Mayor Vs. Sheffield

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SooperKanoon Citation : sooperkanoon.com/81367

Court : US Supreme Court

Decided On : 1866

Appeal No. : 71 U.S. 189

Appellant : Mayor

Respondent : Sheffield

Judgement :

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Mayor v. Sheffield

71 U.S. (4 Wall.) 189

ERROR TO THE CIRCUIT COURT FOR

THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

1. Where a corporation is sued for an injury growing out of negligence of the corporate authorities in their care of the streets of the corporation, they cannot defend themselves on the ground that the formalities of the statute were not

pursued in establishing the street originally.

2. If the authorities of a city or town have treated a place as a public street, taking charge of it and regulating it as they do other streets, they cannot, when sued for such injury, defend themselves by alleging want of authority in establishing the street.

The action below was brought by W. P. Sheffield, against the Mayor &c.;, of New York, to recover damages for injuries received by him from stumbling over a stump at the

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edge of the sidewalk around the lower end of the City Hall Park in the City of New York.

Upon the trial it appeared that on the 16th December, 1857, Sheffield, while crossing, in the evening, the lower end of the City Hall Park, fell over a stump above the level of the sidewalk and broke his thigh-bone; that the stump was about fourteen inches distant from the curb of the sidewalk, and was about six inches high and four inches in diameter at the top.

It also appeared that the place where the stump stood was, prior to the 18th November, 1847, and had been for more than thirty years, within and a portion of the City Hall Park, but that on the day just named, the Common Council of New York adopted an ordinance authorizing the Committee on Lands and Places, together with the street commissioner, to adjust the lower corner line of the Park so as to make a curve &c.;, and that under this ordinance -- to the reading of which the counsel of the city, for reasons which will appear in the argument, excepted -- the committee and street commissioner shortened the Park twenty feet, cut down a tree there, and threw those twenty feet -- within which the stump of the tree -- the stump which had caused the accident, stood -- into the public street.

The court charged thus:

"The corporate authority of New York, by virtue of their charter and of the laws, have the charge and control of the streets and sidewalks within the corporate limits, and they are bound to keep them in good and safe condition. If they leave an opening in the sidewalk, as is sometimes done, and a person coming along in the night falls into it without any want of proper care on his part, the defendants are liable for any injury that may be occasioned. So if an obstruction on the face of the sidewalk, over which a person stumbles -- boxes, if you please -- left out on the sidewalk on a dark night, or barrels, over which a person stumbles and falls, in the absence of want of care on his part, the defendants are equally liable for the injury. The opening in the one case and the obstruction in the other constitute the negligence, are evidence of negligence on the part of

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the authorities who have the control of the matter, and in order to escape from the charge of liability, the burden is thrown upon them to disprove negligence."

"If the plaintiff in this class of cases has been himself guilty of negligence, and which materially contributed to the injury, then he cannot recover, even if the defendants have been shown to be guilty of negligence. The plaintiff must be free from fault. "

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MR. JUSTICE MILLER delivered the opinion of the Court.

1. The first error claimed to be found in the record of this

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case is based on the proposition of the defendant below, that the *locus in quo* was not a legally established public street, and therefore the city was not liable for its condition. On this point the court ruled adversely to the city.

The facts as shown by the bill of exceptions in reference to this matter are in substance these: the place where the accident occurred was formerly a part of the

City Hall Park, the property of the corporation of the City of New York. In November, 1847, the city council ordered that the lower corner line of the Park be so adjusted as to make a curve, instead of corners and angles, from Broadway to Chatham Street. The execution of those orders, placed in the street the ground where the plaintiff received his injury, and it became a part of the sidewalk at that place.

It is now argued that this is not a street, because the land was not condemned agreeably to a certain statute of the state for the opening and widening of streets. This statute was intended to secure to private land owners compensation for their property taken for public uses, and can have no application to the case of an appropriation by the city council, of land owned by the city to the purpose of a street.

It is also said that the park is, both by contract and by statute, pledged for the redemption of the city debt, and therefore cannot be thus appropriated. It will be time enough to consider this question when some creditor of the city shall raise it. The legal title and the present use and possession are in the city, and were when the land was converted into a street, and it does not lie in the mouth of the city authorities, under these circumstances, to claim exemption for their negligence in the manner of making this conversion, under the plea that the act was a violation of their duty to public creditors.

If the authorities of a city or town have treated a place as a public street, taking charge of it and regulating it as they do other streets, and an individual is injured in consequence of the negligent and careless manner in which this is done, the corporation cannot, when it is sued for such injury, throw the party upon an inquiry into the regularity of

the proceedings by which the land became a street, or into the authority by which the street was originally established.

2. The second error is supposed to have been found in an exception to the following language of the court in the charge to the jury:

"If they (the corporate authorities) leave an opening in the sidewalk, which is sometimes done, and a person coming along in the night falls into it, without any want of proper care on his part, the defendants are liable for any injury that may be occasioned. So, if an obstruction in the face of a sidewalk, over which a person stumbles -- a box, if you please, left out on the sidewalk on a dark night, or barrels, over which a person stumbles and falls in the absence of want of care on his part -- the defendants are equally liable for the injury. The opening, in the one case, and the obstruction, in the other, constitute the negligence on the part of the authorities who have control of the matter, and, in order to escape from the charge of liability, the burden is thrown upon them to disprove the negligence."

To this charge it is objected that it precluded the defendants from any attempt to show that they were not guilty of negligence, because, if the obstruction constituted the negligence, the existence of the obstruction being proved, no defense could be offered. But this is a verbal criticism not justified by the language of the court, which in the same sentence declares that, in order to escape from liability, the burden is thrown upon defendants to disprove the negligence. No one can read the charge without seeing that the jury must have understood the court as meaning, that the existence of those obstructions was such evidence of negligence as required of the authorities explanations in order to escape liability.

Another objection to this charge is that it ignores the necessity of notice to the authorities of the existence of the obstruction.

It is certainly true, as a general proposition, that before the corporate authorities can be held liable in this class of cases, it must be shown that they knew of the existence of the cause of injury, or had been notified of it, or such a state

of circumstances must be shown that notice would be implied. And it is true that this charge makes no reference to notice whatever. But when we look into the

facts of this case, as shown by the bill of exceptions, we discover a very plain reason why this was omitted. The question of notice, as a fact, could not be disputed, and therefore did not arise as a matter on which the jury required instructions.

The city authorities, in converting the part of the park already mentioned into a street, had cut down a tree, and left the stump standing from six to eight inches above the surface, and from fourteen to eighteen inches inside the curbstone, on the sidewalk. This was done in 1847, and this stump, thus left by the city authorities, who had cut down the tree, remained in that condition until the time of the accident to plaintiff, in 1857.

These facts were uncontradicted, and stronger proof of notice could not be given. It closed the question, and the omission in the judge's charge of any reference to that subject was justified by the testimony. It would have been superfluous.

Judgment affirmed.