

Drehman Vs. Stifle

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Court : US Supreme Court

Decided On : 1869

Appeal No. : 75 U.S. 595

Appellant : Drehman

Respondent : Stifle

Judgement :

Drehman v. Stifle - 75 U.S. 595 (1869)

U.S. Supreme Court Drehman v. Stifle, 75 U.S. 8 Wall. 595 595 (1869)

Drehman v. Stifle

75 U.S. (8 Wall.) 595

I N ERROR TO THE SUPREME

COURT OF MISSOURI

SYLLABUS

1. Section 4 of the Constitution of Missouri, which ordains that

"No person shall be prosecuted in any civil action for or on account of any act by him done, performed, or executed after the first of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the Government of the United States, or that of this state, to do such act, or in pursuance to orders received by him from any person vested with such authority, *and if any action or proceeding shall have heretofore been, or shall hereafter be, instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof,* "

is not a bill of attainder within the meaning of that clause of the Constitution of the United States which ordains that no state shall pass any such bill.

2. Nor does it impair the obligation of a contract within the meaning of the same constitution because, in the case of a contract relating to real property -- as, *ex. gr.*, a landlord's covenant that he will keep his tenant in possession -- its effect is to prevent a determination under particular state statutes of a party's mere right of possession, irrespectively of the merits of title, and where the same result might have confessedly been lawfully brought about by the state legislature by a repeal of the particular statute, and without impairing the obligation of any contract.

3. *Seem* that the case might be different if by giving effect to the provision, the party was precluded from asserting a title and enforcing a right.

In 1854, Mrs. Tyler leased to one Drehman, a house and lot in St. Louis for twenty years, that is to say, till 1874, and by the terms of the lease covenanted *to keep the said Drehman in lawful possession of the premises during the term for which they were leased to him.* In 1860, Mrs. Tyler sold the fee of the premises to one Stifle, who thus became landlord to Drehman, her lessee.

In 1861, during the late rebellion, Stifle, as "colonel of

Page 75 U. S. 596

the home guards," pursuant to an order from his military superior, took possession of the lot, removed all the buildings, and held and used the property for his own

private purposes. Stifle being thus in possession and use of the property, Drehman, proceeding under the statutes of Missouri concerning landlords and tenants, in force when the lease was made and still in force, brought in 1863 an action of forcible entry and detainer against him, before a justice of the peace, to recover possession of the premises and the value of the rents. The section of the statute of Missouri under which the suit was brought enacts that "the merits of the title shall in no wise be inquired into on any complaint which shall be exhibited by virtue of the provisions of the act." The justice, on the 31st of December, 1863, rendered a judgment in his favor for restitution, for \$5,000 damages, and for rent at the rate of \$60 per month, to be paid from the time of the recovery until restitution should be made, and for costs. Stifle removed the case by appeal to the St. Louis Land Court, where a verdict and judgment were rendered in his favor. Drehman appealed to the Circuit Court of St. Louis County. Before, however, the case came on to be heard there, a Constitution of Missouri, adopted in 1865, ordained as follows:

"No person shall be prosecuted in any civil action for or on account of any act by him done, performed or executed, after the first of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the government of the United States, or that of this state, to do such acts or in pursuance to orders received by him from any person vested with such authority, *and if any action or proceeding shall have heretofore been or shall hereafter be instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.* "

The case coming on to be heard in the circuit court in May, 1866 -- that is to say after the constitution containing the above-quoted clause passed into force -- Stifle relied for his defense upon it. Drehman, on the other hand, set up

Page 75 U. S. 597

that it was in the face of that clause of the Constitution of the United States, which declares that "no state shall pass any bill of attainder, . . . or law impairing the obligation of contracts."

The court instructed the jury that if the facts established by the evidence to their satisfaction brought the case within this provision of the Constitution of Missouri, the defense was valid, and that the defendant was entitled to the verdict. Drehman excepted. The jury found for Stifle, and the court gave judgment accordingly. Drehman therefore appealed to the supreme court of the state, which affirmed the judgment, and he accordingly brought the case to this Court under the 25th section of the Judiciary Act for review.

Page 75 U. S. 599

MR. JUSTICE SWAYNE delivered the opinion of the Court.

This case is brought here by a writ of error issued under the 25th section of the Judiciary Act of 1789, to the Supreme Court of the State of Missouri.

Drehman held the lot to which the controversy between

Page 75 U. S. 600

the parties relates by a lease terminating in 1874, and built upon the premises a dwelling house, store, and other improvements. The lessor sold and conveyed the reversion to Stifle. The house was rendered untenable by fire. Stifle, as colonel of the "home guards," pursuant to an order from his military superior, took possession of the lot, removed all the buildings, and has since held and used the property for his own private purposes. Thereafter, on the 22d of December, 1863, Drehman commenced an action of forcible entry and detainer against Stifle before a justice of the peace to recover possession of the premises. The justice rendered a judgment in his favor for restitution for a large amount of damages, for a specified sum for rent per month, to be paid from the time of the recovery until restitution should be made, and for costs. Stifle removed the case by appeal to the St. Louis Land Court, where a verdict and judgment were rendered in his favor. Drehman appealed to the Circuit Court of St. Louis County.

