

Williams Vs. Benedict

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Court : US Supreme Court

Decided On : 1850

Appeal No. : 49 U.S. 107

Appellant : Williams

Respondent : Benedict

Judgement :

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Williams v. Benedict

49 U.S. (8 How.) 107

APPEAL FROM THE DISTRICT COURT OF THE UNITED

STATES FOR THE NORTHERN DISTRICT OF MISSISSIPPI

SYLLABUS

The laws of Mississippi direct that where the insolvency of the estate of a deceased person shall be reported to the orphans' court, that court shall order a sale of the property, and distribute the proceeds thereof amongst the creditors *pro*

rata, and that in the meantime no execution shall issue upon a judgment obtained against such insolvent estate.

A judgment obtained against the administrator before the declaration by the orphans' court of the insolvency of the estate is not upon that account entitled to a preference, but must share in the general distribution.

But this Court expresses no opinion as to the right of state legislation to compel foreign creditors in all cases to seek their remedy against the estates of decedents in the state courts alone, to the exclusion of the jurisdiction of the courts of the United States.

The appellant, Thomas Williams, was complainant below in a bill setting forth that letters of administration on the estate of Benjamin J. Baldwin, deceased, were granted to him in October, 1838. That at the time he entered upon said administration and made an inventory of the estate, he confidently believed that his intestate's estate would be amply sufficient to satisfy all his creditors. That at November term, 1839, the respondents obtained a judgment against him in the district court of the United States for a debt due to them by the intestate. That the complainant, having then discovered that the estate would not be sufficient to pay the debts of the deceased, suggested its insolvency to the probate court on the first Monday of December following, whereupon the court adjudged

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the estate insolvent, and appointed commissioners to receive and audit the claims. That, to the great wrong of the intestate's other creditors, an execution has been since issued on the judgment of Benedict & Benedict and levied by the marshal on a large portion of the most valuable property of the intestate, thereby preventing the sale of it by the administrator under the order of the Probate court. Wherefore he prays the court to grant him a writ of *audita querela*, and to order a writ of *supersedeas* to issue to the marshal, to stay the execution, and for further relief.

On this bill, the judge ordered an injunction to issue. The respondents afterwards appeared and demurred to the bill for want of equity, and afterwards, at June term,

1845, upon hearing, the court decreed that defendants' demurrer to plaintiff's bill of complaint be sustained, and the bill dismissed. At the same term, it was ordered that the final decree be enrolled, and an appeal allowed to this Court. A writ of error was also issued.

The 80th section of the statute of Mississippi concerning the estates of decedents (Howard & Hutchinson 409) provides that

"When the estate both real and personal of any person deceased shall be insolvent, or insufficient to pay all the just debts which the deceased owed, the said estate, both real and personal, shall be distributed to and among the creditors, in proportion to the sums to them respectively due and owing, and the executor or administrator shall exhibit to the orphans' court an account and statement &c.; And if it appear to the said orphans' court that such estate is insolvent, then, after ordering the lands, tenements &c., of the testator or intestate to be sold, they shall appoint two or more persons to be commissioners, with full power to receive and examine all claims of the several creditors of such estate,"

&c.; And the court are afterwards required to make distribution *pro rata* among the creditors, after paying the funeral expenses &c.;

The 98th section provides that no execution shall issue on any judgment obtained against any such insolvent estate, but it shall and may be filed as a claim against it, &c.;

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MR. JUSTICE GRIER delivered the opinion of the Court.

The only question raised in this case depends on the construction of the peculiar statutes of Mississippi. It is whether a plaintiff who has obtained a judgment against the administrator of an intestate's estate, before it has been declared insolvent, has such a prior lien on the same as will entitle him to issue an execution and satisfy his judgment out of the assets, after the estate has been declared insolvent by the orphans' or probate court, and commissioners appointed

for the purpose of distributing the assets equally among all the creditors.

The process, both mesne and final, in the district and circuit courts of the United States, being conformed to those of the different states in which they have jurisdiction, the lien of judgments on property within the limits of that jurisdiction depends, also, upon the state law, where Congress has not legislated on the subject. In some of the states, a judgment is not a lien on lands; in others, there is a lien coextensive with the jurisdiction of the court. In Mississippi, a judgment obtained in his lifetime is a lien, from the time of its rendition, on all the defendant's property; and the property of a decedent becomes liable for his debts from the time of his death. See *Dye v. Bartlett*, 7 How. (Miss) 224. Consequently, the lien of a judgment obtained before defendant's death cannot be affected by a declaration of insolvency subsequently made by his administrator. But if, at the time of the death, the fund from which each of the creditors has an equal right to claim satisfaction is insufficient to pay all, equity requires that one should not be permitted, by a mere race of diligence, to seize satisfaction of his whole debt, at the expense of another. Hence, a declaration of insolvency must relate back to the death, in order that this equitable principle may have its effect. Such appears to be the policy of the legislation of Mississippi on this subject, apparent in her statutes and the decisions of her courts.

The case of *Parker v. Whiting*, 6 How. (Miss) 352, decided in the high court of errors and appeals of that state, presented the same point in a case parallel with the present.

In that case, as in this, it was contended that an administrator cannot report an estate insolvent after nine months, that

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being the period within which he cannot be sued, and that a judgment obtained after that time became a lien on all the property of the deceased, which cannot be destroyed, raised, or superseded by the subsequent report of insolvency, especially when it appeared that this insolvency might have been caused by the

maladministration of the defendant.

But that court decided that the estate of a deceased person may be reported insolvent after the expiration of nine months from the grant of letters of administration, and that, when an estate is so reported, the lien of a judgment previously obtained against the administrator is held in abeyance, and must give way to the general and equal lien of all the creditors which existed at the time of the death, and to which the declaration of insolvency must relate. Also that the action of the probate court on a report of insolvency cannot be collaterally impeached, and if the insolvency has been caused by maladministration, the remedy is by action for a devastavit, or on the administration bond.

In this exposition of the statutes of Mississippi as given by her courts we fully concur, and it is conclusive of the question now under consideration.

As, therefore, the judgment obtained by the plaintiffs in the court below did not entitle them to a prior lien, or a right of satisfaction in preference to the other creditors of the insolvent estate, they have no right to take in execution the property of the deceased which the probate court has ordered to be sold for the purpose of an equal distribution among all the creditors. The jurisdiction of that court has attached to the assets; they are *in gremio legis*. And if the marshal were permitted to seize them under an execution, it would not only cause manifest injustice to be done to the rights of others, but be the occasion of an unpleasant conflict between courts of separate and independent jurisdiction. But we wish it to be understood, that we do not intend to express any opinion as to the right of state legislation to compel foreign creditors, in all cases, to seek their remedy against the estates of decedent in the state courts alone, to the exclusion of the jurisdiction of the courts of the United States. That will present an entirely different question from the present.

The decree of the court below dismissing the bill must be

Reversed and a decree entered in favor of complainant continuing the injunction.

ORDER

This cause came on to be heard on the transcript of the record

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from the District Court of the United States for the Northern District of Mississippi, and was argued by counsel. On consideration whereof, it is now here ordered and decreed by this Court that the decree of the said district 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 district court with directions to enter a decree in favor of the complainant continuing the injunction in this cause, and for such further proceedings in conformity to the opinion of this Court as to law and justice may appertain.

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