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Lessee of Powell Vs. Harman

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Court : US Supreme Court

Decided On : 1829

Appeal No. : 27 U.S. 241

Appellant : Lessee of Powell

Respondent : Harman

Judgement :

Lessee of Powell v. Harman - 27 U.S. 241 (1829)
U.S. Supreme Court Lessee of Powell v. Harman, 27 U.S. 2 Pet. 241 241 (1829)

Lessee of Powell v. Harman

27 U.S. (2 Pet.) 241

ON CERTIFICATE OF DIVISION FROM THE JUDGES

OF THE CIRCUIT COURT OF WESTERN TENNESSEE

SYLLABUS

Under the statute of limitations of Tennessee of 1797, a possession of seven years is a protection only when held under a grant or under valid mesne conveyances or a paper title which are legally or equitably connected with a grant,

and a void deed is not such a conveyance as that a possession under it will be protected by the statute of limitations.

In the court below, the lessor of the plaintiff showed a regular title to the lands in question under a grant from the State of North Carolina, and proved that the defendant was in possession of the land in dispute.

The defendant proved that he had been in peaceable possession of the land for more than seven years, holding adversely to the plaintiff under a deed from the Sheriff of Montgomery county dated 14 April, 1808, founded upon a sale for taxes, but which sale was admitted to be void because the requisites of the law in regard to the sale of lands for taxes had not been complied with.

Upon the trial of this cause it occurred as a question whether, under the statute of limitations of Tennessee of 1797, a possession of seven years is a protection only when held under a grant or under valid mesne conveyances or a paper title which are legally or equitably connected with a grant, or whether a possession under a void deed is such a conveyance as that a possession under it will be protected by the statute of limitations. The judges being opposed upon this question, it was referred to this Court for their opinion.

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

The question now referred to this Court differs from that which was decided in *Patton's Lessee v. Easton,* 1 Wheat.

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476, in this, that the defendant who sets up a possession of seven years in bar of the plaintiff's title endeavors to connect himself with a grant. The sale and conveyance, however, by which this connection is to be formed are admitted to be void. The conveyance, being made by a person having no authority to make it, is of no validity and cannot connect the purchaser with the original grant. We are therefore of opinion that the law is for the plaintiff, and that this be certified as the opinion of this Court.

This cause came on the be heard on a certificate of division of opinion of the judges of the Circuit Court of the United States for the District of west Tennessee, and on the questions and points on which the said judges of that court were divided in opinion and which have been certified to this Court and was argued by counsel, on consideration whereof this Court is of opinion that under the statute of limitations of Tennessee of 1797, a possession of seven years is a protection only when held under a grant or under valid mesne conveyances or a paper title which are legally or equitably connected with a grant, and that a void deed is not such a conveyance as that a possession under it will be protected under the statute of limitations, all which is directed and ordered to be certified to the said Circuit Court of the United States for the Seventh Circuit and District of West Tennessee.

(2 Pet.)

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