

**Stanley Vs. Gadsby**

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**Court :** US Supreme Court

**Decided On :** 1836

**Appeal No. :** 35 U.S. 521

**Appellant :** Stanley

**Respondent :** Gadsby

**Judgement :**

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**Stanley v. Gadsby**

**35 U.S. (10 Pet.) 521**

*APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES*

*FOR THE DISTRICT OF COLUMBIA IN THE COUNTY OF WASHINGTON*

## **SYLLABUS**

A, filed a bill in the circuit court for an injunction to prevent the sale of property by a trustee to whom it had been conveyed to secure the payment of a sum of money borrowed by him at usurious interest. The money borrowed had not been repaid,

and the bill sought no discovery of the usury from the defendant, but averred that the complainant would be able to prove it by competent testimony. The circuit court dismissed the bill. *Held* that the decree of the circuit court was correct.

This is substantially an application for relief from usury, and the consequence of granting the injunction would be relief upon terms at variance with the rule of equity, so fully recognized at this term of the Court in the case of *Brown v. Swann*, that he who seeks the aid of equity to be delivered from usury must do equity by paying the principal and legal interest upon the money borrowed. The complainant does not offer to do so in this bill. This is essential to every such application in a court of equity, first to give the court jurisdiction and to enable the chancellor, if he thinks proper to do so, to require the payment of principal and interest before the hearing of the cause. The relief sought in such cases is an exemption from the illegal usury. The whole inquiry on the hearing is to establish that fact and to give relief to that extent. Whenever a complainant does not comply with the rule by averring in his bill his readiness or willingness to pay principal and interest, he can have no standing in a court of equity.

This was a bill filed in the circuit court by the appellant against the executors of James Walker praying for an injunction on a trustee to prevent his proceeding to sell certain real estate conveyed to him to secure the payment of a sum of money loaned to the complainant, and for relief against an alleged usurious contract.

The circuit court dismissed the bill.

MR. JUSTICE WAYNE delivered the opinion of the Court.

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The complainant alleges that he borrowed a sum of money from James Walker, at usurious interest and that to secure the payment of it he executed a deed of trust upon his house and lot in Washington to the defendant, James Rhodes, in which he covenanted, if default should be made in the repayment of the loan at the stipulated time, that the trustee, Rhodes, shall, upon the request of said James

Walker or his executors, administrators, or assigns sell the premises to the highest bidder and convey the same to a purchaser in fee simple, notice of the sale being given, of the time of sale, in the way mentioned in the deed of trust. He further complains that the executors of Walker have directed Rhodes to proceed to a sale of the house and lot, that he had advertised them for sale, and he admits that he had not repaid the money borrowed. The complainant seeks no discovery of the usury from the defendant, but avers that he will be able to prove it by competent testimony, and waives all penalties to which he may be entitled to arise out of this transaction. He prays for an injunction to prevent the sale of the property by the trustee until the question of usury shall be decided at law, but does not ask the court to aid in any way as auxiliary to any case pending at law.

This, then, is substantially an application for relief from usury, and the consequence of granting the injunction would be relief upon terms at variance with the rule of equity, so fully recognized at this term of the Court in the case of *Brown v. Swann* -- that he who seeks the aid of equity to be relieved from usury must do equity by paying the principal and legal interest upon the money borrowed. The complainant does not offer to do so in his bill. This is essential to every such application in a court of equity, first to give the court jurisdiction and to enable the chancellor, if he thinks proper to do so, to require the payment of principal and interest before the hearing of the cause. The relief sought in such cases is an exemption from the illegal usury. The whole inquiry on the hearing is to establish that fact and to give relief to that extent. Whenever, then, a complainant does not comply with the rule by averring in his bill his readiness or willingness to pay principal and interest, he can have no standing in a court of equity.

The decree of the circuit court is

*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 Columbia holden in and for the County of Washington, and was argued by counsel, on consideration whereof it is decreed and ordered by this Court that the decree of the said circuit court in this cause be and the same is hereby affirmed with costs.

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