

SPEIDELL v. HENRICI and others, Trustees, etc.*

(Circuit Court, W. D. Pennsylvania. February 28, 1888.)

1. EQUITY—LIMITATION OF SUITS.

Courts of equity refuse to interfere where the suitor has allowed a considerable lapse of time before bringing his action, from considerations of public policy and from the difficulty of doing justice, when the original transactions have become obscured by time and evidence is lost.

2. SAME—DILIGENCE AN ESSENTIAL CONDITION TO EQUITABLE RELIEF—LACHES.

A suitor in equity is required to be "prompt, eager, and ready" in the pursuit of his rights. Diligence is an essential condition of equitable relief, and laches and negligence are always discountenanced.

3. SAME—TRUSTS—OPERATION OF LAW OF LACHES.

Where a valid express trust has been created, and is recognized or treated by both parties to it as subsisting, mere delay upon the part of the *cestui que trust* may not defeat his remedy for the enforcement of his rights under the trust; but when a trustee denies the right of the *cestui que trust*, and his relation to the latter in respect to the trust property becomes adverse, from that time the right of the *cestui que trust* to relief is subject to the operation of the law of laches.

In Equity.

John Barton, H. Markworth, and Wm. Reinecke, for complainant.
George Shiras, Jr., and C. S. Fetterman, for defendants.

Before MCKENNAN and ACHESON, JJ.

MCKENNAN, J. This bill is filed by Elias Speidell, a citizen of the state of Ohio, against Jacob Henrici and Jonathan Lenz, as trustees of the Harmony Society, located in Beaver county, Pennsylvania. It alleges—

That the complainant's father and mother resided in the kingdom of wuerttemberg, Germany, up to about the year 1804, were engaged in farming, were without any education, but were devout Christians and members of the established Protestant church of the country, and earnest seekers after spiritual light and their own salvation. That, at the same time, one George Rapp lived in the same neighborhood and was a man of education superior to that of the simple farming people, "of great intellectual power, clear-sighted, sharp-witted, eager for superiority, and a born leader of men." That about the year 1800 the said Rapp began to preach clandestinely to many of his fellow-countrymen, including the complainant's parents, that the Lord had chosen him as their spiritual leader; that the second advent of Christ and the beginning of the millenium, as taught by the revelation of St. John, were near at hand, and that in order to be saved from eternal damnation it was necessary for them to separate from the established church of their country and to form a settlement of themselves under his guidance and control. That by means of his preaching and personal influence over his disciples he caused about 300

families of them to separate from the established church and to believe in and accept him as their only spiritual leader and a necessary medium of their salvation. That he impressed them with the belief that it was necessary for their salvation that they should convert all their possessions into cash, leave their country, and, as the chosen of the Lord, form a colony by themselves in the Holy Land or in the United States of America, in which places Christ would first reappear on earth. That accordingly about 125 families sold all their land and possessions for cash, emigrated to the United States and settled in Butler county, Pennsylvania, upon a wild, uncultivated tract of land selected by him at Harmony, where the complainant was born in the year 1807; and there they founded a colony or voluntary association, called and known as the "Harmony Society," and became wholly subject to the absolute power and control of said Rapp in both temporal and spiritual affairs. That before their arrival at Harmony the heads of families had severally paid their own expenses and kept separate their own means, but that said Rapp fraudulently pretended to his followers that they could not escape eternal damnation unless they would renounce their mode of living in separate and exclusive homes for each family, and yield up all their possessions, as had been done by the early Christians, and intrust them to him as their apostle, "to be placed in a common fund of said Harmony Society in the keeping of said Rapp as their trustee," and would live henceforth as a community, doing such work for it as he should direct, "the avails thereof to form part of said common fund," investing him and his successors with the leadership of said community, the management of all said trust funds, and the disposition of themselves and of their wives and children, they to receive in return only the necessaries of life. That accordingly the parents of the complainant, "in the year 1805, yielded up all their possessions to the said common fund of said Harmony Society," contributing thereto about \$1,000, and thenceforth lived in a common household with the rest of said Rapp's followers, submitting themselves to his control "to do such work for said community as he directed, and allowed the avails thereof to form part of said common fund," receiving only the necessaries of life in return; "for none of which they or any of them ever received or were promised any other consideration than the pretense that by complying with the teachings of said Rapp they would not be damned," and that they would be led by him to eternal salvation. That said Rapp received and accepted said trust fund and its accretions, "not as his own, in trust for the members of said families and the contributors to said fund, and for their common benefit," and always acknowledged said trust and disclaimed any greater interest therein than that of any other contributor thereto, or any other right to the management and control thereof than by virtue of his apostolic leadership of said community. That about the year 1807 he fraudulently and corruptly pretended to his followers "that there had been no difference of the sexes, nor any seed of death in man, until both were brought about by original sin;" "that all intercourse of the sexes, even in wedlock, was polluting, and that they could not and would not be saved from eternal damnation except by adjuration of matrimony and of all sexual indulgence by those of his followers who were single, and by a cessation of all conjugal intercourse by those already married." That accordingly thence-

