

Carne Vs. Russ

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Court : US Supreme Court

Decided On : Mar-05-1894

Appeal No. : 152 U.S. 250

Appellant : Carne

Respondent : Russ

Judgement :

Carne v. Russ - 152 U.S. 250 (1894)

U.S. Supreme Court Carne v. Russ, 152 U.S. 250 (1894)

Carne v. Russ

No. 229

Argued and submitted January 25, 1894

Decided March 5, 1894

152 U.S. 250

*APPEAL FROM THE CIRCUIT COURT OF THE UNITED
STATES FOR THE NORTHERN DISTRICT OF ILLINOIS*

SYLLABUS

If, at the hearing of a bill in equity to redeem land worth more than \$5,000 from encumbrances, the only controversy is as to less than that amount of encumbrances, no appeal lies to this court.

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The case is stated in the opinion.

MR. JUSTICE GRAY delivered the opinion of the Court.

This was a bill in equity by Russ, as the owner of land in Chicago, worth more than \$40,000, against Ogden and others to set aside and cancel, as creating a cloud upon his title, a tax deed to Ogden, and a certificate of tax sale procured by the other defendants as his agents.

The bill alleged that the taxes upon which the tax deed and certificate were issued were illegally levied and apportioned, and that the plaintiff had tendered to the defendants the full amount of the taxes paid by them.

The defendants answered, denying the plaintiff's title, the illegality of the taxes, and the tender of payment. But Ogden, in his answer, offered to waive his claim of title to the land, and to reconvey it to the plaintiff, if the plaintiff would pay him the sums paid by him, with penalties accrued thereon, and 10 percent interest, and the other defendants, in their answers, disclaimed all title in themselves.

At the hearing the defendants contended that the sums which the plaintiff was in equity bound to pay them amounted to \$8,705.-34; but the circuit court held that those sums amounted to \$4,291.84 only, and that the plaintiff, upon paying this amount, (which he forthwith paid into court,) was entitled to the relief prayed for, and entered a final decree in his favor. The defendants appealed to this Court.

Upon the admissions of the answers, and upon the claims made by the defendants in the circuit court, and renewed in this Court, it clearly appears that

the plaintiff's title to the land was not really contested, but that the only matter in controversy was the amount of money which the plaintiff was equitably bound to pay to the defendants, and that the difference between the sum which the circuit court held him to pay and the highest sum claimed by the defendants was less

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than \$5,000. The amount in controversy therefore is insufficient to support the appellate jurisdiction of this Court. Act of February 1875, c. 77, 3, 18 Stat. 316; [*Peyton v. Robertson*](#), 9 Wheat. 527; [*Bank of Alexandria v. Hoof*](#), 7 Pet. 168; [*Ross v. Prentiss*](#), 3 How. 771; *Tintsman v. National Bank*, [100 U. S. 6](#) .

Appeal dismissed.

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