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Stratton Vs. Jarvis

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Court : US Supreme Court

Decided On : 1834

Appeal No. : 33 U.S. 4

Appellant : Stratton

Respondent : Jarvis

Judgement :

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Stratton v. Jarvis

33 U.S. (8 Pet.) 4

APPEAL FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR THE DISTRICT OF MARYLAND

SYLLABUS

A libel was filed in the District Court of Maryland for a salvage service performed by the libellant, the master and owner of the sloop *Liberty,* and by his crew in saving certain goods and merchandises on board of the brig *Spark,* while

aground on the bar at Thomas' Point in the Chesapeake Bay. The goods were owned by a number of persons in several and distinct rights, and a general claim and answer was interposed in behalf of all of them by Jarvis and Brown (the owners of a part of them), without naming who in particular the owners were or distinguishing their separate proprietary interests.

This proceeding was doubtless irregular in both respects. Jarvis and Brown had no authority merely as co-shippers to interpose any claim for other shippers with whom they had no privity of interest or consignment, and several claims should have been interposed by the several owners or by other persons authorized to act for them in the premises, each intervening in his own name for his proprietary interest and specifying it. If any owner should not appear to claim any particular parcel of the property, the habit of courts of admiralty is to retain such property or its proceeds, after deducting the salvage, until a claim is made or a year and a day have elapsed from the time of the institution of the proceedings. And when separate claims are interposed, although the libel is joint against the whole property, each claim is treated as a distinct and independent proceeding in the nature of a several suit, upon which there may be a several independent hearing, decree, and appeal. This is very familiar in practice in prize causes and seizures in rein for forfeitures, and is equally applicable to all other proceedings *in rem* whenever there are distinct and independent claimants.

The district court decreed a salvage of one-fifth of the gross proceeds of the sales of the goods and merchandises, and directed the same to be sold accordingly. The salvage thus decreed was afterwards ascertained, upon the sales, to be in the aggregate $2,728.38, but no formal apportionment thereof was made. From this decree an appeal was interposed in behalf of all the owners of the goods and merchandise to the circuit court, but no appeal was interposed by the libellant. The consequence is that the decree of the district court is conclusive upon him as to the amount of salvage in his favor. He cannot, in the appellate court, claim anything beyond that amount, since he has not, by any appeal on his part, controverted its sufficiency.

Although no apportionment of the salvage among the various claimants was formally directed to be made by any interlocutory order of the district court, an apportionment appears to have been in fact made under its authority. A schedule is found in the record containing the names of all the owners and claimants, the gross sales of their property, and the amount of salvage apportioned upon each of them respectively. By this schedule, the highest

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salvage chargeable on any distinct claimant is $906..17, and the lowest $47.60, the latter sum being below the amount for which an appeal by the Act of 3 March, 1803, ch. 93, is allowed from a decree of the district court in admiralty and maritime causes.

In the appeal here as in that from the district court, the case of each claimant having a separate interest must be treated as a separate appeal, *pro interesse suo,* from the decree so far as it regards that interest, and the salvage chargeable on him constitutes the whole matter in dispute between him and the libellants with the fate of the other claims, however disposed of, he has and can have nothing to do. It is true that the salvage service was in one sense entire, but it certainly cannot be deemed entire for the purpose of founding a right against all the claimants jointly, so as to make them all jointly responsible for the whole salvage. On the contrary, each claimant is responsible only for the salvage properly due and chargeable on the gross proceeds or sales of his own property *pro rata.* It would otherwise follow that the property of one claimant might be made chargeable with the payment of the whole salvage, which would be against the clearest principles of law on this subject. The district and circuit courts manifestly acted upon this view of the matter, and their decrees would be utterly unintelligible upon any other. Their decrees, respectively, in giving a certain proportion of the gross sales must necessarily apportion that amount *pro rata* upon the whole proceeds according to the distinct interests of each claimant. This Court has no jurisdiction to entertain the present appeal in regard to any of the claimants, and the cause must for this reason be dismissed. The district court, as a court of original jurisdiction, has general jurisdiction of all causes of admiralty and maritime

jurisdiction, without reference to the sum or value of the matter in controversy. But the appellate jurisdiction of this Court and of the circuit courts depends upon the sum or value of the matter in dispute between the parties having independent interests.

