

Hipp Vs. Babin

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Court : US Supreme Court

Decided On : 1856

Appeal No. : 60 U.S. 271

Appellant : Hipp

Respondent : Babin

Judgement :

Hipp v. Babin - 60 U.S. 271 (1856)

U.S. Supreme Court Hipp v. Babin, 60 U.S. 19 How. 271 271 (1856)

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60 U.S. (19 How.) 271

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

A court of equity will not entertain a bill where the complainants seek to enforce a merely legal title to land, and in the present case, in the absence of allegations that the plaintiffs are seeking a partition, or a discovery, or an account, or to avoid

a multiplicity of suits, the bill cannot be maintained.

The facts of the case are stated in the opinion.

Page 60 U. S. 276

MR. JUSTICE CAMPBELL delivered the opinion of the Court.

The appellants filed their bill to recover land within the district in the possession of the defendants and for an account of the rents, profits, and receipts during the period of their occupancy. They allege that James Fletcher, their ancestor, died in 1804 leaving a valid will by which he devised to his widow and three children the principal portion of his succession and appointed the former the executrix. The property described in the bill had been sold in 1801, but the purchaser had not paid the price stipulated at this time. The testator directed that if the purchaser should complete the purchase, the sum received should be put to interest on good security for the mother and children until the children should attain the age of sixteen years, when the succession should be divided. In May, 1806, the executrix agreed with the purchaser to rescind the contract of sale, received a conveyance of his title to the heirs of Fletcher, and refunded to him the money he had paid, being near \$4,000.

In June, 1806, the executrix filed her petition in the Superior Court of the Orleans Territory, being the court of general law, equity, and probate jurisdiction for the territory, in which she declares the cancellation of the contract of sale aforesaid, and to enable her to refund the money, she had borrowed that sum from Daniel Clark; that the land was unproductive, and that she was unable to pay her debt. She prayed an order for the sale of the property, to provide for the education and maintenance of her minor children and the discharge of her debt and to carry the will of her husband into effect respecting the disposition of the remainder of the purchase money. The

Page 60 U. S. 277

court made the necessary order to empower the executrix to sell and convey the lands for such price as she could obtain and to receive the money therefor; also to appropriate the sum necessary for the payment of her debt and to put out the remainder at interest, as required by the will.

Daniel Clark became the purchaser at private sale from the executrix for the sum of \$9,000, and received her conveyance.

The appellants impeach this sale as unauthorized and illegal, and insist upon their title under the conveyance to them.

The defendants claim by their answers as *bona fide* purchasers from persons deriving their title by valid conveyances in good faith from Daniel Clark, and affirm that the family of Fletcher left the United States in 1807, and enjoyed the benefit of the money paid to the executrix; that the lands have become valuable by their improvements, and that they and the persons under whom they claim have held the possession since 1806. The bill was dismissed by the circuit court on the ground that the remedy at law is plain, adequate, and complete, and from this decree this appeal is prosecuted.

The Supreme Court of Louisiana, in a contest between the appellants and other parties for other lands, has decided that the executrix was not authorized to convey the shares of her minor children by private act. *Fletcher v. Cavalier*, 4 La. 268; 10 La. 116.

But we are relieved from the duty of applying these decisions or inquiring into the validity of the pleas of the appellees by the opinion we have formed concerning the jurisdiction of the court of chancery over the cause. The sixteenth section of the Judiciary Act of 1789 declares

"That suits in equity shall not be sustained in either of the courts of the United States in any case where plain adequate, and complete remedy may be had at law."

The bill in this cause is, in substance and legal effect, an ejectment bill. The title appears by the bill to be merely legal, the evidence to support it appears from documents accessible to either party, and no particular circumstances are stated showing the necessity of the courts' interfering either for preventing suits or other vexation or for preventing an injustice irremediable at law. In *Welby v. Duke of Rutland*, 6 Bro.P.C.Cas. 575, it is stated that the general practice of courts of equity in not entertaining suits for establishing legal titles is founded upon clear reasons, and the departing from that practice where there is no necessity for so doing would be subversive of the legal and constitutional distinctions between the different jurisdictions of law and equity, and though

Page 60 U. S. 278

the admission of a party a suit is conclusive as to matters of fact or may deprive him of the benefit of a privilege which, if insisted on, would exempt him from the jurisdiction of the court, yet no admission of parties can change the law or give jurisdiction to a court in a cause of which it hath no jurisdiction.

