

Greenleaf Vs. Queen

Greenleaf Vs. Queen

SooperKanoon Citation : sooperkanoon.com/79138

Court : US Supreme Court

Decided On : 1828

Appeal No. : 26 U.S. 138

Appellant : Greenleaf

Respondent : Queen

Judgement :

Greenleaf v. Queen - 26 U.S. 138 (1828)

U.S. Supreme Court Greenleaf v. Queen, 26 U.S. 1 Pet. 138 138 (1828)

Greenleaf v. Queen

26 U.S. (1 Pet.) 138

APPEAL FROM THE CIRCUIT COURT

OF THE COUNTY OF WASHINGTON

SYLLABUS

Where, by the terms of a deed conveying real estate in trust to be sold for the benefit of the creditor of the grantor, the trustee is directed to sell the property conveyed by public auction, the trustee was bound to conform to this mode of

sale. This was the test of value which the grantor thought proper to require, and it was not competent to the trustee to establish any other, although by doing so he might in reality promote the interests of those for whom he acted.

When property conveyed in trust to be sold at public auction had been sold by private contract, and the property was afterwards offered for sale in the manner prescribed by the deed of trust for the purpose of making a title to the private purchaser, at which time, more was bid for the same than the amount for which it had been privately contracted to be sold, the purchaser, by private contract, to whom possession was delivered at the price agreed on cannot allege that the sale was void, since whatever may be the liability of the *cestui que trust* to those interested in the proceeds of the sale for the amount offered at the auction, it is not an objection on the part of the purchaser to release him from his contract.

Where the vendee of real estate had purchased it subject to the dower of the widow -- of which dower he might have been informed if he had used proper diligence -- a court of equity will not interfere to release the vendee, but will leave him to such legal remedy as he may be entitled to in case his title should at any future time be disturbed.

Where a bill had been filed against a trustee of real estate and after his death administration had been granted to A, who, on the petition of creditors, interested in the trust, was also appointed by the court, the substituted trustee, and the court went onto decree that A as trustee should execute certain conveyances, the decree was held to be invalid, the course of proceeding being rather to make the decree against A in the character of administrator, because he claimed, as administrator, under a title derived from the original trustee, and was the person designated by law to represent him, or that a supplemental bill in the nature of a bill of revivor should have been filed against the substituted trustee, in which all the proceedings should have been stated and he required to answer the charges contained in the original and supplemental bill.

A decree of a court of chancery is erroneous which, after ordering certain acts to be done to enable a party to execute certain duties assigned to him, dismisses the

bill, as it puts the cause out of court and renders the decree ineffectual, and it is no answer to this objection that it appears by the record in the case that the acts ordered to be done have been performed, since the error is in the decree itself, and not in its execution.

A bill may be dismissed where the plaintiff, when called upon to make proper parties, refuses or is guilty of unreasonable delay in doing so, but this must be done on demurrer, plea, or answer pointing out the person or persons who the defendant insists ought to be made parties.

Page 26 U. S. 139

When a debtor had conveyed to a trustee real estate to be sold for the benefit of creditors, and the trustee dying before the conveyance of the property to a purchaser, another trustee was appointed by the court, upon the application of the creditors to execute the trust, in proceeding relative to the execution of the trust and the conveyance of the estate, it is necessary that the heirs at law of the first trustee shall be parties to the same, as the legal title to the estate did not pass to the substituted trustee by the appointment, but remained in the legal heirs.

Appeal from the Circuit Court of the County of Washington, the appellant having been complainant in a bill in equity filed 31 December, 1819, in the court below against Washington Boyd, trustee of Charles Minifie.

