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United States Vs. Eighty-four Boxes of Sugar

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Court : US Supreme Court

Decided On : 1833

Appeal No. : 32 U.S. 453

Appellant : United States

Respondent : Eighty-four Boxes of Sugar

Judgement :

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U.S. Supreme Court United States v. Eighty-Four Boxes of Sugar, 32 U.S. 7 Pet. 453 453 (1833)

United States v. Eighty-Four Boxes of Sugar

32 U.S. (7 Pet.) 453

MOTION FOR MANDAMUS

SYLLABUS

The claimants of eighty-four boxes of sugar, seized in the port of New Orleans, for an alleged breach of the revenue laws and condemned as forfeited to the United States for having been entered as brown instead of white sugar, claimed an appeal from the district Court of the United States to the Supreme Court. The

sugars, while under seizure, were appraised at $2,602.51, and after condemnation they were sold for $2,338.48; leaving, after deducting the expenses and costs of sale, the sum of $2,150.06. The duties on the sugars, considering them as white or brown, being deducted from the amount, reduced the net proceeds below two thousand dollars, the amount upon which an appeal could be

taken. *Held* that the value in controversy was the value of the property at the, time of the seizure, exclusive of the duties, and that the claimant had a right to appeal to this Court.

The statute under which these sugars were seized and condemned is a highly penal law, and should, in conformity with the rule on the subject, be construed strictly. If either through accident or mistake the sugars were entered by a different denomination from what their quality required, a forfeiture is not incurred.

In the port of New Orleans, eighty-four boxes of sugar, imported from Matanzas, were entered as brown sugar and were seized by the officers of the customs for having been so entered, the same being alleged to be white sugar, and therefore forfeited to the United States; a libel was filed against the whole importation, but afterwards, a part of the cargo was released and the proceedings in the libel were against the remaining eighty-four boxes. The whole parcel had consisted of one hundred and fifty-five boxes, of which seventy-one were marked B, and eighty-four marked C. The seventy-one boxes released were marked C, and of the eighty-four remaining, seventy were marked B, and fourteen were marked C.

In the answer of the claimants, all fraudulent intention was denied, and the character of the sugar, as entered, was asserted,

and the claimants also alleged that if the contrary should be adjudged by the court, the just conclusion should be that a mistake had been committed, and not that a fraud was meditated.

The sugars, while under seizure, were appraised by two officers of the customs, at $2,602.51. After their condemnation, they were sold by the marshal of the United States at a public sale for $2,338.48, leaving $2,150.06, after deducting the costs and charges attending the suits and sale. Upon the sugars, whether white or brown, the duties amounted to a sum sufficient to reduce the net proceeds below $2,000; considering the sugars as white sugars, these proceeds would be $1,388.36.

Testimony was taken as to the real nature and description of the sugars, all of which was set forth in the record of the proceedings in the district court, and which is particularly referred to in the opinion of this Court. The district court condemned the sugars as forfeited to the United States, for having been entered under a false denomination; the entry stating them to have been brown sugars, and the court having adjudged them to have been white sugars.

The claimants prayed an appeal, which the district court refused to allow, taking the ground, that the value of the property in dispute was not above $2,000, and insisting, that to ascertain the value, the duties must be deducted from the amount of sales, which deduction would leave a sum much below $2,000. Upon this refusal, notice was given to the district judge and district attorney, of an application to this Court for a mandamus, for the allowance of appeal. And the case came before the court upon a motion for such mandamus. The record in court being full, it was, to avoid delay, agreed that if this Court shall consider that the case admits of an appeal, it might, on the present transcript, proceed to decide the merits of the cause.

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

This case is brought before the court, by an application for a mandamus, to be directed to the judge of the court of the United States for the District of Louisiana, requiring him to allow an appeal from the judgment of that court.

In their petition, the claimants state that the eighty-four boxes of sugar were consigned to them at New Orleans, and that on their arrival, they were libeled by the United States for an alleged breach of the revenue laws; that the sugars were valued by the two custom house appraisers at $2,602.51; that they were afterwards condemned and sold by the marshal, at public sale, for $2,338.48, leaving $2,150.06, after deducting the costs and charges of the sale. From the judgment of condemnation, the claimants prayed an appeal to the Supreme Court; which was refused, on the ground, that the value of the sugars, exclusive of duties, is less than $2,000. By consent of parties, if the claimants shall, in the judgment of this Court, be entitled to an appeal, the merits of the case shall be considered as regularly before the Court for a final decision.

Whether the claimants were entitled to an appeal is the first point to be considered. The decision of this question depends on the amount in controversy. If it be less than $2,000, the judgment of the district court was final, and cannot be revised by an appeal. The judgment of condemnation was entered on 9 April, 1831, and on the 28th of the same month, under the order of the court, the marshal sold the property. On 19 April, an appeal was prayed, and an order was made, that the district attorney should show cause on the 23d of the same month, why an appeal should not be granted.

In his opinion against the right of the claimants to an appeal, the district judge said that

"The Supreme Court has lately, in the case of *Gordon v. Ogden,* decided that the defendant cannot support an appeal, from a judgment obtained against him in the court below for a less sum than $2,000, because that judgment is the only matter in dispute."

"In this case," the judge says,

"the thing demanded on one side was the forfeiture of a specific quantity of sugar, and

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on the other the restoration of the same article, the value of which did not amount to $2,000. . . . There was no demand of duties, nor could such demand have been taken into consideration in the case then before the court. There was no contest about the duties."

