

Bethell Vs. Demaret

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Court : US Supreme Court

Decided On : 1870

Appeal No. : 77 U.S. 537

Appellant : Bethell

Respondent : Demaret

Judgement :

Bethell v. Demaret - 77 U.S. 537 (1870)

U.S. Supreme Court Bethell v. Demaret, 77 U.S. 10 Wall. 537 537 (1870)

Bethell v. Demaret

77 U.S. (10 Wall.) 537

ON MOTION TO DISMISS A WRIT OF ERROR

TO THE SUPREME COURT OF LOUISIANA

SYLLABUS

1. The authority conferred by a state on its supreme court to hear and determine cases is not the kind of authority referred to in the 25th section of the Judiciary Act, which gives this Court a right to review the decisions of the highest state court

where is drawn in question the validity of a statute of, *or an authority exercised under any state*, on the ground of their being repugnant to the Constitution &c.;, and the decision is in favor of such validity.

2. The decision of a state court which simply held that promissory notes, given for the loan of "Confederate currency," together with a mortgage to secure the notes, were nullities on the ground that the consideration

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was illegal according to the law of the state at the time the contract was entered into is not a decision repugnant to the Constitution.

Bethel brought suit against Demaret and others in a district court of the state to enforce a mortgage given to secure the payment of two notes of \$7,500 each, given by them for the loan of Confederate currency, on the 2d April, 1862, payable in two and three years after date, with interest. The plaintiff recovered judgment and the mortgaged premises were directed to be sold to pay it. Whereupon an appeal was taken to the supreme court of the state, where the judgment was reversed and the suit dismissed. The decision was placed on the ground that the Confederate money was illegal and constituted no valid consideration for the two notes and mortgage at the time they were executed, according to the code of the state. * The court said in its opinion,

"The plaintiff is endeavoring to enforce a contract, the consideration of which was Confederate currency. The nullity of contracts founded upon that unlawful currency has been frequently determined."

The plaintiff then brought the case here, assuming it to come within that clause of the 25th section of the Judiciary Act which gives a right of review to this Court of the judgment in the highest state court

"where is drawn in question the validity of a statute of or an authority exercised under any state on the ground of their being repugnant to the Constitution &c.;, . . . and the decision is in favor of such validity. "

MR. JUSTICE NELSON delivered the opinion of the Court.

There was no federal question presented to the court below by the plaintiff in error so far as appears from the record. There is no statute of a state in question here.

But it is insisted that there was an authority under the State of Louisiana exercised in the case drawn in question, and which was repugnant to the Constitution, and the decision in favor of its validity, and that is the supreme court of the state was acting under the authority of the state at the time its decision was rendered.

There are two answers to this ground: 1st, that the authority conferred on a court to hear and determine cases in a state is not the kind of authority referred to in the 25th section; otherwise every judgment of the Supreme Court of a state would be reexaminable under the section; and 2d, the decision of the court was not repugnant to the Constitution; it simply held that the promissory notes, together with the mortgage in question, were nullities on the ground that the "Confederate currency" which constituted the consideration was illegal according to the law of the state at the time the contract was entered into.

As no federal question appears in the record, the motion to dismiss must be

Granted.

* Art. 1887, 1889, 2026; *Schmidt v. Barker*, 17 Annual 261.