The objects of the bill were to make void a contract made by the appellant for the purchase of certain lots of ground in the city of Washington, being the estate held in trust for the creditors of Charles Minifie -- that certain collateral securities, delivered by the appellant, with his note for \$3,815, being for the purchase money of the lots of the trustee, should be returned, and that the note should be cancelled and surrendered -- that a release should be executed of the judgment at law obtained by the trustee on the note, and for a perpetual injunction and general relief, &c.;

Upon filing this bill, an injunction was granted, until further order of the court, and after various proceedings the following decree was made:

"Greenleaf"

"vs. In Chancery, April Term, 1824"

"Washington Boyd and others"

"It is ordered by the court in this cause that the trustee appointed by the order of January 21, 1823, make and execute a good and sufficient deed to James Greenleaf for the property sold to him by the former trustee, Washington Boyd, according to the terms of that sale, to be approved by one of the judges of this court and filed with the clerk to be delivered to the said Greenleaf upon the payment of the purchase money, and that he also obtain and file with the clerk a sufficient deed of release from Zachariah Walker, to be approved of by one of the judges of this court, to the said James Greenleaf releasing all title and claim to any and every part of the lots and property of the said Charles Minifie sold by Washington Boyd as trustee or mentioned in the aforesaid deed of the trustee, Richard Wallack, to James Greenleaf, and that upon the said deed and the said deeds of release being executed, signed, approved, and filed as aforesaid, that then the injunction be dissolved and the trustee authorized to proceed in levying and collecting the amount of the judgment

Page 26 U. S. 140

for the purchase money as mentioned in said bill. And the original bill and bills of revivor having been set down for hearing upon the bills, answers, and exhibits and all the proceedings in the cause -- it is by the court on this 15 December, 1824, decreed and ordered that the said bill be dismissed with costs."

"And it is hereby further ordered and decreed that, before proceeding in collecting said purchase money, a good and sufficient bond shall be executed, in the penalty of \$500 by any one or more of the creditors, with security, to be approved of by one of the judges of this court conditioned to indemnify the said Greenleaf, his

heirs and assigns, from all claim and demand of Francis Jameson, his heirs and assigns, to any part of the lots or property mentioned in the deed of the said Wallack to said Greenleaf which may have been purchased by the said Jameson at the sale of the said Boyd and filed with the clerk of the said court."

"By order, WILLIAM BRENT, *Clerk* "

"15th December 1824"

From this decree, the complainant appealed.

The opinion of the Court, delivered by MR. JUSTICE WASHINGTON, fully states all the matter of the case.

Page 26 U. S. 141

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

The appellant filed

Page 26 U. S. 142

his bill in that court against Washington Boyd, setting forth that on 19 March, 1817, the said Boyd, as trustee under a deed of Charles Minifie to him, entered into a contract with the plaintiff for the sale of sundry lots in the City of Washington at the price of \$3,500, payable in 6, 12 and 18 months, for which, including the interest, and amounting in the whole to \$3,815, he then gave his note to Boyd, who acknowledged the receipt thereof by an instrument under his hand, and thereby agreed that on the payment of the note he would convey to the plaintiff the said lots, which had been previously sold at public auction, two of them to Elliot, as agent for the plaintiff, and the others to Francis Jameson, William Prout, and Z. Walker. That although the title to these lots which had been sold to Jameson, Prout, and Walker, had not been released from their claims, the defendant, Boyd, had nevertheless recovered a judgment against the plaintiff for the amount of his note before mentioned, upon which he threatened to sue out an execution. The

prayer of this bill was for an injunction and a conveyance of the lots with a clear title.

The plaintiff afterwards filed an amended bill setting forth the original negotiations between the plaintiff and Boyd, in March, 1816, for the purchase of the above lots, which resulted in a contract by which the plaintiff was to be considered as the purchaser of them at the price of \$3,500, payable with interest in 6, 12 and 18 months. That the defendant had nevertheless thought proper to expose the said lots to sale at public auction sometime in April, 1816, and had caused Elliot, the plaintiff's agent, to be set down as the purchaser of two of the lots only at the price of \$3,500, although neither Elliot nor the plaintiff was present, and that the remaining seven lots were struck off, three of them to Jameson at \$159, one to Prout at \$45.15, and the remaining three to Walker at \$264.90, making in the whole, the sum of \$4,019.05.

