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Curtis Vs. Petitpain

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Court : US Supreme Court

Decided On : 1855

Appeal No. : 59 U.S. 109

Appellant : Curtis

Respondent : Petitpain

Judgement :

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Curtis v. Petitpain

59 U.S. (18 How.) 109

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

Where the record contains only an agreed statement of facts, it is not in conformity with the eleventh and thirty-first rules of this Court, and the case will be dismissed.

Where different parties claimed a fund in the hands of the marshal which had arisen from sales under an execution, a judgment of the circuit court on rules as to whom the money should be paid is not such a judgment as can be reexamined in this Court.

The case is stated in the opinion of the Court.

Mr. Justice CAMPBELL delivered the opinion of the Court.

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The record certified in this cause consists of "an agreed statement of facts," which the parties submitted to the court on the rules taken by the plaintiffs against the defendants and the judgment rendered thereon, and a judgment rendered on a motion for a new trial, being the proceedings after the submission of the case.

The case stated is that the plaintiffs recovered a judgment against Victor Feste in the circuit court of the United States. That an execution issued thereon, and a seizure was made of immovable as well as movable property, which was sold and the proceeds held by the marshal.

While these proceedings were pending, Madame Feste recovered, in one of the state courts, a decree against her husband, Victor Feste, for the separation of property and the amount of dowry brought in marriage, and thereupon served a notice upon the marshal, claiming to have satisfaction of her legal mortgage, in preference to the execution creditor, from the moneys in his hands, and obtained a rule from the court requiring him to answer her claim. The plaintiffs, upon their part, as the case states, also obtained a rule to enforce the payment of the money to them on their execution. To settle these conflicting claims was the object of the agreed case thus submitted to the court.

Two questions arise *in limine,* either of which is, in our opinion, decisive of this cause: 1st that this is not such a transcript as will satisfy the 11th and 31st rules of this Court under the decision of *Keene v. Whittaker,* 13 Pet. 459, and 2d that this is not such a judgment as this Court can reexamine according to the principle of

Bayard v. Lombard, 9 How. 530. And we agree with the defendants upon both these questions.

The cause is dismissed with costs.

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