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In Re Sanford Fork and Tool Co.

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Appeal No. : 160 U.S. 247

Appellant : In Re Sanford Fork and Tool Co.

Judgement :

In re Sanford Fork & Tool Co. - 160 U.S. 247 (1895)
U.S. Supreme Court In re Sanford Fork & Tool Co., 160 U.S. 247 (1895)

In re Sanford Fork and Tool Company

No. 8, Original

Submitted December 2, 1895

Decided December 23, 1895

160 U.S. 247

ORIGINAL

SYLLABUS

When a case has once been decided by this Court on appeal, and remanded to the circuit court, that court must execute the decree of this Court according to the mandate. If it does not, its action may be controlled either by a new appeal or by writ of mandamus, but it may consider and decide any matters left open by the mandate, and its decision of such matters can be reviewed by a new appeal only. The opinion delivered by this Court at the time of rendering its decree may be consulted to ascertain what was intended by the mandate, and either upon an application for a writ of mandamus or upon a new appeal, it is for this Court to construe its own mandate.

When the circuit court, at a hearing upon exceptions to an answer in equity, sustains the exceptions and (the defendant electing to stand by his answer) enters a final decree for the plaintiff, and this Court, upon appeal, orders that decree to be reversed and the cause remanded for further proceedings not inconsistent with its opinion; the plaintiff is entitled to file a replication, and may be allowed by the circuit court to amend his bill.

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This was a petition for a writ of mandamus to the Honorable William A. Woods as Judge of the Circuit Court of the United States for the District of Indiana to command him to enter, in a suit in equity pending before him, a final decree in favor of the present petitioners, defendants in that suit, in accordance with a mandate of this Court upon reversing a decree of that court on an appeal reported as *Sanford Fork & Tool Co. v. Howe, Brown & Co.,* 157 U. S. 312 .

By the former opinion and mandate of this Court, the petition for a mandamus, and the return to the rule to show cause, the case appeared to be as follows:

A bill in equity was filed in the Circuit Court of the United States for the District of Indiana by creditors of the Sanford Fork & Tool Company against that company and certain of its directors and stockholders to set aside a mortgage made by the company to the other defendants to secure them for their endorsements of promissory notes of the company.

To that bill the defendants filed an answer under oath, insisting that the mortgage was valid, and the plaintiffs filed exceptions to the answer upon the ground that the matters therein averred were insufficient to constitute a defense to the bill or to any part thereof, as well as upon the ground that the defendants had not duly answered specific allegations of the bill. The circuit court, held by Judge Woods, after hearing arguments upon those exceptions, sustained them and, the defendants declining to plead further, and electing to stand by their answer, the court, "having considered the pleadings, and being fully advised in the premises," entered a final decree adjudging the mortgage to be void as against the plaintiffs and granting them the relief prayed for.

The defendants appealed to this Court, which, after hearing the appeal, delivered an opinion beginning thus:

"In the absence of any testimony and in the manner in which this case was submitted for decision, it must be assumed that the matters alleged in the bill and not denied in the answer, and the new matters set forth in the answer, are true. And the question which arises is whether, upon these admitted facts, the decree in favor of the plaintiffs can be sustained."

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U.S. 157 U. S. 316 . This Court, for reasons stated in that opinion, held that the mortgage was valid, and therefore that the circuit court erred, and in the opinion, as well as by its mandate sent down to the circuit court, ordered the decree of that court to be "reversed, and the cause remanded to that court for further proceedings not inconsistent with the opinion of this Court." The mandate concluded, in usual form, as follows:

"You therefore are hereby commanded that such execution and further proceedings be had in said cause, in conformity with the opinion and decree of this Court, as, according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding."

The defendants presented the mandate and a certified copy of the opinion of this Court to the circuit court, held by Judge Woods, and moved for a final decree that the former decree of the circuit court be reversed; that the cause be held to have been submitted by the plaintiffs upon bill and answer, and that, upon the facts alleged in the bill and answer, the law is with the defendants, and the plaintiffs take nothing by their bill, and the defendants have judgment for their costs.

The circuit court overruled the motion of the defendants, and on motion of the plaintiffs granted leave to amend the bill, but stayed proceedings to enable the defendants to apply to this Court for a writ of mandamus.

The petition to this Court for a writ of mandamus alleged that the order of the circuit court overruling the motion of the defendants for a final decree in their favor, and granting the motion of the plaintiffs for leave to amend their bill was inconsistent with and in violation of the opinion, decree, and mandate of this Court, and prayed for a writ of mandamus to Judge Woods to grant the motion of the defendants, and to overrule the motion of the plaintiffs.

