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Brown Vs. Wiley

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Court : US Supreme Court

Decided On : 1857

Appeal No. : 61 U.S. 442

Appellant : Brown

Respondent : Wiley

Judgement :

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Brown v. Wiley

61 U.S. (20 How.) 442

ERROR TO THE DISTRICT COURT OF THE UNITED

STATES FOR THE DISTRICT OF TEXAS

SYLLABUS

Where a bill of exchange was drawn in proper form and protested for nonacceptance, parol evidence of an understanding between the drawer and the party in whose favor the bill was drawn, calculated to vary the terms of the

instrument, was not admissible.

Wiley & Co. were citizens of New York, and Brown a citizen of Texas.

The cause of action was the following bill of exchange:

"$2,359.26 SHREVEPORT, March 23, 1854"

"On or before the 1st of May next, 1855, please pay to order L. M. Wiley & Co. twenty-three hundred and fifty-nine and twenty-six one hundredths dollars, for value received, and charge same to my account, without further advice."

"TAYLOR BROWN"

" *Messrs. Campbell & Strong, merchants, New Orleans* "

"By W. L. Mc MURRAY"

This draft was presented and protested for nonacceptance on the 10th of June, 1854, more than ten months before the time when it was payable, and it appeared from the record that the suit was instituted against the drawer in February, 1855, nearly three months before the maturity of the bill.

The petition, as amended, contained the usual averments of the drawing of the draft, its presentation for acceptance, protest, and notice of dishonor.

The defense was that there were two bills of similar character, except that one was payable in May, 1854, and the other in May, 1855, and that it was agreed by the parties that the second should not be presented for acceptance until the first was taken up. These pleas were, on motion of the plaintiffs' counsel, stricken out.

The cause then came on for trial, and the defendant offered evidence to prove these facts the result of which is stated in the following extract from the bill of exceptions:

"The defendant's counsel then offered to prove, that at the time the draft was delivered, it was expressly stipulated and agreed by and between W. L. McMurray, the agent of the defendant, and Charles Keith, the agent of the plaintiffs that the said draft should not be presented for acceptance until the defendant should provide for the payment of a previous draft, drawn by the same party in favor of the same parties upon the same drawees, falling due in April, 1854, according to an understanding had with the drawees, and that said draft would not have been delivered to plaintiffs' agent, if he had not have agreed to hold it up. This was objected to by plaintiffs' counsel, and the objection sustained, to which ruling and decision of the court the defendant excepts.'"

The jury found a verdict for the plaintiffs, and the defendant brought the case up to this Court.

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MR. JUSTICE GRIER delivered the opinion of the Court.

Wiley & Co., plaintiffs below, declared on a bill of exchange drawn by Taylor Brown on Messrs. Campbell & Strong, of New Orleans, to order of plaintiff, dated 23d of March, 1854, and payable on the 1st of May, 1855. It was presented for acceptance on the 10th of June, 1854, and was protested for nonacceptance, of which the drawer had due notice.

It is admitted the bill was given for full value, but the defendant set up by way of special plea and offered to prove to the jury a parol agreement between him and the plaintiffs that this bill should not be presented for acceptance till after a certain other draft, payable in May, 1854, was provided for by placing funds in the hands of the drawees, who had agreed to accept the last bill after funds had been received to meet their acceptance of the first.

It is the rejection of this defense by the court below that is the subject of exception. It presents the question whether parol evidence should have been received to vary, alter, or contradict that which appears on the face of the bill of exchange.

When the operation of a contract is clearly settled by general principles of law, it is taken to be the true sense of the contracting parties. This is not only a positive rule of the common law, but it is a general principle in the construction of contracts. Some precedents to the contrary may be found in some of our states, originating in hard cases, but they are generally overruled by the same tribunals from which they emanated on experience of the evil consequences flowing from a relaxation of the rule. There is no ambiguity arising in this case which needs explanation. By the face of the bill, the owner of it had a right to demand acceptance immediately and

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to protest it for nonacceptance. The proof of a parol contract that it should not be presentable till a distant, uncertain, or undefined period tended to alter and vary, in a very material degree, its operation and effect. *See Thompson v. Ketchum,* 8 John. 192

Any number of conflicting cases on this subject might be cited. It will be sufficient to refer to the decisions of this Court, those of Texas, where the suit was brought, and of Louisiana, where the contract was made.

In *Bank of United States v. Dunn,* 6 Pet. 56, this Court declared

"That there is no rule better settled or more salutary in its application them that which precludes the admission of parol evidence to contradict or substantially vary the legal import of a written agreement."

The case of *Brochmore v. Davenport,* 14 Tex. 602, a case precisely similar to the present, adopts the same rule. The case of *Robishat v. Folse,* 11 La., and of *Barthet v. Estebene,* 5 Ann. 315, and several others acknowledge the same doctrine, thereby overruling some early cases in Louisiana which had departed from it.

This being the only point urged by plaintiff in error as a ground of reversal, the judgment of the court below is

Affirmed.

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