That matters remained in this situation until 19 March, 1817, when the written contract mentioned in the original bill was entered into.

The bill then sets forth the judgment obtained by Boyd against the plaintiff upon his note for the purchase money of the lots and the deposit by the latter with the former of certain securities as collateral security for the debt in consideration of a suspension of the execution until sometime in December, 1819. It further charges that the plaintiff was ignorant of the title and authority of the defendant to dispose of the above property until within a few days preceding the filing of this amended bill, when, upon examining the land records of the county, he found the deed of trust from Charles Minifie and one James Ewell and

Page 26 U. S. 143

Z. Farrell, to the said Boyd, conveying the above lots to him in trust, to dispose of the same at *public sale* on 6, 12 and 18 months' credit, and to apply the proceeds to the payment of the debts of the said Minifie and to hold what might remain after such payments subject to the decree of the circuit court of the said district and county in the suit brought by the wife of said Minifie for alimony, and the balance, if

any, to be paid over to said Minifie. The bill then concludes by charging that the contract made by the plaintiff with the defendant for the purchase of the said lots is void because it was made in contravention of an injunction obtained by Mrs. Minifie and because the purchase by the plaintiff was made at private, and not at public, sale; that the title is likewise defective for the same reasons, and because the property is subject to the claim of Mrs. Minifie for alimony and for dower, and is not released from the claims of Prout, Jameson, and Walker, to the seven lots sold to them. The prayer of this bill is that the contract may be declared void; that the judgment upon the plaintiff's note may be perpetually enjoined, and that the pledged securities may be restored to the plaintiff.

The injunction asked for was granted till further order. A petition was filed in the same court by William Prout and others, creditors of Charles Minifie, setting forth the death of Washington Boyd, leaving Eleanor, the wife of Nicolas L. Queen, his heir at law, and praying that another trustee might be appointed to complete the execution of the trusts of the deed from Minifie to Boyd. To this petition Queen and his wife appeared and filed an answer admitting the truth of the allegations in the petition, that the said Eleanor is the heir at law of Boyd, and submitting to such decree as the court might think proper to make.

That cause being set for hearing on the petition and answer, the court, on 21 January, 1823, made a decree by which Richard Wallack was appointed trustee in the place of Washington Boyd, deceased, upon his giving bond and security, with authority to complete the trusts left unexecuted by Boyd, according to the provisions of the trust deed and to recover and collect the purchase money for such of the trust property as had been sold by Boyd, and upon the payment thereof to convey said property by a good and sufficient deed in fee to the purchasers thereof and to bring the said proceeds of sale into the court to be distributed as the said court might direct, according to the deed of trust. A bond was accordingly executed by Wallack, approved by one of the judges of the court and filed amongst the proceedings in that cause, a transcript of which proceedings was made an exhibit in this cause; on the same day the above decree was passed, the court decreed in

this cause that the plaintiff should, on or before a certain day, proceed in the same by making the heirs of Washington Boyd defendants, as also such other persons as might be necessary to enable the court to decree therein; otherwise that the bill of the plaintiff should be dismissed.

In May, 1824, the plaintiff filed a bill of revivor against N. L. Queen and Eleanor his wife, heir at law of Washington Boyd, and Richard Wallack, administrator of the said Boyd, to which bill Queen and wife appeared and by consent of parties the answer filed by them to the petition of Prout and others was received as an answer to the bill of revivor, and the original suit was agreed to stand revived.

