In re HUDDELL *et al.*[1]

(*District Court, E. D. Pennsylvania.* April 3, 1891.)

BANKRUPTCY—CLAIMS IN FAVOR OF UNITED STATES.

The United States, not being bound by the bankrupt acts, and not being compelled to proceed under them to recover a claim against a bankrupt, are entitled to allowance from the bankrupt estate of its full claim, regardless of the rights of the creditors.

In Bankruptcy. Exceptions to the award of the register. Seitzinger was sued on a bond given to the United States. The register awarded the United States $13,300, the full amount of its claim.

Francis Rawle and *Sydney G. Fisher*, for general creditors.

George H. Baer, for Philadelphia & R. R. Company.

W. Wilkins Carr, Asst. U. S. Atty., for the United States, cited—

As to the right to the government to recover their full claim, *Lewis* v. *U. S.*, 92 U. S. 618; *U. S.* v. *Barnes*, 31 Fed. Rep. 705.

BUTLER, J. I cannot sustain the exceptions, nor either of them. About the first, second, fourth, and fifth I have not had serious doubt. About the third,—which relates to the allowance of "compound" interest on the government's claim,—I had such doubt while listening to the argument. This claim was reduced to judgment after the adjudication in bankruptcy, and the judgment twice revived for principal and interest. The register allowed the sum embraced in the last revival, with interest upon it. In the absence of *Lewis* v. *U. S.*, 92 U. S. 618, I would hesitate to confirm this allowance. The case cited, however, sustains it. Starting with the view there pronounced, that "the United States is in no wise bound by the bankrupt act," and not, therefore, required to proceed under it to recover a prior claim against the bankrupt's property, the register's conclusion is unavoidable. The right to recover the amount of the last judgment, with interest upon it, as against the bankrupt, cannot be doubted; and, if the government is unaffected by the bankruptcy proceedings, it is necessarily unaffected by the rights of creditors under them. The allowance of simple interest on the claim might be sustained without appealing to the case cited. The government being entitled to a preference, and entirely secure of payment, the delay in settlement from nursing the estate, must be presumed to have been intended for the benefit of general creditors, and equity would seem to require that the government's loss from this delay should be compensated from the fund for distribution. Furthermore, the cases cited on the argument show the allowance of such interest under similar circumstances.

[1] Reported by Mark Wilks Collett, Esq., of the Philadelphia bar.

In re HUDDELL *et al.*[1]

(*Circuit Court, E. D. Pennsylvania.* May 27, 1891.)

1. ASSIGNEES IN BANKRUPTCY—JUDGMENT LIEN.
   Assignees in bankruptcy can assert only the rights of the bankrupt, and hence the lien of a judgment is of unlimited duration against them.
2. SAME—REVIVAL OF JUDGMENT.
   Assignees in bankruptcy are not terre-tenants, who must have notice of revival of a judgment.
3. SAME—SALE OF LAND.
   Where land of a bankrupt's estate has been sold by the assignees in bankruptcy for cash, but a part only of the consideration was paid down, the remainder being paid in installments, the conversion of the land into money as against the assignees may be held to have taken place at the time of the sale, although the assignees in bankruptcy held the legal title until the installments were all paid.
4. SAME—INTEREST ON JUDGMENT.
   Simple interest may be allowed on an original judgment even when there has been a conversion of the bankrupt's real estate, when the fund obtained has yielded interest.

In Bankruptcy. Exceptions to register's report. Appeal of Philadelphia & Reading Railroad and assignees in bankruptcy from decree of the district court.

A sale was made in 1877 of the real estate of the bankrupt, but, on account of the failure of the vendee to pay down the full consideration, the legal title was retained in the hands of the assignees until complete payment was made.

Sydney G. Fisher and *Frank Rawle*, for general creditors.

Chas. T. Heebner, for Philadelphia & R. R.

W. Wilkins Carr, Asst. U. S. Atty.

ACHESON, J. Upon any view of the case permissible under the authorities the decree of the district court must be affirmed.

1. In this contest the assignees in bankruptcy stand upon and can assert the rights only of the bankrupt, Seitzinger. *Stewart* v. *Platt*, 101 U. S. 731, 739. Now, it is the settled law of Pennyslvania that the statute which restricts the lien of a judgment to five years operates only in favor of purchasers from the debtor and judgment creditors, and as to every one else the lien is of unlimited duration. *Aurand's Appeal*, 34 Pa. St. 151; *Brown's Appeal*, 91 Pa. St. 485. Hence the lien of the several judgments here in question, as against the judgment debtor and his assignees in bankruptcy, was without limit.

2. But in fact revivals took place by service of the writs of *sci. fa.* upon the defendant in the judgments; and such revivals were good, without notice to the assignees in bankruptcy, who were not terre-tenants within the meaning of the statute. *In re Fulton's Estate*, 51 Pa. St. 212, 213; *Wrigley* v. *Whitaker*, 2 Wkly. Notes Cas. 420; *Lazear* v. *Porter*, 87 Pa. St. 516.

[1]Reported by Mark Wilks Collett, Esq., of the Philadelphia bar.