

Le Grand Vs. Darnall

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Court : US Supreme Court

Decided On : 1829

Appeal No. : 27 U.S. 664

Appellant : Le Grand

Respondent : Darnall

Judgement :

Le Grand v. Darnall - 27 U.S. 664 (1829)

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Le Grand v. Darnall

27 U.S. (2 Pet.) 664

APPEAL FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR THE DISTRICT OF MARYLAND

SYLLABUS

The Act of the Legislature of Maryland passed in 1796, ch. 47, sec. 13, declares

"That all persons capable in law to make a valid will and testament may grant freedom to and effect the manumission of any slave or slaves belonging to such person or persons by his, her, or their last will and testament, and such manumission of any slave or slaves may be made to take effect at the death of the testator or testators or at such other period as may be limited in such last will and testament, provided always that no manumission by last will and testament shall be effectual to give freedom to any slave or slaves if the same shall be to the prejudice of creditors, nor unless the said slave or slaves shall be under the age of forty-five years, *and able to work and gain a sufficient maintenance and livelihood at the time the freedom given shall commence.* The time of freedom of the appellee in this case commenced when he was about eleven years old. *Held* that his manumission by will was valid."

The Court of Appeals of Maryland has decided that a devise of property, real or personal, by a master to his slave entitles the slave to his freedom by necessary implication. This Court entertains the same opinion.

The facts of the case appear on the argument of the counsel for the appellee and in the opinion of the Court.

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MR. JUSTICE DUVALL delivered the opinion of the Court.

This case is brought up by appeal from a decree of the Circuit Court for the District of Maryland, sitting as a court of equity, and is submitted on written argument. The principal facts are the following.

Bennet Darnall, late of Anne Arundel County, Maryland, on 4 August, 1810, duly made and executed his last will and testament, and thereby devised to his son, the appellee, several tracts of land in fee, one of which was called Portland Manor, containing by estimation 596 acres. The mother of Nicholas Darnall was the slave of the testator, and Nicholas was born the slave of his father, and was between ten and eleven years old at the time of the death of the testator. Bennet Darnall, in his

will, refers to and confirms two deeds of manumission executed by him, one bearing date in 1805 and the other in 1810. In both of those deeds Nicholas Darnall and a number of other slaves were included and emancipated after his decease. The testator died in the month of January, 1814.

Nicholas Darnall, on his arrival to full age, took possession of the property devised to him, and on 26 April, 1826, he entered into a contract with Le Grand the appellant for the sale of the tract called Portland Manor for the consideration of twenty-two dollars per acre, amounting to the sum of \$13,112,

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payable by agreement, in six annual payments with interest. Le Grand passed his notes pursuant to the terms of the agreement, and received the bond of Darnall to convey to him the property in fee simple upon payment of the purchase money. Le Grand was thereupon put into possession of the land. At the time the contract was made, the parties believed the title to the land to be unquestionable. Soon afterwards, however, doubts were suggested to Darnall, and he communicated them to Le Grand, and they entered into a supplementary and conditional agreement without varying in substance the original contract. Darnall was not more than ten or eleven years of age at the time of the death of his father, and by a law of the State of Maryland it is provided that no manumission by last will and testament shall be effectual to give freedom to any slave unless the said slave shall be under the age of forty-five years and able to work and gain a sufficient maintenance and livelihood at the time the freedom intended to be given shall take place.

A decision had lately been made by the Court of Appeals of Maryland, in the case of *Hamilton v. Cragg*, that an infant (whose age did not exceed two years when his title to freedom commenced) was not able to work and gain a sufficient maintenance and livelihood, and was therefore adjudged to be a slave. This decision of the highest court of law in the state gave rise to doubts concerning the capability of the appellee to make a good title to the land which he had sold to the appellant. Darnall deposited the amount of the first payment, that is to say \$3,000,

in the hands of Benjamin Tucker of Philadelphia, to be held with the consent of the appellant subject to the result of an examination into the title. In consequence of the decision of the Court of Appeals of Maryland, the heir at law of Bennet Darnall, the testator, made claim to the land and threatened to commence suit for the recovery of it. Le Grand, being alarmed about the title, refused to make any further payment, and an action was commenced against him and judgment recovered for the second payment. To prevent an execution and to ascertain, under all the circumstances of the case, whether the appellee could make a good title to the land which he had sold

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to him, he filed his bill of complaint in equity in the circuit court, stating the circumstances, and obtained an injunction against any further proceedings at law. The appellee put in his answer, admitting all the facts stated in the bill except that of his inability to gain a maintenance and livelihood by labor when his right to freedom commenced. The case was submitted to the court upon the bill, answer, exhibits, and proof which had been taken, and the court, upon due consideration, ordered the injunction to be dissolved and decreed the bill to be dismissed. From this decree an appeal was taken to this Court, and the cause is now to be finally decided.

There is one question only to be discussed. If the appellee, at the time of the death of the testator, was entitled to his freedom under the will and deeds of manumission before mentioned, then his title to the land sold was unquestionable. His claim to freedom under the instruments above referred to depends upon a just construction of the Act of the Legislature of Maryland passed in the year 1796, ch. 47, sec. 13.

The words of the act are these:

"That all persons capable in law to make a valid will and testament may grant freedom to and effect the manumission of any slave or slaves belonging to such person or persons by his, her or their last will and testament, and such

manumission of any slave or slaves may be made to take effect at the death of the testator or testators or at such other period as may be limited in such last will and testament, provided always that no manumission by last will and testament shall be effectual to give freedom to any slave or slaves if the same shall be to prejudice of creditors, nor unless the said slave or slaves shall be under the age of forty-five years and able to work and gain a sufficient maintenance and livelihood at the time the freedom given shall commence."

The time of the freedom of the appellee commenced immediately after the death of the testator, when, according to the evidence, he was about eleven years old. Four respectable witnesses of the neighborhood were examined. They all agree in their testimony that Nicholas was well grown, healthy, and intelligent and of good bodily and mental capacity; that he and

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his brother Henry could readily have found employment either as house servant boys or on a farm or as apprentices, and that they were able to work and gain a livelihood. The testator devised to each of them real and personal estate to a considerable amount. They had guardians appointed, were well educated, and Nicholas is now living in affluence. Experience has proved that he was able to work and gain a sufficient maintenance and livelihood. No doubt as to the fact has ever been entertained by any who know him. Of course he was capable in law to sell and dispose of the whole or any part of his estate and to execute the necessary instruments of writing to convey a sufficient title to the purchase.

The Court of Appeals of Maryland, in the case of *Hale v. Mullin*, decided that a devise of property real or personal by a master to his slave entitles the slave to his freedom by necessary implication. This Court entertains the same opinion.

It is not the inclination of this Court to express any opinion as to the correctness of the decision of the Court of Appeals of Maryland in the case of *Hamilton v. Cragg*. It is unnecessary in reference to the case under consideration.

The decree of the circuit court is affirmed, and by consent of parties, without costs.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Maryland and was argued by counsel, on consideration whereof it is considered, ordered, and decreed by this Court that the decree of the said circuit court in this cause be and the same is hereby affirmed without costs.

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