Upon the trial at that court, Stifle relied for his defense upon the 4th section of the Constitution of Missouri, adopted in 1865, which is as follows:

"Section 4. No person shall be prosecuted in any civil action for or on account of any act by him done, performed or executed, after the first of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the government of the United States, or that of this state, to do such acts, or in pursuance to orders received by him from any person vested with such authority; *and if any action or proceeding shall have heretofore been or shall hereafter be instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.* "

The court instructed the jury substantially that if the facts established by the evidence to their satisfaction brought the case within this provision, the defense was valid and the defendant was entitled to their verdict. Drehman excepted. The jury found for Stifle, and the court gave judgment accordingly. Drehman thereupon appealed to the supreme

Page 75 U. S. 601

court of the state, which affirmed the judgment, and he has brought the case to this Court for review.

Two grounds of jurisdiction here and of error below are relied upon:

I. It is alleged that this section of the Constitution of Missouri "is a bill of pains and penalties within the meaning of the Constitution of the United States, and therefore invalid."

The Constitution of the United States declares that "no state shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts." When the Constitution was adopted, *bills of attainder* and *bills of pains and penalties* were well known in the English law. Each of those terms had a clear and well defined meaning. Bills of attainder were acts of Parliament whereby sentence of death was pronounced against the accused. Courts of justice were employed only to register the edict and carry the sentence into execution. Bills of pains and penalties were acts denouncing milder punishments. The term "bill of attainder" in the national Constitution is generical, and embraces bills of both classes. [

[Footnote 1](#)] It is too clear to require discussion that the provision in question of the Constitution of Missouri belongs to neither of the categories mentioned. If not the opposite of penal, there is certainly nothing punitive in its character. It simply exempts from suits in a certain class of cases those who might otherwise be harassed by litigation and made liable in damages. It is rather in the nature of the indemnity acts, also well known in the English law. [[Footnote 2](#)]

II. It is insisted that this section "is a law impairing the obligation of contracts, in violation of the Constitution of the United States."

This proposition is founded upon a provision in the lease that the lessor should keep the lessee "in lawful possession

Page 75 U. S. 602

of the said leased premises during this lease," &c.; It is said that this covenant became obligatory upon Stifle by virtue of his being the assignee of the reversion of the estate; that the law of landlord and tenant of Missouri, in force when the lease was executed, became a part of the contract; that one of the remedies to which Drehman was entitled by this law to enforce the covenant in question was the proceeding by forcible entry and detainer; that this section of the Constitution of Missouri, as construed by the supreme court of the state, has deprived him of that remedy, and thus impairs the obligation of his contract. This view of the subject is supported by the counsel for the plaintiff in error with ingenuity, research, and ability, but they have failed to convince us of the soundness of the proposition.

The 26th section of the statute of Missouri upon the subject of forcible entry and detainer declares as follows: "The merits of the title shall in no wise be inquired into on any complaint which shall be exhibited by virtue of the provisions of this act." This proceeding has no relation to the rights of property of the parties. It turns entirely on the facts of lawful possession by the plaintiff and unlawful entry by the defendant. The defendant may have a valid title, the plaintiff possession without any title, and yet the defendant, having entered without the plaintiff's consent, may

be dispossessed, and the plaintiff be restored to possession. If a party desires to assert his title and enforce his rights, he must resort to the remedies provided for that purpose. This form of procedure is not one of them. [[Footnote 3](#)] It cannot, therefore, be maintained that this remedy entered into the contract between the lessor and lessee. The legislature might have abolished it by repealing the statute without impairing any right within the meaning of the contract provision of the federal Constitution, acquired while the statute was in force. In this respect, it stands on the same footing with any other action *ex delicto*.

Whether the instructions excepted to were right or wrong

Page 75 U. S. 603

is an inquiry which lies beyond the sphere of our powers and duties. If an action of covenant or ejectment had been brought and it had been held that the Constitution of Missouri affected the right of recovery, the question would perhaps have presented a different aspect. But no such case is before us, and we have not had occasion to consider the subject. The right of a state legislature to pass retroactive laws where there is no inhibition in the Constitution of the state, provided they do not impair the obligation of a contract and are not *ex post facto* in their character, is too well settled to admit of doubt. [[Footnote 4](#)] We find no error in the record of which we can take cognizance.

Judgment affirmed.

[[Footnote 1](#)]

2 Woodeson's Lectures, 622-624; *Gaines v. Buford*, 5 Dana 509; Story on the Constitution, 1344; [Ex Parte Garland](#), 4 Wall. 324.

[[Footnote 2](#)]

Rowland on the English Constitution 563; 2 May 267, 324.

[[Footnote 3](#)]

Gibson v. Ting, 29 Mo. 134; *Butler v. Cardwell*, 33 *id.* 86.

[[Footnote 4](#)]

[*Williamson v. Leland*](#), 2 Pet. 627; [*Watson v. Mercer*](#), 8 Pet. 88; [*Kearney v. Taylor*](#), 15 How. 494; [*Sattelee v. Mathewson*](#), 2 Pet. 380; [*Society v. Pawlet*](#), 4 Pet. 480; [*Railroad v. Nesbit*](#), 10 How. 401; *Albee v. May*, 2 Paine 74; *Andrews v. Russell*, 7 Blackford 475.

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