

Gaines Vs. Relf

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Court : US Supreme Court

Decided On : 1841

Appeal No. : 40 U.S. 9

Appellant : Gaines

Respondent : Relf

Judgement :

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Gaines v. Relf

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CERTIFICATE OF DIVISION FROM THE CIRCUIT

COURT FOR THE EASTERN DISTRICT OF LOUISIANA

A bill of complaint was originally filed in the District Court of the United States for the Eastern District of Louisiana, and was afterwards transferred to the circuit court for the same district. Subpoenas were issued, on 1 August 1836, with a copy of the bill, to each and all the defendants, about fifty in number. Service of this process was made by the marshal on twentyseven of the defendants, and

amongst them, on Richard Relf. W. W. Whitney, one of the plaintiffs, having died, the proceeding was continued in the name of Mira Clarke Whitney,

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his widow. The bill claimed the estate left by Daniel Clarke at the time of his death, alleging that Mira Clarke Whitney was his only child and heir-at-law and his devisee.

The bill charged Beverly Chew and Richard Relf with having fraudulently concealed and suppressed Daniel Clarke's true and last will, in which the complainant, his daughter and heir-at-law, was his only devisee and was his general legatee, with having set up another will in which they were named executors, and with having taken and appropriated all the estate, real and personal, of Daniel Clarke. The other defendants were charged with confederating with the executors and with having obtained, and still holding, large portions of the estate through the executors or under them. The bill contained an inventory of the estate of Daniel Clarke, so far as could be made out. For these frauds and breaches of trust, the bill claimed restitution, &c.;

On 20 February 1837 (about two months after subpoenas were returned served), the two executors, with twenty-five of their codefendants, appeared by their respective solicitors and filed a petition wherein, styling themselves respondents, eleven of them say French is their "mother tongue" (not that they do not understand English as well), and pray, as a precedent condition to their being held to plead, answer, or demur to the bill, that a copy in their "maternal language," be served on each and every of them severally over and above the English copies already served. Then, "all the aforesaid respondents (including, of course, the two executors), here appearing separately by their respective solicitors, crave oyer" of all the instruments and papers of every sort mentioned in the bill, but

"if it be not possible for said complainants to afford these respondents oyer of the originals of said supposed instruments, they then pray that copies of the same, duly certified according to the laws of the State of Louisiana, may, by order of this honorable court to said complainants, be filed herein and served on these

respondents, that they may be enabled to take proper cognizance thereof."

The respondents more especially crave oyer of twentythree of these instruments, enumerated and specified in a list referring to the several clauses of the bill where they are respectively mentioned.

No answer having been put in by the twentyfive respondents,

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a motion was made for an attachment, which was refused by Judge Lawrence, the district judge, sitting as a judge of the circuit court, to which the proceedings were transferred after the establishment of a circuit court in the Eastern District of Louisiana. At the same time, Judge Lawrence, sitting alone in the circuit court, prescribed rules of practice for that court, among which was a general one that

"The mode of proceeding in all civil cases, those of admiralty alone excepted, shall be conformable to the code of practice of Louisiana and to the acts of the legislature of that state, heretofore passed, amendatory thereto."

The complainant applied to the Supreme Court at January term 1839, for a mandamus to Judge Lawrence in order to compel him to proceed in the case. [38 U. S. 13](#) Pet. 408. The mandamus so applied for was denied for reasons appearing in the Court's opinion, but the Court at the same time expressly declared, though the remedy by mandamus was inadmissible, that it was the duty of the circuit court to proceed in this suit according to the rules prescribed by the Supreme Court at the February term 1822, could admit of no doubt, and that the proceedings of the district judge, and the orders made by him in the cause which were complained of, were not in conformity with those rules of chancery practice could admit of as little doubt. [38 U. S. 13](#) Pet. 408.

Since then, the present complainants (having intermarried) filed a petition for rehearing the beforestated order, by a bill filed in the circuit court on 1 June 1839. The petition stated that the complainants were much aggrieved by the interlocutory decree made in the case by the former district judge for the Eastern District of

Louisiana whereby it was ordered that the application of the defendants for oyer of documents and for copies of the bill of complaint should be allowed, and further that all further proceedings in the case should be in conformity with the existing practice of the court.

