

**iowa Vs. Slimmer**

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**Court :** US Supreme Court

**Decided On :** Dec-09-1918

**Appeal No. :** 248 U.S. 115

**Appellant :** iowa

**Respondent :** Slimmer

**Judgement :**

Iowa v. Slimmer - 248 U.S. 115 (1918)

U.S. Supreme Court Iowa v. Slimmer, 248 U.S. 115 (1918)

**Iowa v. Slimmer**

**No. \_\_\_\_, Original**

**Argued April 15, 1918**

**Decided December 9, 1918**

**248 U.S. 115**

*MOTION FOR LEAVE TO FILE BILL OF COMPLAINT*

**SYLLABUS**

A motion to file an original bill will be denied when the complaining state is clearly not entitled to the relief sought. P. [248 U. S. 120](#) .

Where the only effective relief sought is to enjoin the administration by the court of another state of personal property (in this case, note and bonds) located there at the time of the owner's death, relief must clearly be denied because, even though the property may have been fraudulently placed there to avoid taxation in the complainant state, which is alleged to be the domicile of the owner, the the actual situs had the right to administer the property. *Id.*

Motion for leave to file bill of complaint denied.

The case is stated in the opinion.

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MR. JUSTICE BRANDEIS delivered the opinion of the Court.

With a view to collecting ultimately at least \$13,750 for taxes which the State of Iowa alleges it is entitled to have assessed and levied against the property of Abraham Slimmer, deceased, it asks leave to file in this Court an original bill of complaint against the State of Minnesota, Abraham Slimmer, Jr., and Charles Bechhoefer, citizens of Minnesota, and Adolph Lipman, a citizen of Wisconsin. The bill alleges in substance as follows:

1. Slimmer, who had for many years been a resident of and domiciled in Iowa, died there testate on August 15, 1917, leaving personal property valued at \$550,000, and

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consisting, with the exception of personal effects and a few United States Liberty Bonds, wholly of promissory notes. All of this property, except the personal effects and one note for \$3,000, was then in Minnesota in the possession of Slimmer, Jr., who had had custody of the decedent's property for at least five years before his

death. The \$3,000 note was brought by him and Bechhoefer into Minnesota immediately thereafter.

2. For the period of at least five years before his death, Slimmer, Sr., had conspired with Slimmer, Jr., and Bechhoefer to defraud the State of Iowa of taxes which, by reason of his domicile in Iowa, might and should have been assessed there against his property during his lifetime, and to this end he had arranged with them that his will (if he should leave one) should be probated in Minnesota, had placed in the custody of Slimmer, Jr., in Minnesota, all his property, except his personal effects and the one note for \$3,000, and had concealed his property from the Iowa officials and refused to return the same for taxation there.

3. Pursuant to this conspiracy, Slimmer, Jr., and Bechhoefer filed his will for probate in Minnesota on or about August 21, 1917, and procured the appointment of Bechhoefer as special administrator, and, by falsely claiming that decedent was domiciled there, secured *ex parte* a finding to that effect, the probate of the will, and the appointment of themselves as executors. From this decree, the defendant Lipman, claiming to be an heir, appealed, and this appeal, which is now pending, has the effect of suspending the decree and leaving the property in the hands of the special administrator. The State of Iowa has not become a party to these proceedings.

4. Under the laws of Iowa, omissions to list and assess property may be corrected and the taxes collected within five years from the date of such omission. But the amount properly payable for taxes by Slimmer's estate cannot be

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collected without assessment and levy thereof against his personal representatives, and such assessment and levy must be made within the State of Iowa.

5. On January 7, 1918, the District Court of Dubuque County, Iowa (in a proceeding begun apparently on or about that day) decreed at the instance of the treasurer of that state that Slimmer, Sr., was domiciled therein, and granted to one

Mullaney letters of administration of his estate. About the same date, the state, learning that Slimmer, Jr., and Bechhoefer were about to come into it for the purpose of taking testimony in the Minnesota probate proceedings, obtained from said district court an injunction restraining the witness from testifying and the designated officers from taking their depositions. Slimmer, Jr., and Bechhoefer have not been served in the Iowa suit and have declared their purpose to avoid service within that state.

