Burchell Vs. Marsh

Burchell Vs. Marsh

SooperKanoon Citation : sooperkanoon.com/80521

Court : US Supreme Court

Decided On : 1854

Appeal No. : 58 U.S. 344

Appellant : Burchell

Respondent : Marsh

Judgement :

Burchell v. Marsh - 58 U.S. 344 (1854)
U.S. Supreme Court Burchell v. Marsh, 58 U.S. 17 How. 344 344 (1854)

Burchell v. Marsh *

58 U.S. (17 How.) 344

APPEAL FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR THE DISTRICT OF ILLINOIS

SYLLABUS

If an award is within the submission and contains the honest decision of the arbitrators after a full and fair hearing of the parties, a court of equity will not set it aside for error either in law or fact.

In this case, one of the parties sued the other for debt, who, in his turn, claimed damages for the manner in which he was sued. The submission was broad enough to cover all these demands on either side.

One of the claims made by the party who was sued was for damages for the violence of the agent of the creditors, and the referees heard evidence upon this subject. Even if this had been beyond the submission, there was nothing in the record to show that the arbitrators made any allowance for this violence and slanderous language.

The charges of fraud and corruption made in the bill are denied in the answer, and the award is not so outrageous as of itself to constitute conclusive evidence of fraud or corruption. Error of judgment in the arbitrators is not a sufficient ground for setting aside an award.

Page 58 U. S. 345

The bill was filed by Marsh, Frear, and Arbuckle, to set aside an award made by arbitrators chosen by them upon the one part, and Burchell upon the other, to hear all matters of claim of either party, upon or against the other, in the law or in equity.

The facts in the case were these:

There were two commercial firms in New York, carrying on business under the names of Marsh and Frear, and Alexander Frear and Co. The first was composed of Stewart C. Marsh and Alexander Frear, and the second of Alexander Frear and William M. Arbuckle. Burchell was a retail country merchant, having a store at St. Charles, in Kane County, Illinois, and another store at Cherry Valley, in Winnebago County, Illinois. Burchell had been in the habit for several years of purchasing goods from the firms in New York and of making payments on account.

In March, 1852, the two firms brought suits in the Circuit Court of the United States for Illinois, against Burchell, by summons. At April term, 1852, at Chicago, Burchell filed an affidavit for a continuance, stating that he could prove by absent witnesses

that the debt was not due when the suit was brought in March, nor until the April following. Whereupon the plaintiffs submitted to a nonsuit.

In May, 1852, the two firms renewed their suits, but filed the affidavits required by law and commenced the suits by writs of *capias ad respondendum* under which Burchell was arrested and held to bail. The amount claimed by Marsh & Freer was $12,000, and by Freer & Arbuckle, $2,014. These suits were brought by R. V. M. Cross as agent and attorney for the plaintiffs.

In July, 1852, the court being held at Springfield, the causes were continued upon affidavit of the defendant.

In October, 1852, there was an agreement for a reference to arbitrators, which, however, was afterwards revoked by Freer.

In December, 1852, the parties agreed upon another award. The agreement recited the claims of the firms upon Burchell, and the suits

"by which the said Burchell claims to have sustained damages by reason of having been sued by said firms as aforesaid, and by reason of the doings of the said firms towards him."

The agreement then proceeded thus:

"Now therefore, in consideration of the premises and to put an end to all further controversies and for a full and final adjustment of all differences between them, this article of submission, made and entered into this 15th day of December, A.D. 1852, between Alexander Freer, William M. Arbuckle, and Stewart C. Marsh, of the one part, and Peter J. Burchell, of the other

part, witnesseth that the said parties have agreed to and do hereby submit all demands, suits, claims, causes of action, controversies and disputes between them to the arbitrament, determination, and award of F. B. Mosley, Oliver M. Butler, and such other person as the said Mosley and Butler may select, who are

within sixty days from the day of the date hereof, and on such day as they or a majority of them shall select, to meet at St. Charles, Kane County, of the time of which meeting notice shall be given to the said parties or their attorneys, and the said arbitrators shall hear all matters of claim of either party upon or against the other founded in law or equity. And the said award shall direct and determine what, if anything, is due or owing from said Burchell to said firms or what, if anything, shall be due from either or both of said firms to the said Burchell &c.;"

Evidence was given before the arbitrators of the accounts, of the credits, the institution of the suits, of the time when the goods were to be paid for, of Burchell's pecuniary condition, of the arrest under the capias and bail, of the violent declarations of Cross, the agent of the plaintiffs, the opinions of witnesses, how much injury Burchell's credit had sustained by reason of the suits &c.;

