Steele Vs. Culver

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Court : US Supreme Court

Decided On : Oct-26-1908

Appeal No. : 211 U.S. 26

Appellant : Steele

Respondent : Culver

Judgement :

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U.S. Supreme Court Steele v. Culver, 211 U.S. 26 (1908)

Steele v. Culver

No. 393

Submitted June 1, 1908

Decided October 26, 1908

211 U.S. 26

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR

THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

SYLLABUS

Where jurisdiction of the circuit court depends on diversity of citizenship, the parties may be rearranged according to their real interests. Where a party defendant should be aligned as a party plaintiff, is a necessary party, and is a citizen of the which the other defendants are citizens, the circuit court has not jurisdiction.

In order to confer jurisdiction on the circuit court, one who is a necessary party cannot be omitted merely on account of his insolvency. A judgment against a surety cannot be impeached so long as the judgment against the principal on which it is based stands, and in a suit brought by the surety to set both judgments aside, the principal is a necessary party plaintiff.

The facts are stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a bill in equity to prohibit the collection of a judgment rendered by a Michigan state court against a railroad company, and also of a judgment against the plaintiff corporation upon a bond given by it as surety when the railroad took the case to the supreme court of the state. *See Culver v. South*

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Haven & Eastern R. Co., 144 Mich. 254; *Culver v. Fidelity & Deposit Co.,* 149 Mich. 630. The ground is that the original judgment was got by fraud. The plaintiff Steele had contracted with the surety company and also with purchasers of the railroad to pay the judgment against the latter if recovered, and joins as plaintiff on the footing that he is the real party in interest. The railroad company is made a defendant, but it is a Michigan corporation, and, as the other defendants are citizens and residents of Michigan, if it should be aligned with the plaintiffs, the necessary diversity of citizenship would not exist. The circuit court dismissed the

bill on demurrer for want of jurisdiction, and allowed an appeal with a certificate that the want of the requisite diversity of citizenship, and consequently of jurisdiction, was the sole ground of the decree. The case is before us upon a motion to dismiss or affirm.

The appellants candidly admit that, for a decision upon jurisdiction, the parties may be arranged according to their real interests, and that, if the railroad company is an indispensable party, the decision below was right. But they urge that it is alleged that the railroad is insolvent, that no relief is asked against it, but it is left free to pay the judgment if it desires to and can, and that the real parties in interest are the plaintiffs, and especially Steele, upon whom, it is said, the burden ultimately must fall. These arguments do not seem to us to need an extended answer. With regard to the alleged insolvency, it is a strange proposition that a defendant is not an indispensable party to an attempt to stop the collection of a judgment against him because, at the moment, his property is not sufficient to pay his debts. The railroad was sole master of the litigation against itself, and we must assume is cooperating with the plaintiff in the present case. It seems to us equally strange to suggest that a contract of a stranger with a stranger can affect the interest of the party immediately concerned. The omission of any prayer for relief against the railroad simply shows that properly it is to be treated as a plaintiff in this case. *Dawson v. Columbia Trust Co.,* 197 U. S. 178 , 197 U. S. 180 -181.

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It is suggested that the controversy as to the judgment against the security company is separable, and that relief may be given against that, at least, without the presence of the railroad. But the only ground on which that judgment is complained of is that that against the railroad, upon which it is based, was obtained by perjury and fraud. So long as the judgment against the railroad stands, that against its surety cannot be impeached. By its bond, the surety undertook to pay the judgment, if rendered, against its principal, whether right or wrong. If the principal remains liable under that judgment, the surety is bound to pay. *Krall v. Libbey,* 53 Wis. 292; *Piercy v. Piercy,* 1 Iredell Eq. 214, 218. But

the principal cannot be relieved by a proceeding behind its back.

There is a further allegation in the bill that, pending the proceeding, Culver, the plaintiff in the original suits, was adjudged a spendthrift, and that a guardian was appointed, but was not substituted for Culver in these suits. A hope is expressed that, if the case proceed to oral argument, some reason may occur for attributing more importance to these facts than is disclosed at present. But that is an illusion. The bill, as we have said, is founded solely on allegations of fraud in getting the first judgment, and must be maintained upon them, if upon any. The railroad company is an indispensable party if that issue is to be tried. It is unnecessary to consider other objections to the suit.

This Court has jurisdiction to declare the circuit court's denial of its own jurisdiction correct. But we regard the decision of the circuit court as so plainly right that the appeal should be dismissed as frivolous.

Appeal dismissed.