The bill prays that it be adjudged and decreed: (a) that Slimmer, Sr., had for more than five years prior to his death been domiciled in Iowa; (b) that his estate consisted of evidences of indebtedness to him and that no part of his estate was at his death in Minnesota; (c) that Iowa has and Minnesota has not jurisdiction to administer upon his estate, and prays also (d) that such order be entered as will insure the dismissal of the Minnesota probate proceedings and the administration of the estate in Iowa, and (e) that, pending this suit, an injunction issue restraining the prosecution of the Minnesota probate proceedings.

The motion for leave to file the bill was submitted *ex parte*. In view of doubt entertained as to the propriety of granting it, consideration of the application was postponed (as in *Minnesota v. Northern Securities Co.*, [184 U. S. 199](#) , and *Washington v. Northern Securities Co.*, [185 U. S. 254](#) ), so that the parties might be heard, and the motion was fully argued orally and upon briefs. Both the state

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of Minnesota and the individual defendants other than Lipman objected to the granting of leave to file the bill. The state objected on the grounds that the only effective relief sought was an injunction against a proceeding in a state court; that the Minnesota probate court had exclusive jurisdiction to administer assets of a decedent within its borders, regardless of his domicile, and also that there was no authority granted by the state legislature for such an action in the federal courts. The individual defendants objected on the grounds that the Iowa administrator was the proper party plaintiff; that he was, in any event, a necessary party and joining him would oust the court of jurisdiction; that the relief sought would deny to the

action of the Minnesota court full faith and credit, and that plaintiff had an adequate remedy at law. The original jurisdiction of the Court to entertain a bill of this character was also questioned. Only one of these objections need be considered, for it presents a conclusive reason why leave to file the bill of complaint should be denied.

Substantially the whole of decedent's estate consisted of notes and bonds. Under an arrangement which had been in force for five years or more, these securities were, at the time of his death, in Minnesota in the custody and possession of an agent resident there. Minnesota imposes inheritance taxes, and its statutes provide (Minnesota Gen.Stats., 1913, 2281) that no transfer of the property of a nonresident decedent shall be made until the taxes due thereon shall have been paid. Regardless of the domicile of the decedent, these notes and bonds were subject to probate proceedings in that state and likewise subject, at least, to inheritance taxes. Minnesota Gen.Stats., 1913, 7205, 2271; *Bristol v. Washington County*, [177 U. S. 133](#) ; *Wheeler v. New York*, [233 U. S. 434](#) . Furthermore, so far as concerns the property of the decedent, located at his death in Minnesota, the probate courts of

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that state had jurisdiction to determine the domicile. *Overby v. Gordon*, [177 U. S. 214](#) . But even if decedent was not domiciled in Minnesota, its court had the power either to distribute property located there according to the terms of the will applicable thereto or to direct that it be transmitted to the personal representative of the decedent at the place of his domicile to be disposed of by him. Minnesota Gen.Stats., 1913, 7278; *Harvey v. Richards*, 1 Mason 381. See *Wilkins v. Ellett*, [108 U. S. 256](#) , [108 U. S. 258](#) .

On or about August 21, 1917, Slimmer's executors filed their petition in the probate court for Ramsey County, Minnesota, and the court, in the exercise of its jurisdiction, appointed the defendant Bechhoefer special administrator. As such, he took and now holds, pending an appeal to the state district court, possession of the whole of decedent's estate, consisting of the notes and Liberty Bonds as well

as the personal effects. The only effective relief sought here is to enjoin the further administration of the estate of the deceased by the courts of Minnesota. It is clear that the State of Iowa is not entitled to such relief.

The motion for leave to file the bill of complaint is therefore

*Denied.*

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