It will be observed that at the time the judgment of condemnation was entered and also when the appeal was prayed, the sugars remained in the hands of the proper officer. Suppose the judgment had been given for the restoration of the property, in what form should it have been entered? Could any part of the property have been detained for the payment of the duties? The duties were not then due, and could the court have directed them to be paid, by the sale of a part of the property? A judgment in favor of the complainants in the district court should have directed the property to be restored to them on the payment of the duties, or securing them to be paid, according to law. This would have given to the claimants the whole amount of their property, as though no seizure of it had been made. Under the law, they were entitled to a credit for the payment of the duties on the condition of giving bond and security.

Does it not thus appear that the whole of the property was the amount in dispute, and would have gone into the possession of the claimants had the judgment of the court been in their favor? How then could it be said in the court below, that the duties must be deducted from the value of the sugars, as forming no part of the controversy, and that, by such deduction, the value of the property was reduced below the amount which entitles the claimants to an appeal? If the claimants had given bond for the payment of the duties, and a judgment of restoration had been entered by the court before any part of the duties became payable, should the court have directed them to be paid? Such an order, under such circumstances, would be oppressive and unjust. The duties having been secured to the government as the law requires, no wrongful act on the part of the officers of the

government could lessen the term of credit fixed by the law and stated in the bond. And if no bond had been given,

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because of the seizure of the property, or its restoration, the claimants would have been at least entitled to credit for the unexpired term allowed by law for the payment of the duties, on their giving the requisite bond and security.

The case must stand before this Court on the appeal as it stood before the district court at the time the appeal was prayed. No subsequent action of the court in the sale of the property can affect the question. Before this Court, therefore, the case must stand, on the judgment of condemnation, and this before the duties were payable by law. Was not the entire property, and consequently its full value, in dispute between the parties at the time judgment was entered? On the one side, a condemnation of the property is claimed on the ground that the revenue law has been violated, and on the other a restoration of the property is demanded. In this view, this Court thinks the right of appeal from the judgment of the district court was clear, as the value of the property in controversy exceeded $2,000.

The next inquiry is whether the sugars were entered for the payment of duties under a false denomination, with a view to defraud the revenue? The sugars were entered as brown, on which a duty of three cents per pound is paid, and the libellants contend that they should have been entered as white, on which a duty of four cents per pound is paid. The quality of the sugars can only be ascertained by a reference to the proof in the case. The witnesses differ in their opinion as to the quality of these sugars. Bertrand and Smelser, two of the custom house officers, say the sugars were white, and their testimony is corroborated by five other witnesses. But a still greater number of witnesses, embracing the largest importers of sugars at New Orleans, are of the opinion that the sugars were properly denominated brown by the importers. Some of the boxes appeared to be whiter than others, but by far the greater number, as it would seem from a majority of the witnesses, were brown.

J. W. Zacharie says that he is engaged in the importation of Havana sugars, and that had he been ordered to purchase white sugar, he would not have purchased the sugars in question. That if he had entered these sugars as brown for the

payment of duties, he would not have considered himself as practicing a fraud on the government. A. Fiske states that he knew sugar of superior quality imported as brown sugar, and that it is very difficult beforehand for an importer to know how his sugar will be classed. He says when the qualities of superior brown and inferior white approximate, a very fair difference of opinion may exist as to the quality. Mr. Grant states that he has had great experience in white Havana sugar, and after examining the samples of the sugars shown him, says that a majority of them are brown, though there may be a few boxes of white. He would not purchase them as white on an order for sugar of that quality. A. R. Taylor and Joseph Cockayne state substantially the same facts as Mr. Grant. Mr. Suarez says that a portion of the sugar shown him has been white, but being very old, it has become worse than brown, and that he would not purchase it as white sugar. He considers the entire lot brown. J. H. Shepherd states substantially the same facts.

It appears that the planters in Havana mark their white sugars with the letter B, and that the mark for brown is Q, and it appears from the testimony of Bertrand, one of the custom house officers, that he suspected a fraud was designed by the importers, as he discovered the marks on the boxes had been changed from B to Q. Two of the boxes had the letter B still on them. Whether these changes were made by the planter or the importer does not appear, but Fiske and other witnesses state that the marks which are placed on sugars in Havana depend very much on the fancy of the planters, and that they are sometimes marked B with the view of selling them higher. There does not appear to be anything in these marks which shows that a fraud was contemplated by the importers. Any such inference is rebutted by many respectable witnesses in the case who state that the sugars are of the quality denominated in the entry.

The statute under which these sugars were seized and condemned is a highly penal law, and should, in conformity with

the rule on the subject, be construed strictly. If, either through accident or mistake, the sugars were entered by a different denomination from what their quality required, a forfeiture is not incurred. Under all the circumstances of this case, the court thinks that the evidence not only fails to convict the claimants of fraud in the entry of these sugars by a false denomination, but they think that the weight of testimony is in favor of the quality of the sugars, as stated in the entry. They therefore reverse the decree of the district court, and direct said court to enter a decree, that the proceeds of these sugars be restored to the complainants if the duties shall have been paid, and if they shall not have been paid, as they are now due, that the restoration be of the balance of proceeds after deducting the duties. The court thinks there was probable cause of seizure, and it direct the fact to be certified.

On consideration of the motion of the claimants and of the arguments of counsel as well for the United States as for the claimants thereupon had, it is now here considered, ordered, adjudged, and decreed by this Court that a writ of mandamus as prayed for be and the same is hereby awarded, directed to the judge of the District Court of the United States, for the Eastern District of Louisiana ordering him to grant an appeal in the premises.

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