

**Mcbride Vs. Lessee of Hoey**

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**Court :** US Supreme Court

**Decided On :** 1837

**Appeal No. :** 36 U.S. 167

**Appellant :** Mcbride

**Respondent :** Lessee of Hoey

**Judgement :**

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**McBride v. Lessee of Hoey**

**36 U.S. (11 Pet.) 167**

*ERROR TO THE SUPREME COURT OF THE WESTERN*

*DISTRICT OF THE STATE OF PENNSYLVANIA*

## **SYLLABUS**

Jurisdiction. The Supreme Court has no power under the twenty-fifth section of the Judiciary Act of 1789, to revise the decree of a state court when no question was raised or decided in the state court upon the validity or construction of an act of

Congress nor upon the authority exercised under it, but on a state law only.

An action of ejectment was instituted by the lessee of William Hoey against James McBride, the tenant of William Clarke, in the Common Pleas of Mercer County to recover a tract of land in that county. The plaintiff obtained a verdict, and judgment on the same was rendered by the court, and the case was carried by writ of error to the Supreme Court of the Western District of Pennsylvania, where the judgment was affirmed. To that court, as the highest court of law of the state, this writ of error was prosecuted under the provisions of the 25th section of the Judiciary Act of September, 1789, the plaintiff in error claiming the exercise of the jurisdiction of this Court on the allegation that an act of Congress has been misconstrued by the Supreme Court of Pennsylvania.

The plaintiff in the ejectment, in the Common Pleas of Mercer County, exhibited a regular title derived under the laws of the State of Pennsylvania subjecting unseated or unoccupied lands to sale for taxes left unpaid by the owner of the land. These laws give to the owners of such lands a right to redeem them within two years after the sale by payment or tender to the county treasurer of the taxes for which the lands were sold, with twenty-five percent in addition. In the courts of Pennsylvania, construing the laws of that state, it had been decided that no one but the owner of the land or his agent could be permitted to redeem lands so sold.

The defendant in the ejectment, as the tenant of William Clarke, alleged a redemption of the lands by a tender of the amount of the taxes with the addition of twenty-five percent, and claimed

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that William Clarke, who had made the tender, was the owner of the land under the following circumstances:

The same tract of land had, he alleged, been sold for taxes due to the United States under the authority of the acts of Congress laying direct taxes, and had been purchased by Mr. Clarke at the sale made under the authority of these acts. The defendant offered in evidence a deed executed on 3 July, 1821, by

Theophilus T. Ware, designated collector of United States direct taxes, said to be for the tract of land in controversy. This deed was admitted, as *prima facie* evidence of the matters stated in it. The plaintiff in the ejectment then proceeded to prove and did prove that the tract of land alleged to be conveyed by the deed had never been legally assessed for the United States direct taxes, and that the assessments were void. This evidence completely invalidated the deed from the United States collector to Mr. Clarke, and this effect of the evidence was not controverted by the defendant. He, however, contended that, being in possession and having the deed from the designated collector of the United States direct taxes, he had such sufficient *prima facie* evidence of a title to the land as to authorize him to redeem the same from the tax sale made under the laws of Pennsylvania.

The court of common pleas instructed the jury that

"The plaintiff, William Hoey, having shown that he has purchased this tract of land according to law at a treasurer's sale, and the plaintiff having shown that defendant's deed is illegal for want of authority in the United States collector to make such sale, we instruct the jury that the defendant has no right to interfere to defeat a regular and legal sale by the treasurer of the county to William Hoey. An invalid title cannot defeat a good, legal, and valid title. "

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MR. CHIEF JUSTICE TANEY delivered the opinion of the Court.

The material facts in the case may be stated in a few words:

William Hoey, the defendant in error, brought an action of ejectment in the Court of Common Pleas of Mercer County for the land in question, claiming under a deed from Aaron Hakney, treasurer of the county, upon a sale made for taxes due on the said land to the State of Pennsylvania; this deed is dated October 14, 1822. The defendant offered in evidence a deed to him from Theophilus T. Ware, Collector of the United States Direct Taxes, for the 10th Collection District of the State of Pennsylvania, dated July 3, 1821, and also offered evidence that on 10

June 1824, he had paid to the treasurer of the county the taxes due on the land to the state, and for which it had been sold, as above stated, in order to redeem it.

It appears from the exception that the defendant admitted that the sale made by the United States collector was not warranted by the act of Congress and that the deed was invalid. But although the deed was inoperative, and did not convey the title to him, yet as he was in possession under this deed claiming title, and the deed, upon

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the face of it, purported to convey the land to him, he insisted that the deed, coupled with the possession under it, was sufficient evidence of title to authorize him to redeem the land within the time limited for redemption by the laws of Pennsylvania after a sale for state taxes, and that having paid the taxes within that time, the title of the lessor under his deed was defeated. The court of common pleas gave judgment in favor of the plaintiff, and the case being removed by writ of error to the Supreme Court of Pennsylvania for the Western District, the judgment of the court of common pleas was there affirmed.

The statement of the case shows that the question upon which the case turned and which was decided by the supreme court depended entirely upon the laws of Pennsylvania, and not upon the act of Congress. The question brought before the state court and there decided against the plaintiff in error was this: is a person in possession of land in Pennsylvania, claiming title to it under a deed which upon its face appears to be a good one but which is inoperative and invalid, entitled to redeem the land after it has been sold for taxes due to the state so as to defeat the title of the purchaser under the state law? It is evident that such a question must depend altogether upon the laws of the state, and not upon any law of the United States. The exception states that the plaintiff in error admitted that the sale and conveyance made by the United States collector was not warranted by the act of Congress, and that his deed was invalid. No question was raised or decided by the court upon the validity or construction of the act of Congress nor upon the authority exercised under it. The only question raised or decided in the state court

was the one above stated, and upon such a question, depending altogether upon the state laws, this Court have no power to revise the decision of the state court in this form of proceeding. The writ of error must therefore be

*Dismissed.*

On consideration of the motion made in this cause yesterday and of the arguments of counsel thereupon had as well in support of as against the motion, it is now here considered, ordered, and adjudged by this Court that this writ of error to the Supreme Court of Pennsylvania for the Western District be and the same is hereby dismissed for the want of jurisdiction.

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