forth all the married and single members of said community abjured all sexual indulgence and lived as if single. That the complainant was reared in and as part of said community, and was, from his earliest infancy, taught to believe, and accepted as true, the doctrines aforesaid propounded by said Rapp, and consistently practiced the same. That from the time he reached the age of 12 years until he was 24, a period of 12 years, he contributed his labor to said trust fund and received nothing in return save the necessaries of life. That the said contributions of the complainant to the common fund, deducting his subsistence, are largely in excess of the sum of \$500, and that by interest and profits they now largely exceed the sum or value of \$30,000. That about the year 1815 the said community removed to Posey county, Indiana. where, about the year 1816, the complainant's parents died, and that about 1825 it removed to Beaver county, Pennsylvania, the complainant still being a member of it, and that it remains there now. That said Rapp ruled over said community from 1805 until his death in 1847, exercising absolute dominion over all its affairs. That, in order to keep the members of the community in "an ignorant and degraded condition," he interdicted the acquirement of any knowledge of the English language by them, or access to books in that language, or association with any but inmates of the community. That in the year 1818 the said Rapp destroyed the records of the original contributions to said trust fund in 1805, to prevent any knowledge coming to the younger members of the community, and that he studiously concealed from the contributors "all money transactions made by him, and habitually destroyed the records thereof." "That the whole of said system of said Rapp was repugnant to public policy and the laws of the land, and more especially in this: that no inmate of said community was permitted by said Rapp to marry therein, and that whoever was about to enter into the married state was compelled by said Rapp to leave said community; and that the complainant, in the year 1831, being about to enter into the married state, had to leave and did leave said community, though said Rapp did permit, as an exception, a few of his favorites to marry in said community, and to remain therein; and until the complainant so left said community he was kept under such duress and restraint by the iron rule of said Rapp that he did not know and had no means of ascertaining the iniquity and degradation thereof, and the impious and blasphemous character of the teachings of said Rapp." That said trust fund now exceeds in value \$8,000,000, and the net profits thereof have for many years exceeded the sum of \$200,000. That, at the death of said Rapp, Romelius L. Baker and Jacob Henrici succeeded him as trustees of said trust. That on the death of said Baker, in 1868, he was succeeded by Jonathan Lenz; and that said Jacob Henrici and Jonathan Lenz are now the trustees and managers of all the estate of said Harmony Society, and now acknowledge said trust, and disclaim any greater interest therein than any other contributor to said trust fund.

And the bill prays—

That the trust be rescinded as resting upon fraud and iniquity, and as being contrary to public policy and the laws of the land; that the persons interested in its assets be remitted to their original rights; that discovery be made of

the names and places of abode of the other persons interested in the assets; that an account be taken of the trust funds, and the complainant's share therein; that he have compensation for his contributions to the trust fund; and that a distribution of said trust funds be had.

To this bill the respondents have demurred for the following causes:

(1) That the cause of complaint is barred by the statute of limitation; (2) that the causes of complaint are stale, and ought not, therefore, to be taken cognizance of; (3) generally that no case is stated for relief.

It is to be noted that the foundation of the complainants' claim to relief is his alleged membership of the Harmony Society, and the performance of work and labor in its behalf for a period of 12 years prior to 1831, amounting in value to a sum exceeding \$500. In that year he severed his connection with the society, thus emancipating himself from the bondage in which he had been held, and was entirely free and competent to assert his legal rights. If he wished to obtain compensation for his labor, an action at law was *then* available to him to recover it. If he desired to assert a claim upon the property of the Harmony Society, as one of its beneficiaries, a court of equity was *then* open to him for the administration of appropriate relief. But he rested in entire inaction for more than 50 years, not even having made a demand upon the society, in any form, until the seventh of May, 1882.

And it is also to be noted that, for 17 years after the scales fell from his eyes and he was convinced that marriage was not a mortal sin, during the life of Mr. Rapp, against whose character and memory the most vigorous epithets of reproach are directed with unceasing reiteration, he made no movement whatever to obtain an account of the trust and of his own interest in it. And yet Mr. Rapp, as the founder of the society and of the trust, and the sole manager of all its business, was peculiarly capable—if he was not the only person who could do so—of furnishing all required information touching all its affairs, and especially of the nature, condition, and administration of the trust. Besides, the complainant does not seek compensation for his labor alone—for that he might have been remitted to his legal remedy; but the fundamental prayer of his bill is that the trust be abrogated as founded in imposture and hence unlawful in its beginning; and yet for 50 years he was quiescent.

Ought the bill, then, to be entertained?

A suitor in equity is required to be "prompt, eager, and ready" in the pursuit of his rights. Diligence is an essential condition of equitable relief, and unexplained negligence is never encouraged.