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Early Vs. Richardson

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Court : US Supreme Court

Decided On : Feb-24-1930

Appeal No. : 280 U.S. 496

Appellant : Early

Respondent : Richardson

Judgement :

Early v. Richardson - 280 U.S. 496 (1930)
U.S. Supreme Court Early v. Richardson, 280 U.S. 496 (1930)

Early v. Richardson

No. 133

Argued January 21, 22, 1930

Decided February 24, 1930

280 U.S. 496

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS

FOR THE FOURTH CIRCUIT

SYLLABUS

1. When the purchaser of stock of a national bank receives from the seller the certificates properly endorsed, title passes and the transfer is complete as between the parties, and, as between them, the purchaser alone becomes liable for assessments thereafter imposed on the shares. P. 280 U. S. 498 .

2. The actual owner of stock of a national bank may be held for an assessment thereon although his name does not appear upon the transfer books of the bank. P. 280 U. S. 499 .

3. One who in good faith purchases stock of a national bank with the intention of making a gift thereof to his minor children, and causes the transfer to be made to them upon the books of the bank and certificates to be issued in their names, is nevertheless liable for assessments on the stock made subsequently for the benefit of creditors when the bank becomes insolvent, since the transferees, being minors, are without legal capacity to assume the obligation, and the transfer, having resulted to their disadvantage, will be avoided for them by the law. P. 280 U. S. 499 .

4. One who purchases stock of a national bank with his own money as a gift for his minor children, and causes the certificates to be issued and registered in their names, does not become a trustee for the minor. P. 280 U. S. 500 .

Answer to a question certified by the circuit court of appeals on an appeal from a judgment for the respondent, who resisted payment of an assessment on shares of national bank stock.

MR. JUSTICE SUTHERLAND delivered the opinion of the Court.

The court below has certified to this Court the following question of law upon which instruction is desired:

"Is one who purchases shares of stock of a national bank liable for an assessment subsequently imposed by the Comptroller of the Currency upon the stock for the benefit of the creditors of the bank after the insolvency thereof when it appears that the purchaser bought the stock from the registered holder thereof and received a certificate therefor endorsed in blank by the holder, with

intent at the time of such purchase and delivery of giving the stock to his minor child, but without knowledge at that time of the failing condition of the bank, or intent to avoid the stockholder's liability, and when, after the acceptance of the endorsed certificate from the seller, and before the insolvency, the purchaser with like knowledge and intent, promptly presents the certificate to the bank, causes the shares to be registered and a new certificate to be issued in the child's name?"

The suit was brought to recover the amount of an assessment upon 19 shares of the capital stock of the bank ordered by the Comptroller of the Currency because the assets of the bank were insufficient to pay creditors. Richardson had purchased the stock and received three certificates therefor indorsed in blank by the seller. He delivered these certificates to the bank with verbal instructions to register the stock and issue two new certificates for 16 shares in the name of his minor son, and another one for 3 shares in the name of his minor daughter. This was done, the new certificates being retained in the custody of the bank.

When Richardson bought the stock and received the certificates therefor, indorsed by the seller, title passed, and the transfer was complete as between the parties. *Johnston v. Laflin,* 103 U. S. 800 , 103 U. S. 804 . Thereupon, as between seller and purchaser, the purchaser alone became liable for any assessment thereafter imposed, for, as between them, it would be in disregard of all equitable principles to continue against the seller the burdens of ownership after the purchaser had become entitled to all the benefits, including the receipt of dividends. Whether, under the facts, the liability of the seller continued as between him and the creditors is a different matter not necessary to be considered, for, in any event, the purchaser, who alone is sued, is not concerned with that question.

That the actual owner of the stock may be held for the assessment, although his name does not appear upon the transfer books of the bank, is well settled. *Ohio Valley National Bank v. Hulitt,* 204 U. S. 162, 204 U. S. 167-168; *Davis v. Stevens,* 17 Blatchf. 259, s.c. 7 Fed.Cas. 177, 178; *Case v. Small,* 10 F. 722, 724; *Houghton v. Hubbell,* 91 F. 453.

The real question is whether the intent of Richardson to buy the stock for his minor children, and the fact that, by his direction, the transfer was made to them upon the books of the bank and certificates issued in their names, had the effect of relieving Richardson from liability. We think not, since the transferees, being minors, were without legal capacity to assume the obligation. Upon coming of age, they would have an election either to affirm or avoid the entire transaction. In the meantime, the transfer of the stock having resulted to their disadvantage, the law will avoid it for them, thus leaving the liability of Richardson for assessments unaffected. *See Aldrich v. Bingham,* 131 F. 363; *Foster v. Chase, Foster v. Wilson,* 75 F. 797.

In *Foster v. Chase, supra,* the father bought stock in the names of his minor children, and suit was brought against him for the amount of an assessment. Disposing of the point here presented, the court well said:

"The plaintiff claims that the defendant made himself liable for the assessment because of the incapacity of his children to take the stock and make themselves liable for it. He insists that they only are the shareholders, and liable, if anyone is. Assent is necessary to becoming a shareholder, subject to this liability, in a national bank. *Keyser v. Hitz,* 133 U. S. 138. Minors do not seem to have anywhere the necessary legal capacity for that. The principles upon which this disability rests are elementary and universal. 1 Bl.Comm.

492; 2 Kent Comm. 233. In buying and paying for this stock, and having it placed on the books of the bank, the defendant acted for himself; in having it placed there in the names of his children, as with their assent, he assumed to act for them. As they could not themselves so assent as to be bound to the liabilities of a shareholder, they could not so authorize him to assent for them as to bind them. To the extent that they could not be bound he acted without legal authority, and bound only himself. Story, Ag. 280."

There is no merit in the point, made in argument, that Richardson was a trustee for the minors, even if that would enable him to avoid personal liability, *Johnson v. Laflin,* 5 Dill. 65, 82, and there is nothing certified by the court below which furnishes a basis for the suggestion. Richardson, having bought with his own money, became the owner of the stock. And although the purchase was made with the intent of giving the stock to his children, *non constat* that he would not change his mind, as he was perfectly free to do. The new certificates simply were issued and registered in the names of the children, and this, if effective, would have resulted only in consummating an ordinary gift. It no more created a trust than if the donees had been persons *sui juris.* The question must be answered in the affirmative.

It is so ordered.

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