

**Caldwell Vs. Taggart**

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**Court :** US Supreme Court

**Decided On :** 1830

**Appeal No. :** 29 U.S. 190

**Appellant :** Caldwell

**Respondent :** Taggart

**Judgement :**

Caldwell v. Taggart - 29 U.S. 190 (1830)

U.S. Supreme Court Caldwell v. Taggart, 29 U.S. 4 Pet. 190 190 (1830)

**Caldwell v. Taggart**

**29 U.S. (4 Pet.) 190**

*APPEAL FROM THE DISTRICT COURT OF*

*THE WESTERN DISTRICT OF VIRGINIA*

## **SYLLABUS**

Where a bill was filed to compel the execution of securities for money loaned, which securities, it was alleged in the bill, were promised to be given upon particular real estate purchased by the money loaned, and the complainants had

omitted to make the prior mortgagees of the premises on which the securities were required to be given, parties to the bill, the Court said:

"It has been urged in reply to those grounds of reversal for want of parties or for want of due maturation for a final hearing that nothing is ordered to be mortgaged or sold besides the interest of the party who is ordered to execute the mortgage or whose interest is to be sold, whatever that may be. But this we conceive to be an insufficient answer. It is not enough that a court of equity causes nothing but the interest of the proper party to change owners. Its decree should terminate, and not instigate, litigation. Its sales should tempt men to sober investment, and not to wild speculation. Its process should act upon known and definite interests, and not upon such as admit of no medium"

of estimation. It has means of reducing every right to certainty and precision, and is therefore bound to employ these means in the exercise of its jurisdiction.

The general rule is

"That however numerous the persons interested in the subject of a suit, they must all be made parties, plaintiff or defendant, in order that a complete decree may be made, it being the constant aim of a court of equity to do complete justice by embracing the whole subjects, deciding upon and settling the rights of all persons interested in the subject of the suits to make the performance of the order perfectly safe to those who have to obey it, and to prevent future litigation."

Where in the course of proceedings in a suit in chancery in the circuit court it is apparent that the father has not presented the interests of his children for protection, the Court said

"Although there is no appeal taken in behalf of the children, the court, while interfering to prevent the breach of a trust in behalf of the father, can hardly be expected to pass over without noticing an omission in the father, amounting to a breach of trust, to the prejudice of his infant children."

The appellees, who are citizens of Maryland, filed their bill in the Court of the United States for the Western District of Virginia in which the material allegations set forth are that on 22 June, 1809, Grizzle Taggart, mother of John Taggart, conveyed to William Copeland Goldsmith and James Caldwell all her estate for the uses and purposes

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mentioned in the deed exhibited with the bill. A part of the estate so conveyed consisted of a debt due to the said Grizzle from Keller & Foreman of Baltimore, which was secured by a mortgage on valuable real property called the Salisbury Mills.

That about the year 1817, Caldwell, who was the nephew of Grizzle, importuned her and her son John and his wife to consent to permit him to receive the money due on the mortgage and to use it in the purchase of an estate called the White Sulphur Springs, situate in Greenbrier County, Virginia, and which belonged to the heirs of Michael Bowyer, and to induce them to yield their assent he represented that estate to be very valuable and promised that he would encumber it (when purchased) by a mortgage to secure the money which he should receive from Keller & Foreman.

The complainants further state that consent was accordingly yielded on the conditions proposed, in consequence of which Caldwell (who was then sole trustee, the other being dead) received from Keller & Foreman the sum of \$15,760.70 in discharge of their mortgage, which he appropriated to the purchase of several shares of the co-partners of the said Michael Bowyer in the said estate or paid therewith for some shares previously purchased.

Sometime afterwards, as the complainants further allege, in order to satisfy Grizzle Taggart of the propriety of his purchase and that the security promised would be ample, Caldwell brought her from her residence in Baltimore to the White Sulphur Springs. That she returned about the beginning of October, 1817, well pleased with the property; that Caldwell promised to execute the mortgage immediately

after her return, but that in a very short time Grizzle departed this life without its having been done.

