

King Vs. Thompson

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Court : US Supreme Court

Decided On : 1839

Appeal No. : 38 U.S. 128

Appellant : King

Respondent : Thompson

Judgement :

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King v. Thompson

38 U.S. (13 Pet.) 128

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES

OF THE DISTRICT OF COLUMBIA FOR THE COUNTY OF WASHINGTON

SYLLABUS

A bill was filed claiming a specific performance of an alleged contract to convey a house and lot in Georgetown for the benefit of the wife of the complainant, the complainant having expended a large sum of money in improving the property in

the expectation that it would be conveyed as required by the bill. The court not considering that sufficient evidence of an agreement to convey the property was given, ordered that the property should be sold, and out of the proceeds that the advances made by the complainant should be repaid. The property sold for a sum far less than the amount expended. *Held* that the balance unpaid after the sale, was not a debt due by the estate of the father of the wife, and could not be claimed of his representatives.

In December, 1822, the appellant filed in the circuit court a creditor's bill in the usual form against the appellees, praying for the sale of the real estate of George King, deceased, in aid of his personal estate. It appeared that George King had died intestate and insolvent in 1820, and with the assent of the defendants a decree of sale of his real estate was made in January, 1823. Under this decree, sales were made, reported, and confirmed, and in March, 1831, a final sale of all the real estate was made except a house and lot on Civil Alley in Georgetown, which sale, on the claim of Josias Thompson and wife, was set aside in April, 1831. As the sales were made, audits of the accounts of the estate and the claims were made from March, 1827, to March, 1836. On the last report of the auditor coming before the court, Alexander Caldwell, administrator of Josias Thompson, who had become deceased, exhibited to the circuit court a claim against George King for a dividend out of the assets of his estate, and on his motion the auditor's report was recommitted.

The record made the case of [George King's heirs v. Thompson](#), 9 Pet. 204, a part of this case. Josias Thompson and wife, in the case referred to, had claimed of the heirs of George King, that the house and lot on Civil Alley in Georgetown should be conveyed to them, alleging that an agreement to that effect had been made with them in his lifetime by George King, Josias Thompson having married the daughter of George King, and in consideration of this agreement Josias Thompson had laid out four thousand dollars in buildings and improvements on the lot. The court not being satisfied upon the evidence that a decree for the conveyance of the property should be made, ordered that a sale of the property should be made and that the proceeds should be first applied to repay to Josias

Thompson the sum of four thousand dollars laid out on the same, and that the balance should be paid over for the benefit of the creditors of George King.

Under this decree the property was sold, and it produced the sum

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of eight hundred and twenty-seven dollars, leaving of the sum expended by Josias Thompson, three thousand one hundred and seventy-three dollars, unpaid.

In April, 1837, the administrator of Josias Thompson claimed from the estate of George King a dividend on the sum of four thousand dollars, the amount laid out on the house and lot, being two thousand six hundred and twenty-six dollars, less the sum of eight hundred and twenty-seven dollars, the proceeds of the house and lot.

This claim was made on the allegation that Josias Thompson was a creditor of George King to the amount of four thousand dollars, by the expenditure of that sum on the house and lot, and that he was entitled to come in and have, on that amount, an equal dividend with the other creditors of the estate of George King, deducting the proceeds of the property in Georgetown.

The circuit court made a decree allowing to the administrator of Josias Thompson the amount claimed by him, and the defendants prosecuted this appeal.

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MR. JUSTICE CATRON delivered the opinion of the Court.

In 1812, Thompson married the daughter of King, who, being a man of considerable estate, offered to give Thompson a house and lot in Georgetown, then in a dilapidated state, if Thompson would repair the premises so as to make them a comfortable residence, King saying he intended the property for his daughter, the wife of Thompson.

Thompson accepted the offer, went into possession, and expended in repairs and improvements, four thousand dollars.

About 1816, Thompson claimed to have the property conveyed to him by King, who refused, but offered to vest the title in trust for Thompson's wife. Thompson made several alternative propositions -- one amongst others, that the house and lot should be valued as of the date when it was put into his possession, and that he would pay the amount over to King, and take a title, which proposition the latter accepted, or offered to convey a part of the lot, including the house, to Thompson, and another part to Thompson's wife. Under these circumstances, Thompson continued to occupy the premises for a time, and afterwards removed from, and rented them, King setting up no claim to have the property returned to him.

In 1820 he died, and the title descended on his heirs. King, at his death, was largely indebted, say 36,000 dollars, and much over the means of payment; his creditors filed a bill to have satisfaction

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of their demands out of the real as well as personal estate, and the trustee appointed by the circuit court to sell the property, amongst other lands, sold that claimed by Thompson. The latter filed his bill to avoid the sale, and for a specific performance against King's heirs, the trustees of the creditors, &c.;, the record in which cause, as reported in [34 U. S. 9](#) Pet. 204, is by the exceptions and an agreement made a part of this proceeding.

The creditors denied the existence of the title set up by Thompson, claiming the house and lot as subject to King's debts, and went to issue. The court below decreed specific performance, from which the defendants appealed to this Court, where the decree below was reversed. But Thompson having an alternative prayer in his bill, claiming priority of the general creditors of King in the form of a lien on the property to the value of the improvements he had put upon it, this Court held that although there was not sufficient evidence to authorize a decree for title, still Thompson had, by the rules of a court of equity, a lien for the money expended on

the improvements, and the cause was remanded with a mandate that the property should be advertised and sold, and the proceeds of the sale be applied first, to the satisfaction of the money expended by Thompson in making the improvements, "and the balance, if any, to be paid over for the benefit of the creditors of King."

The property was accordingly sold, and brought little more than 800 dollars, leaving upwards of 3,000 dollars unsatisfied.

The trustee of the creditors of King's estate from time to time made various sales and reports, and at April term, 1837, reported that Alexander Caldwell, the administrator of Thompson (then deceased), had presented as a debt due from the estate, the balance not refunded to Thompson by the sale of the house and lot. The other creditors resisted the claim, as forming no demand on the estate, and insisted Thompson's remedy extended only to the property improved and fixed with the lien by the decree of the Supreme Court. But the circuit court overruled the exception and adjudged that Thompson's administrator should come in for an equal dividend with the general creditors.

From this order the creditors appealed. Thompson, by his bill to subject the house and lot, claimed a priority of lien and had it allowed to him in exclusion of the general creditors; he proceeded against the thing, and did not set up any personal demand extending beyond the lien against the other estate of King, and we are clearly of opinion none exists. And therefore order that so much of the proceeding in the circuit court as allowed the administrator of Thompson to come in with the general creditors of King to receive a dividend founded on said claim be

Reversed, and that the cause be remanded for further proceedings.

This cause came on to be heard on the transcript of the record from the Supreme Court of the United States for the District of Columbia

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holden in and for the County of Washington, and was argued by counsel. On consideration whereof, it is adjudged and decreed by this Court, that so much of

the decree of the said circuit court in this cause as allowed the administrator of Thompson to come in with the general creditors of King, to receive a dividend founded on his claim be and the same is hereby reversed with costs, and that this cause be and the same is hereby remanded to the said circuit court for further proceedings to be had therein in conformity to the opinion of this Court.

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