiff's counsel moved the court to instruct the jury

"That as it appeared by the accounts exhibited by the defendants that a part remained in their hands unadministered, that the plea was therefore false, and that on that ground he was entitled to their verdict on the whole issue."

This instruction was given by the court, and to this opinion the counsel for the defendants excepted.

It is now well settled, and the case cited from Cranch in the argument is founded on the principle, that if an administrator fails to sustain his plea of fully administered, he is not, on that account, liable to a judgment beyond the assets to be administered. The plea is not necessarily false within his own knowledge; he may have failed to adduce proof of payments actually made. It is not required that the plea should state with precision the assets remaining unadministered, and an executor or administrator would always incur great hazard if he were required to state and prove the precise sum remaining in his hands under the penalty of being exposed to a judgment for the whole amount claimed, whatever it might be. To state a full administration without proving it would be useless. The rule and usage, therefore,

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is that if the plea of fully administered be found against the defendant, the verdict ought to find the amount of assets unadministered, and the defendant is liable for that sum only. The instruction of the court on this point is erroneous, and consequently the verdict and judgment founded on it must be set aside and reversed.

The same error is in the verdict. Instead of finding the amount of assets remaining unadministered, it finds the whole amount claimed, which, as was decided in the case already mentioned, is clearly erroneous.

There is also additional error in the judgment which is rendered against the administrators *de bonis propriis* instead of being *de bonis testatoris*. For these errors the judgment must be reversed and the verdict set aside and the cause remanded for further proceedings according to law.

Judgment reversed.

Judgment. This cause came on to be heard on the transcript of the record of the Court of the United States for the Seventh Circuit in the District of East Tennessee, and was argued by counsel on the part of the plaintiffs in error. On consideration whereof, this Court is of opinion that there is error in the record and proceedings of the said circuit court in this, that the said court instructed the jury on the trial of the issue on the plea of fully administered that, as it appears by the accounts exhibited by the defendants, a part remained in their hands unadministered,

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the plea was therefore false, and that on that ground the plaintiff was entitled to its verdict on the whole issue, and also in this, that the jury has found a verdict on the plea of fully administered against the defendants without finding the sum unadministered, and also in this, that the judgment on the said verdict is absolute against the administrators themselves, instead of being to be levied of the goods and chattels of their intestate, in their hands to be administered. Whereupon it is considered by the Court that the said judgment be reversed and the verdict be set

aside and the cause remanded to the said circuit court that further proceedings may be had therein according to law.

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