A few days after this event, Caldwell, secretly and unknown to the complainants, as they state, executed a mortgage in favor of Jeremiah Sullivan and others on his interest in the White Sulphur Spring estate to secure the sum of \$20,000. A second mortgage to

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secure the same debt was executed by Caldwell bearing date 15 September, 1819, and both were duly recorded and are in the record. It is stated that some defect unknown to the complainants was supposed to exist in the mortgage of 24 October, 1817, which was the reason for the second's being executed.

After the death of Grizzle Taggart, her son, John Taggart, as the complainants state, applied to Caldwell to execute the mortgage which he had promised on the White Sulphur Spring estate. He then informed the said John that he had executed the mortgage of 24 October, 1817, before mentioned, on which the said John upbraided him with his breach of trust. Caldwell then promised to extinguish the encumbrance out of the annual profits of the estate and to make provision for the debt created as before mentioned. Nothing, however, was done, the complainants being without any written evidence of their claim until 9 September, 1823, when Caldwell executed a paper, exhibited with the bill, acknowledging the sum of \$15,260.70 to be due on account of principal, and \$2,900 on account of interest.

The bill further states that the mortgagees, Jeremiah Sullivan and others, instituted a suit to foreclose the equity of redemption, but before the case was brought to a hearing, a certain Richard Singleton purchased the mortgage and obtained a transfer thereof; that to secure the money paid for the mortgage and other money advanced, he obtained a deed of trust from Caldwell on his interest in the estate that is four-sevenths obtained by purchase, and one-seventh in right of his wife, who is a daughter of Michael Bowyer.

The complainants further state that the profits of the said estate are great, but that such is the imprudence of Caldwell that he has never paid any part of the principal or interest on the mortgage either before or since Singleton acquired it, that he is incurring other large debts, and that he has no other means to pay the money due to them except his interest in the White Sulphur Spring estate. They insist that they hold an equitable lien on that estate so far

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as Caldwell's interest extends, and they pray that it may be subjected to their debt; that another trustee may be appointed to execute the trust created by the deed of 22 June, 1809, and for general relief.

To this bill James Caldwell and his wife filed a joint answer, sworn to on 30 September, 1827, the material statements of which are the following:

He admits the execution of the deed of 22 June, 1809, though he states that he was not apprised of its existence until after it was recorded. He admits that he received from Keller & Foreman the sum of \$15,760.70, due to Grizzle Taggart, and embraced in the deed executed by her, but he alleges that he was her debtor to that amount and that to secure the debt he had given a deed of trust to Nicholas Brice, as trustee. That at his request, Grizzle and her son John consented to release his deed of trust so as to enable him, Caldwell, to sell the property (Salisbury Plains) to Keller & Foreman, which was accordingly done, and he received the money. That the release exhibited with the answer was executed by Nicholas Brice, Grizzle Taggart, John Taggart and Mary his wife, when he was not present.

He alleges that Brice agreed, on his behalf, without consulting him, that the debt due from him to the said Grizzle, or a part thereof, should be vested in bank stock, and that the agreement and instrument of writing mentioned in the release contemplated that object; that he never executed any such writing, though he was informed before the delivery of the release of the proposition to invest the money due from him in bank stock, and refused to accept it on that condition, of which the

parties interested were informed, but that the release was afterwards, by their consent or without objection from them, delivered. That he was unwilling to accept the release on the condition proposed because his object in desiring it was the use of the money.

He alleges that the money which he obtained from Keller & Foreman was applied to the payment of his debts, and not to the purchase of the White Sulphur Springs or any interest therein or anything due therefor.

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He denies that it was his object to invest the money obtained by him in the White Sulphur Spring property, or that he obtained the release by any such representation, or by any promise to give an encumbrance thereon. That he acquired the White Sulphur Spring property with other funds and never contemplated securing the debt due to Grizzle Taggart on that property, but expected to pay it out of a large debt due to him from another person, which he failed to realize.

