

SCOTT v. AULD.

[3 Cranch, C. C. 647.]¹

Circuit Court, District of Columbia. Nov., 1829.

SLAVERY—COVENANT TO SET FREE—INCREASE
OF FEMALE—EVIDENCE.

The owner of a female slave sold her, without reserving any reversionary right, and took a covenant from the vendee that he would set her free after twelve years' service; nothing being said of her increase in the mean time. *Held*, that parol evidence of the declarations of the vendor that he had sold the slave for her full value as a slave for life, could not be admitted to be given by the defendant; and that the written evidence purported that the vendor had parted with his whole right in the slave to the vendee, and that the vendor was not entitled to the issue born after the sale.

Detinue [by Jesse Scott's executor against Colin Auld] for three negroes who were born while Hannah, their mother, was in the possession of James Anderson, under the following instrument:

"Alexandria, March 1, 1816. I have this bo't of Mr. Jessey Scott, Hannah and her sonn John; Hannah to serve twelve years, and John untull he is thirty-five years old, and then both to be free; for the faithful performance of which I bind myself, my heirs, &c. Jas. Anderson.

"Test, Jas. W. Scott."

Upon the trial, Mr. Mason, for defendant, offered parol evidence of the declarations of Scott, that he had sold Hannah and John for their full value as slaves for life; and that Anderson was to set them free, and that nothing was said by Scott respecting the issue born during the twelve years.

Mr. Wise, on the same side, cited 1 Phil. Ev. 476, and *Peisch v. Dickson* [Case No. 10,911], and

Livingston v. Ten Broeck, 16 Johns. 14. This suit was brought after the expiration of the twelve years.

Mr. Taylor, for plaintiff, objected, and

THE COURT (nem. con.) rejected the parol evidence.

A verdict was taken for the plaintiff, subject to the opinion of the court upon the case as it appears above stated.

Mr. Taylor and Mr. Hewitt, for plaintiff, contended that there was a reversion in Scott, the vendor, and that the children of Hannah, born during the twelve years' servitude, were his slaves. Negro Maria v. Surbaugh, 2 Rand. [Va.] 228.

THE COURT (MORSELL, Circuit Judge, contra) was of opinion that Scott parted with his whole right in the slaves Hannah and John, to Anderson, who contracted with Scott to emancipate them when they should have served out the respective terms stipulated, &c. Judgment of nonsuit to be entered.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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