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

Sears Vs. Eastburn

Sears Vs. Eastburn

SooperKanoon Citation : sooperkanoon.com/80183

Court : US Supreme Court

Decided On : 1850

Appeal No. : 51 U.S. 187

Appellant : Sears

Respondent : Eastburn

Judgement :

Sears v. Eastburn - 51 U.S. 187 (1850)
U.S. Supreme Court Sears v. Eastburn, 51 U.S. 10 How. 187 187 (1850)

Sears v. Eastburn

1 U.S. (10 How.) 187

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE SOUTHERN DISTRICT OF ALABAMA

SYLLABUS

The Act of Congress passed in May, 1828, 4 Stat. 278, directs that the forms and modes of proceeding in the courts of the United States in suits at common law in the states admitted into the Union since 1789 shall be the same with those of the

highest court of original jurisdiction in the state.

Therefore, where the State of Alabama passed an act to abolish fictitious proceedings in ejectments and to substitute in their place the action of trespass for the purpose of trying the title to lands and recovering their possession, the circuit court of the United States should have conformed, in its mode of proceeding, to the law of the state.

And the judgment of the circuit court, dismissing an action of trespass so brought upon the ground that the law of the state was not in force in the circuit court was erroneous.

Page 51 U. S. 188

In August, 1845, Sherburne Sears brought an action of trespass *quare clausum fregit* in the Circuit Court of the United States for the Southern District of Alabama. The short note, expressive of the cause of action, filed at the time of issuing the writ declared it to be "as well to try titles as to recover damages," &c.;, and the declaration described a particular lot in the City of Mobile, where the trespass was alleged to have been committed.

In April, 1846, the counsel for the defendant moved the court to dismiss the suit because the statute of Alabama entitled "An act to abolish fictitious proceedings in ejectment, and for other purposes therein mentioned," approved December 17, 1821, under which the suit was brought, did not extend to the circuit court, and the court, being of that opinion, dismissed the suit.

The plaintiff sued out a writ of error, and brought the case up to this Court.

Page 51 U. S. 189

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

The point in this case is a narrow one, and concerns only the practice in the Circuit Court of the United States for the Southern District of Alabama.

It appears that in 1821 an act was passed by the legislature of that state to abolish fictitious proceedings in ejectment and to substitute in their place the action of trespass for the purpose of trying the title to lands and recovering the possession.

In the case before us, an action of trespass was brought by the plaintiff in error against the defendant for the purpose of recovering a certain parcel of land to which he claimed title. The writ was endorsed in the manner required by the statute of Alabama, and the declaration was in the usual form of an action of trespass. There does not appear to have been either plea or demurrer put in by the defendant nor any issue of fact or law joined between the parties. But the defendant by his counsel moved the court to dismiss the suit upon the ground that the law of the state was not in force in the circuit court of the United States, and the district judge then holding the circuit court, being of that opinion, dismissed the suit and gave judgment in favor of the defendant for his costs.

This decision is evidently erroneous. The Act of May, 1828, 4 Stat. 278, in express terms directs that the forms and modes of proceeding in the courts of the United States in suits at common law in the states admitted into the Union since 1789, shall be the same with those of the highest court of original jurisdiction in the state. Alabama is one of the states admitted since 1789, and the act of Congress therefore makes it obligatory upon the courts of the United States to conform in their mode of proceeding to the law of the state. The law of the state, of itself, undoubtedly was not obligatory upon the courts of the United States. But it is made so by the act of Congress.

The judgment of the circuit court must therefore be

Reversed with costs.

Page 51 U. S. 190

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 Alabama and was argued by counsel. On 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 with directions for further proceedings to be had therein in conformity to the opinion of this Court and as to law and justice shall appertain.

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