He admits that Grizzle Taggart visited the White Sulphur Springs; that he returned with her in 1817; but denies that she was brought there with the views mentioned in the bill. He says he does not recollect and has no reason to believe that a single word passed between him and her in relation to his giving a mortgage or other lien on that property, either during the said visit or at any other time.

Caldwell denies that there was any stipulation between him and John Taggart and Mary his wife, or either of them, that the debt should be secured by a mortgage on the White Sulphur Spring property. He states that he does not recollect that the said John ever upbraided him with a breach of trust. He admits that he had a conversation with John in 1819 upon the subject of his giving the mortgage to secure other persons, and that John Taggart then said that he ought in the first place to have secured the debt in which he was interested. In reply to which he stated that he was willing to secure that debt by a lien on the property as soon as the other was extinguished, which he supposed he would be able to do after the

lapse of some time. Previous to this, Caldwell states that he has no recollection of having conversed with John Taggart on the subject of giving a lien, though the fact of his having executed the other mortgage was known to John as early as 1817.

He states that he does not believe that John Taggart ever thought that he had deceived him. That there was no privacy in giving the mortgages of 24 October, 1817, and 15 September, 1819, which he admits he executed to secure the same debt. As evidence to show that

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John did not believe he had been deceived, he exhibits a letter from him which is in the record.

He admits the execution of the paper exhibited with the complainants' bill, bearing date 9 September, 1823, the pendency of a bill to foreclose the equity of redemption on the mortgage of 15 September, 1819; the subsequent purchase of Richard Singleton, and the execution of a deed of trust for his benefit, as stated in the bill.

James Caldwell then proceeds to state in his answer the interest which he has in the White Sulphur Spring property. 1. That his wife is entitled to one-seventh, as one of the heirs of Michael Boyer. 2. That she is entitled to another seventh by virtue of a conveyance made to her by her brother, John Bowyer. 3. He claims one-seventh, by purchase from William Bowyer, to whom he paid only one hundred dollars of the purchase money. The contract is referred to and filed among the papers of this Court. He states that William Bowyer is dead, having made a will which is exhibited and copied into the record. 4. He claims another seventh by purchase from William Bedford, who is stated to have purchased the interest of Thomas Bowyer, a son of Michael. That for this interest he stands indebted \$6,000 with interest, for which a deed of trust was executed on the property purchased, a copy of which is exhibited, and a suit has been brought to enforce this lien. 5. He claims the interest of James Bowyer, another son of the said Michael. The remaining two shares, he states, are in Frances Bedford and

Elizabeth Copeland, daughters of Michael Bowyer.

Caldwell insists that if, contrary to his expectation, the complainants should establish a specific lien on any part of the said property, that it can only extend to such interests as he owned when such lien originated, and that it ought not to be extended to defeat the rights of others or their equitable lien for purchase money due to them from him, and he requires that their rights shall be precisely ascertained and adjusted before any effort shall be made to enforce such lien in favor of the complainants, and that partition shall be made according to the rights of the parties.

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Caldwell further states that an indenture was executed by him and his wife and the other persons interested by which it was agreed that all the lands and tenements of which Michael Bowyer died seized should be divided between the parties by commissioners chosen for that purpose except two hundred acres, including the White Sulphur Springs, buildings, &c., which should be held in common; that this partition has never been made. He insists that if the complainants should establish the lien demanded by them, that partition should be made according to said agreement, and his part in the 200 acres first subjected.

He admits that the White Sulphur Spring estate is valuable, but regrets that the profits are not as great as estimated by the complainants. He deems it unnecessary and irrelevant to exhibit a schedule of his receipts and expenditures or an account of his management and history of his domestic affairs. He states that he is desirous of paying all the debts which he owes, and particularly that claimed in this case, the justice of which he has never denied; that he trusts an apology will be found for not having effected that sooner in the embarrassed situation of his affairs. Such was the condition of the White Sulphur Spring property when he obtained possession that he has been compelled to incur many expenditures to make it at all productive. He has well founded hopes that if he is suffered to continue his exertions, that in a few years he will be able to do full

justice to all the world, but that the interests of his creditors require that he should not be destroyed by an unmerciful pressure of their demands.