The cause was then set for hearing on the bills, answer, and exhibits, and all the proceedings in this cause, and also in the petition of Prout and others before mentioned, whereupon the court decreed that Richard Wallack, the trustee appointed by the order of 21 January, 1823, should execute a good and sufficient deed to the plaintiff for the property sold to him by Boyd, the former trustee, according to the terms of that sale, to be approved by one of the judges of the court, to be filed with the clerk and to be delivered to the plaintiff upon the payment of the purchase money; that he should also obtain and file with the clerk a sufficient deed of release by Zachariah Walker, to be approved as aforesaid, to the plaintiff, releasing all title and claim to any and every part of the property of Charles Minifie, sold by Boyd as his trustee, and that upon the said deeds' being executed, approved, and filed as aforesaid, the injunction granted in this cause should be dissolved and the trustee be authorized to proceed to levy and collect the amount of the judgment for the purchase money, as mentioned in the bill. The decree then proceeds to dismiss the bill with costs, and that before proceeding to collect the said purchase money, a good and sufficient bond should be executed in the penalty of \$500 by any one or more of the creditors, with security to be approved by one of the judges of the court, with condition to indemnify the plaintiff, his heirs and assigns, from all claim and demand of Francis Jameson, his heirs and assigns, to any part of the lots or property, mentioned in the deed of the said Wallack to Greenleaf; which might have been purchased by the said Jameson, at

the sale of Washington Boyd, and filed with the clerk of the court. From this decree the plaintiff appealed to this Court. A deed by Richard Wallack to James Greenleaf, bearing date 2 August, 1825, a bond of indemnity executed by Jonathan and William Prout, and a deed of release by Z. Walker, as directed by the aforesaid decree, dated 3 and 7 February, 1825, were executed, approved, and filed with the clerk of the court, in

Page 26 U. S. 145

conformity with the decree, and form parts of the record brought up by this appeal.

The first objection made by the appellant's counsel to the decree of the court below is that the contract between the appellant and Washington Boyd for the sale of the lots mentioned in the bill was void for want of authority in the latter to dispose of the property in any other mode than at public auction. Such, it must be acknowledged, is the mode prescribed by the deed of trust; nor can it be questioned but that the trustee was bound to conform to this as well as to the other requisitions of the deed under which he professed to act. This was the test of value which the grantor thought proper to require, and it was not competent to the trustee to establish any other, although by doing so he might in reality promote the interest of those for whom he acted.

But what are the facts in the present case?

The nine lots which formed the subject of the correspondence between the appellant and the trustee in March, 1816, and of the written contract on 19 March, 1817, were actually advertised as directed by the deed of trust; were set up for sale, as the amended bill all alleges, at public auction, in April, 1816, and were sold for the sum of \$4,019.05. Two of them were set down to S. Elliot, the agent of the appellant, at the price of \$3,500, and the other seven were struck off to Jameson, Prout, and Walker for the remaining sum of \$519.05.

It is not even charged in the bill, much less is there any proof in the cause to warrant a suspicion, that the sale was not fairly conducted or that any person bid for the two lots set down to Elliot, more than the sum at which they were charged to

him.

In making the sale in that mode, no deception was practiced upon the appellant, since he was informed by Elliot's letter to him of 16 March, 1816, that Mr. Boyd had further postponed the sale of Minifie's property and would consider him, Greenleaf, as the purchaser for \$3,500. The writer adds "I have stipulated that the whole property shall be included. It is necessary to go through the forms prescribed by the decree," meaning, no doubt, if the letter be truly transcribed into the record, the trust deed. But, on 19 March, 1817, when the contract was finally reduced to writing, the appellant was distinctly apprized that the whole of the lots had been sold at public sale at six, twelve, and eighteen months, and he was then satisfied to give his note for the stipulated sum agreed to be paid for the nine lots, upon the engagement of Boyd, to make a deed for the same to Samuel Elliot. Upon what plausible ground, then, can the appellant

Page 26 U. S. 146

now insist that the lots were not sold at public auction, and on that ground to seek to be relieved against the payment of his note, given for the purchase money thus agreed to be paid for the property? The argument urged by his counsel that the contract is void because the lots were sold to the appellant for a less sum than that at which they were struck off to the purchasers at the public sale cannot for a moment be maintained, since whatever might be the liability of the trustee to the *cestui que trust* to pay the difference between those sums, it is surely not an objection in the mouth of the appellant sufficient to release him from his contract.

