

Mccluny Vs. Silliman

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Court : US Supreme Court

Decided On : 1830

Appeal No. : 28 U.S. 270

Appellant : Mccluny

Respondent : Silliman

Judgement :

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McCluny v. Silliman

28 U.S. (3 Pet.) 270

ERROR TO THE CIRCUIT

COURT OF OHIO

SYLLABUS

The plaintiff sued the defendant as Register of the United States Land Office in Ohio for damages for having refused to note in his books applications made by him for the purchase of land within his district. The declaration charged the register

with this refusal, the lands had never been applied for nor sold, and were at the time of the application liable to be so applied for and sold. The statute of limitations is a good plea, to the suit.

It is a well settled principle that a statute of limitations is the law of the forum, and operates upon all who submit themselves to its jurisdiction.

Under the thirty-fourth section of the Judiciary Act of 1789, the acts of limitation of the several states, where no special provision has been made by Congress, form a rule of decision in the courts of the United States, and the same effect is given to them as is given in the state courts.

Construction of the statute of limitations of the State of Ohio.

Where the statute of limitations is not restricted to particular causes of action, but provides that the action, by its technical denomination, shall be barred if not brought within a limited time, every cause for which such action may be prosecuted is within the statute.

In giving a construction to the statute of limitations of Ohio, the action being barred by its denomination, the Court cannot look into the cause of action. They may do this in those cases where actions are barred for causes specified in the statute, for the statute only operates against such actions when prosecuted on the grounds stated. [278]

Of late years, the courts in England and in this country have considered statutes of limitations more favorably than formerly. They rest upon sound policy, and tend to the peace and welfare of society. The courts do not now, unless compelled by the force of former decisions, give a strained construction to evade the effect of those statutes. By requiring those who complain of injuries to seek redress by action at law within a reasonable time, a salutary vigilance is imposed and an end is put to litigation.

In the Circuit Court of Ohio, the plaintiff in error instituted a suit on 15 December, 1823, against the defendant, who was Register of the United States land office at

Zanesville, to recover damages for having, as register, refused to enter an application in the books of his office, for certain lands in his district; the entry having been required to be made according to the provisions of the tenth section of the Act of Congress passed 18 May, 1796, entitled

"An

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act providing for the sale of the lands of the United States, in the territory northwest of the River Ohio, and above the mouth of the Kentucky River."

The declaration charges that the register, on 2 August, 1810, refused to enter the application, although the lands had never been legally applied for or sold, and were then liable to be applied for and sold.

The defendant pleaded not guilty, and not guilty within six years before the commencement of the suit. To the latter plea there was a demurrer, and joinder in demurrer. The circuit court overruled the demurrer, and sustained the plea of the statute of limitations. The plaintiff prosecuted this writ of error, and sought to reverse the judgment on the grounds:

1. That the statute of limitations does not apply to an action upon the case brought for an act of nonfeasance or misfeasance in office.
2. That no statute of limitations of the State of Ohio, then in force, is pleadable to an action upon the case brought by a citizen of one state against a citizen of another, in the circuit court of the United States for malfeasance or nonfeasance in office, in a ministerial officer of the general government, and especially where the plaintiff's rights accrued to him under a law of Congress.

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MR. JUSTICE Mc LEAN delivered the opinion of the Court:

This suit was brought by the plaintiff against the defendant, as Register of the United States Land Office at Zanesville, in the District of Ohio. The declaration charges that on 2 August in the year 1810, the plaintiff produced to the defendant, in his office of register, the receipts of the receiver of public moneys at that office as follows, viz., one number 3,255, and another number 3,256, amounting together to the sum of \$190.89 of moneys paid by the plaintiff to the receiver for the purchase of public lands in the said district, being the one-twentieth part of the purchase money for section number six, in township number twelve, and range number thirteen, and fraction number five, in the same township and range adjoining the said section, and for section number twelve, and fraction number one, adjoining in township number thirteen, and range number fourteen of public lands within that district, and that the plaintiff then and there applied to the defendant for the purchase of the said lands -- that is, each of the said sections with the fractions attached according to law, and requested that his

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application should be entered on the books of the defendant's office, upon which application, the defendant informed the plaintiff that the said lands had been sold at Marietta, before the establishment of the land office at Zanesville, and if not so sold there, that they had not been offered at public sale at Zanesville, whereupon the plaintiff insisted on his applications, and requested to have them entered, according to the provisions of the tenth section of the Act of Congress approved 18 May, 1796, entitled "an act providing for the sale of the lands of the United States, in the territory northwest of the River Ohio and above the mouth of Kentucky River." The declaration then charges that the register refused to enter the application although the lands had never been legally applied for nor sold and were then liable to be applied for and sold. The damages are laid at \$50,000.