Caldwell objects to the measure of relief sought by the complainants as not being warranted by the laws of the land, the principles of equity, or the dictates of justice. So far as they set up any pretended parol agreement, he insists that it is within the operation of the statute of frauds and perjuries, of which he prays the benefit as if it had been specially pleaded. Caldwell moreover states that he feels it his duty to protect the trust fund committed to his care from any appropriation not contemplated by the donor. He denies the right of the complainants to take that fund

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from the control of the trustees or to exhaust or expend the principal, and says that the interest, or profits only, can be applied to the use of the *cestui que trusts*.

The defendant, the wife of James Caldwell, states that her interests in the White Sulphur Spring property are, in some respects, different from those of her husband, and that she is advised that no agreement made by him in which she has not concurred in the form prescribed by law affects her rights derived by descent, devise, or conveyance. She refers to a copy of the deed (which is not in the record) executed by her brother John Bowyer to show that she is entitled to the sole and exclusive use and benefit of his share. As to the interest of her deceased brother, William Bowyer, she contends that she is entitled to the same, or the purchase money thereof, during her life in the same exclusive and separate manner, and that after her death, the property passes to her children and nephew. She refers to the agreement between her husband and the said William Bowyer to show that the latter had the privilege to revoke the contract if the purchase money should not be paid, which privilege she says passed to her by the will of the said William, which privilege she claims to exercise so far as the same may be necessary for her complete protection. She prays that she may be permitted to answer separately or that her rights may be investigated and decided as if she had done so. She says she has no knowledge of the justice of the debt claimed and

how it originated.

Depositions were taken in the district court establishing certain facts which are sufficiently referred to in the opinion of this Court, and when the cause came on to a hearing, the court made the following decree:

"This cause came on to be heard on the bill, answers, exhibits, and examination of witnesses and was argued by counsel. On consideration whereof, and for reasons set forth in a written opinion filed among the papers in this cause, it is adjudged, ordered, and decreed that the defendant, James Caldwell, do forthwith execute a proper deed of mortgage to Silas H. Smith, who is hereby appointed trustee for that purpose, providing for the annual payment to

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the said trustee of the legal interest on the sum of \$15,760.70, the amount of the sum withdrawn by the said defendant from the trust fund, to commence this day, to be paid by the said trustee to John Taggart during his life and on his death that the principal, with any interest that may accrue after the death of the said John, to be paid to the children of said John and Mary, his wife, according to the provisions of the deed executed by Grizzle Taggart on 22 June, 1809, and filed among the papers in this cause. And it is further adjudged, ordered, and decreed that the said defendant pay unto the plaintiff, John Taggart, the sum of \$7,513.40, being the amount of interest now due on the said sum of \$15,760.70, and in case the said defendant shall make default in the payment of the said sum of money, so that the same or any part thereof shall remain due and unpaid on 5 August next, then it shall be the duty of the marshal of this Court to proceed to sell all the right, title, and interest which the defendant may have in the White Sulphur Spring estate in the County of Greenbrier for ready money, having first advertised the time and place of sale in some newspaper published in Richmond, Staunton, and Lewisburg for thirty days before such sale, and that he report his proceedings to this court. And it is further adjudged, ordered, and decreed that the said defendant pay unto the plaintiffs their costs expended in the prosecution of this suit."

From this decree the said James Caldwell prayed and obtained an appeal to the Supreme Court of the United States.

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MR. JUSTICE JOHNSON delivered the opinion of the Court;

The material facts of this case may be thus stated:

Grizzle Taggart, wishing to make provision for the family of her son John Taggart, conveyed a considerable property to one Goldsmith and the defendant James Caldwell to the use of herself for life, then to the joint use of John Taggart and his wife for life, to the use of the survivor for life, and finally to be distributed among their children. The children, together with their parents, preferred this bill. The deed bears date 22 June, 1809, and contains a clause empowering John and his wife, or the survivor of them, to sell and dispose of the trust property

"and invest it in other property subject to the like uses and trusts, and to repeat the same as often as they may think beneficial for them and their children."

