Stacy Vs. Thrasher

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Appellant : Stacy

Respondent : Thrasher

Judgement :

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Stacy v. Thrasher

47 U.S. (6 How.) 44

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

An action of debt will not lie against an administrator in one of these United States on a judgment obtained against a different administrator of the same intestate, appointed under the authority of another state.

The doctrine of privity examined.

The history of the case is this.

In April, 1836, Charles S. Lee, a resident of the County of Claiborne and State of Mississippi, was sued in the County Court of Claiborne, by Christopher Dart and William Gardner, who called themselves late merchants and co-partners trading under the style and firm of Dart & Co., and stated the suit to be for the use of Christopher Dart.

It is not necessary to state the cause of action, or trace the progress of the suit minutely.

Lee appeared to the suit.

In December, 1836, his death was suggested.

In July, 1837, Ann Lee took out letters of administration upon the estate of Charles S. Lee, under the authority of the Probate Court of Claiborne County.

In September, 1837, the suit was revived against the administratrix by a *scire facias.*

In November, 1837, she appeared to the suit and pleaded the general issue.

On 1 December, 1838, the cause came on for trial, when the plaintiffs obtained a judgment for $6,080.99.

On the same day, *viz.,* 1 December, 1838, Christopher Dart, for whose use the judgment was entered, made an assignment of it to John B. Thrasher, of Port Gibson, the nominal defendant in error in the present case.

After this, however, a new trial was granted by the Court of Claiborne County in the suit against Ann Lee, administratrix, which resulted in another judgment, for a

different sum of money, in June, 1840.

Another new trial was granted, and in December, 1840, another judgment was rendered against the administratrix for $6,988.05.

Nothing further appears to have been done for some time. The next fact in the history of the case is that David S. Stacy, the plaintiff in error in the present case and a citizen of Louisiana, took out letters of administration upon the estate of Charles S. Lee, in the State of Louisiana. At what particular time these letters were taken out the record does not show.

In January, 1844, John B. Thrasher, to whom the judgment in Mississippi had been assigned by Christopher Dart, as above stated, filed a petition in the Circuit Court of the United States for the Eastern District of Louisiana, against Stacy, the administrator of Charles S. Lee. Thrasher now stated himself to be suing for the use of William Sellers, and averred that Sellers and himself were both citizens of the State of Mississippi. The petitioner stated himself to be the legal owner, by transfer and assignment, of a judgment for $6,988.05, which judgment was final and definitive.

In February, 1844, Stacy appeared to the suit and filed the following exceptions and answer, which are according to the practice in Louisiana, and equivalent to a demurrer.

"David S. Stacy, a citizen of the State of Louisiana, residing in the Parish of Concordia, administrator of the succession of Charles S. Lee, in the State of Louisiana, under the appointment and authority of the Court of Probates of the Parish of Concordia aforesaid, being made defendant in the above-entitled suit, appears and pleads as follows, by way of exception:"

"1. That plaintiff in his petition does not allege or show that this Honorable Court has jurisdiction of this suit, as it is not therein alleged that Christopher Dart, who is declared to be the assignor of the judgment upon which this suit is brought, was either an alien or a citizen of another state than Louisiana, or

could have maintained this suit in this Honorable Court either against the appearer or the said Charles S. Lee."

"2. Appearer alleges that Christopher Dart and William Gardner, the alleged owners of the claim upon which the judgment was obtained in Mississippi, were citizens of Louisiana, and members of a commercial firm located in New Orleans, and could not have maintained this suit in this Honorable Court either against the said Lee or against this appearer, and that this Court has no jurisdiction of this suit."

"3. That the said William Gardner, one of the joint owners of said claim, was a citizen of Louisiana, and that the said Dart & Gardner could not have maintained a suit upon said claim in this Honorable Court either against the said C. S. Lee or against this appearer."

"4. That the said C. Dart, under an assignment and transfer of said claim from the said Gardner, could not have maintained a suit thereon in this Honorable Court."

"5. Appearer further excepts and says, that this Honorable Court has no jurisdiction over successions in the State of Louisiana, nor over the settlement of said successions and the distributions of the proceeds among the creditors, nor over administrators and others appointed to administer them, nor of the establishment of claims for money against such successions; that the court of probate of this state have the sole and exclusive jurisdiction of all these matters; that no property belonging to a succession in the course of administration in the probate court, whose jurisdiction has attached over the subject matter, can be taken, levied upon, or sold by process from the courts of the United States; nor can said probate courts be ousted or disseized of their said exclusive jurisdiction once obtained, nor the property withdrawn from their control by any other tribunal. That this has been the well known and settled law of the state for the last twenty years, and that the said Dart & Gardner contracted in New Orleans, in Louisiana, under and in reference to this law, and are bound by it; appearer alleges that this

Honorable Court, for the above reasons, has no jurisdiction in this suit, *ratione personae* nor *ratione materiae,* but avers that the Court of Probates of the parish of Concordia has sole and exclusive jurisdiction thereof. Wherefore appearer prays that this suit may be dismissed at plaintiff's costs &c.;"

"If all the above exceptions should be overruled, then appearer pleads that the plaintiff has neither alleged nor shown any cause of action against him whatever, nor any indebtedness to the plaintiff by the succession of C. S. Lee in the State of Louisiana. "

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"If the above exception should be also overruled, then defendant denies generally and specially each and every allegation in plaintiff's petition contained. Wherefore he prays that plaintiff's demand may be rejected with costs, and for general relief in the premises &c.;"

"[Signed] D. S. STACY, *Adm'r Estate C. S. Lee* "

On 26 February, 1844, Thrasher filed an amended petition averring that Christopher Dart, the assignor of the judgment, was, at the time of the assignment, an alien, being a citizen of the Republic of Texas, and resident therein, and that Charles S. Lee, at the time of said assignment and of his death, was a citizen of Louisiana.

