Mccormick Vs. Sullivant

Mccormick Vs. Sullivant

SooperKanoon Citation : sooperkanoon.com/79027

Court : US Supreme Court

Decided On : 1825

Appeal No. : 23 U.S. 192

Appellant : Mccormick

Respondent : Sullivant

Judgement :

McCormick v. Sullivant - 23 U.S. 192 (1825)
U.S. Supreme Court McCormick v. Sullivant, 23 U.S. 10 Wheat. 192 192 (1825)

McCormick v. Sullivant

23 U.S. (10 Wheat.) 192

APPEAL FROM THE

CIRCUIT COURT OF OHIO

SYLLABUS

The courts of the United States are courts of limited, but not of inferior, jurisdiction. If the jurisdiction be not alleged in the proceedings, their judgments and decrees may be reversed for that cause on a writ of error and appeal, but until reversed,

they are conclusive evidence between parties and privies.

The title and disposition of real property is governed by the *lex loci rei sitae.*

The title to lands can only pass by devise according to the laws of the state or country where the lands lie. The probate in one state or country is of no validity as affecting the title to lands in another.

The appellants filed their bill in equity in the court below setting forth that William Crawford,

Page 23 U. S. 193

deceased, the father of the female appellants, being in his lifetime a Colonel in the Virginia Line on continental establishment, and as such entitled to the quantity of 6,666 and 2/3 acres of land, to be laid off between the Scioto and Little Miami Rivers, on the northwest side of the River Ohio, departed this life, having first duly made and published his last will and testament bearing date 16 June, 1782, whereby he devised all his estate not otherwise disposed of by said will to be equally divided between his three children, John Crawford, and the female complainants, and their heirs forever. That this will was proved and recorded in Westmoreland county, in the State of Pennsylvania, on 10 September in the same year. That a warrant for the above quantity of land was afterwards issued in the name of the said John Crawford, as heir at law of his father, under which the following entries were made -- one for 800 acres, which was surveyed and patented to Lucas Sullivant, of which quantity 400 acres are claimed by Bernard Thompson; another for 955 2/3 acres, which was surveyed and patented to John Armat, but then claimed by William Winship; another for 956 acres, patented to some person unknown, but claimed by Samuel Finley; another for 955 acres, patented to some person unknown, but believed to be claimed and possessed by Lucas Sullivant.

The bill then proceeds to interrogate the above parties, who are made defendants, severally, as to their knowledge of the above will, and of the

title of the female complainants, and requires of them to set forth and describe the lands severally claimed by them, from whom they purchased, at what time, and for what price the same were purchased, and when the purchase money was paid. The prayer is for a conveyance by each defendant of two-thirds of the land claimed by them respectively, and for possession.

The answer of the heirs of Winship states that the land to which they claim title was purchased, for a valuable consideration, of Thomas Armat, by their father, to whom a conveyance was made in the year 1807. That a bill was filed by the present complainants, against the said Thomas Armat, in the District Court of Ohio, exercising the powers and jurisdiction of a circuit court, for the land now in controversy, to which the said Armat filed his answer, asserting himself to be a *bona fide* purchaser of the land, for a valuable consideration, and without notice, and that, the cause coming on to be heard, the bill was dismissed without costs, after which decree, the purchase was made of Armat by the defendant's father. They insist upon and pray to be protected by the said decree.

Finley answers and alleges himself to be a *bona fide* purchaser for a valuable consideration of 500 acres, part of the 956 acres mentioned in the bill, from one Beauchamp, who claimed as assignee of Dyal, who was assignee of John Crawford, for which he paid, and received a patent, before notice of the claim of the plaintiffs, or of the will of William Crawford.

The heirs of Thompson filed a plea in bar alleging that the complainants, in the year 1804, filed their bill in the District Court of Ohio, exercising the powers and jurisdiction of a circuit court, against B. Thompson, their ancestor, under whom they claim, setting forth the same title, and substantially the same matters as in their present bill, to which the said Thompson answered, and the complainants replied, and upon a hearing of the cause the bill was dismissed with costs, which decree is in full force, &c.;

Sullivant filed a similar plea, and the bill was dismissed as to him by agreement.

A general replication was put in to the answers of Finley and Winship's heirs, and a special replication to the plea in bar setting forth the record in the former suit, and alleging, that the proceedings in that suit were *coram non judice,* the record not showing that the complainants and defendant in that suit were citizens of different states.

Upon the hearing, the bill was dismissed, and an appeal taken to this Court.

Page 23 U. S. 198

MR. JUSTICE WASHINGTON delivered the opinion of the Court, and after stating the case proceeded as follows:

Page 23 U. S. 199

The question which the plea of Thompson's heirs and the answer of Winship's heirs presents is whether the general decree of dismission of the bill in equity, filed by the present plaintiffs in the Federal District Court of Ohio against the ancestor of these defendants, under whom they respectively claim title, is a bar of the remedy which is sought to be enforced by the present suit. The reason assigned by the replication why that decree cannot operate as a bar is that the proceedings in that suit do not show that the parties to it, plaintiffs and defendants, were citizens of different states, and that consequently the suit was *coram non judice,* and the decree void.

