SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Williamson Vs. Ball

Williamson Vs. Ball

SooperKanoon Citation : sooperkanoon.com/80123

Court : US Supreme Court

Decided On : 1850

Appeal No. : 49 U.S. 566

Appellant : Williamson

Respondent : Ball

Judgement :

Williamson v. Ball - 49 U.S. 566 (1850)
U.S. Supreme Court Williamson v. Ball, 49 U.S. 566 (1850)

49 U.S. 566

ON CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT

COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

The principles established in the case of *Williamson and Wife v. Berry* applied to this case also.

Under the acts of the Legislature of New York for the relief of Thomas B. Clarke, the chancellor had no authority to order that the trustee might make a conveyance of any part of the premises devised for a precedent debt due by the trustee to his grantee.

The deed executed by Clarke to Chrystie in this case was not made in the due execution of the power and authority to sell and convey, though approved by the master in conformity with the chancellor's order, it not having been within the chancellor's jurisdiction to order that the trustee might make a conveyance of the premises to a creditor in payment of the debt.

Although the defendant in this case may have paid to such a grantee a valuable consideration, yet he cannot be said to have acquired any title against the plaintiffs; inasmuch as Clarke had no lawful authority to convey to his grantee, that grantee had no right to convey to another.

This case was similar to the two preceding ones in all the leading facts. It will be perceived, however, that all the children of Thomas B. Clarke now united as plaintiffs.

Upon the trial in the court below, the will of Mary Clarke, the acts of the Legislature of the State of New York, the orders of the chancellor of that state, and other facts, were shown, as in the case of *Williamson v. Berry.*

It further appeared in evidence, that on 8 December, 1818, Mr. Clarke conveyed the lot in question, with other lots, to Albert Chrystie, reciting that

"the said Thomas B. Clarke is justly indebted to the said Albert Chrystie in the sum of $525, and is willing to convey in satisfaction of such debt the premises hereinafter mentioned and described,"

and declaring

"that the said Thomas B. Clarke, in consideration of the premises, and of $525 to him in hand paid," conveys &c.;

This deed was approved by James A. Hamilton, master in chancery. There was also a quitclaim executed by him, he having acquired a title to Mr. Clarke's life estate, under a sale upon execution.

A conveyance from Mr. Chrystie to James Covell, from Covell to John R. Driver, and the will of Driver, were also shown.

A verdict was taken for the plaintiffs, subject to the opinion of the court, upon a case. On the argument, the judges ruled as stated in *Williamson v. Berry,* and were divided in opinion upon the following points:

1. Whether the authority given by the said acts of the legislature to the trustee, to sell the estate, was a special power, to be strictly pursued, or whether he acquired the absolute power of alienation, subject only to review and account in equity.

2. Whether the orders set forth in the case, made by the chancellor in this behalf, were authorized by, and in conformity to, the said several acts of the legislature, and are to be regarded as the acts of the court of chancery empowered to proceed as such, or the doings of an officer, acting under a special authority.

3. Whether the chancellor had competent authority, under the said acts, to order or allow a conveyance of the premises by the trustee, in payment or satisfaction of a precedent debt owing by the trustee to the grantee.

4. Whether the deed executed by Thomas B. Clarke to Albert Chrystie, stated in the case, was in due execution of the power and authority of said trustee.

5. Whether the defendant, deriving title by purchase, *bona fide* and for a valuable consideration from such grantee has a valid title against the plaintiffs.

It was argued in conjunction with the case of *Williamson v. Berry,* as was stated in the report of that case.

MR. JUSTICE WAYNE delivered the opinion of the Court.

In this case, Thomas B. Clarke made a conveyance of the premises in dispute to Albert Chrystie for a debt of $525, and the approval of the master in chancery is endorsed upon the deed. The plaintiff objected to it as any evidence of title on account of its having been made without authority of law.

Chrystie conveyed the premises in dispute to James Covell for the consideration of six hundred dollars. Covell and wife

Page 49 U. S. 568

conveyed the same to John R. Driver for eight hundred dollars. Driver died, having devised the premises to his executors, Nicholas Zelphen and George Deroche.

In the course of the trial of the cause in the circuit court, the judges thereof were divided in opinion upon five points of law, and have certified them to this Court for decision.

The first and second points certified in this cause have been decided by this Court, in its ruling of the second and third points in the case of *Williamson v. Berry.* We direct that those rulings of the second and third points in the case just mentioned shall be taken as the answers given by this Court to the first and second points in this case.

To the third point in this case we rule that the chancellor had authority, under the acts passed for the relief of Thomas B. Clarke, to assent to a conveyance of the premises in dispute by his trustee, but that it was not within the jurisdiction given to the chancellor by the acts of the State of New York mentioned in this case to order that the trustee might make a conveyance of any part of the premises devised, as is mentioned in this case, for a precedent debt due by the trustee to his grantee.

To the fourth point we rule that the deed executed by Clarke to Chrystie was not made in the due execution of the power and authority to sell and convey, though approved by the master in conformity with the chancellor's order, it not having been within the chancellor's jurisdiction to order that the trustee might make a

conveyance of the premises to a creditor in payment of the debt.

To the fifth point, which is whether the defendant, deriving title by purchase *bona fide* and for a valuable consideration from such grantee, has a valid title against the plaintiffs, we answer that though the defendant may have paid to such a grantee a valuable consideration, he cannot be said to have acquired any title against the plaintiffs; inasmuch as Clarke had no lawful authority to convey to his grantee, that grantee had no right to convey to another.

We direct the foregoing rulings to be certified to the circuit court, as the answers of this Court to the points certified to it for decision.

MR. CHIEF JUSTICE TANEY, MR. JUSTICE CATRON, and MR. JUSTICE NELSON dissented. *See* the report of the case of *49 U. S. Berry.*

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com