

Florentine Vs. Barton

Florentine Vs. Barton

SooperKanoon Citation : sooperkanoon.com/81237

Court : US Supreme Court

Decided On : 1864

Appeal No. : 69 U.S. 210

Appellant : Florentine

Respondent : Barton

Judgement :

Florentine v. Barton - 69 U.S. 210 (1864)

U.S. Supreme Court Florentine v. Barton, 69 U.S. 2 Wall. 210 210 (1864)

Florentine v. Barton

69 U.S. (2 Wall.) 210

ERROR TO THE FEDERAL COURT FOR

THE NORTHERN CIRCUIT OF ILLINOIS

SYLLABUS

A state legislature may constitutionally pass a private act authorizing a court to decree, on the petition of an administrator, private sale of the real estate of an intestate to pay his debts, even though the act should not require notice to heirs or

to anyone, and although the same general subject is regulated by general statute much more full and provident in its nature.

In making the order of sale under such private act, the court is presumed to have adjudged every question necessary to justify such order or decree, *viz.*, the death of the owners; that the petitioners were his administrators; that the personal estate was insufficient to pay the debts of deceased; that the private acts of assembly, as to the manner of sale, were within the constitutional power of the legislature, and that all the provisions of the law as to notices which are directory to the administrators have been complied with.

A general statute of Illinois, passed at an early day, enacted that, when any administrator whose intestate had died leaving real estate, should discover that the personal estate was insufficient to pay his debts, such administrator should make and deliver to the circuit Court of the county, an account of the debts and personal estate of such his intestate,

Page 69 U. S. 211

with a petition requesting aid of said court by its order of sale of a part of the real property.

The act was full, minute, and stringent in its requirements of notice to the heirs of the intestate, with "a copy of the account and petition." It directed "due examination" by the court of all objections made by anyone, and that sale of so much of the realty as would pay the debts should, from time to time, be ordered, or the whole, if requisite, only in case the court should find that the personalty was insufficient to do so. But the act directed that no sale not a public one, made in open hours of day, and upon full public notice, and with a description, to "common certainty," of the land, should be made at all.

With this *general* statute in existence and force, the Legislature of Illinois passed, in 1821, a private act, reciting that Beck and O'Harra, administrators of Aron Crane, had, by petition to it, set forth that the said Crane, late of Missouri, had died intestate, not leaving sufficient personal estate to pay his debts, but leaving real

estate; and enacting that the said Beck and O'Harra should have power to sell such part of his real estate as they might at any time be ordered to do by the proper court, for the payment of his debts; and that such sales "may be made at *private* sale instead of public sale," notwithstanding the above recited general act. It was provided, however, that before any sale was completed, it should be reported to one of the judges of the court allowing it, and be approved by him.

The administrators accordingly made a petition to the state circuit court. Neither the petition, however, nor any other proceeding except the record *of court*, now appeared. This record recited a petition setting forth that the personal estate was not sufficient to pay debts, and praying an order to sell certain parts of the real estate, for the purpose of paying them, agreeably to the private act of legislature already referred to, and concluding with an order that the administrators should sell an item described. *But there was no mention whatever in the record, that any notice had been given to heirs or to anybody, or that the estate was in any way indebted.*

Ten days after order made, the administrators sold the property, and their sale was reported by them to one of the judges of the court, which allowed it, and by him was approved. This was in A.D. 1823.

Ejectment for the land thus sold was now brought, A.D. 1857, in the federal court for the Northern Circuit of Illinois, by Florentine, who had purchased, in 1856, from the heirs of Crane, against Barton, claiming under the vendee of the administrators. Judgment was given for the defendant, which was the error assigned.

Page 69 U. S. 215

MR. JUSTICE GRIER delivered the opinion of the Court.

The land in dispute, in this case, was sold by order of a court some forty years ago, to pay the debts of its deceased owner. The heirs seem to have acquiesced in the regularity and justice of this proceeding till the plaintiff in error, a few years

ago, obtained from them a release of their title, doubtless for the purpose of this litigation.

By the law of Illinois, the lands of one deceased are liable for the payment of his debts. The circuit court of the county in which the administration is granted has jurisdiction

Page 69 U. S. 216

to order their sale for that purpose. The petition of the administrator, setting forth that the personal property of the deceased is insufficient to pay such debts, and praying the court for an order of sale, brought the case fully within the jurisdiction of the court. It became a case of judicial cognizance, and the proceedings are judicial. The court has power over the subject matter and the parties. It is true, in such proceedings, there are no adversary parties, because the proceeding is in the nature of a proceeding *in rem*, in which the estate is represented by the administrators, and, as in a proceeding *in rem* in admiralty, all the world are parties. In making the order of sale, the court are presumed to have adjudged every question necessary to justify such order or decree, *viz.*, the death of the owner; that the petitioners were his administrators; that the personal estate was insufficient to pay the debts of the deceased; that the private act of Assembly, as to the manner of sale, was within the constitutional power of the legislature; and that all the provisions of the law, as to notices which are directory to the administrators, have been complied with.

"The court having a right to decide every question which occurs in a cause, whether its decision be correct or otherwise, its judgment, until reversed, is binding on every other court."

The purchaser, under such a sale, is not bound to look further back than the order of the court, or to inquire as to its mistakes. The court is not bound to enter on record the evidence on which any fact was decided. The proceedings on which the action of the court is grounded, are usually kept on separate papers, which are often mislaid or lost. A different doctrine would (especially after a lapse of over

thirty years) render titles under a judicial sale worthless, and a "mere trap for the unwary." These propositions will be found discussed at length and fully decided by us in *Grignon's Lessee v. Astor*. [[Footnote 1](#)] Any further argument in vindication of them would be superfluous.

The question raised as to the constitutional power of the

Page 69 U. S. 217

Legislature of Illinois to pass the private acts modifying the general course of proceedings in similar cases, was necessarily decided by the circuit court of the state, under whose order and supervision this sale was made. The state court is the proper tribunal to construe and determine the validity of the enactments of their own legislature.

But assuming the question to be open for our decision, we see no reason to doubt the authority of the legislature to pass such acts as are now complained of, without infringing the Constitution of the state or of the United States. Such legislation is remedial, not judicial. It infringes no contract; it is not *ex post facto*, nor even retrospective; it is not the usurpation of judicial powers; it authorizes the administrators to sell at private sale, and not at public auction, as by the general law, but not till ordered by the proper court. Every question of a judicial nature was left to the judgment of the court. *It* must order the sale, and approve it when made. There may have been many reasons why it would be for the benefit of the estate and the creditors that the land should be sold at private and not at public sale. The legislature, by this private act, direct only the manner of sale; the courts are to judge of its necessity. Statutes are to be found in almost every state in the Union giving authority to guardians to sell the real estate of their wards, and usually requiring the supervision and approbation of a court. The power of the legislature to grant such special authority to guardians has been generally admitted. In a case in Illinois, [[Footnote 2](#)] it is said by their supreme court that, "to deny this power to the legislature in this view of its action, would almost annihilate its powers." Yet there was an assumption of power in that case far exceeding anything to be found in the present.

Let the judgment of the circuit court be

Affirmed.

[[Footnote 1](#)]

[43 U. S. 2](#) How. 319.

[[Footnote 2](#)]

Mason v. Wait, 4 Scammon 134.

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