

Lewis Vs. Roberts

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Court : US Supreme Court

Decided On : Mar-16-1925

Appeal No. : 267 U.S. 467

Appellant : Lewis

Respondent : Roberts

Judgement :

Lewis v. Roberts - 267 U.S. 467 (1925)

U.S. Supreme Court Lewis v. Roberts, 267 U.S. 467 (1925)

Lewis v. Roberts

No. 284

Argued January 29, 1925

Decided March 16, 1925

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CERTIORARI TO THE CIRCUIT COURT OF APPEALS

FOR THE FIFTH CIRCUIT

SYLLABUS

Under 63a of the Bankruptcy Act, including among provable debts "(1) a fixed liability, as evidenced by a judgment . . . absolutely owing at the time of the filing of the petition . . . ," a judgment founded on a tort (personal injuries caused by negligence) is a provable claim. P. [267 U. S. 468](#) .

294 F. 171 reversed.

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Certiorari to a decree of the circuit court of appeals affirming a decree of the district court which confirmed an order of a referee in bankruptcy disallowing the petitioner's claim.

MR. JUSTICE SANFORD delivered the opinion of the Court.

The petitioner, Lewis, recovered a judgment against the Montevallo Mining Company for personal injuries caused by its negligence. The company was thereafter adjudicated a bankrupt in the Northern District of Alabama. Lewis filed in the bankruptcy proceeding a proof of claim upon the judgment. The district court confirmed an order of the referee disallowing this claim upon the ground that a judgment founded upon a tort was not provable in bankruptcy. This decree was affirmed by the circuit court of appeals. 294 F. 171. The writ of certiorari was then granted. 264 U.S. 578.

This decision is in conflict with an unbroken line of decisions in other circuit courts of appeals and in the district courts. *In re New York Tunnel Co.*, 159 F. 688, 690; *Moore v. Douglas*, 230 F. 399, 401; *In re Putnam*, 193 F. 464, 468. *And see In re Lorde*, 144 F. 320; *Ex parte Margiasso*, 242 F. 990; *In re Madigan*, 254 F. 221.

We think these prior decisions were correct.

Section 63a of the Bankruptcy Act, [[Footnote 1](#)] entitled "Debts Which May be Proved," provides that:

"Debts of the bankrupt may be proved and allowed against his estate which are (1) a fixed liability, as evidenced by a judgment

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. . . absolutely owing at the time of the filing of the petition. . . ."

Section 1(11) declares that the word "debt" as used in the Act shall, unless inconsistent with the context, be construed to include "any debt, demand, or claim provable in bankruptcy."

It is clear that a judgment for tort is provable under the express provisions of 63a(1). The language is broad and unqualified. It includes a "fixed liability" evidenced by a judgment *ex delicto*, as well as by a judgment *ex contractu*, and makes the one as well as the other a provable "debt." There is nothing in the language or in the context which suggests its limitation to judgments founded on debts or warrants the reading in of such a limitation.

This conclusion is confirmed by a consideration of other provisions of the Act. By 17, as originally enacted, it was provided that:

"A discharge in bankruptcy shall release a bankrupt from all of his provable debts, except such as . . . (2) are judgments in actions for frauds, or obtaining property by false pretenses or false representations, or for willful and malicious injuries to the person or property of another. [[Footnote 2](#)]"

This express exception of certain judgments for torts from the "provable debts" released by a discharge, plainly indicates that Congress understood that, under 63a, judgments for torts were "provable debts," and is strongly persuasive as a construction of that section.

Furthermore, if a judgment for tort is not a provable claim in bankruptcy under 63a, it could not, under 1(11), be considered in determining whether one against whom

an involuntary petition has been filed is insolvent within the meaning of 1(15), providing that:

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"A person shall be deemed insolvent . . . whenever the aggregate of his property . . . shall not . . . be sufficient in amount to pay his debts."

The result of this would be that a person having property in excess of his other debts could not be adjudged an involuntary bankrupt under 3b of the Act although owing judgments for tort exceeding the amount of his property. Clearly Congress did not intend so anomalous a result.

The trustee contends, however, that, despite the broad language of 63a(1), the decision in *Wetmore v. Markoe*, [196 U. S. 68](#) , necessarily leads to the conclusion that only judgments founded in debt are provable claims. It was there held that, under 17 of the Act, the arrears of alimony previously awarded to the wife of the bankrupt for the support of herself and their minor children under a final decree of absolute divorce was not a provable debt which was released by the bankrupt's discharge. The ground of the decision was that the court could look into the proceedings to determine the nature of the liability which had been reduced to judgment; that a decree awarding alimony was not in any just sense a debt which had been put into the form of a judgment, but rather the legal means of enforcing the obligation of the husband to support his wife and children which was imposed upon him by the policy of the law, and that it could not be presumed, in the absence of a direct enactment, that Congress intended that the Bankruptcy Act should be made an instrument by which the wife and children should be deprived of the support which it was the purpose of the law to enforce. It is clear that this decision rested on the peculiar and exceptional nature of a decree for alimony. There was no suggestion in the opinion that an ordinary claim *ex delicto* that had been previously reduced to judgment was not a provable debt, and we think that its reasoning neither leads to nor warrants such a conclusion.

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Nor is there anything to support this conclusion in *Schall v. Camors*, [251 U. S. 239](#) , which dealt solely with unliquidated claims arising in tort not previously reduced to judgment, and held merely that such unliquidated claims, not being included in the enumeration of provable debts under 63a, could not be liquidated and proven under the provisions of 63b.

The decrees of the district court and of the circuit court of appeal are reversed, and the cause is remanded to the district court for further proceedings in accordance with this opinion.

Reversed and remanded.

[[Footnote 1](#)]

Act of July 1, 1898, c. 541, 30 Stat. 544.

[[Footnote 2](#)]

By the amendments of 1903 and 1917, the word "judgments" in clause 2 was changed to "liabilities," and other changes were made which are not here material. 32 Stat. 797, c. 487, 5; 39 Stat. 999, c. 153.