In the District Court of the United States for the District of Maryland, a libel was filed by the appellant for salvage against several packages of merchandize of the invoice value of thirteen thousand six hundred and forty-one dollars and ninety-five cents, the property of fifteen consignees, alleged to have been saved from the brig *Spark* in the Chesapeake Bay, the vessel having been on a voyage from New York to Baltimore and having struck on Thomas' Point in the bay on 11 March, 1831.

The libellant was master of the sloop *Liberty,* a small vessel which took from the *Spark* the merchandize stated to have been saved, he having been employed for the purpose in Annapolis

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by the master of the *Spark,* who, after she was on shore, went there to obtain vessels in which to discharge the cargo.

The libel alleged that the contract under which the *Liberty* was employed for a stipulated compensation was rescinded by the owners of the *Spark,* who had repaired to her from Baltimore after hearing of her misfortune, they declaring they would not be responsible for the payment of the sum stipulated, but that they "abandoned the goods," and the claim for hire having thus been converted into a case of salvage.

The answer of the appellees, the owners of the merchandize, denied the claim of the libellant to salvage and relied upon the agreement for a stipulated compensation as fixed upon by the captain of the *Spark,* the amount of which was offered to be paid to the libellant and was by him refused.

The answer also denied that the cargo of the *Spark* was in danger of loss and that services of a meritorious character, upon which a claim for salvage would rest, had been performed by the libellant.

The district court allowed, as a salvage, twenty percent, which, on appeal by the appellees, the circuit court reduced to five percent on the gross proceeds of the goods, from which decree of the circuit court the libellant appealed.

In the circuit court the following agreement was entered into:

" *List of owners.* -- Patterson & Duncan, J. B. Danforth, Chamberlin & Caldwell, William B. Keys & Co., Baltzell & Davidson, Mummey & Meredith, John Armstrong & Son, William M. Ellicott & Co., Sacket & Shannon, Baltzell & Dalrymple, Peabody, Riggs & Co., Bancroft & Peck Lawrence & Anderson, S. & J. B. Ford, Jarvis & Brown."

" *List of consignees.* -- Joseph Taylor & Son, John T. Barr B. & Davidson, M. & Meredith, C. F. Pochon & Co., Ellicott & Co., S. & Shannon, B. & D., N. F. Williams, P. R. & Co. B. & Peck E., Eichelberger & Co., Talbot Jones & Co., H. & W. Crawford, J. & B., Morrison and Egerton."

"It is agreed that separate appeals be filed in this case for each of the owners, as specified in the foregoing list, and that the cause be considered and treated as if such separate appeals were filed, and that none of the appellants shall have any privileges

or advantages which would not appertain to them if such appeal were a separate one."

"Signed by the proctors of the respondents and appellants."

"Nov. 18, 1831."

The salvage was apportioned among the owners of the property saved as follows:

image:a

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MR. JUSTICE STORY delivered the opinion of the Court.

This is the case of a libel for a salvage service performed by the libellant, the master and owner of the sloop *Liberty,* and by his crew, in saving certain goods and merchandise on board of the brig *Spark* while aground on the bar at Thomas' Point in the Chesapeake Bay. The goods were owned by a number of persons in several and distinct rights, and a general claim and answer was interposed in behalf of all of them by Jarvis and Brown (the owners of a part of them) without naming who in particular the owners were or distinguishing their separate proprietary interests. This proceeding was doubtless irregular in both respects. Jarvis and Brown had no authority merely as co-shippers to interpose any claim for other shippers with

