

Lessee of Spratt Vs. Spratt

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Court : US Supreme Court

Decided On : 1828

Appeal No. : 26 U.S. 343

Appellant : Lessee of Spratt

Respondent : Spratt

Judgement :

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Lessee of Spratt v. Spratt

26 U.S. (1 Pet.) 343

ERROR TO THE CIRCUIT COURT OF THE DISTRICT

OF COLUMBIA FOR THE COUNTY OF WASHINGTON

SYLLABUS

The Act of the Legislature of Maryland passed 19 December, 1791, entitled "An act concerning the Territory of Columbia and the City of Washington," which, by the 6th section provides for the holding of lands by "foreigners," is an enabling act,

and applies to those only who could not take lands without the provisions of that law. It enables a "foreigner" to take in the same manner as if he were a citizen.

A foreigner who becomes a citizen is no longer a foreigner within the view of the act. Thus, *after-purchased lands* vest in him as a citizen not by virtue of the act of the Legislature of Maryland, but because of his acquiring the rights of citizenship.

Land in the County of Washington and District of Columbia purchased by a foreigner before naturalization was held by him under the law of Maryland, and might be transmitted to the relations of the purchasers who were foreigners, and the capacity so to transmit those lands is given absolutely by this act, and is not affected by his becoming a citizen, but passes to his heirs and relations precisely as if he had remained a foreigner.

This was an action of ejectment brought by the plaintiff in error to recover several messuages which he claimed by virtue of several demises made to him by Thomas Spratt and others, the messuages all lying and being in the County of Washington in the District of Columbia, against Sarah Spratt, the defendant in error, who was the widow of James Spratt and who was in possession of the premises.

The following facts were agreed in the court below:

James Spratt, before the time of the demise laid in the plaintiff's declaration, died seized in fee simple of the premises mentioned in the said declaration; that the lessors of the plaintiff are the legitimate brothers and sisters of the whole blood of the said James Spratt, and that the defendant was the lawful wife of said James Spratt at the time of his death, and, as his widow, is still living. * Also that the lessors of the plaintiff made a peaceable entry into the said premises and executed to the plaintiff the lease mentioned in the said

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declaration upon the premises, and that the plaintiff, being in possession of said premises by virtue of that lease, was therefore ousted by the defendant. That the

said James Spratt, and the defendant his wife were natives of Ireland, of the United Kingdom of Great Britain and Ireland, and came to the United States of America in the year 1812, and before 18 June in that year and continued to reside therein and to cohabit as man and wife to the time of his death, which took place on 4 March, 1824. That the said James Spratt, on 11 October, 1821, was duly admitted and naturalized as a citizen of the United States in the Circuit Court of the District of Columbia and received a certificate of such naturalization in due form according to the directions and conditions of the several acts of Congress in such case provided, the said defendant then and there being his lawful wife, and as such cohabiting with him as aforesaid. That the defendant Sarah Spratt did not in her own person comply with any of the directions or conditions required by the said acts of Congress, or any of them, or become in any manner admitted or naturalized as a citizen of the United States otherwise than by the admission and naturalization of her said husband. That the lessors of the plaintiff are all natives of Ireland, and native born subjects of the King of the United Kingdom of Great Britain and Ireland; that only two of them, to-wit, Thomas Spratt and Pierce Spratt, ever came to the United States, both of whom came to the United States and resided therein some years before the death of James Spratt, and that none of them was admitted or naturalized citizens of the United States. That James Spratt was not in any manner seized of or entitled to any of the messuages or tenements in the declaration mentioned at any time before his said naturalization, except of the lot No. ____ in Square, _____ which was duly bargained, sold, and conveyed by one Isaac S. Middleton to the said James Spratt in fee simple on 11 January, 1821, and that all the rest and residue of the said messuages and tenements were purchased by the said James Spratt and to him duly bargained, sold and conveyed, in fee simple at various times in the year 1822 and 1823 after his said naturalization.

Upon this statement of facts, the question of law which arose was as to the true construction of a statute of the State of Maryland entitled "An Act concerning the Territory of Columbia and the City of Washington," passed 19 December, 1791, by the 6th section of which it is provided as follows, to-wit:

"That any foreigner may, by deed or will to be hereafter made, take and hold lands within that part of the

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said territory which lies within this state in the same manner as if he was a citizen of this state, and the same lands may be conveyed by him and transmitted to and be inherited by his heirs or relations as if he and they were citizens of this state, provided that no foreigner shall, in virtue hereof, be entitled to any further or other privilege of a citizen."