In February, 1853, the arbitrators awarded as follows, namely:

"First that all claims, demands, controversies, and disputes between the respective parties or between the said Burchell and the firm of Marsh & Freer, and also between the firm of Alexander Freer and Co. and the said Burchell, should cease and be determined by the said award. Second, that as between Stewart C. Marsh and Alexander Freer, the firm of Marsh & Freer, and the said Burchell, that there was due from said firm of Marsh & Freer to the said Peter J. Burchell the sum of one hundred dollars, which said sum they did direct that the said Marsh & Freer should pay in money to the said Peter J. Burchell in one month from the date of said award. Third, as between Alexander Freer and William M. Arbuckle, the firm of Alexander Freer and Co., that there was due from said firm of Alexander Freer and Co. to said Burchell the sum of twenty-five dollars, which said sum they did direct that your orators, Alexander Freer and William M. Arbuckle, should pay in money to said Burchell in one month from the date of the said award. Fourth, that the costs of said arbitration should be paid as follows: that the firms should pay all the costs which they had made or occasioned, and should also pay the said Burchell his costs expended in and about said arbitration."

In February, 1853, the firms filed a bill on the equity side of the court to set aside this award. The bill was answered, and

Page 58 U. S. 347

the cause came up upon bill and answer in May, 1853, when the court decreed that the award should in all things be vacated, annulled, and set aside, and that Burchell should absolutely refrain and desist from counting upon or in any manner pleading said award in any suit or proceeding in law or equity.

Burchell appealed to this Court.

Page 58 U. S. 349

MR. JUSTICE GRIER delivered the opinion of the Court.

This case was submitted on bill and answer. The appellees, who were complainants below, pray the court to set aside an award made between the parties as "fraudulent and void." The bill charges that

"The award was made either from improper and corrupt motives, with the design of favoring said Burchell or in ignorance of the rights of the parties to said submission and of the duties and powers of the arbitrators who signed the said award."

The answer denies

"that the arbitrators acted unjustly or with partiality or ignorance in making their award, but avers that they acted justly, fairly, and with a due consideration of the rights of the parties."

This allegation of the answer must be taken to be true unless it appears from other facts admitted by it that this conclusion or averment founded on them is incorrect.

In the consideration of this case it will not be necessary to encumber it with a history of the facts charged and admitted or denied by the pleadings except as they shall be incidentally noticed. The general principles upon which courts of

equity interfere to set aside awards are too well settled by numerous decisions to admit of doubt. There are, it is true, some anomalous cases which, depending on their peculiar circumstances, cannot be exactly reconciled with any general rule, but such cases can seldom be used as precedents.

Arbitrators are judges chosen by the parties to decide the matters submitted to them, finally and without appeal. As a mode of settling disputes, it should receive every encouragement from courts of equity. If the award is within the submission, and contains the honest decision of the arbitrators after a full and fair hearing of the parties, a court of equity will not set it aside for error either in law or fact. A contrary course would be a substitution of the judgment of the chancellor in place of the judges chosen by the parties, and would make an award the commencement, not the end, of litigation. In order, says Lord Thurlow, *Knox v. Symmonds,* 1 Ves.Jr. 369,

"to induce the court to interfere, there must be

Page 58 U. S. 350

something more than an error of judgment, such as corruption in the arbitrator or gross mistake, either apparent on the face of the award or to be made out by evidence, but in case of mistake, it must be made out to the satisfaction of the arbitrator, and that if it had not happened, he should have made a different award."

courts should be careful to avoid a wrong use of the word "mistake," and, by making it synonymous with mere error of judgment assume to themselves an arbitrary power over awards. The same result would follow if the court should treat the arbitrators as guilty of corrupt partiality merely because their award is not such an one as the chancellor would have given. We are all too prone, perhaps, to impute either weakness of intellect or corrupt motives to those who differ with us in opinion.

1. The first objection to the award in this case is that it is not within the submission. But we are of opinion this objection is without foundation.

The submission recites that controversies and disputes had arisen between the firm of March and Freer and of Freer & Arbuckle with Burchell. It states the controversies to have arisen from suits brought by said firms against Burchell to recover certain debts claimed to be due by him to the firms, respectively, "and the said Burchell claims to have sustained damages by reason of having been sued by said firms and by reason of the doings of the said firms towards him." The parties therefore agreed to submit "all demands, suits, claims, causes of action, controversies, and disputes between them to the arbitration and award of F. B. Mosley," &c.;, "who are to hear all matters of claim of either party, upon or against the other, in law or equity."