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whom they had no privity of interest or consignment, and several claims should have been interposed by the several owners or by other persons authorized to act for them in the premises, each intervening in his own name for his proprietary interest, and specifying it. If any owner should not appear to claim any particular parcel of the property, the habit of courts of admiralty is to retain such property or its proceeds, after deducting the salvage, until a claim is made or a year and a day have elapsed from the time of the institution of the proceedings. And when separate claims are interposed, although the libel is joint against the whole property, each claim is treated as a distinct and independent proceeding in the nature of a several suit, upon which there may be a several independent hearing, decree, and appeal. This is very familiar in practice in prize causes and seizures *in rem* for forfeitures, and is equally applicable to all other proceedings *in rem* whenever there are distinct and independent claimants. The irregularity (such as it is) in the present case is, however, of no importance, as the parties, by their

agreement of record, have agreed that separate appeals should be filed from the decree of the district court for each of the owners, as specified in a list subjoined thereto, and that the cause should be considered and treated as if such separate appeals were filed, and that none of the appellants should have any privileges or advantages which would not appertain to them if such appeal were a separate one. This agreement, in legal effect, creates the very severance which the original claim and answer ought to have propounded in due form.

At the trial in the district court upon the allegations and proofs in the cause, there was no controversy as to the salvage service, and the case was reduced to the mere consideration of the amount to be awarded as salvage. The district court decreed a salvage of one-fifth of the gross proceeds of the sales of the goods and merchandizes, and directed the same to be sold accordingly. The salvage thus decreed was afterwards ascertained upon the sales to be in the aggregate $2,728.38, but no formal apportionment thereof was made. From this decree an appeal was interposed in behalf of all the owners of the goods and merchandizes to the circuit court, but no appeal was interposed by the libellant.

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The consequence is that the decree of the district court is conclusive upon him as to the amount of salvage in his favor. He cannot, in the appellate court, claim anything beyond that amount, since he has not, by any appeal on his part, controverted its sufficiency. Although no apportionment of the salvage among the various claimants was formally directed to be made by any interlocutory order of the district court, an apportionment appears to have been in fact made under its authority. A schedule is found in the record containing the names of all the owners and claimants, the gross sales of their property, and the amount of salvage apportioned upon each of them respectively. By this schedule, the highest salvage chargeable on any distinct claimant is $906.17, and the lowest $47.60, the latter sum being below the amount for which an appeal by the Act of 3 March, 1803, ch. 93, is allowed from a decree of the district court in admiralty and maritime causes.

Upon an appeal, the circuit court reversed the decree of the district court and awarded one-twentieth part (instead of one-fifth) of the gross sales as salvage, and from this latter decree the libellant has appealed to this Court.

The first question is whether this Court has jurisdiction to entertain the appeal, the aggregate amount of the whole salvage exceeding the sum of $2,000, but that which is due or payable by any distinct claimant being very far short of that sum. The argument in favor of the jurisdiction is that the salvage service is entire, and the decree is for a specified proportion or aliquot part of the whole of the gross sales, and therefore it is chargeable upon the proceeds as an entirety, and not upon the separate parcels thereof according to the interests of the separate owners. We are of a different opinion. In the appeal here as in that from the district court, the case of each claimant having a separate interest must be treated as a separate appeal, *pro interesse suo,* from the decree, so far as it regards that interest, and the salvage chargeable on him constitutes the whole matter in dispute between him and the libellant,; with the fate of the other claims, however disposed of, he has and can have nothing to do. It is true that the salvage service was in one sense entire, but it certainly

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cannot be deemed entire for the purpose of founding a right against all the claimants jointly, so as to make them all jointly responsible for the whole salvage. On the contrary, each claimant is responsible only for the salvage properly due, and chargeable on the gross proceeds or sales of his own property *pro rata.* It would otherwise follow that the property of one claimant might be made chargeable with the payment of the whole salvage, which would be against the clearest principles of law on this subject. The district and circuit courts manifestly acted upon this view of the matter, and their decrees would be utterly unintelligible upon any other. Their decrees, respectively, in giving a certain proportion of the gross sales, must necessarily apportion that amount, *pro rata,* upon the whole proceeds, according to the distinct interests of each claimant. We are therefore of opinion that we have no jurisdiction to entertain the present appeal in regard to any of the claimants, and the cause must for this reason be dismissed. The district

court, as a court of original jurisdiction, has general jurisdiction of all causes of admiralty and maritime jurisdiction, without reference to the sum or value of the matter in controversy. But the appellate jurisdiction of this Court and of the circuit courts depends upon the sum or value of the matter in dispute between the parties having independent interests.

Appeal dismissed accordingly.

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