It was contended on the part of the plaintiff that according to the true construction of that statute, his lessors, who were the *heirs and relations of the deceased*, James Spratt, inherited all the lands and tenements of which he died seized in fee, and that the circumstance of James Spratt, who was a *foreigner*, having been *naturalized* before his death, could not alter the state of their right of inheritance, whether the lands were acquired before or after his act of naturalization.

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

This is an ejectment brought in the Circuit Court for the District of Columbia sitting in the County of Washington for the recovery of several lots lying in the County of Washington of which James Spratt died seized. The lessors of the plaintiff are aliens, the legitimate brothers and sisters of the said James, and the defendant, who is also an alien, is his widow; James died without issue.

James Spratt came into America in the year 1812, and became a citizen on 11 October, 1821. He purchased one of the lots before he became a citizen and the others afterwards. The title to the lots in controversy depends on the construction of an act of the State of Maryland, passed 19 December, 1791, entitled "An Act concerning the

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Territory of Columbia and the City of Washington." The 6th section provides

"That any foreigner may, by deed or will to be hereafter made, take and hold lands within that part of the said territory which lies within this state in the same manner as if he was a citizen of this state, and the same lands may be conveyed by him and transmitted to, and be inherited by his heirs or relations as if he and they were citizens of this state, provided that no foreigner shall in virtue hereof be entitled to any further or other privilege of a citizen."

The facts were stated in a case agreed, which was substituted for a special verdict. The circuit court gave judgment for the defendant, to which the plaintiff has sued out a writ of error.

The plaintiff contends that the word "foreigner," as used in the act, designates a person born in a foreign country, and that such person does not cease to be a foreigner by becoming a citizen of the United States. The words of the act therefore apply to him although he becomes a citizen, and enable him to take and transmit lands to his alien heirs or relations.

The Court is not of this opinion. The act is an enabling act, and applies to those only who could not take without it. It enables a foreigner to take "in the same manner as if he was a citizen." This language is entirely inapplicable to a citizen.

An act to enable a citizen to take lands "as if he were a citizen" would be an absurdity too obvious to escape the notice of the legislature. We think, then, that a foreigner who becomes a citizen is no longer a foreigner within the view of the act. His after-purchased lands vest in him as a citizen, not by virtue of the act of the Legislature of Maryland.

The lot which he purchased while an alien stands on different principles. This lot was acquired by a foreigner under the act which was passed for the purpose of enabling him to acquire it. He took and held it under the law, and could transmit it as prescribed by the law. The act, after enabling him to take, adds "and the same lands may be conveyed by him, and transmitted to, and he inherited by, his heirs or relations, as if he and they were citizens of this state." The capacity to transmit

given by the act extends in terms to all lands acquired under the act.

The lands taken "may be conveyed by him" -- that is, by the taker -- "and transmitted to his heirs or relations." This power of transmission is not restricted to his character as a foreigner, but belongs to him as a person taking lands under the act. The power of transmitting is connected with the power of taking and is coextensive with it. This power is within the words of the law, and the words which confer it are not inoperative, since they give a capacity which citizenship does not give -- the capacity of transmitting to relations who are

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foreigners. This capacity is given absolutely by the act, and is not, we think, affected by his becoming a citizen.

The objection urged by the defendant to this construction is that it would perpetuate the title in aliens to the remotest times, because it attaches the privilege to the land, and not to the person.

We do not think the construction exposed to this objection.

The land passes to the heirs or relations of the said James Spratt, precisely as it would have passed had he remained a foreigner. The capacity is not in the land, but in the person in relation to that land. It was in him when the land was purchased, and did not pass out of him, under the words of the law, by his becoming a citizen.

It is the opinion of a majority of the Court that the circuit court erred in deciding that judgment ought to be rendered for the defendant. It ought to be

Reversed and the cause remanded to the circuit court with directions to enter judgment for the plaintiff for the lot which was acquired by the said James Spratt while an alien, saving the widow's dower, and that his declaration be dismissed as to the residue.

This cause came on, &c.;, on consideration whereof it is the opinion of this Court that the said circuit court erred in deciding that judgment ought to be rendered for the defendant and that the same ought to be reversed. Therefore it is ordered and adjudged by this Court that the judgment of the said circuit court in this cause be and the same is hereby reversed, and that the cause be remanded to the said circuit court with directions to enter judgment for the plaintiff for lot No. ____, which was acquired by the said James Spratt while an alien, saving the widow's dower, and that his declaration be dismissed as to the residue.

* The Act of Assembly of Maryland, No. 1786, ch. 45, entitled "An act to direct descents," provides "If there be no descendants or kindred of the intestate to take the estate, then the same shall go to the husband or wife, as the case may be."

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