

Longstreth Vs. Pennock

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Court : US Supreme Court

Decided On : 1874

Appeal No. : 87 U.S. 575

Appellant : Longstreth

Respondent : Pennock

Judgement :

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Longstreth v. Pennock

87 U.S. (20 Wall.) 575

ERROR TO THE CIRCUIT

COURT OF PENNSYLVANIA

SYLLABUS

The Pennsylvania statute of June 16, 1836, which provides that where property upon demised premises, and liable to distraint, is seized on execution and sold, the officer making the sale shall pay the rent (provided it does not exceed one

year's rent) in preference to the judgment on which the execution issued, extends, by an equitable intendment, to a seizure of goods similarly situated by an assignee in bankruptcy. A landlord's claim is accordingly, in Pennsylvania, first paid out of the bankrupt's goods liable to distress on demised premises, and before making a dividend of their proceeds among the creditors generally.

A Pennsylvania statute of June 16, 1836, [[Footnote 1](#)] enacts as follows:

"The goods and chattels being in or upon any messuage, lands, or tenements, which are or shall be demised for life or years or otherwise, taken by virtue of an execution, and liable to the distress of the landlord, shall be liable for the payment of any sums of money due for rent at the time of taking such goods in execution, *provided* that such rent shall not exceed one year's rent."

"After the sale by the officer, of any goods or chattels as

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aforesaid, he shall first pay out of the proceeds of such sale, the rent so due, and the surplus thereof, if any, he shall apply towards satisfying the judgment mentioned in such execution."

This statute being in force, Pennock rented a warehouse in Philadelphia to Wattson & De Young at the yearly rent of \$4,500, payable in equal quarterly installments. Wattson & De Young, the lessees, being in possession of the premises and having therein a stock of goods more than sufficient to pay the rent if a distress had been made, were adjudicated bankrupts, and Longstreth, their assignee, took possession of the premises and of the stock upon them. The landlord claimed of him the rent due and accrued up to the date of the issuing of the warrant in bankruptcy, and it having been paid to him under a stipulation to restore the same if the assignee were not allowed credit therefor on the settlement of his account, and he not having been allowed such credit, this action was brought by him to test his right to get back what had been so paid for rent accruing prior to the warrant, which was for much less than a year's rent. The circuit court adjudged that the payment was rightfully made and that the assignee could not

recover it back. The assignee now brought the case here.

MR. JUSTICE SWAYNE delivered the opinion of the Court.

The assignee acquired his title to the movable property found on the demised premises, subject to the rights of all other persons. [[Footnote 2](#)] The rent in question was for a period which terminated when the assignee took possession, and the entire period was within a year of that time. Before the commencement of the proceedings in bankruptcy, the defendants in error might have distrained, and it is agreed that the property upon the premises was more than sufficient to satisfy the demand. The statute of Pennsylvania of June

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16, 1836, provides that where property under such circumstances is seized and sold under execution, the rent due for a period not exceeding one year shall be paid first out of the proceeds of the sale. This case is within the equity of that statute. [[Footnote 3](#)] The question presented is one belonging to the local law of Pennsylvania. We think it was correctly decided by the circuit court.

Judgment affirmed.

[[Footnote 1](#)]

Purdon's Digest, edition of 1873, p. 879.

[[Footnote 2](#)]

[Gibson v. Warden](#), 14 Wall. 244.

[[Footnote 3](#)]

Sedgwick's Statutory and Constitutional Law 296.