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Hardeman Vs. Harris

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Court : US Supreme Court

Decided On : 1849

Appeal No. : 48 U.S. 726

Appellant : Hardeman

Respondent : Harris

Judgement :

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Hardeman v. Harris

48 U.S. (7 How.) 726

ON CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES

OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN

DISTRICT OF THE STATE OF MISSISSIPPI

SYLLABUS

If an exception be taken to an answer in chancery upon the ground that certain allegations in the bill are neither answered, admitted, nor denied, it becomes necessary to inquire whether the facts charged in the allegations are material, and might, if established, contribute to support the equity of the complainant.

If they will not, the omission to answer the allegations is not a good ground for exception to the answer, and the exception must be overruled.

Therefore, when a bill charged that certain notes were given for the purchase of slaves introduced into the State of Mississippi as merchandise and for sale after the first day of May, 1833, and the answer omitted to notice the allegation, such omission was not a good ground for an exception.

This Court has repeatedly decided that the fact stated is no defense to a suit at law. Still less can it be a defense in equity.

Where an allegation in the bill was that the complainants were only sureties, and that their principal was insolvent, the answer was not justly subject to exception for omitting to notice it. The fact in no way strengthened the equity of the complainants.

The facts in the case are sufficiently set forth in the opinion of the Court.

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MR. CHIEF JUSTICE TANEY delivered the opinion of the Court.

In this case, the complainants filed a bill in the Circuit Court

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for the Southern District of Mississippi praying a perpetual injunction against a judgment at law which had been obtained against them. The bill, among other things, states that the note upon which the judgment was awarded was given for the purchase money of certain slaves brought by the defendant into the State of Mississippi, as merchandise and for sale, after the first day of May in the year

1833, and sold in the state to a certain James M. Smith, in violation of the constitution and laws of the state; that the complainant Hardeman was surety for Smith; that a judgment was afterwards obtained against him, and an execution issued and levied upon his property, and that, to prevent it from being sold, he executed a forthcoming bond with the other complainant, Hill as his security, which bond had become forfeited, and therefore had the form and effect of a judgment against the complainants, and that Smith, for whom he was security, was dead and his estate insolvent.

The defendant answered, and upon the coming in of the answer, the following exceptions were taken to it by the complainants:

"1st. The bill charges that the slaves mentioned in complainants' bill, sold by the defendant, Harris to James M. Smith, and which constitute the consideration of the note upon which the judgment at law enjoined in this cause was rendered, were introduced into the State of Mississippi by the said defendant Harris for sale and as merchandise after the first day of May, 1833. This allegation has not been answered, admitted, or denied."

"2d. It is alleged in the bill that complainant Hardeman was only surety in the note sued upon at law, and that C.P. Smith, executor of James M. Smith, was principal, and that the estate of James M. Smith is insolvent &c.; These allegations are neither answered, admitted, nor denied."

And upon the hearing of these exceptions, the judges were divided in opinion upon the point whether they were well taken and should be sustained or not, and therefore ordered the question to be certified for decision to this Court.

It is very clear that neither of these exceptions can be maintained. It has been repeatedly decided in this Court that the fact stated in the first is no defense at law, and still less can it be a ground of relief in equity after a judgment at law.

And as regards the second, certainly the insolvency of the principal debtor is no defense to the surety, either at law or in equity.

If, therefore, the defendant had admitted in the most explicit terms the allegations mentioned in the exceptions, they would not have contributed in any degree to support the claim of the

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complainants to the relief they ask. And consequently, the omission to answer (if the answer be open to that objection) furnishes no ground of exception. It is not a sufficient foundation for an exception, that a fact charged in a bill is not answered, unless the fact is material, and might contribute to support the equity of the case of the complainant, and induce the court to give the relief sought by the bill.

The exceptions ought, therefore, to have been overruled, and we shall direct it to be so certified to the circuit court.

ORDER

This cause came on to be heard on the transcript of the record from the circuit court of the United States, for the Southern District of Mississippi, and on the points or questions on which the judges of the said circuit court were opposed in opinion, and which were certified to this Court, for its opinion, agreeably 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 that the exceptions by the complainants were not well taken, and ought to have been overruled. Whereupon it is now here ordered and decreed, that it be so certified to the said circuit court.

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