This Court granted a rule to show cause, in the return to which Judge Woods stated that his action complained of by the petitioners arose upon his construction of the opinion and mandate of this Court on reversing his former decree, and set forth his view of the matter as follows:

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"Exceptions had been improperly sustained to the answer of defendants (petitioners). For this error, as respondent construes the opinion and mandate, the decree was reversed, and the cause remanded to the circuit court with the usual directions for further proceedings there. Upon the return of the cause there, and after the erroneous decree had been set aside but before other step was taken, petitioners moved for decree in their favor on the ground that this Court had treated the cause as having been submitted below on bill and answer, and that, this Court having held the answer sufficient, it followed they were entitled to such decree. Respondent could not adopt that view, since it plainly was not what had

occurred. There was no such submission of the cause below on bill and answer. Nor in rendering the decree in favor of complainants had respondent 'considered' the answer, but had, since sweeping exceptions had been sustained to it, treated it as out of the record for any purpose of the decree -- a fact plainly manifest in the record before this Court on appeal. He could not, therefore, suppose that this Court meant, in what is said upon this point, to hold more or other than that the answer was sufficient, and that he had erred in holding it insufficient."

"Respondent therefore having in view the rules of practice prescribed by this Court for the government of the circuit court, held that since, if he had overruled the exceptions to the answer, complainants would have been entitled to file replication, as provided by Rule 66 in equity, and, if they desired it, to have leave to amend their bill, under Rule 45, he did not, nor does, believe this Court, in reversing the decree, meant to deprive complainants of these rights, but inferred rather, as the more reasonable and logical deduction, that when the circuit court had retraced its steps to the point where the first error occurred, the parties would stand, in respect of the case and of each other as if, in the progress of the cause, it had but then arrived at that juncture. To hold instead of this view that complainants had, by their mistake in filing exceptions, or by the court's mistake in sustaining them, or by both things together, forfeited their right to have the cause proceed, when the errors had been corrected, in the

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orderly manner indicated above seemed and seems entirely illogical, and as therefore foreign to the purpose of this Court. Respondent accordingly ruled that when he retraced the steps held erroneous by this Court, the cause should progress as if they had not been taken at all, and as if we were but now arrived at that point. To that end, he granted, when it was craved, leave to complainants to amend their bill, and would have entered the usual order against them to file replication on or before the next rule day had not petitioners thereupon interposed their motion for stay of proceedings until this application could be heard here."

Judge Woods, in his return, declared himself ready, if his construction of the opinion and mandate should not accord with that of this Court, to make and enter such order and decree, under its direction, as would carry out its opinion and mandate.

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

When a case has been once decided by this Court on appeal and remanded to the circuit court, whatever was before this Court, and disposed of by its decree is considered as finally settled. The circuit court is bound by the decree as the law of the case, and must carry it into execution according to the mandate. That court cannot vary it, or examine it for any other purpose than execution, or give any other or further relief, or review it, even for apparent error, upon any matter decided on appeal, or intermeddle with it, further than to settle so much as has been remanded. *Sibald v. United States,* 12 Pet. 488, 37 U. S. 492 ; *Texas & Pacific Railway v. Anderson,* 149 U. S. 237 . If the circuit court mistakes or misconstrues the decree of this Court and does not give full effect to the mandate, its action may be controlled either upon a new appeal (if involving a sufficient amount) or by a writ of mandamus to execute the mandate of this Court. *Perkins v.*

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Fourniquet, 14 How. 313, 55 U. S. 330 ; *In re Washington & Georgetown Railroad,* 140 U. S. 91 ; *City Bank v. Hunter,* 152 U. S. 512 ; *City Bank, Petitioner,* 153 U. S. 246 . But the circuit court may consider and decide any matters left open by the mandate of this Court, and its decision of such matters can be reviewed by a new appeal only. *Hinckley v. Morton,* 103 U. S. 764 ; *Mason v. Pewabic Co.,* 153 U. S. 361 ; *Nashua & Lowell Railroad v. Boston & Lowell Railroad,* 51 F. 929. The opinion delivered by this Court at the time of rendering its decree may be consulted to ascertain what was intended by its mandate, and either upon an application for a writ of mandamus or upon a new

appeal, it is for this Court to construe its own mandate and to act accordingly. *Sibald v. United States,* 12 Pet. 488, 37 U. S. 493 ; *West v. Brashear,* 14 Pet. 51; *Supervisors v. Kennicott,* 94 U. S. 498 ; *Gaines v. Rugg,* 148 U. S. 228 , 148 U. S. 238 , 148 U. S. 244 .

In the case now before us, it is important, in determining what was heard and decided by the circuit court in the first instance and by this Court upon the appeal, to bear in mind the settled practice of courts of chancery, recognized and regulated by the rules established by this Court for the circuit courts sitting in equity. Rev.Stat. 916-918.

Upon the coming in of the defendant's answer, several courses are open to the plaintiff.

First. The plaintiff may, upon motion, without notice to the defendant, have leave to amend his bill, with or without the payment of costs, as the court may direct. Equity Rules 29, 45.

Second. The plaintiff may file exceptions to the answer for insufficiency. Equity Rule 61. If the defendant does not submit to the exceptions, and file an amended answer, the plaintiff may set down the exceptions for hearing. Equity Rule 63. If the exceptions are thereupon allowed by the court, the defendant must put in a full and complete answer; otherwise the plaintiff may take the bill, so far as the matter of the exceptions is concerned, as confessed. Equity Rule 64.