But were it to be admitted that Boyd acted in derogation of his trust in selling the property to the appellant for a less sum than he actually sold it for at public auction, and that on that account the title of the appellant might be impeached, may not the objection be removed by the agreement of the parties beneficially interested in the property under the deed of trust to confirm the sale or by their acts tending to produce the same result? Of this we apprehend there cannot exist a doubt. Now who are the parties for whose benefit this trust was created? They are the creditors of Charles Minifie in the first instance, and after they are satisfied,

Mrs. Minifie, to the extent of the sum which might be decreed to her for alimony, and then Charles Minifie as to any balance which might remain. But it appears from the exhibits filed in the cause that the amount of the debt due by Minifie and for which judgments were obtained against him exceeded considerably the sum at which these lots sold at public auction, independent of the interest due upon those debts and the costs of the different suits in which the judgments were entered. The only persons, then, who are beneficially interested in the property conveyed by the deed of trust are the creditors of Charles Minifie, who have united in a suit against the heir at law of Boyd for the purpose of having a new trustee appointed to carry into execution the sale made of the property by the former trustee under the deed of trust, and they are, as the bill charges, the active parties in enforcing the payment of the purchase money; after these solemn acts done in affirmance of the sale made to the plaintiff, the creditors would never be permitted by a court of equity to impeach it, nor can the alleged breach of trust be urged by the appellant as a reason for annulling the contract or excusing him from the payment of the purchase money.

The next objection made by the appellant's counsel to the decree of the court below is that the title of the property which it directs to be conveyed to the appellant is defective, being encumbered with the claim of Francis Jameson to three

Page 26 U. S. 147

of the lots, and with the right of dower of Mrs. Minifie in the whole of the property.

It is very manifest that the title of Jameson, if any he has, is merely nominal. The sale to him was made in 1816 upon six, twelve, and eighteen months' credit, and by the terms of the sale he was required to give his note for the purchase money, with an approved endorser, negotiable at one of the banks in this district. The bill does not charge, nor is it even alleged at the bar, that a note was given by Jameson for the purchase money, bid for these lots; not one cent of it has been paid by him or even demanded, or that, from the year 1816, when the sale was made, to the present moment, a claim to the property has been asserted or

intimated by this person. But it does appear by the testimony of a witness examined in the cause that the plaintiff Greenleaf has been in possession of the whole of the property from the time that he purchased it, and that Jameson had, upon the application of Boyd to relinquish his claim to the property, consented to do so.

Upon this state of facts, this Court can feel no hesitation in saying that Jameson had not such an equitable title to the lots purchased by him as a court of equity would enforce against the trustee of Minifie or against the plaintiff. Whether that court would require a title like this to be released in a case where a trustee was a party plaintiff asking for a specific execution of the contract need not be decided in this case. But we are clearly of opinion that the want of such a release cannot be urged by the vendee as a cause for rescinding the contract.

The objection founded on the right of dower of Mrs. Minifie is quite as untenable as the one that has just been disposed of. The plaintiff, when he made the purchase of this property, was apprised that he was dealing with a trustee -- and knew or might have known from the land records of the county in which the property was situated whether Mrs. Minifie was a party to the deed of trust, and had or had not relinquished her right of dower. He required of the trustee no stipulation in relation to this right -- and it may therefore be fairly presumed that the value of it was taken into consideration in fixing the amount of the purchase money to be paid for the property. In such a case, as well as in that which we have just disposed of, a court of equity will not interpose to relieve the vendee, but will leave him to such legal remedy as he may be entitled to in case his title should at any future time be disturbed by these claims.

The Court is upon the whole of opinion that the objections to the decree which have been noticed are insufficient to warrant a reversal of it. It is, however, exposed to other

Page 26 U. S. 148

objections which must produce this result and which now remain to be examined.

The first is that Richard Wallack, the substituted trustee, who is required by the decree to perform a number of acts in order to entitle him to levy and to collect the amount of the judgments for the purchase money and upon the performance of which the injunction is dissolved was no party to the controversy in the court below. The suit, it is true, was revived against him in his character of administrator of Washington Boyd, and also against the heir at law of Boyd, to which mode of proceeding no objection could be taken if the decree had been against him in his character of administrator because, in that character, he claimed under a title derived from the party by whose death the abatement of the suit was caused, and was the person designated by law to represent him in relation to his personal estates.