Agreeably hereto, the established and universal practice of courts of equity is to dismiss the plaintiff's bill if it appears to be grounded on a title merely legal, and not cognizable by them, notwithstanding the defendant has answered the bill and insisted on matter of title. In *Foley v. Hill*, 1 Phil. 399, Lyndhurst, Lord Chancellor, dismissed a bill upon an appeal from the Vice Chancellor upon the same grounds. He said "it was a point of great importance to the practice of the court." The objection was not made in the pleadings nor presented in the decree of the Vice Chancellor.

This decree was affirmed by the House of Lords. 2 H.L.Cas. 28. The practice of the courts of the United States corresponds with that of the chancery of Great Britain except where it has been changed by rule or is modified by local circumstances or local convenience. This Court has denied relief in cases in equity where the remedy at law has been plain, adequate, and complete, though the question was not raised by the defendants in their pleadings nor suggested by the counsel in their arguments. [6 U. S. 2](#) Cranch 419; [11 U. S. 7](#) Cranch 70, [11 U.](#)

[S. 89](#) ; [30 U. S. 5](#) Pet. 496; [43 U. S. 2](#) How. 383. In [Parsons v. Bedford](#), 3 Pet. 433, the Court insists on the necessity imposed on the circuit court in Louisiana to maintain the distinction between the jurisdiction in which legal rights are to be ascertained and that where equitable rights alone are recognized and equitable remedies administered.

And the result of the argument is that whenever a court of law is competent to take cognizance of a right and has power to proceed to a judgment which affords a plain, adequate, and complete remedy, without the aid of a court of equity, the plaintiff must proceed at law, because the defendant has a constitutional right to a trial by jury.

The appellants contend that upon the pleadings and evidence, a proper case for the jurisdiction of chancery appears, and that the circuit court *mero motu* was not warranted in dismissing the bill, 1st because it is shown that in 1806 the children of Fletcher were minors and they are authorized to call upon the defendants for an account as guardians; 2d that the defendants being entitled to the estate of the executrix and widow under her conveyance, the plaintiffs can maintain the bill for a partition; 3d, that the court of chancery is better

Page 60 U. S. 279

fitted to take an account for rents, profits, and improvements, and may decide the question of title as incident to the account; 4th, that a multiplicity of suits will be avoided.

There are precedents in which the right of an infant to treat a person who enters upon his estate with notice of his title, as a guardian or bailiff, and to exact an account in equity for the profits, for the whole period of his occupancy, is recognized. *Blomfield v. Eyre*, 8 Beav. 250; *Van Epps v. Van Deusen*, 4 Paige 64, But in those cases the title must, if disputed, be established at law or other grounds of jurisdiction must be shown. In the present case, the defendants have all entered upon the lands since the plaintiffs arrived at their majority. They are purchasers of adverse titles under which possession has been maintained for a

long period. The bill does not recognize their title to any part of the land, and there has been no unity of possession, so that the bill cannot be maintained either as a bill for an account on behalf of minors or for a partition. Adams' Eq., sec. 229; 4 Rand.Va. 74, 493.

Nor can the court retain the bill under an impression that a court of chancery is better adapted for the adjustment of the account for rents, profits, and improvements. The rule of the court is that when a suit for the recovery of the possession can be properly brought in a court of equity and a decree is given, that court will direct an account as an incident in the cause.

But when a party has a right to a possession which he can enforce at law, his right to the rents and profits is also a legal right, and must be enforced in the same jurisdiction. The instances where bills for an account of rents and profits have been maintained are those in which special grounds have been stated to show that courts of law could not give a plain, adequate, and complete remedy. No instances exist where a person who had been successful at law has been allowed to file a bill for an account of rents and profits during the tortious possession held against him, or in which the complexity of the account has afforded a motive for the interposition of a court of chancery to decide the title and to adjust the account. *Dormer v. Fortescue*, 3 Atk. 124; *Barnewell v. Barnewell*, 3 Rid.P.C. 24. Nor does the case show that a multiplicity of suits would be avoided or that justice could be administered with less expense and vexation in this Court than a court of law.

Decree affirmed.