On 13 March, 1844, the court overruled the exceptions, and on 11 April following gave the following final judgment.

"This cause came on for trial, and the law and the evidence being in favor of the plaintiff, it is ordered, adjudged, and decreed, that the defendant, David S. Stacy, as administrator of the estate of Charles S. Lee, be condemned to pay to the plaintiff, for the use of William Sellers, the sum of six thousand nine hundred and eighty-eight dollars and five cents, with eight percent interest thereon per annum from the first day of December, eighteen hundred and forty, until paid, and costs of suit. Judgment rendered April 11, 1844. Judgment signed April 18, 1844."

"[Signed] J. Mc KINLEY"

From this decree, a writ of error brought the case up to this Court.

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MR. JUSTICE GRIER delivered the opinion of the Court.

John B. Thrasher, the plaintiff below, commenced this action by a petition (according to the practice of the courts of Louisiana) in the nature of an action of debt upon a judgment. He claimed as assignee of a judgment obtained in the Circuit Court of Claiborne County, in the State of Mississippi, by Dart & Gardner against Ann Lee, administratrix of C. S. Lee, deceased. David S. Stacy, the defendant below, is the administrator of Lee in the State of Louisiana, where he had his domicile

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at the time of his death. In his pleas he has set forth six several grounds of exception against the plaintiff's right to recover, the last of which is in the nature of a demurrer to the declaration, or a denial of the plaintiff's right to recover on the case set forth in his petition. As the decision of this point will be conclusive of the whole case, it will be unnecessary to notice the others.

The question presented by the demurrer is whether the judgment against Ann Lee, the administratrix of Charles S. Lee in Mississippi, is evidence by itself sufficient to entitle the plaintiff to recover against Stacy, the administrator of the same intestate in Louisiana. Or, to state the point disconnected with the accidents of the case, will an action of debt lie against an administrator in one of these United States, on a judgment obtained against a different administrator of the same intestate appointed under the authority of another?

This is a question of great practical importance, and one which, we believe, has not yet been decided.

The administrator receives his authority from the ordinary or other officer of the government where the goods of the intestate are situate. But coming into such possession by succession to the intestate, and encumbered with the duty to pay his debts, he is considered in law as in privity with him, and therefore bound or estopped by a judgment against him. Yet his representation of his intestate is a qualified one, and extends not beyond the assets of which the ordinary had jurisdiction. He cannot, therefore, do any act to affect assets in another jurisdiction, as his authority cannot be more extensive than that of the government from whom he received it. The courts of another state will not acknowledge him as a representative of the deceased, or notice his letters of administration. *See Tourton v. Flower,* 3 P.Wms. 369; *Borden v. Borden,* 5 Mass. 67; *Pond v. Makepeace,* 2 Metcalf 114; *Chapman v. Fish,* 6 Hill 554, &c.;

It follows as a necessary inference from these well established principles,

"that where administrations are granted to different persons in different states, they are so far deemed independent of each other that a judgment obtained against one will furnish no right of action against the other, to affect assets received by the latter in virtue of his own administration; for in contemplation of law there is no privity between him and the other administrator."

See Story Confl. of Laws, 522; *Brodie v. Bickley,* 2 Rawle 431. The same doctrine is recognized in the case of *Aspden v. Nixon,* 4 How. 467, by this Court.

But it is contended, that, however applicable these principles

may be to judgments against administrators acting under powers received from states wholly foreign to each other, they cannot apply to judgments against administrators in different states of this Union, because of the provision of the Constitution, which ordains that "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state."

The Act of Congress of 26 May, 1790, which prescribes the mode of authenticating records, and defines their "effect," enacts, that they

"shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the state from whence the said records are or shall be taken."

The question, then, arises, what is the "effect," or the "faith and credit," given to the judgment on which this suit is brought, in the courts of Mississippi? The answer to this must be, that it is evidence, and conclusive by way of estoppel, 1st, between the same parties; 2d, privies; and 3dly, on the same subject matter, where the proceeding is *in rem.*

But the parties to these judgments are not the same.

