

Cissel Vs. Dutch

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Court : US Supreme Court

Decided On : Mar-19-1888

Appeal No. : 125 U.S. 171

Appellant : Cissel

Respondent : Dutch

Judgement :

Cissel v. Dutch - 125 U.S. 171 (1888)

U.S. Supreme Court Cissel v. Dutch, 125 U.S. 171 (1888)

Cissel v. Dutch

No. 153

Argued January 31, February 1, 1888

Decided March 19, 1888

125 U.S. 171

APPEAL FROM THE SUPREME COURT

OF THE DISTRICT OF COLUMBIA

SYLLABUS

In this case, this Court reversed the decree of the general term of the Supreme Court of the District of Columbia on a question of fact as to whether a deed of trust and a promissory note secured thereby were forgeries.

Bill in equity. The case is stated in the opinion of the Court.

MR. JUSTICE BLATCHFORD delivered the opinion of the Court.

This is a suit in equity, brought in the Supreme Court of the District of Columbia by persons claiming to own a lot of land in the City of Washington, as the heirs at law of one Jenifer, and as devisees under his last will and testament. The bill alleges that a deed of trust, purporting to have been executed on the 8th of July, 1875, by Jenifer to R. P. Dodge and P. A. Darneille, conveying the land to them as security for the payment of a promissory note dated that day, purporting to have been made by Jenifer, payable two years after date, for \$1,000, with ten percent interest until paid, payable semiannually, to John T. Hall or order, was a forgery, and that the note was also a forgery. The deed of trust bears the notarial certificate, dated July 8, 1875, with the notarial seal, of James Nicholas Callan, a notary public, certifying that Jenifer, the party to the deed, personally appeared before him in the County of Washington, being personally well known to him to be the person who executed the deed, and

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acknowledged it to be his act and deed. The deed was recorded on the 10th of July, 1875, in a book of the land records for Washington County. The note and the deed of trust were each of them signed by Jenifer by making his mark, and each of them bears the signature of Callan as a witness. The bill alleges that Jenifer was never indebted to Hall in any sum, and never received any money from Hall; that Jenifer never signed or made his mark to the note or the deed of trust, or authorized anyone to do so, and never acknowledged the deed to Callan, and that on the 29th of May, 1882, the two trustees, having advertised the premises for sale, sold them at public sale to one Cissell, and executed to him a deed of the

premises, which has been recorded in the land records of the district. In an amendment to the bill it is alleged that the note and the deed of trust came into the possession of one Britannia W. Kennon, who held them on the day of the sale, and ordered the sale. The two trustees, and Hall, Cissell, and Kennon are made parties to the bill. The prayer of the bill is that the deed of trust and the note, and the deed to Cissell, be declared null and void and be cancelled, and that Cissell reconvey the premises to the plaintiffs. Dodge, Darneille, and Cissel each answered the bill by a separate answer, denying its allegations as to the alleged forgeries and averring that the note and the deed of trust were genuine and valid instruments. The plaintiff's joined issue, by replication, with the defendants Dodge, Darneille, and Cissel. Proofs were taken on both sides, and the case was heard before the court in special term, which dismissed the bill. On an appeal by the plaintiffs to the court in general term, it reversed the decree of the special term and adjudged the note and the deed of trust, and the deed to Cissel, to be void, and directed an account in favor of the plaintiffs of the mesne profits received by Cissel. From the decree of the general term, Cissel has appealed to this Court.

The issue is one entirely of fact, in which the burden of proof is upon the plaintiffs. Callan, the notary public, testifies with particularity to the circumstances attending the execution

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of the note and of the deed of trust in his presence, and to the acknowledgement of the latter before him, and to his signing his name as a witness to the execution of each. It is also satisfactorily shown that the \$1,000 secured by the note passed from the lender to the agent of the borrower. It would serve no good purpose to discuss the evidence at length. The integrity of the transaction is not satisfactorily impeached.

The decree of the court below, in general term is reversed, and the case is remanded to it with a direction to affirm, with costs, the decree of the court in special term.

