Blinn Vs. Nelson

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Court : US Supreme Court

Decided On : Oct-23-1911

Appeal No. : 222 U.S. 1

Appellant : Blinn

Respondent : Nelson

Judgement :

Blinn v. Nelson - 222 U.S. 1 (1911)
U.S. Supreme Court Blinn v. Nelson, 222 U.S. 1 (1911)

Blinn v. Nelson

No. 5

Argued April 10, 1911

Decided October 23, 1911

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ERROR TO THE SUPREME JUDICIAL COURT

OF THE STATE OF MASSACHUSETTS

SYLLABUS

A state statute of limitations allowing only a little more than a year for the institution of a suit to recover his personal property by a party who has not been heard from for fourteen years and for whose property a receiver has been appointed is not unconstitutional as depriving him of his property without due process of law, and so *held* as to the provisions to that effect of the Revised Laws of Massachusetts, c. 144, for distribution of estates of persons not heard of for fourteen years and presumably dead.

Constitutional law, like other mortal contrivances, has to take some chances of occasionally inflicting injustice in extraordinary cases.

197 Mass. 279 affirmed.

The facts are stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a petition by the next of kin of an absentee for the distribution of her property in the hands of the receiver, the appointment of the receiver, the taking of the property into his hands, and the present petition all being under Massachusetts Revised Laws, c. 144, and amendments to the same. The general scheme of the law is that, in case of a person's disappearing from Massachusetts to parts unknown, leaving no known agent in the state but having an interest in property there, anyone who would be entitled to administration may apply to the probate court for the appointment of a receiver. After due notice, a warrant to the sheriff to take possession of the property, and his return, a receiver may be appointed of the property scheduled in the sheriff's return, and the court is to find and record the date of the disappearance. By 10, if the absentee does not appear and claim the property

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within fourteen years after the recorded date, his title is barred, and, by 11, if, after the fourteen years, the property has not been accounted for or paid over, it is to be distributed to those who would have taken it on the day fourteen years after the said date. By 12, if the receiver is not appointed within thirteen years after said date, the time for distribution and for barring actions relative to the property shall be one year after the date of the appointment, instead of the fourteen years provided in 11, 12.

On July 20, 1905, the plaintiff in error was appointed receiver of the property of Mabel E. Allen, and the date of the disappearance of the latter was found and recorded as "within or prior to the year 1892." The present petition was filed on March 18, 1907. The property in question was an interest of the absentee under the residuary clause of the will of Jonathan Merry, allowed and proved on December 8, 1828. Long after the estate was settled, an administrator *de bonis non* was appointed in 1885, and in or about 1899 collected on account of French spoliation claims a sum in which Mabel Allen's share was $1,633 and $22. This, with accumulations from interest, is the fund in controversy. The probate court made a decree of distribution, which was affirmed by the Supreme Judicial Court of the commonwealth. 197 Mass. 279. The receiver, having duly set up that the above-mentioned 10, 11, and 12 were contrary to the Fourteenth Amendment, brought the case to this Court.

The plaintiff in error does not deny that the provisions for the appointment of a receiver are valid. *Cunnius v. Reading School District,* 198 U. S. 458 . But he argues that the attempt to bar the absentee's title and to distribute his property are void for want of sufficient notice and other safeguards, and because the time within which distribution may be made is arbitrary and unreasonable. There is reasonably careful provision for notice by publication before the appointment, and the whole proceeding begins

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with a seizure by the sheriff of the property mentioned in the original petition. *American Land Co. v. Zeiss,* 219 U. S. 47 , 219 U. S. 67 ; *Tyler v. Judges of the*

Court of Registration, 175 Mass. 71, 75. So the question, put in the way most favorable for the plaintiff in error, is whether a statute of limitations that possibly may allow little more than one year is too short when the property is held in the *quasi* -adverse hand of the receiver for that time (what the court would do and how it would interpret the statute if other property fell in after the receiver was appointed is not material in this case). We cannot doubt as to the answer. If the legislature thinks that a year is long enough to allow a party to recover his property from a third hand, and establishes that time in cases where he has not been heard of for fourteen years, and presumably is dead, it acts within its constitutional discretion. Now and then, an extraordinary case may turn up, but constitutional law, like other mortal contrivances, has to take some chances, and in the great majority of instances, no doubt, justice will be done. *See American Land Co. v. Zeiss, supra.* Shorter time than one year has been upheld. *Kentucky Union Co. v. Kentucky,* 219 U. S. 140 , 219 U. S. 156 ; *Turner v. New York,* 168 U. S. 90 ; *Terry v. Anderson,* 95 U. S. 628 . *See Soper v. Lawrence Brothers Company,* 201 U. S. 359 , 201 U. S. 369 .

Decree affirmed.