In July, 1812, Goldsmith being dead, Caldwell prevailed upon the *cestui que trusts*, Taggart and wife, to permit him to make use of a large sum of money raised upon the trust property and secured it to them by a mortgage on the Salisbury mills, executed to Nicholas Brice, in terms adapted to the purposes of the original trust deed. Afterwards, in the year 1816, Caldwell prevailed upon the *cestui que trusts* to make another change of application of the trust found in his favor by executing a release of the mortgage to enable him, as is alleged in the bill, to make a purchase

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of the Sulphur Springs in Virginia, and under a promise to mortgage that property when purchased, to secure the money according to the original trusts.

These facts make out the complainants' case, and excepting the three allegations that the last loan was solicited for a specific purpose, that it was applied to that purpose, and under a promise that the property when purchased should be mortgaged to secure the loan according to the trusts, the answer admits the facts set out in the bill. It is then a clear case for relief, since the defendant Caldwell, uniting in himself the two characters of trustee and debtor to the trust fund, was guilty of a clear breach of trust in availing himself of the release of 1816 without seeing the debt well secured agreeably to the deed of 1809. He must in any event be decreed to substitute such security as he ought to have taken upon any other change of investment effected in pursuance of the original trust. But the complainants here go for specific relief, claiming to stand in the relation of *cestui que trusts* or mortgagees of a specified property, upon the ground, as to the first relation, of having paid the consideration money, and as to the second, of having surrendered their existing mortgage upon Caldwell's promise to execute that in contemplation, and in one or the other or both those rights to have the property placed in the hands of a receiver, that the income may be applied to extinguish prior encumbrances and leave the property free to satisfy this claim. The bill also contains the prayer for general relief, but the specific claim must first be disposed of before the general prayer can be considered.

The court below sustained the allegations of the bill relative to the promise to mortgage the specific property, and decreed Caldwell to execute a mortgage accordingly to secure the principal sum of \$15,760. It then goes on to order the interest calculated to the date of the decree, amounting to \$7,500, to be paid by a day prescribed, or in default thereof that the property so ordered to be mortgaged to secure the principal shall be sold to raise the interest. We think it clear that there is an error in this, since the

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interests of those in remainder would thus be sacrificed to the first taker. And although there is no appeal taken in their behalf, yet the Court, while interfering to prevent the breach of a trust in behalf of the father, can hardly be expected to pass over without noticing an omission in the father, amounting to a breach of trust, to

the prejudice of his infant children.

In an instance, therefore, in which a decree so obviously needs reforming, it is without reluctance that the Court lays hold of such legal grounds for reversing it as may be considered under the appeal taken by the defendant.

The complainants in their bill set out that soon after receiving and using the release before mentioned, Caldwell purchased the five-sevenths of the interest in the Sulphur Springs, and shortly after mortgaged the same to Sullivan and others to secure certain large sums which they had assumed for him; that this mortgage was foreclosed according to the laws of Virginia, and finally lifted and assigned to Mr. Richard Singleton, who advanced thereon, for the relief of Caldwell, \$23,000, to secure which the latter executed a trust deed to A. Stevenson and F. Bowyer, which it appears became absolute by failure of payment more than a year since.

And when the defendant Caldwell, as well as Frances Bedford, come to answer to the allegation of the purchaser of the property in question, we find that although Caldwell has repeatedly executed deeds conveying or encumbering five-sevenths of the whole, he does not pretend to make title to more than one-seventh, to-wit the share of James Bowyer. The rest are either vested in his wife or his children or encumbered with prior liens which will probably sweep the whole.

His answer also introduces into the cause a deed of partition, or one partaking of that character, executed by the parties interested in this property, bearing date in 1810, by which a division or distribution has been agreed upon adapted to the nature of the property and in which every individual has so distinct an interest that it may well be questioned whether, until it is in some way carried into

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execution, it will be possible for any purchaser to know what he is buying. This deed has not been copied into the record sent up, but it is presumed that it could hardly have been passed over in the court below.