Third. If the answer is not excepted to, or if it is adjudged or deemed sufficient, the plaintiff may file a general replication; whereupon the cause is to be deemed, to all intents and

purposes at issue, without further pleading on either side. Equity Rule 66.

Fourth. A demurrer to the answer is unknown in equity practice. But the plaintiff may set down the case for hearing upon bill and answer; whereupon all the facts alleged in the bill and not denied in the answer, as well as all new facts alleged in

the answer, are deemed admitted, as upon a demurrer to an answer in an action at law. Equity Rule 41, as amended at December term, 1871, 13 Wall. xi.; Equity Rule 60; *Leeds v. Insurance Co.,* 2 Wheat. 380; *Reynolds v. Crawfordsville Bank,* 112 U. S. 405 , 112 U. S. 409 ; *Banks v. Manchester,* 128 U. S. 244 , 128 U. S. 250 -251.

For the purpose of the hearing upon exceptions to an answer, the facts alleged in the bill and in the answer must indeed be considered as admitted, and only matter of law is presented for decision, as in a case set down for hearing upon bill and answer. But the difference between the two cases is this: when a case in equity is set down for hearing on bill and answer, the whole case is presented for final decree in favor of either party. But when the matter set down for hearing is the plaintiff's exceptions to the answer, the case is not ripe for a final decree; the only question to be decided is the sufficiency of the answer, and no final decree can be entered against either party, unless it declines or omits to plead further.

In the present case, the plaintiffs, upon the coming in of the answer, neither moved for leave to amend the bill nor filed a replication nor set down the case for hearing upon bill and answer.

But they filed exceptions to the answer, and those exceptions only were set down for hearing and were heard and passed upon by the court. While some of the exceptions were directed, as is usual, to the want of due answer to specific allegations of the bill, others of the exceptions related to the sufficiency of the whole answer to constitute any defense. Its sufficiency in the latter respect might properly have been questioned by setting down the case for hearing upon bill and answer. But neither for this nor for any other reason was

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any objection made to the exceptions as irregular or improper in form.

The circuit court, upon sustaining the exceptions, could not (unless the defendants chose to stand by their answer) enter a final decree against the defendants or do anything more than order them to put in a full and complete answer on pain of

being held to have confessed the bill. If the circuit court, instead of sustaining the exceptions to the answer, had overruled those exceptions, the plaintiffs would have had the right to file a replication, and the bill could not be dismissed unless and until they neglected to file one.

When the decree of the circuit court sustaining the plaintiffs' exceptions to the answer and (because the defendants declined to plead further) granting to the plaintiffs the relief prayed for in the bill was reversed by this Court, the only matter which was or could be decided by this Court, upon the record before it, was that the answer was sufficient. This Court, in so deciding, could go no further than the circuit court could have done, had it made the like decision. Neither the circuit court nor this Court, upon adjudging that the answer was sufficient, could, without any consent or neglect on the part of the plaintiffs, deprive them of their right, under the general rules in equity, to file a replication.

Nor did this Court undertake, either by its opinion or by its mandate, to preclude the plaintiffs from filing a replication. On the contrary, at the outset of the opinion, after observing that, in the manner in which the case was submitted for decision, the facts alleged in the bill and not denied in the answer, and the new facts alleged in the answer, must be assumed to be true, the question arising upon those admitted facts was stated to be "whether the decree in favor of the plaintiffs can be sustained," and, while the opinion declared that, assuming those facts, the mortgage was valid, yet both the opinion and the mandate ordered no final judgment for the defendant, but only ordered the judgment for the plaintiff to be reversed and the cause remanded to the circuit court for further proceedings not inconsistent consistent with the opinion of this Court.

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The case being thus left open by the opinion and mandate of this Court, and by the general rules of practice in equity, for further proceedings, with a right in the plaintiffs to file a replication putting the cause at issue, the circuit court might, in its discretion, allow amendments of the pleadings for the purpose of more fully or

clearly presenting the facts at issue between the parties. *Marine Insurance Co. v. Hodgson,* 6 Cranch 206, 10 U. S. 218 ; *Neale v. Neale,* 9 Wall. 1; *Hardin v. Boyd,* 113 U. S. 756 .

The case is quite different in this respect from those in which the whole case, or all but a subsidiary question of accounting, had been brought to and decided by this Court upon the appeal, as in the cases principally relied on by the petitioner. *Stewart v. Salamon,* 94 U. S. 434 , and 97 U. S. 97 U.S. 361; *Gaines v. Rugg,* 148 U. S. 228 ; *Ex Parte Dubuque & Pacific Railroad,* 1 Wall. 69; *In re Washington & Georgetown Railroad,* 140 U. S. 91 .

It must be remembered, however, that no question, once considered and decided by this Court, can be reexamined at any subsequent stage of the same case. *Clark v. Keith,* 106 U. S. 464 ; *Sibald v. United States,* and *Pacific Railway v. Anderson,* cited at the beginning of this opinion.

Writ of mandamus denied.

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