Neither are they privies. "The term privity denotes mutual succession or relationship to the same rights of property." Greenleaf on Ev. 523. Privies are divided by Lord Coke into three classes -- 1st, privies in blood; 2d, privies in law; and 3d, privies by estate. The doctrine of estoppel, however, so far as it applies to persons falling under these denominations, applies to them under one and the same principle, namely, that a party claiming through another is estopped by that which estopped that other respecting the same subject matter. Thus, an heir who is privy in blood would be estopped by a verdict against his ancestor, through whom he claims. An executor or administrator, suing or sued as such, would be bound by a verdict against his testator or intestate, to whom he is privy in law. With regard to privies in estate, a verdict against feoffor would estop feoffee, and lessor, the lessee &c.;

An administrator under grant of administration in one state stands in none of these relations to an administrator in another. Each is privy to the testator, and would be estopped by a judgment against him; but they have no privity with each other, in law or in estate. They receive their authority from different sovereignties, and over different property. The authority of each is paramount to the other. Each is accountable to the ordinary from whom he receives his authority. Nor does the one

come by succession to the other into the trust of the same property, encumbered by the same debts, as in the case of an administrator *de bonis non,* who may be truly said to have an

official privity with his predecessor in the same trust, and therefore liable to the same duties. In the case of *Yare v. Gough,* Cro.Jac. 3, it was decided that an administrator *de bonis non* could not have *scire facias* upon a judgment obtained by his predecessor on a debt due to the intestate "for default of privity." But in *Snape v. Norgate,* Cro.Car. 167, it was decided that a *scire facias* would lie against an administrator *de bonis non,* on a judgment against the executor, and the court attempt to make a distinction between that and the preceding case, on the ground that "he cometh in place of the executor"; or in other words, by reason of an official succession or privity. These cases cannot be well reconciled on principle, but the difficulty was remedied in England by the statute of 17 Charles 2, c. 8. The Court of Appeals of Virginia have considered the latter case as founded on more correct principles than the first, and have overruled the doctrine of *Yare v. Gough. Dykes v. Woodhouse,* 3 Randolph 287.

We may assume, therefore, that in the State of Mississippi, as in most other states in the Union, the administrator *de bonis non* is treated as privy with his predecessor in the trust, and estopped by a judgment against him; but the question still recurs as to the effect of a judgment in that state as against one who has neither personal nor official privity with the defendant. Each administrator is severally liable to pay the debts of the deceased out of the assets committed to him, and therein they resemble joint and several co-obligors in a bond. A judgment against one is no merger of the bond, nor is it evidence in a suit against the other. Their common liability to pay the same debt creates no privity between them, either in law or in estate.

It is for those who assert this privity to show wherein it lies, and the argument for it seems to be this: that the judgment against the administrator is against the estate of the intestate, and that his estate, wheresoever situate, is liable to pay his debts;

therefore the plaintiff, having once established his claim against the estate by the judgment of a court, should not be called on to make proof of it again. This argument assumes that the judgment is *in rem,* and not *in personam,* or that the estate has a sort of corporate entity and unity. But this is not true, either in fact or in legal construction. The judgment is against the person of the administrator, that he shall pay the debt of the intestate out of the funds committed to his care. If there be another administrator in another state, liable to pay the same debt, he may be subjected to a like judgment upon the same demand, but the assets in his hands cannot be affected by a judgment to which he is personally a

stranger. A judgment may have the "effect" of a lien upon all the defendant's lands in the state where it is rendered, yet it cannot have that effect on lands in another state by virtue of the faith and credit given to it by the Constitution and act of Congress. The laws and courts of a state can only affect persons and things within their jurisdiction. Consequently, both as to the administrator and the property confided to him, a judgment in another state is *res inter alios acta.* It cannot be even *prima facie* evidence of a debt; for if it have any effect at all, it must be as a judgment, and operate by way of estoppel.

It is alleged by those who desire to elude this conclusion, while they cannot deny the correctness of the principles on which it is founded, that it is technical and theoretical, and leads to an inconvenient result. But every logical conclusion upon admitted legal principles may be liable to the same imputation. Decisions resting only on a supposed convenience, or principles accommodated to the circumstances of a particular case, generally form bad precedents. It may be conceded that in this case there is an apparent hardship -- that the plaintiff who has established his claim after a tedious litigation in Mississippi should be compelled to go through the same troublesome process in Louisiana. But the hardship is no greater than if the administrators had been joint and several co-obligors in a note or bond. A plaintiff may be fairly presumed always to have the evidence of his demand in his possession, and the ability to establish it in any court. But if a judgment against an administrator in one state, raised up, perhaps,

for the very purpose of giving the plaintiff a judgment, should be conclusive on the administrator in another state, the estates of decedents would be subjected to innumerable frauds. And to what purpose is the argument that the defendant may be permitted to prove collusion and fraud, when, in order to substantiate it, he must commence by proving a negative? This would be casting the burden of proof where it ought not to rest, and would cause much greater inconvenience and injury than any that can possibly result from the present decision.

The judgment of the circuit court must therefore be

Reversed.

MR. JUSTICE Mc LEAN and MR. JUSTICE WAYNE dissented.

ORDER

This cause came on to be heard on the transcript of the record of the Circuit Court of the United States for the Eastern District of Louisiana, and was argued by counsel. On

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consideration whereof, it is now here ordered and adjudged by this Court, that the judgment of the said circuit court in this cause 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, to be proceeded in according to law and justice, and in conformity to the opinion of this Court.