But this reason proceeds upon an incorrect view of the character and jurisdiction of the inferior courts of the United States. They are all of limited jurisdiction, but they are not on that account inferior courts in the technical sense of those words, whose judgments, taken alone, are to be disregarded. If the jurisdiction be not alleged in the proceedings, their judgments and decrees are erroneous and may, upon a writ of error, or appeal, be reversed for that cause. But they are not absolute nullities. This opinion was strongly intimated, if not decided, by this Court

in the case of *Kempe's Lessee v. Kennedy,* 5 Cranch 185, and was afterwards confirmed by the decision made in the case of *Skillern's Executors v. May's Executors,* 6 Cranch 267. That suit came before this Court upon a writ of error, where the decree

Page 23 U. S. 200

of the court below was reversed, and the cause remanded for further proceedings to be had therein. After this, it was discovered by that court that the jurisdiction was not stated in the proceedings, and the question was made, whether that court could dismiss the suit for that reason? This point, on which the judges were divided, was certified to the Supreme Court, where it was decided that the merits of the cause having been finally decided in this Court, and its mandate only requiring the execution of its decree, the court below was bound to carry that decree into execution, notwithstanding the jurisdiction of that court was not alleged in the pleadings. Now it is very clear that if the decree had been considered as a nullity on the ground that jurisdiction was not stated in the proceedings, this Court could not have required it to be executed by the inferior court.

We are therefore of opinion that the decree of dismission relied upon in this case, whilst it remains unreversed, is a valid bar of the present suit as to the above defendants.

The next question is presented by the answer of Finley. At the death of William Crawford in the year 1782, he was entitled to a certain quantity of land to be laid off between the Rivers Scioto and Little Miami under a promise contained in an act of the Legislature of Virginia. His interest in this land was purely an equitable one. After his death, a warrant to survey the same was granted to John Crawford, his only son and heir at law, who assigned to one Dyal a certain tract

Page 23 U. S. 201

which had been surveyed under the warrant, and the defendant claims a part of the tract so surveyed under Beauchamp, who purchased from Dyal. He alleges in his answer that he made the purchase *bona fide,* paid the purchase money, and

obtained a grant for the land before he had notice of the will of William Crawford or of the claim of his daughters under it.

Crawford's will, under which the female complainants claim title, was proved in some court in the County of Westmoreland in the State of Pennsylvania, and was there admitted to record, but it does not appear nor is it even alleged to have been at any time proved in the State of Virginia or in the State of Ohio, where the lands in controversy lie.

At the time of the death of William Crawford, lands lying in Virginia were transmissible by last will and testament in writing, the same being signed by the testator or by some person in his presence and by his direction, and if not wholly written by himself, being attested by two or more credible witnesses in his presence. But to give validity and effect to such will it was necessary that it should be duly proved and admitted to record in the court of the county where the testator had his residence at the time of his decease, or, if he had no place of residence in that state, then in the court of the county where the land devised lay, or it might be proved in the general court where the land was of a certain value. Subsequent to the death of William Crawford, an act of assembly was passed which permitted

authenticated copies of wills proved in any other state of the Union or abroad to be offered for probate in the general court or in the circuit, county, or corporation court where the whole of the estate lies.

By the law of the State of Ohio, lands lying in that state may be devised by last will and testament or writing, but before such will can be considered as valid in law, it must be presented to the court of common pleas of the county where the land lies for probate, and be proved by at least two of the subscribing witnesses. If the will be proved and recorded in another state according to the laws of that state, an authenticated copy of the will may be offered for probate in the court of the county where the land lies, without proof by the witnesses, but it is liable to be contested by the heir at law, as the original might have been.

It is an acknowledged principle of law that the title and disposition of real property is exclusively subject to the laws of the country where it is situated, which can alone prescribe the mode by which a title to it can pass from one person to another. For the establishment of this doctrine it will be sufficient to cite the cases of the *United States v. Crosby,* 7 Cranch 115, and *Kerr v. Moon,* 9 Wheat. 565. It follows, therefore, that no estate could pass to the daughters of William Crawford under his will until the same should be duly proved according to the laws of Virginia, where the land to which he was entitled lay at the time of his death, or

Page 23 U. S. 203

of the Territory of Ohio after the cession by Virginia to the United States under the ordinance of Congress of 13 July, 1787, or according to the law of that state which has already been recited. The probate of the will in the State of Pennsylvania gave it no validity whatever in respect to these lands, as to which this Court is bound to consider Crawford as having died intestate, and consequently that they descended to John Crawford, his only son and heir at law, according to the law of Virginia, as it stood in the year 1782. The court below, then, could do no less than dismiss the bill as against this defendant upon the ground that the complainants had shown no title whatever, legal or equitable, to the land in controversy.

This Court might be induced to yield to the application of the counsel for the appellants that, in case of an affirmance, it should be without prejudice, if we could perceive from the record that the complainants could, in another suit, present their case under a more favorable aspect. But this the answer of Finley will not permit us to anticipate, for even if an authenticated copy of Crawford's will should hereafter be offered for probate and admitted to record in the State of Ohio, still the title to be derived under it could not be permitted to overreach the legal title of this defendant, founded as it is upon an equitable title acquired *bona fide,* and for a valuable consideration paid, which purchase, payment, and acquisition of legal title were made before he had either legal or constructive notice of the

Page 23 U. S. 204

will or of the claim of the daughters, for we are all of opinion that the probate of the will in Pennsylvania cannot be considered as constructive notice to any person of the devise of the lands in controversy. The decree of the court below must therefore be

Affirmed generally with costs.