

Case No. 3,085.

IN RE CONANT.

District Court, S. D. New York.

July 7, 1862.

SETTING ASIDE SALE BY ASSIGNEE IN BANKRUPTCY.

In 1858, the official assignee in bankruptcy of Conant conveyed certain land in Illinois to one Brown, who conveyed it to one Jones. One Taggard had bought the same land in 1843, and obtained a deed of it, and had gone into possession of it, and held it until he died, in 1831. His heirs, having sued Jones in trespass, in Illinois, to establish their title to said land, petitioned the district court, in 1861, for relief against the deed of the assignee. The assignee and Brown and Jones were cited to answer. The court found that it had been induced to order the sale by the assignee under the impression on the part of the court that the land was without value, and that the sale was to be made only to relieve the land in the hands of Taggard from any cloud or technical infirmity of title; that the court had given the title gratuitously to a party who might use it in fraud of the estate of the bankrupt or of an honest purchaser of it; and that the order of sale ought not to stand, but should be rescinded, as having been obtained by a party cognizant of all the facts impeaching its equity and justice.

The above state of facts was recited in an order which the court made July 7, 1862, vacating and declaring void the order of sale made in 1858, and declaring null and void the deed from the assignee to Brown, and ordering the assignee and Brown and Jones to deliver the deed to the clerk of the court to be cancelled.

[Cited in *Re King*, 3 Fed. 842; *Re Hyde*, 6 Fed. 592.]

[NOTE. Nowhere reported; opinion not now accessible. The above statement of the case and the decision were taken from 6 Fed. 592.

[Prior to the decree herein, on a question adjourned from the district court, as to whether the limitation of two years in the eighth section of the bankrupt act applied to the case at bar, the circuit court held that it did not. Case No. 3,086, next following.]