Coal Company Vs. Blatchford

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Appeal No. : 78 U.S. 172

Appellant : Coal Company

Respondent : Blatchford

Judgement :

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Coal Company v. Blatchford

78 U.S. (11 Wall.) 172

APPEAL FROM THE CIRCUIT COURT FOR

THE WESTERN DISTRICT OF PENNSYLVANIA

SYLLABUS

1. In controversies between citizens of different states, where the jurisdiction of the courts of the United States depends upon the citizenship of the parties, if there are several co-plaintiffs, each plaintiff must be competent to sue, and, if there are

several co-defendants, each defendant must be liable to be sued in those courts, or the jurisdiction cannot be entertained.

2. Executors and trustees suing for others' benefit form no exception to this rule. If they are personally qualified by their citizenship to bring suit in the courts of the United States, the jurisdiction is not defeated by the fact that the parties whom they represent may be disqualified, and if they are not personally qualified by their citizenship, the courts of the United States will not entertain jurisdiction, although the parties they represent may be qualified.

3. The cases of *Browne v. Strode,* 5 Cranch 303, and *McNutt v. Bland,* 2 How. 10, commented upon and explained.

4. When the citizenship of the parties is averred in the bill of complaint, and it thus appears that some of the plaintiffs are disqualified by their citizenship from maintaining the suit, the defect may be taken advantage of by demurrer, or without demurrer, on motion, at any stage of the proceedings. A plea in abatement is required only when the citizenship averred is such as to support the jurisdiction of the court and the defendant desires to controvert the averment.

The eleventh section of the Judiciary Act enacts:

"That the circuit courts shall have original cognizance . . . of all suits of a civil nature &c.;, where an alien is a party or the suit is between a citizen of the state where the suit is brought and a citizen of another state."

With this provision in force, R. M. Blatchford and J. B. Newman filed their bill for the foreclosure of a mortgage executed by the Susquehanna & Wyoming Valley Railroad & Coal Company to them as trustees, to secure the payment of the company's bonds and for the sale of the mortgaged property. The mortgage conferred upon the plaintiffs the usual rights and powers of mortgagees, and contained stipulations authorizing them to use different

remedies in case default was made in the payments provided.

The bill stated that the defendant was a corporation created and organized under the laws of the State of Pennsylvania; that the plaintiff, Blatchford was a citizen of the State of New York; that the plaintiff, Newman, was a citizen of the State of Pennsylvania, and that they as trustees sued solely for the use of Henry Beckett, an alien and a subject of the Queen of Great Britain, and Joseph Loyd, a citizen of New Jersey, both residing in New Jersey. The defendant demurred to the bill on the ground that the plaintiff Newman and the defendant corporation, being citizens of the same state, the court had not jurisdiction of the cause. The court overruled the demurrer, and an answer and replication having been filed, the case was heard on the pleadings and a decree rendered for the plaintiffs. From this decree the appeal was taken, and the question presented for consideration here was whether the jurisdiction of the federal court depended upon the citizenship of the trustees, who were the plaintiffs, or of the parties for whose benefit the suit was averred to have been brought.

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MR. JUSTICE FIELD delivered the opinion of the Court.

The eleventh section of the Judiciary Act of 1789 vests in the circuit courts original jurisdiction of suits of a civil nature, at law and in equity, when the matter involved exceeds, exclusive of costs, the sum or value of five hundred dollars, in three classes of cases: 1st, when the United States are plaintiffs or petitioners; 2d, when an alien is a party; and 3d, when the suit is between a citizen of the state where the suit is brought and a citizen of another state.

In the last two classes, the designation of the party, plaintiff or defendant, is in the singular number, but the designation is intended to embrace all the persons who are on one side, however numerous, so that each distinct interest must be represented by persons all of whom are entitled to sue or are liable to be sued in the federal courts. [Footnote 1] In other words, if there are several co-plaintiffs, the intention of the act is that each plaintiff must be competent to sue,

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and if there are several co-defendants, each defendant must be liable to be sued or the jurisdiction cannot be entertained. Executors and trustees suing for others' benefit form no exception to this rule. If they are personally qualified by their citizenship to bring suit in the federal courts, the jurisdiction is not defeated by the fact that the parties whom they represent may be disqualified. This has been repeatedly adjudged. It was so adjudged as early as 1808 in *Chappedelaine v. Dechenaux,* [Footnote 2] where the complainants, though citizens of France, brought suit, one as residuary legatee and the other as administrator *de bonis non* of a testator, who had been a citizen of Georgia, against the defendant, who was a citizen of that state. Counsel, on opening the question of jurisdiction, was stopped by the Court, Mr. Chief Justice Marshall observing that the impression of the Court was that the case was clearly within the jurisdiction of the courts of the United States, that the plaintiffs were aliens, and, although they sued as trustees, they were entitled to sue in the circuit court. This ruling was followed in *Childress v. Emory,* [Footnote 3] and in *Osborn v. Bank of the United States* the Chief Justice laid it down as a universal rule that in controversies between citizens of different states, the jurisdiction of the federal courts depended not upon the relative situation of the parties concerned in interest, but upon the relative situation of the parties named in the record.

