

Pulliam Vs. Christian

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Court : US Supreme Court

Decided On : 1848

Appeal No. : 47 U.S. 209

Appellant : Pulliam

Respondent : Christian

Judgement :

Pulliam v. Christian - 47 U.S. 209 (1848)

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Pulliam v. Christian

47 U.S. (6 How.) 209

APPEAL FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR EASTERN VIRGINIA

SYLLABUS

A decree of the circuit court setting aside a deed made by a bankrupt before his bankruptcy, directing the trustees under the deed to deliver over to the assignee in bankruptcy all the property remaining undisposed of in their hands, but without

deciding how far the trustees might be liable to the assignee for the proceeds of sales previously made and paid away to the creditors, directing an account to be taken of these last-mentioned sums in order to a final decree, is not such a final decree as can be appealed from to this Court.

The circumstances of the case are stated in the opinion of the Court.

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MR. JUSTICE Mc LEAN delivered the opinion of the Court.

This case arises under the bankrupt law. William Allen a merchant-tailor in Richmond, being embarrassed, conveyed his whole property to the plaintiffs, as trustees, to pay his debts. In the trust deed he divides his creditors into two classes, the first of which was to be fully paid before the second received anything. Shortly after this, he took the benefit of the bankrupt law. The assignee in bankruptcy filed his bill to impeach the above conveyance as fraudulent under the bankrupt law.

In their decree, the circuit court ordered that the deed executed by Allen as above stated should be set aside. And without deciding how far the trustees may be liable to the assignee for the sums received for the proceeds of the property which may have been paid over by them to the creditors of

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Allen before they received notice &c.;, the court ordered and decreed that the trustees should deliver over the property conveyed to them which had not been disposed of and that they render an account to one of the commissioners of the court of all the property which came to their hands, or either of them, by virtue of said deed, and of moneys paid to the creditors &c.;, which account the said commissioner is directed to state and settle, and report the same to the court with any matters specially stated deemed pertinent by himself or which may be required by the parties, in order to a final decree.

This decree is final only as to the trust deed. All the matters arising under the trust are referred to a commissioner for a statement of the account, to enable the court to enter a final decree. There is no sale or change of the property ordered which can operate injuriously to the parties. Under such circumstances, the decree not being final as to the whole matter in controversy, the appeal must be

Dismissed.

ORDER

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 Virginia and was argued by counsel. On consideration whereof, and it appearing to the Court here that the decree of the said circuit court in this cause is an interlocutory and not a final one, it is thereupon now here ordered, adjudged, and decreed by this Court that this cause be and the same is hereby dismissed for the want of jurisdiction.

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