Richards Vs. Maryland Insurance Company

LegalCrystal Citation : legalcrystal.com/78617

Court : US Supreme Court

Decided On : 1814

Appeal No. : 12 U.S. 84

Appellant : Richards

Respondent : Maryland Insurance Company

Judgement :

Richards v. Maryland Insurance Company - 12 U.S. 84 (1814) U.S. Supreme Court Richards v. Maryland Insurance Company, 12 U.S. 8 Cranch 84 84 (1814)

Richards v. Maryland Insurance Company

12 U.S. (8 Cranch) 84

ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF BALTIMORE

Syllabus

Upon the death of the assignee, under the bankrupt law of the United States, the right of action for a debt due to the bankrupt vested in the executor of the assignee.

If an executor do not cause himself to be made party to a suit brought in the lifetime and in the name of the testator and pending at his death, it is to be considered as a voluntary abandonment of the action, so as to exclude the executor from the equity of the exceptions to the statute of limitations.

At common law, no action could be renewed by Journey's accounts in a case of voluntary abandonment.

The cases which, though literally within the words of the statute of limitations, have been held to be without its spirit, are those only in which circumstances intervened which rendered it impossible or incompetent with known and established principles that a cause of action could be revived by the renewal of the contract or enforced by a suit at law within the time prescribed.

The object of the law is to secure the individual from the machinations of dishonesty when attempted under the advantages attendant upon lapse of time, loss of papers, and death of witnesses.

Error to the Circuit Court for the District of Maryland in an action of covenant on a policy of insurance

Page 12 U. S. 85

under seal. The defendants pleaded the Maryland statute of limitation of 12 years, 1715, ch. 23, § 6, which enacts

"That no specialty whatsoever shall be good and pleadable or admitted in evidence against any person or persons of this province after the principal debtor and creditor have been both dead 12 years or the debt or thing in action above 12 years standing,"

with a saving of 5 years in cases of infancy, &c.;

The replication to this plea stated in substance the following facts:

That the cause of action accrued on 1 May, 1797. That McKean was declared a bankrupt, and on 19 March, 1801, his estate was duly assigned to Thomas Allibone, who, on 6 October, 1806, instituted a suit on the policy and died on 1 August, 1809, whereby the suit was abated. That on 11 January, 1810, the plaintiffs were by the commissioners appointed assignees in pursuance of the choice of the creditors regularly convened for that purpose, and brought the present action at the next term after the death of Allibone, the former assignee. To this replication there was a general demurrer.

The judgment of the court below upon the demurrer was in favor of the defendants, and the plaintiffs brought their writ of error.

Page 12 U. S. 91

JOHNSON, J. delivered the opinion of the Court as follows:

This is an action of covenant brought on a policy of insurance under seal. The facts as made out in the pleadings are these:

The cause of action accrued on 1 May, 1797. McKean was declared a bankrupt, and on 19 March, 1801, his estate was assigned to Thomas Allibone. On 6 October, 1806, the assignee instituted a suit on this policy and died on 1 August, 1809.

On 11 January, 1810, the plaintiffs were

Page 12 U. S. 92

appointed assignees in pursuance of the choice of the creditors regularly convened for that purpose, and brought the present action to the term next after the death of the assignee.

The plea is the statute of limitations. To this is filed a special replication setting forth the above facts with a view to sustain an exception from the operation of the statute. The case comes up on a demurrer to the replication, and for the defendant there were two points made at bar, 1st, that the action is not maintainable at all by the present plaintiffs, because the bankrupt act makes no provision for the appointment of a new

assignee upon the demise of the first; 2d, that the right of action vests in his personal representative and could be maintained by him -- that the abatement by the death of the first assignee was a voluntary abandonment of the suit, and put the case of the plaintiffs out of the reason of the exceptions from the operation of the statute. In support of the action, it was contended that the former suit abated by the death of the first assignee -- that the right did not vest in his executors, because it was a mere trust or agency -- that the right of substituting the new assignees in the action is secured only in the case of removal by the creditors -- that this case is without the statute of limitations upon an equitable construction of that statute -- and lastly that this action is a good continuance of the former by Journey's account.

We are of opinion that the plea of the statute of limitations must be sustained. On the first point made by the defendant the Court would be understood to give no opinion. Being satisfied that the plaintiff has not brought himself within any one of the exceptions which have been admitted to the statute of limitations, and feeling no inclination to multiply those exceptions, it disposes of the case upon the second ground alone. The cases which, though literally within the words of the statute, have been held to be without its spirit are those only in which circumstances intervened which rendered it impossible or inconsistent with known and established principles that a cause of action could be revived by the renewal of the contract or enforced by a suit at law within the time prescribed. The object

Page 12 U. S. 93

of the law is to secure the individual from the machinations of dishonesty when attempted under the advantages attendant upon lapse of time, loss of papers, and death of witnesses. But when cases present themselves in which no laches can be imputed to the plaintiffs, but great injustice would be done by applying to such cases the effect of the statute, the conclusion of reason and of the law is that such cases were not in the mind of the legislature when enacting that law. Such are the cases of a want of parties, plaintiff or defendant, whereby a temporary suspension of legal remedy takes place. But in no case of a voluntary abandonment of an action has an exception to the statute of limitations been supported. And such, we are of opinion, is the case before us. Whether it was or was not a case in which the bankrupt law authorizes the appointment of the present assignee we deem immaterial. The case is certainly not within the express letter of the statute, and it is only under its equitable and perhaps its proper construction that the appointment of the new assignees (the present plaintiffs) can be supported. But the same equity which would support this appointment would support the substitution of the new assignees for the former in the existing action. We are, however, of opinion that the first assignee was not a mere naked agent or attorney for the creditors. The words of the bankrupt act, sec. 13, are that the debts assigned to him shall be vested in him as if they had been contracts made with himself originally. Now one necessary incident to such a contract would be that the right of action would vest in his personal representative, and the act of Congress saves the suit from abatement by authorizing the substitution of the executor or administrators instead of the deceased plaintiff. The same answer applies to the antiquated doctrine of continuance by Journey's account. The fact is that the mode of continuing a suit in the name of the executor or administrator provided for by statute is a complete substitute for the continuance by Journey's account. But even at common law, such a continuance or connection of suit was allowed in no case of voluntary abandonment, and if the benefit of it was intended to be asserted, it was necessary to claim it in the form of renewing the action.

Judgment affirmed with costs.