

Hinckley Vs. Gilman, Clinton and Springfield Railroad Co.

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Court : US Supreme Court

Decided On : 1876

Appeal No. : 94 U.S. 467

Appellant : Hinckley

Respondent : Gilman, Clinton and Springfield Railroad Co.

Judgement :

Hinckley v. Gilman, Clinton & Springfield Railroad Co. - 94 U.S. 467 (1876)

U.S. Supreme Court Hinckley v. Gilman, Clinton & Springfield Railroad Co., 94 U.S. 467 (1876)

Hinckley v. Gilman, Clinton & Springfield Railroad Company

94 U.S. 467

MOTION TO DISMISS APPEAL FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR THE SOUTHERN DISTRICT OF ILLINOIS

SYLLABUS

Where, in the progress of a suit for the foreclosure of a mortgage, a receiver was appointed against whom, after the foreclosure and sale of the mortgaged

premises, a decree was rendered directing him to pay into court \$15,776.25, the balance found due from him on the settlement of his accounts, *held* that he had the right to appeal from that decree.

In the progress of a suit for the foreclosure of a mortgage executed by the Gilman, Clinton, and Springfield Railroad Company, Francis E. Hinckley was appointed receiver. On the 8th of April, 1876, a final decree was rendered under which, on the 10th of June, the mortgaged property was sold, and subsequently conveyed to the purchasers. Upon a settlement of the accounts of the receiver, a balance was found due from him of \$18,776.25, for which a decree was entered Sept. 27, directing its payment into court on or before Oct. 10. On the 9th of October, he prayed this appeal "from the decree against him," which was granted. The complainants now move to dismiss, for the reason that he was not a party to the suit.

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MR. CHIEF JUSTICE WAITE delivered the opinion of the Court.

The motion to dismiss cannot be sustained.

In [Blossom v. Railroad Company](#), 1 Wall. 655, a bidder at a foreclosure sale was allowed to appeal, and in delivering the opinion of the Court, MR. JUSTICE MILLER said:

"It is certainly true that he cannot appeal from the original decree of foreclosure, nor from any other order or decree of the court made prior to his bid. It however seems to be well settled that, after a decree adjudicating certain rights between the parties to a suit, other persons having no previous interest in the litigation may become connected with the case in the course of the subsequent proceedings in such a manner as to subject them to the jurisdiction of the court and render them liable to its orders, and that they may in like manner acquire rights in regard to the subject matter of the litigation, which the court is bound to protect. "

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This seems to us to be decisive of this motion. The receiver cannot and does not attempt to appeal from the decree of foreclosure or from any order or decree of the court except such as relates to the settlement of his accounts. To that extent, he has been subjected to the jurisdiction of the court and made liable to its orders and decrees. He has therefore the corresponding right to contend against all claims made against him. For this purpose, he occupies the position of a party to the suit, although an officer of the court, and after the final decree below has the right to his appeal here. In this case, the final decree has been given, and the case is properly here upon the appeal as prayed and allowed. This will not keep anything in litigation but the receiver's accounts. The title to the property and the possession under the sale cannot be in any manner affected. Everything can be closed up in the court below in accordance with the decree which has been entered in the cause except the distribution of the money claimed from the receiver.

It will be time enough to consider whether more of the record has been brought here than is necessary to the hearing of the questions presented by the appeal when the cause is reached, or when application is made to us in that behalf.

Motion to dismiss denied.