On June 1, 1839, in the circuit court, before the Honorable Judges McKinley and Lawrence, the counsel for the complainants moved the court, Ist, to set aside and vacate said decretal order; 2d, to remand the said cause to the rule docket and order

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that the complainants should be permitted to proceed therein according to chancery practice. The defendants appeared by their counsel and resisted said application and motion upon the ground that chancery practice could not be had in this Court, and they relied upon the treaty of cession of Louisiana to the United States from France in 1803; the Acts of Congress of 29 September, 1789; 26 May, 1824; 17 1824; and 20 May, 1830, and the first rule adopted by this Court, of 20 November, 1837.

The judges of the circuit court having differed in opinion on the hearing of the motion, it was ordered to be certified to the Supreme Court for its decision upon the following questions:

1. Does chancery practice prevail, and should it be extended to litigants in this Court, and in this cause?
2. Should or not the said order, of the date of 9 March 1837, be annulled and vacated?
3. Should or not the cause be placed upon a rule docket and the complainants be permitted to proceed according to chancery practice, and the defendants be required to answer without oyer of the documents prayed for, or a service of the bill in French, as prayed for?

And the cause coming on to be heard by consent of parties upon the demurrer and upon the adjudication thereof, the judges were opposed in their opinions, and the foregoing questions were ordered to be certified to the Supreme Court of the United States for its decision and adjudication.

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THOMPSON, JUSTICE, delivered the opinion of the Court.

This case comes up from the Circuit Court of the United States for the Eastern District of Louisiana upon a certificate of division of opinion upon the following points:

1. Does chancery practice prevail, and should it be extended to litigants in this Court, and in this cause?
2. Should or not the said order of 9 March 1837, be annulled and vacated?
3. Should or not the cause be placed upon a rule docket and the complainants be permitted to proceed according to the chancery

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practice, and the defendants be required to answer without oyer of the documents prayed for or a service of the bill in French, as prayed for?

This was a bill filed in the district court of the United States for that district, on 28 July 1836, according to the course of practice in the courts of the United States upon the equity side of the court, and in the course of proceeding, the district judge, on 9 March 1837, entered the following order:

"W. W. Whitney and wife v. Richard Relf and others. In this case, having maturely considered the prayer for oyer and for copies of bill in French, the court this day delivered its written opinion thereon whereby it is ordered, adjudged, and decreed that the application for oyer of documents and for copies of the bill of complaint in the manner prayed for (in French) be granted, and further that all future

proceedings in this case shall be in conformity with the existing practice of this Court."

At the June term of the circuit court in the year 1839, a motion was made to set aside and vacate that order and that the complainants might be permitted to proceed in the cause according to the course of chancery practice. And upon this motion the division of opinion upon the points above stated arose.

These points present the same question that has been repeatedly before this Court and received its most deliberate consideration and judgment -- *viz.*, whether the proceedings in suits in equity in the courts of the United States in the District of Louisiana are required to be according to the course of chancery practice and in conformity to that which is adopted and established in the other states. It is not intended to go into an examination of this question as one that is new and undecided, but barely to refer to the cases which have been heretofore decided by this Court.

In the case of [Livingston v. Story](#), which came before this Court in the year 1835, 9 Pet. 655, the Court took occasion to examine the various laws of the United States establishing and organizing the District Court in Louisiana and to decide whether that court had equity powers, and if so, what should be the mode of proceeding in the exercise of such powers. The various cases which had been before the Court involving substantially the same question, in relation to the states where

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there were no equity state courts, or laws regulating the practice in equity causes were referred to, and the uniform decisions of this Court have been that there being no equity state courts did not prevent the exercise of equity jurisdiction in the courts of the United States. And it was accordingly decided that the District Court of Louisiana was bound to proceed in equity causes according to the principles, rules, and usages which belong to courts of equity, as contradistinguished from courts of common law; that the acts of Congress have distinguished between

remedies at common law and in equity, and that to effectuate the purposes of the legislature, the remedies in the courts of the United States are to be at common law or in equity not according to the practice of the state courts, but according to the principles of common law and equity, as distinguished and defined in that country from which we derived our knowledge of those principles, subject, of course, to such alterations as Congress might think proper to make, but that no act of Congress had been passed affecting this question. That the act of Congress of 1824 could have no application to the case because there were no courts of equity or state laws in Louisiana regulating the practice in equity cases.