But this was not the case in respect to Richard Wallack as the substituted trustee and successor of Boyd. The power with which the latter was clothed became vested in Wallack not by operation of law, but by the appointment of the court subsequent to the institution of the suit. The original suit, which abated by the death of Boyd, became also defective by the termination of his powers and the appointment of a new trustee, and could only be prosecuted against him by way of a supplemental bill in nature of a bill of revivor, in which it would be necessary to state not only the original bill and the proceedings thereon and the death of the former trustee, but the appointment of Wallack as his successor and his acceptance of the trust, and to require him to appear and answer the charges contained in the supplemental and original bills. For anything appearing upon the face of this record, Wallack is an entire stranger to the trust with which the decree connects him, and without any power whatever to make a valid conveyance. For there being no supplemental bill or allegation in any bill that Wallack had been appointed to complete the trust which Boyd had left unexecuted and to collect the purchase money for the property which that trustee had sold and that he had accepted such appointment, these facts cannot be considered as having been established by the proceedings and decree in the suit of the creditors of Minifie against the heir at law of Boyd. See Mitf. 33, 63, 70.

The next objection to the decree is that after decreeing Wallack to perform a number of acts to entitle him to levy and collect the amount of the judgment against the appellant as before mentioned, it proceeds to dismiss the bill with costs, thereby putting the cause out of court and rendering the other parts of the decree ineffectual. Should Wallack, for

Page 26 U. S. 149

example, refuse to execute a conveyance of the property to the plaintiff in the court below pursuant to the decree, the nonexistence of the suit on which that decree was made would prevent any process of contempt from issuing against him for the purpose of compelling him to execute the decree. It is no answer to this objection that it appears by the record in this case that Wallack has in fact executed the decree on his part, since the error complained of is in the decree itself, and not in its execution.

It was insisted by the counsel for the appellees in anticipation of the above objection that the court below would have been warranted in dismissing the bill absolutely, without requiring anything to be performed by the new trustee in consequence of the omission of the plaintiff in that suit to make proper parties.

That a bill may be dismissed where the plaintiff, when called upon to make proper parties, refuses or is guilty of unreasonable delay in doing so need not be questioned -- but to do so without a demurrer, plea, or answer pointing out the person or persons who the defendants insist ought to be made parties is unprecedented, and would most unquestionably be erroneous although the decree should assign this as the ground of dismissal, which is not done in the present case.

The last objection to the decree which it is thought necessary to notice is that the heir at law of Washington Boyd, deceased, is not required to release her title to the property in controversy to the appellant, a majority of this Court being of opinion that the legal estate in that property did not pass to Richard Wallack under the decree of 21 January, 1823, before referred to, but is yet outstanding in the heir at

law of Boyd.

The decree of the court below must for these errors be

Reversed, and the cause is to be remanded to that court for further proceedings to be had thereon in conformity with the principles before stated.

Decree -- This cause came on, &c;, on consideration whereof it is the opinion of this Court that there is error in the said decree in requiring any act to be performed by Richard Wallack before he was made a party to the said suit by regular proceedings against him according to the course and practice of a court of chancery, and had either answered the bill making him such a party, or the same had been taken for confessed against him, and that the said decree is also erroneous in dismissing the bill of the plaintiff in the court below, and also in not decreeing the said Nicholas L. Queen, and Eleanor Queen his wife, the defendants in the said suit, to release to the

Page 26 U. S. 150

appellant, James Greenleaf, all their right and title to the property directed by the said decree to be conveyed to him by the said Richard Wallack, for which errors it is now by this Court decreed and ordered that the said decree be reversed and annulled and that the cause be remanded to the court below, to be there proceeded in according to law and in conformity with the principles stated in this decree.