

Schweer Vs. Brown

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Court : US Supreme Court

Decided On : Nov-07-1904

Appeal No. : 195 U.S. 171

Appellant : Schweer

Respondent : Brown

Judgement :

Schweer v. Brown - 195 U.S. 171 (1904)

U.S. Supreme Court Schweer v. Brown, 195 U.S. 171 (1904)

Schweer v. Brown

No. 162

Submitted October 31, 1904

Decided November 7, 1904

195 U.S. 171

*APPEAL FROM THE DISTRICT COURT OF THE UNITED
STATES FOR THE EASTERN DISTRICT OF ARKANSAS*

SYLLABUS

Where the question is whether a district court sitting in bankruptcy could proceed in a summary way in the particular instance, the jurisdiction of the United States court as such is not in question, and 5 of the Judiciary Act of March 3, 1891, has no application.

Mueller v. Nugent, [184 U. S. 1](#) ; *Louisville Trust Co. v. Comingor*, [184 U. S. 1](#) 8, approved on the point that the bankruptcy court has jurisdiction to determine in the first instance whether a summary proceeding can be maintained. If it errs in so proceeding the remedy is under 24 *b* of the Bankruptcy Law.

THE CHIEF JUSTICE:

This was a summary proceeding in the District Court of the United States for the Eastern District of Arkansas, in bankruptcy, requiring the payment to the trustee in bankruptcy of the sum of \$2,000 as part of the assets of the bankrupt's estate. In return to a rule, one of the respondents alleged that he had paid the money over to the other, and denied the jurisdiction of the court. The other, Mrs. Schweer, denied that she had or ever had had any money belonging or due to the estate, and denied jurisdiction. The matter was heard before a referee, who made findings of fact and conclusions of law and ordered the return of the money. It was then carried to the district court, and there heard *de novo*. The district court sustained the referee and entered decree for the payment of the money to the trustee. Thereupon an appeal was taken directly to this Court on the

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ground that the case fell within the first of the classes of cases enumerated in section five of the Judiciary Act of March 3, 1891. But that class only includes cases where the question is as to the jurisdiction of courts of the United States as such, and the question has to be certified. That was not the question raised here, and none such was certified. And it is settled that the district court had jurisdiction to determine whether any adverse claim to the money was asserted at the time the petition was filed. *Mueller v. Nugent*, [184 U. S. 1](#) ; *Louisville Trust Company v.*

Comingor, [184 U. S. 1](#) 8.

If the court erred in retaining jurisdiction on the merits, the remedy was by petition to the circuit court of appeals under 24 *b* of the Bankruptcy Law. *Holden v. Stratton*, [191 U. S. 115](#) .

Appeal dismissed.

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