These authorities are conclusive of the present case. The defendant is a corporation created under the laws of Pennsylvania. One of the plaintiffs, Blatchford describes himself in the bill as a citizen of the State of New York, and the plaintiff Newman describes himself as a citizen of Pennsylvania, and they both describe themselves as trustees, who sue solely for the use of Henry Beckett, an alien and a subject of the Queen of Great Britain, and of Joseph Loyd, a citizen of New Jersey. The demurrer of the defendant raises the objection that the plaintiff, Newman, is a citizen of the

same state with the defendant, and that the court has in consequence no jurisdiction of the case. If there were no other parties, the suit clearly would not lie, for the eleventh section of the Judiciary Act only authorizes a suit between citizens

of different states, not between citizens of the same state. And the objection, according to the construction we give to that section and to the authorities cited, is equally available when a disqualified party is joined with others who are qualified.

The cases of *Browne v. Strode,* [Footnote 4] and *McNutt v. Bland,* [Footnote 5] upon which the plaintiffs rely, do not aid them. In the first case the action was on a bond given by an executor for the faithful execution of his testator's will, in conformity with the statute of Virginia, which required all such bonds to be made payable to the justices of the peace of the county where administration was granted, but allowed suits to be brought upon them at the instance of any party aggrieved. The object of the action was to recover of the defendant, a citizen of Virginia, a debt due by the testator to a British subject, and was brought in the name of the justices of the peace of the county, who were also citizens of that state. It was held that the circuit court had jurisdiction.

In *McNutt v. Bland,* the action was on a bond given by a sheriff of a county in Mississippi. By the law of that state sheriffs were required to execute bonds to the governor of the state and his successors, conditioned for the faithful performance of the duties of their office, which bond could be prosecuted at any time by any party injured until the whole amount of the penalty was recovered. The action in the case cited was brought in the name of the governor for the use of citizens of New York, against the defendants, who were citizens of Mississippi. Upon demurrer it was held by this Court that the circuit court had jurisdiction.

"In this case," said the Court,

"there is a controversy and suit between citizens of New York and Mississippi; there is neither between the governor and the defendants. As

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the instrument of the state law to afford a remedy against the sheriff and his sureties, his name is on the bond and to the suit upon it, but in no just view of the Constitution or law can he be considered as a litigant party; both look to things, not names; to the actors in controversies and suits, not to the mere forms or inactive

instruments used in conducting them in virtue of some positive law."

The court then cites the case of *Browne v. Strode,* and states the principle, on which it was decided, to be,

"that where the real and only controversy is between citizens of different states, of an alien or a citizen, and the plaintiff is by some positive law compelled to use the name of a public officer who has not, or ever had any interest in or control over it, the courts of the United States will not consider any others as parties to the suit, than the persons between whom the litigation before them exists."

There is no analogy between these cases and the case at bar. The nominal plaintiffs in those cases were not trustees, and held nothing for the use or benefit of the real parties in interest. They could not, as is said in *McNutt v. Bland* prevent the institution or prosecution of the actions or exercise any control over them. The justices of the peace in the one case, and the governor in the other, were the mere conduits through whom the law afforded a remedy to the parties aggrieved.

In the case at bar, the plaintiffs are the real prosecutors of the suit. They are parties to the mortgage contract negotiating its terms and stipulations, and to them the usual rights and powers of the mortgagees are reserved, and to them the usual obligations of mortgagors are made. The right to use different remedies is expressly provided upon default in the payments stipulated, and the adoption of either rests at the option of the plaintiffs. So long as they do not refuse to discharge the trusts reposed in them, other parties are not authorized to institute or prosecute any proceedings for the enforcement of the mortgage, or to exercise any control over them.

The case is not one where a plea in abatement was required

to raise the question of citizenship. Here, the citizenship of the parties is averred in the bill of complaint, and the consequent defect in the jurisdiction of the court is

apparent, and a defect of this character thus disclosed may be reached on demurrer or taken advantage of without demurrer, on motion, at any stage of the proceedings. A plea in abatement is required only where the citizenship averred is such as to support the jurisdiction of the court and the defendant desires to controvert the averment. The question of citizenship constitutes no part of the issue upon the merits.

It follows, from the views expressed, that the decree of the court below must be

Reversed and that the cause must be remanded with directions to the court to dismiss the bill for want of jurisdiction.

[Footnote 1]

Strawbridge v. Curtiss, 3 Cranch 267.

[Footnote 2]

8 U. S. 4 Cranch 307.

[Footnote 3]

21 U. S. 8 Wheat. 669.

[Footnote 4]

5 Cranch 303.

[Footnote 5]

43 U. S. 2 How. 10.