And again, in the same case of [*Livingston v. Story*](#), which came before the Court in 1839, 13 Pet. 368, one of the exceptions taken to the master's report was that by a rule of the district court, chancery practice had been abolished, and that such a proceeding was unknown to the practice of the court. This Court said no such rule appears on the record. But we think the occasion a proper one to remark that if any such rule has been made by the District Court of Louisiana, it is in violation of those rules which the Supreme Court of the United States has passed to regulate the practice in the courts of equity of the United States, that those rules are as obligatory upon the courts of the United States in Louisiana as upon on all other United States courts, and that the only modifications or additions that can be made in them by the circuit or district courts are such as shall not be inconsistent with the rules thus prescribed, and that where such rules do not apply, the practice of the circuit and district courts must be regulated by the practice of the Court of Chancery in England. That parties to suits in Louisiana have a right to the benefit of these rules; nor can they be denied by any rule or order without

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causing delays, producing unnecessary and oppressive expenses, and in the greater number of cases, an entire denial of equitable rights. That this Court has said upon more than one occasion, after mature deliberation, that the courts of the United States in Louisiana possess equity powers under the Constitution and laws of the United States. That if there are any laws in Louisiana directing the mode of proceeding in equity causes, they are adopted by the Act of 26 May 1824, and will

govern the practice of the courts of the United States. But as has been already said, there are no such laws in Louisiana, and of course the act cannot apply.

And in the case of *Poultney v. City of La Fayette*, 12 Pet. 474, this Court said the rules of chancery practice in Louisiana mean the rules prescribed by this Court for the government of the courts of the United States under the authority given by the act of 8 May, 1792. And again, in the year 1839, in the case *Ex parte Whitney*, 13 Pet. 404, application was made to this Court for a mandamus to compel the district judge to proceed in this case according to the course of chancery practice upon a petition to the court representing that he had refused so to do, but had entered an order that all further proceedings should be conformable to the provisions of the code of practice in Louisiana and the acts of the legislature of that state. Upon this application, this Court again declared that it is the duty of the Court to proceed in the suit according to the rules prescribed by the Supreme Court for proceedings in equity causes at the February term 1822. That the proceedings of the district judge and the orders made by him in this cause (the very order now in question) were not in conformity with those rules and with chancery practice, but that it was not a case in which a mandamus ought to issue, because the district judge was proceeding in the cause, and however irregular that proceeding might be, the appropriate redress, if any, was to be obtained by an appeal after a final decree shall be made in the cause. That a writ of mandamus was not the appropriate remedy for any orders which may be made in a cause by a judge in the exercise of his authority, although they may seem to bear harshly or oppressively upon the party.

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Such are the views which have been heretofore taken by this Court upon the questions raised by the points which have been certified in the record before us, and which leave no doubt that they must all be answered in the affirmative. These questions have been so repeatedly decided by this Court, and the ground upon which they rest so fully stated and published in the reports, that it is unnecessary, if not unfit, now to treat this as an open question. It is matter of extreme regret that

it appears to be the settled determination of the district judge not to suffer chancery practice to prevail in the circuit court in Louisiana in equity causes, in total disregard of the repeated decisions of this Court and the rules of practice established by the Supreme Court to be observed in chancery cases. This court, as has been heretofore decided, has not the power to compel that court to proceed according to those established rules; all that we can do is to prevent proceedings otherwise by reversing them when brought here on appeal.

All the questions presented by the record are accordingly answered in the affirmative.

This cause came on to be heard, on the transcript of the record from the Circuit Court of the United States for the Eastern District of Louisiana, and on the points and questions on which the judges of the said circuit court were opposed in opinion and which were certified to this Court for its opinion, agreeable to the act of Congress in such case made and provided, and was argued by counsel. On consideration whereof it is the opinion of this Court,

1st. That chancery practice does prevail, and should be extended to litigants in the said circuit court and in this cause.

2d. That the order of the said court of the date of 9 March, 1837, should be annulled and vacated. And lastly that this clause should be placed upon a rule docket and the complainants be permitted to proceed according to chancery practice and the defendants be required to answer, without oyer of the documents prayed for or a service of the bill in French, as prayed for. Whereupon, it is now here ordered and decreed by this Court that it be so certified to the said circuit court, with directions to proceed accordingly.