

Schreiber Vs. Sharpless

Schreiber Vs. Sharpless

SooperKanoon Citation : sooperkanoon.com/84926

Court : US Supreme Court

Decided On : Jan-07-1884

Appeal No. : 110 U.S. 76

Appellant : Schreiber

Respondent : Sharpless

Judgement :

Schreiber v. Sharpless - 110 U.S. 76 (1884)

U.S. Supreme Court Schreiber v. Sharpless, 110 U.S. 76 (1884)

Schreiber v. Sharpless

Submitted December 17, 1883

Decided January 7, 1884

110 U.S. 76

ORIGINAL

SYLLABUS

1. The rule at common law that *qui tam* actions on penal statutes do not survive, prevails in the federal courts as to actions on penal statutes of the United States, even in states where the statutes of the state allow suits on state penal statutes to be prosecuted after the death of the offender.

2. An action to recover penalties and forfeitures for the infringement of a copyright under the provisions of § 4965 Rev.Stat. is abated by the death of the defendant.

Petition for mandamus to require the judge of the District Court of the United States for the Eastern District of Pennsylvania to reinstate a writ of *scire facias* sued out to bring in the executors of the will of Sharpless to defend an action commenced against him in his lifetime, under § 4965 Rev.Stat., to

Page 110 U. S. 77

recover penalties for infringing a copyright, which writ was quashed by the court after hearing the parties.

Page 110 U. S. 79

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

The petitioners sued Charles L. Sharpless in the District Court of the United States for the Eastern District of Pennsylvania to recover certain penalties and forfeitures claimed under the provisions of § 4965 of the Revised Statutes, for the infringement of a copyright. Sharpless died after issue joined, but before judgment. After his death had been suggested by his attorney in the cause, the petitioners sued out a *scire facias* against Anna R. Sharples, executrix, and Charles W. Sharpless, executor, of his will, requiring them to appear and become parties to the action, or show cause why they should not be made parties, by order of the court. Before this writ was served, the attorney for Sharpless during his life moved that the writ be quashed. After argument, the motion was granted on the ground that the cause of action terminated with the death of the defendant, and did not survive as against his legal representatives.

The petitioners now ask for a rule on the district court to show cause why a writ of mandamus should not issue requiring it to reinstate the writ of *scire facias* and proceed with the case. Without considering whether a writ of mandamus may issue directly from this Court to a district court to enforce procedure in a case where the final judgment of the district court is subject to review in the circuit court, we deny the rule asked for because we are entirely satisfied with the action of the district judge. He was asked to send out a writ of *scire facias* to bring in and make parties to a *qui tam* action the personal representatives of a deceased defendant, who had been sued to recover the penalties and forfeitures which it was alleged he had subjected himself to under an act of Congress by the infringement

Page 110 U. S. 80

of a copyright. The suit was not for the damages the plaintiffs had sustained by the infringement, but for penalties and forfeitures recoverable under the act of Congress for a violation of the copyright law. The personal representatives of a deceased party to a suit cannot prosecute or defend the suit after his death unless the cause of action on account of which the suit was brought is one that survives by law. Rev.Stat. § 955. At common law, actions on penal statutes do not survive (Com.Dig. tit. Administration, B. 15), and there is no act of Congress which establishes any other rule in respect to actions on the penal statutes of the United States. The right to proceed against the representatives of a deceased person depends not on forms and modes of proceeding in a suit, but on the nature of the cause of action for which the suit is brought. If the cause of action survives, the practice, pleadings, and forms and modes of proceeding in the courts of the state may be resorted to in the courts of the United States for the purpose of keeping the suit alive and bringing in the proper parties. Rev.Stat. § 914. But if the cause of action dies with the person, the suit abates and cannot be revived. Whether an action survives depends on the substance of the cause of action, not on the forms of proceeding to enforce it. As the nature of penalties and forfeitures imposed by acts of Congress cannot be changed by state laws, it follows that state statutes allowing suits on state penal statutes to be prosecuted after the death of the

offender can have no effect on suits in the courts of the United States for the recovery of penalties imposed by an act of Congress.

The rule is denied and petition dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com