On the hearing, the arbitrators received evidence of the debts alleged to be due from Burchell to the two firms, and of the alleged oppressive and ruinous suits brought against him by one Cross, who acted as agent of the firms. The witnesses, in proving these transactions, were permitted to state certain slanderous language used by Cross in speaking to and of Burchell, charging him with dishonesty and perjury. When this testimony was offered, the complainants' counsel agreed that it might be received, subject to exceptions.

It has been argued that because the arbitrators received evidence of the slanderous language used by Cross, that therefore they included in their award damages for his slanders for which his principals would not be liable, and that therefore they had taken into consideration matters not contained in the submission. But the answer to this allegation is that the record shows no admission or proof that the arbitrators allowed any damages

for the slanders of Cross. Whether the complainants were liable and how far they were justly answerable for the conduct of their agent were questions of law, and fact submitted to the arbitrators. All these questions were fully argued before them by counsel. Whether their decision on them was erroneous does not appear. The transactions which were testified to with regard to the suits brought against Burchell, and whether they were oppressive, wrongful, and ruinous to him, was

one of the very matters submitted to the arbitrators. The words as well as the acts of Cross made part of the *res gestae,* and could not well be severed in giving a history of them. Every presumption is in favor of the validity of the award. If it had stated an account by which it appeared that the arbitrators had made a specific allowance of damages for the slanders of Cross, it would have been annulled, to that extent at least, as beyond the submission. But it cannot be inferred that the arbitrators went beyond the submission merely because they may have admitted illegal evidence about the subject matter of it.

We are of opinion, therefore, that there is nothing on the record to show that the arbitrators, in making this award, exceeded their authority or went beyond the limits of the submission.

2. The charges of fraud, corruption, or improper conduct in the arbitrators, as we have seen, are wholly denied by the answer, which must be assumed to be true unless facts are admitted from which they are a necessary or legal inference. We can see nothing in the admitted facts of the case from which any such inference can be justly made. The damages allowed for the alleged oppression of Burchell and the ruin of his business as a merchant may seem large to some, while others may think the sum of four or even five thousand dollars as no extravagant compensation for such injuries. It may be admitted that, on the facts appearing on the face of the record, this Court would not have assessed damages to so large an amount nor have divided them so arbitrarily between the parties, but we cannot say that the estimate of the arbitrators is so outrageous as of itself to constitute conclusive evidence of fraud or corruption. Damages for injuries of this sort cannot be measured by any rules, nor can the court properly impute corruption to others because they differ with them in their estimation of a matter which depends on discretion, rather than calculation. It is enough that the parties have agreed to trust the discretion and judgment of neighbors acquainted with them and their relative standing and credit. The admission of witnesses to prove their estimate of the damages, even if it had been in the face of the objection of counsel, and not by consent, may have

been an error in judgment, but it is no cause for setting aside the award; nor can the admission of illegal evidence or taking the opinion of third persons be alleged as a misbehavior in the arbitrators which will affect their award. If they have given their honest, incorrupt judgment on the subject matters submitted to them after a full and fair hearing of the parties, they are bound by it, and a court of chancery have no right to annul their award because it thinks it could have made a better.

In fine, we are of opinion that this record furnishes no evidence of corruption or misbehavior in the arbitrators, nor of "ignorance," as charged in the bill, or of any such mistake as would justify a court of chancery in annulling it.

The decree of the court below is therefore

Reversed and the record remitted with directions to dismiss the bill of complaint, with costs but without prejudice to any legal defense.

MR. JUSTICE Mc LEAN and MR. JUSTICE NELSON dissented.

MR. JUSTICE NELSON.

I do not agree to the judgment of the Court in this case. I think the damages allowed against the complainants by the arbitrators are so extravagant, disproportioned and gross as to afford evidence of passion and prejudice, and justified the judgment of the court below in setting aside the award. It is difficult, if not impossible, to see upon any other ground how between four and five thousand dollars should have been allowed against one of the firms in the submission, and but some one thousand dollars against the other under the circumstances of the case.

ORDER

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Illinois, and was argued by counsel. On consideration whereof it is now here ordered, adjudged, and decreed by this Court that the decree 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 circuit court with directions to dismiss the bill of complaint with costs but without prejudice to any legal defense which the parties may have.

* MR. CHIEF JUSTICE TANEY and MR. JUSTICE WAYNE, did not sit in this cause.