To this declaration the defendant pleaded not guilty, whereupon issue is joined, and not guilty within six years before the commencement of the suit. To the latter plea there is a general demurrer, and joinder in demurrer. The Circuit Court of the United States for the District of Ohio overruled this demurrer and sustained the plea of the statute of limitations, and this writ of error is brought to reverse that

decision.

For the plaintiff in error it is contended:

1. That the statute of limitations does not apply to an action upon the case brought for an act of nonfeasance or malfeasance in office.
2. That no statute of limitations of the State of Ohio then in force is pleadable to an action upon the case brought by a citizen of one state against a citizen of another in the circuit court of the United States for malfeasance or nonfeasance in office in a ministerial officer of the general government, and especially where the plaintiff's rights accrued to him under a law of Congress.

The decision in this cause depends upon the construction of the statute of Ohio which prescribes the time within which certain actions must be brought. It is a well settled

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principle that a statute of limitations is the law of the forum, and operates upon all who submit themselves to its jurisdiction.

In the thirty-fourth section of the Judiciary Act of 1789, it is provided

"That the laws of the several states, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply."

Under this statute, the acts of limitations of the several states, where no special provision has been made by Congress, form a rule of decision in the courts of the United States, and the same effect is given to them as is given in the state courts. The act in question provides

"That all actions hereinafter mentioned, shall be sued or brought within the time hereinafter limited; all actions of trespass for assault, menace, battery and

wounding, actions of slander for words spoken or libel, and for false imprisonment, within one year next after the cause of such actions or suits; and all actions of book accounts, or for forcible entry and detainer, or forcible detainer, within four years after the cause of such action or suits; and all actions of trespass upon real property, trespass, detinue, trover and conversion and replevin, all actions upon the case, and of debt for rent, shall be sued or brought within six years next after the cause of such actions or suits."

It is contended that this statute cannot be so construed as to interpose a bar to any remedy sought against an officer of the United States for a failure in the performance of his duty; that such a case could not have been contemplated by the legislature; that the language of the statute does not necessarily embrace it; and consequently the statute can only apply, in cases of nonfeasance or malfeasance in office, to persons who act under the authority of the state and are amenable to it.

It is not probable that the Legislature of Ohio, in the passage of this statute, had any reference to the misconduct of an officer of the United States. Nor does it seem to have been their intention to restrict the provision of the statute

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to any particular causes for which the action on the case will lie. In the actions of trespass, debt, and covenant specified, the particular causes of action barred by the statute are stated, but this is not done in the action on the case, nor is it done in the action of detinue, trover, and conversion, and replevin.

Where the statute is not restricted to particular causes of action, but provides that the action, by its technical denomination, shall be barred, if not brought within a limited time, every cause for which the action may be prosecuted is within the statute.

If the statute required the action of debt for rent to be brought within six years from the time the cause of action arose, the bar could extend to no other action of debt. But if the statute provided that all actions of debt should be prosecuted within six

years, then it would operate against the action, for whatever cause it was brought.

The action on the case must be brought within six years from the time the cause of action arose, and it is immaterial what that cause may be; the statute bars the remedy, by this form of action, if it be not prosecuted within the time.

In giving a construction to this statute, where the action is barred by its denomination, the court cannot look into the cause of action. They may do this in those cases where actions are barred when brought for causes specified in the statute, for the statute only operates against such actions when prosecuted on the grounds stated.

By bringing his action on the case, the plaintiff has selected the appropriate remedy for the injury complained of. This remedy the statute bars. Can the court then, by referring to the ground of the action, take the case out of the statute?

The demurrer admits the plea of the statute, and as it declares in express terms that the action is barred, the court can give no other effect to it by construction.

Of late years, the courts in England and in this country have considered statutes of limitations more favorably than formerly. They rest upon sound policy, and tend to the peace and welfare of society. The courts do not now, unless

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compelled by the force of former decisions, give a strained construction, to evade the effect of those statutes. By requiring those who complain of injuries to seek redress, by action at law, within a reasonable time, a salutary vigilance is imposed, and an end is put to litigation.

The judgment in this case must be

Affirmed.

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 Ohio and was argued by counsel, on

consideration whereof 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 affirmed with costs.

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