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Court : US Supreme Court

Decided On : Apr-30-1888

Appeal No. : 127 U.S. 322

Appellant : Cameron

Respondent : Hodges

Judgement :

Cameron v. Hodges - 127 U.S. 322 (1888)
U.S. Supreme Court Cameron v. Hodges, 127 U.S. 322 (1888)

Cameron v. Hodges

No. 208

Argued April 5, 1888

Decided April 30, 1888

127 U.S. 322

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE WESTERN DISTRICT OF TENNESSEE

SYLLABUS

A petition by defendant for removal of a cause from a state court on the ground of citizenship which alleges that he is a citizen of another named which none of the complainants are citizens, is insufficient unless the record discloses that they are citizens of other named states of which the defendant is not a citizen, or are aliens.

This Court of its own motion uniformly takes the objection of want of jurisdiction in the circuit court, especially as regards citizenship.

A want of jurisdiction of a circuit court arising out of a defect in the allegations of citizenship in a cause removed from a state court, on the ground of citizenship, cannot he cured by affidavits here.

This is an appeal from the Circuit Court of the United States for the Western District of Tennessee.

The suit was originally brought in the Chancery Court of Shelby County, held in the City of Memphis in that state, in regard to a controversy which arose concerning the title to certain real estate situated in the State of Arkansas. The principal defendant, Asa Hodges, was a citizen of Arkansas, and upon that ground procured an order in the chancery court to remove the case into the Circuit Court of the United States for the Western District of Tennessee. The allegation upon which this removal was made is as follows:

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" I n the Chancery Court of Shelby County, Tennessee"

"Anna E. Cameron et al."

"v. R. 4593"

"Asa Hodges et al."

"To the Hon. W. W. McDowell, Chancellor:"

"Your petitioner states that he is, and at the time of the institution of this suit was, a citizen of the State of Arkansas and not of the State of Tennessee, and that none of the complainants are or were at that time citizens of the State of Arkansas; that said suit is of a civil nature, and the matters in controversy exceed, exclusive of costs, in value the sum of five hundred dollars; that the controversy affects the ownership of real estate in said State of Arkansas, and can be wholly decided between complainants and this defendant. Wherefore he prays an order for the removal of said cause from this court to the United States Circuit Court for the Western District of Tennessee at Memphis, and he tenders herewith the requisite bond, as required by law, for the removal thereof."

"Asa Hodges, the petitioner, being sworn, says the matters set forth in the above petition are true as far as stated on his own knowledge; the rest he believes to be true."

"ASA HODGES"

"Sworn to this October 2, 1882"

"J. M. BRADLEY, *Deputy Clerk and M.* "

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MR. JUSTICE MILLER, after stating the case, delivered the opinion of the Court.

While this petition sets forth the citizenship of Hodges to be in the State of Arkansas both at the commencement of the suit and at the time of the application for removal, it does not state that of any of the complainants, but merely says "that none of the complainants are or were at that time citizens of said State of Arkansas," nor have we been able to find in the record any evidence, allegation, or statement as to the citizenship of any of them. That the defendant Hodges was a citizen of Arkansas, in connection with the fact that none of the complainants were citizens of that state, is not sufficient to give jurisdiction in a circuit court of the United States. *Brown v. Keene,* 8 Pet. 112, 33 U. S. 115 .

The adverse party must be a citizen of some other named

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state than Arkansas, or an alien. All the complainants might be residents and citizens of the District of Columbia, or of any territory, and they might not be citizens of the State of Tennessee, where the suit was brought, or indeed of any state in the union. A citizen of a territory or of the District of Columbia can neither bring nor sustain a suit on the ground of citizenship in one of the circuit courts. *Barney v. Baltimore,* 6 Wall. 280.

This Court has always been very particular in requiring a distinct statement of the citizenship of the parties and of the particular state in which it is claimed in order to sustain the jurisdiction of those courts, and inasmuch as the only citizenship specifically averred and set out in the case before us is that of the defendant Hodges, at whose instance the cause was removed, and as that is the only ground upon which the removal was placed, it seems clear that the circuit court did not have jurisdiction of it, and that the suit should have been dismissed or remanded for that reason. *Robertson v. Cease,* 97 U. S. 646 . The allegation which was made in that case that Cease, who was the plaintiff in the action in the Circuit Court for the Western District of Texas, "resides in the County of Mason and State of Illinois" was held not to be a sufficient averment of his citizenship in Illinois. *See also Godfrey v. Terry,* 97 U. S. 171 .

This Court has uniformly acted upon the principle that in order to protect itself from collusive agreements between parties who wish to litigate their controversies in the federal courts, it would, on its own motion, take the objection of the want of jurisdiction in the circuit court, especially as regards citizenship. *Hilton v. Dickinson,* 108 U. S. 165 ; *Morgan's Executor v. Gay,* 19 Wall. 81.

We have considered the application of Hodges, the defendant in error, to supply the want of averments in regard to the citizenship of the complainants in this suit. The difficulty here, however, does not relate to the jurisdiction of this Court, in regard to which evidence by affidavit has sometimes been received where the

defect was as to the amount in controversy, and perhaps in relation to some other point. The

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jurisdiction of this Court in the present case is undoubted, but, as the previous remarks in this opinion show, the circuit court never had jurisdiction of it, and while we may be authorized to reverse the decree so rendered, we have no power to amend the record so as to give jurisdiction to that court by proceedings here. The case in this Court must be tried upon the record made in the circuit court. In this instance, there has been a removal from a tribunal of a state into a circuit court of the United States, and there is no precedent known to us which authorizes an amendment to be made, even in the circuit court, by which grounds of jurisdiction may be made to appear which were not presented to the state court on the motion for removal. In fact, under the fifth section of the Act of March 3, 1875, it being manifest upon the face of the affidavit or petition for removal in the present suit that the case had been improperly removed into the circuit court, it was the duty of that court at all times and at any time during its pendency before it to have remanded the case to the tribunal of the state where it originated. We can do no more, however, than to reverse the action of the court below from which this appeal was taken, because it had no jurisdiction of the case.

The decree in this case is reversed for want of jurisdiction in the circuit court, and the case remanded for further proceedings.

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