Of the interests thus introduced into the cause by the answer, that of the children of Thomas Bowyer, as set out in Mrs. Bedford's answer, and that of the children of Mrs. Caldwell and Mrs. Copeland, as shown by the will of William Bowyer, are wholly unrepresented.

And as to the interest of Mrs. Copeland or her representatives, although there was an order for a decree *nisi*, the decree nowhere appears to have been entered, nor evidence of the service or return of the rule exhibited in the record.

In reply to all these grounds of reversal for want of parties or for want of due maturation for a final hearing, it has been urged that nothing is ordered to be mortgaged or sold beside Caldwell's own interest, whatever that may be. But this we conceive to be an insufficient answer. It is not enough that a court of equity causes nothing but the interest of the proper party to change owners. Its decrees should terminate, and not instigate, litigation. Its sales should tempt men to sober investment, and not to wild speculation. Its process should act upon known and definite interests, and not upon such as admit of no medium of estimation. It has the means of reducing every right to certainty and precision, and is therefore bound to employ those means in the exercise of its jurisdiction.

There is no want of learning in the books on this subject. The general rule is laid down thus:

"However numerous the persons interested in the subject of a suit, they must all be made parties plaintiffs or defendants in order that a complete decree may be made, it being the constant aim of a court of equity to do complete justice by embracing the whole subject, deciding upon and settling the rights of all persons interested in the subject of a suit, to make the performance of the order perfectly safe to those who have to obey it and to prevent future litigation."

And again, "all persons are to be made parties who are legally or beneficially interested in the subject matter and result of the

suit;" extending in most cases to heirs at law, trustees, and executors.

Thus, in a case in which a remainderman in tail brought a bill against the tenant for life to have the title deeds brought into court, and there were annuitants on the reversion and a child interested under a trust term of years prior to the limitation to the plaintiff, that is encumbrances prior and posterior to the plaintiff, Lord Hardwicke, 3 Atk. 570, refused a decree without first making them parties. So where husband tenant for life, remainder to his wife for life, remainder over, brought his bill without joining the wife, the objection was made and sustained on the ground that if there was a decree against the husband, it would not bind the wife. 1 Atk. 289.

So, if an under mortgagee brings his bill to foreclose the original mortgagor, he must make the first mortgagee a party. 3 P.W. 643. This is the relation in which the complainants here seek to place themselves in reference to Mr. Singleton.

And there are various cases in which, though the heir at law is not a necessary party, he is made such in practice, and the reason assigned is to free the estate from every blame that may lessen its value at the sale. 2 Ves. 431; 3 P.W. 91; 3 Br.Ch. 229, 365.

And so in cases of indefinite or blended interests, all the participators are necessary parties, as where a residue is devised to several, or even devised by specified shares.

It is clear, then, that this cause must go back, as well to have the necessary parties made as to have the decree reformed and reduced to legal precision.

It is true this course might have been avoided if this Court, upon looking through the complainants' case and allowing the full benefit of everything that has been legally established, has seen that a decree might now finally be rendered against the appellant. It would then have been nugatory to send it back for parties. But such is not the conclusion to which this Court has arrived; it has already expressed the opinion that to a certain extent, it is a very clear case for relief, and all the difficulties arise upon the nature of the

relief prayed and granted. There is no knowing what new aspect may be given to the cause when all the necessary parties come in and answer. But as it is now presented, had the prayer for specific relief upon the Sulphur Springs been out of the cause, it would not have been sent back without such a decree against the defendant Caldwell as the court below ought to have rendered.

This causes came on to be heard on the transcript of the record from the district Court of the United States for the District of West Virginia and was argued by counsel, on consideration whereof it is ordered and decreed by this Court that the decree of the said district court in this cause be and the same is hereby reversed and that this cause be and the same is hereby remanded to the said district court for further proceedings to be had therein according to law and justice.