Hazelton Vs. Sheckells

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Decided On : Apr-23-1906

Appeal No. : 202 U.S. 71

Appellant : Hazelton

Respondent : Sheckells

Judgement :

Hazelton v. Sheckells - 202 U.S. 71 (1906)
U.S. Supreme Court Hazelton v. Sheckells, 202 U.S. 71 (1906)

Hazelton v. Sheckells

No. 225

Argued April 12, 1906

Decided April 23, 1906

202 U.S. 71

APPEAL FROM THE COURT OF APPEALS

OF THE DISTRICT OF COLUMBIA

SYLLABUS

Every part of the consideration for a contract goes equally to the whole promise, and if any part of it is contrary to public policy, the whole promise falls.

A contract to deliver property at an agreed price within the duration of specified session of Congress, it being understood that a part of the consideration is that the person to whom the property is to be conveyed is to endeavor to sell it to the United States and to procure legislation to that end -- he not being under obligation to take and pay for the property -- is void as against public policy, and specific performance will not be enforced.

The facts are stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a bill for the specific performance of a contract dated

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December 11, 1902, to sell for $9,000 at any time during the then present session of Congress, "and such additional time as may be necessary for settlement under appropriation by that Congress," part of a lot in a square which Congress now has voted to acquire for the erection of a hall of records.

The bill was brought against one Miller. Recently Miller's death was suggested, and his heirs and devisees were substituted, but, for convenience, Miller will be referred to as the defendant.

The contract provided that, if Hazelton should "fail to take advantage of and accept this offer as above within the time mentioned, then this agreement shall be null and void." The bill alleges that a part of the consideration for the contract

"was services rendered both before and after the making of said contract, by the plaintiff in bringing the property to the attention of the committees of Congress as a suitable and appropriate site for a hall of records."

It sets forth that the plaintiff, before and after the same date, expended much time, labor, and money in rendering those services, and what they were, *viz.,* collecting and printing facts for the information of the committees and members of Congress, making briefs and arguments, and drawing a bill for the purchase or condemnation of the square. The bill passed at the session named in the contract. After its passage, the plaintiff negotiated, and finally, in August, 1903, concluded, a sale of the property in question for $14,395.50, subject to examination of the title and arrangements for payment. It is alleged that the time for settlement under the appropriation has not expired. The bill further alleges that the defendant has notified the plaintiff that he does not intend to keep his contract, but means to convey directly to the United States, and to demand the full price agreed upon by the government. The defendant has tendered a deed to the United States, which has not been accepted. The plaintiff has offered to the defendant a deed, to be executed by the latter and his wife, and tendered $9,000, but the defendant has refused to execute the same. There was a general

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demurrer to the bill, and this was sustained by the Supreme Court of the District and the Court of Appeals, and the bill was dismissed. The plaintiff appealed to this Court.

We assume that the bill sufficiently shows an acceptance of the defendant's offer within the time, although it does not allege it in terms. We assume also that the consideration is alleged sufficiently, subject to the question whether it is one upon which a contract lawfully may be based. But the court is of opinion that that question must be answered in the negative. Every part of the consideration goes equally to the whole promise, and therefore, if any part of it is contrary to public policy, the whole promise falls. *Pickering v. Ilfracombe Ry. Co.,* L.R. 3 C.P. 235, 250; *Harrington v. Victoria Graving Dock Co.,* L.R. 3 Q.B. Div. 549; *Woodruff v.*

Hinman, 11 Vt. 592; *Clark v. Ricker,* 14 N.H. 44; *McMullen v. Hoffman,* 174 U. S. 639 ; *Bishop v. Palmer,* 146 Mass. 469, 474. According to the bill, and, no doubt, according to the fact, a part of the consideration was services, as we have quoted, and therefore it is not true, as argued, that the plaintiff could have demanded a conveyance on tendering the $9,000 alone. But the services contemplated as a partial consideration of the promise to convey were services in procuring legislation upon a matter of public interest, in respect of which neither of the parties had any claim against the United States. An agreement upon such a consideration was held bad in *Providence Tool Co. v. Norris,* 2 Wall. 45. Of course, we are not speaking of the prosecution of a lawful claim.

It will be noticed further that the conveyance was in substance a contingent fee. The plaintiff was not bound to accept it, and naturally would not do so unless he could agree, as he did with the government, for a larger price. The real inducement offered to him was that he would receive all that he could persuade the government to pay above the sum named. It is true that, if we take the inartificial statements of the bill literally, the part of the consideration which we are discussing was the services, not a promise to render them. The promise to

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convey did not become binding until the services were rendered, and, when rendered, according to the allegations of the bill, they were legitimate. We assume that they were legitimate, but the validity of the contract depends on the nature of the original offer, and, whatever their form, the tendency of such offers is the same. The objection to them rests in their tendency, not in what was done in the particular case. Therefore a court will not be governed by the technical argument that, when the offer became binding, it was cut down to what was done, and was harmless. The court will not inquire what was done. If that should be improper, it probably would be hidden, and would not appear. In its inception, the offer, however intended, necessarily invited and tended to induce improper solicitations, and it intensified the inducement by the contingency of the reward. *Marshall v. B. & O. R. Co.,* 16 How. 314, 57 U. S. 335 -336.

The general principle was laid down broadly in *Tool Co. v. Norris,* 2 Wall. 45, 69 U. S. 54 , that an agreement for compensation to procure a contract from the government to furnish its supplies could not be enforced, irrespective of the question whether improper means were contemplated or used for procuring it. *McMullen v. Hoffman,* 174 U. S. 639 , 174 U. S. 648 . And it was said that there is no real difference in principle between agreements to procure favors from legislative bodies, and agreements to procure favors in the shape of contracts from the heads of departments. 2 Wall. 69 U. S. 55 . In *Marshall v. Baltimore & Ohio R. Co.,* 16 How. 314, 57 U. S. 336 , it was said that all contracts for a contingent compensation for obtaining legislation were void, citing, among other cases, *Clippinger v. Hepbaugh,* 5 W. & S. 315, and *Wood v. McCann,* 6 Dana, 366. *See also Mills v. Mills,* 40 N.Y. 543. There are other objections which would have to be answered before the bill could be sustained, but that which we have stated goes to the root of the contract and is enough to dispose of the case under the decisions heretofore made.

Decree affirmed.