

Lupton Vs. Janney

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Court : US Supreme Court

Decided On : 1839

Appeal No. : 38 U.S. 381

Appellant : Lupton

Respondent : Janney

Judgement :

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Lupton v. Janney

38 U.S. (13 Pet.) 381

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR

THE COUNTY OF ALEXANDRIA IN THE DISTRICT OF COLUMBIA

SYLLABUS

The executor of L. filed his accounts in the Orphans Court of Alexandria in 1816 and 1818 and settled his final account in 1821. No exceptions were taken to the accounts. In November, 1831, a subpoena was issued against the executor, and

in June, 1833, a bill was filed by the devisee and legatee against the executor the object of which was to surcharge and falsify the accounts filed and settled in the orphans court. The bill did not charge the executor with fraud, but imputed negligence, which was alleged to amount to a *devastavit*. No reason was given or facts stated to excuse the long delay and laches in bringing the bill. *Held* that the lapse of time from the settlement of the accounts of the executor was a bar to this proceeding.

Nothing is more clear than the general rule that *ex parte* settlements of accounts by executors in the orphans court, being matters within the acknowledged jurisdiction of the court in the administration of estates, are *prima facie* evidence of their correctness, and the *onus probandi* is upon those who seek to impeach them. If they seek to impeach them, it should be by a suit brought, *recenti facto*, within a reasonable time, and at farthest within the period prescribed by the statute of limitations for actions at law on matters of account, or else assign some ground of exception or disability within the analogy of the statute to justify or excuse the delay. Otherwise it will be imputed to their voluntary laches, and relief will not be given by a court of equity.

A bill was filed on a subpoena which had issued from the circuit court on the fifth day of November, 1831, by Ann Lupton, the sole devisee and legatee of David Lupton the younger for the purpose of surcharging and falsifying the accounts of the executor, Phineas Janney, which had been settled in three accounts rendered by him to and allowed by the Orphans' Court of Alexandria. The first account was rendered and was settled on 26 October, 1816. The second account was settled on 16 April, 1818, and on 5 January, 1821, the executor rendered and settled his final account. The bill of the complainant was filed on 4 June, 1833.

The complainant alleged that the executor was chargeable with certain debts due to the estate of the testator which he had failed to collect, and for goods of the estate sold by him, the amount of which sales had not been paid to him. Certain credits had been given in the accounts of the executor to parties not entitled to them, and in an amended bill facts are charged which amounted to a *devastavit* which it was alleged were not satisfactorily contradicted by an amended answer.

There was no imputation or charge of fraud in the executor, but it was asserted that gross negligence was to be imputed to the executor for which he was answerable *de bonis propriis*.

The answers of the defendant denied all the allegations in the complainant's bill material to charge him as executor of David Lupton the younger.

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The defendant also pleaded in his answer an amended answer as follows:

"This respondent admits that the complainant was not present at nor summoned to attend the said settlements. But he is advised and avers that the said settlements were legally made before a court having full jurisdiction in the matter in the due and regular exercise of its jurisdiction, and the respondent relies on the said settlements in bar of the jurisdiction of this Court, as a court of original jurisdiction in the case stated by the complainant in the same manner as if the same were specially pleaded."

Also,

"This respondent is advised that an Act of the General Assembly of the State of Virginia, passed 8 March, 1826, entitled 'An act for the limitation of actions against persons acting in a fiduciary character, and their sureties, and other purposes,' is a complete bar to any proceedings against him in that state, and was so when the said amended bill was filed."

In November, 1838, the circuit court made a decree dismissing the complainant's bill, from which decree this appeal was prosecuted.

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MR. JUSTICE STORY delivered the opinion of the Court.

This is a case of an appeal from a decree of the Circuit Court of the County of Alexandria dismissing a bill in equity brought by the appellant, Ann Lupton, the widow and devisee of the testator, David Lupton. The bill was first filed in June, 1833, although a subpoena was issued in November, 1831, and it seeks to open the accounts of the administration upon the allegation of certain errors and omissions therein, as they were settled in three successive accounts of the executor, rendered *ex parte* and allowed in the Orphans' Court of Alexandria in October, 1816, in April, 1818, and in January, 1821. The bill charges, among other things, that the estate was charged by the executor with the payment of a supposed debt of \$4,459.43 to one Peter Saunders without any sufficient or legal evidence that it was in fact due. It also charges that the executor omitted to collect of John McPherson & Son a debt due to the estate of \$4,083.50 upon their note, and also specifies certain credits which have been omitted to be given by the executor, and contains a general allegation that other debts have been lost to the estate by the negligence of the executor. The prayer of the bill is in effect to open the accounts, with general liberty to surcharge and falsify. There is no charge in the bill that the executor has been guilty of any fraud, nor any reason given nor facts stated to excuse the long delay and laches in bringing the bill. The answer denies all equity, and insists upon the correctness of the accounts as settled, and contains a full explanation, in reply to the specific charges of the bill. It also relies on the settlement of the accounts in the orphans' court, and the lapse of time as a bar to the suit.

The opinion which we have formed upon this last point renders it wholly unnecessary for us to consider several others which have been discussed at the bar, and especially the objection that the orphans' court has exclusive jurisdiction over the matters in controversy. We place this case wholly upon the ground of the lapse of time since the accounts were settled in the orphans' court, a period from twelve to sixteen years before the filing of the bill, the total omission of the bill to state any facts or circumstances to account for or excuse this long delay, and the absence of any suggestion of fraud in the settlements. Nothing is more clear than the general rule that *ex parte* settlements of accounts of this sort in the orphans' court, being matters within the acknowledged jurisdiction of the court in the

administration of estates, are *prima facie* evidence of their own verity and correctness, and the *onus probandi* is upon those who seek to impeach them. If they seek to impeach them, it should be by a suit brought *recenti facto*, within a reasonable time,

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and at farthest within the period prescribed by the statute of limitations for actions at law upon matters of account, or else to assign some ground of exception or disability within the analogy of the statute to justify or excuse the delay. Otherwise it will be imputed to their own voluntary laches, and courts of equity are never active in lending their aid to stale and neglected claims, for the known maxim of such courts is *vigilantibus non dormientibus leges subveniunt*. We do not deem it necessary to refer to any authorities on this point, as it has been so long and so fully recognized in this Court, and upon this short ground we are all of opinion that the decree of the circuit court dismissing the bill ought to be

Affirmed with costs.

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 Alexandria and was argued by counsel. On consideration whereof it is ordered and decreed 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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