

most difficult branch of the controversies involved in these litigations; but upon the facts stated in the bill we are inclined to hold that this defense is not maintainable. The complainants were the owners of this claim. They, and those from whom they derived title, were the owners of this claim by purchase from the original owner. There was no reason why they should watch the proceedings in the parish courts of Louisiana to see what might be done with respect to the succession of Antonio Vaca; and nothing that was done by the defendants, and those through whom they claim title, so far as we can find, was anything of which the complainants were required to take notice, and of which they would be likely to have any notice in fact. So far as they knew, no entry upon their rights was impending or threatened, and we are unable to see that the defendants have any right to say that the complainants should have moved earlier to prevent that which the complainants had not the least reason to suspect. The complainants apparently owed no duty to the defendants, who, without their knowledge or subsequent discovery, had secretly invested themselves with the complainants' title under color of a false assumption of right. "Such defenses (laches and the statute of limitations) cannot prevail where the relief sought is grounded on a charge of secret fraud, and it appears that the suit was commenced within a reasonable time after the evidence of the fraud was discovered." *Meador v. Norton*, 11 Wall. 442, 458. And this rule was applied by the supreme court of Wisconsin in the case of *Walker v. Daly*, 80 Wis. 222, 49 N. W. 812, to almost precisely such a case as this.

Again, the defendants insist that the complainants ought not to maintain their bill because the defendants have invested their time, money, and skill in the location of the lands and in securing the products thereof, which land and products the complainants now seek to recover from them, in the doing of which the defendants have acted in good faith. But no such question arises upon the pleadings as they now stand, and it would be premature for us to express an opinion upon questions which may be involved in issues possible to be hereafter raised. For the same reason it is not expedient to now decide what may be the scope and measure of the ultimate relief to be awarded the complainants if they shall successfully maintain their suit. For the reasons above stated, we think the decree of the court below should be reversed, and the case remanded, with directions to give leave to the defendants to answer the bill.

MORANCY et al. v. PALMS et al.

(Circuit Court of Appeals, Sixth Circuit. May 13, 1895.)

No. 234.

PROBATE COURT—DECREE—PROPERTY AFFECTED.

Upon facts similar to those in *Hodge v. Palms*, 68 Fed. 61, a decree of a probate court, granting administration of the estate of a decedent, cannot affect property conveyed by such decedent in his lifetime.

Appeal from the Circuit Court of the United States for the Eastern District of Michigan.

This was a suit by Honori P. Morancy and others against Francis Palms and others to impress a trust upon the legal title to certain lands and for an accounting. The circuit court sustained a demurrer to the bill. Complainants appeal. Reversed.

Robert B. Lines and Dwight C. Rexford, for appellants.

H. M. Duffield and J. T. Keena, for appellees.

Before TAFT and LURTON, Circuit Judges, and SEVERENS, District Judge.

SEVERENS, District Judge. This is a suit in equity precisely like that of *Hodge v. Palms* (No. 232; just decided) 68 Fed. 61, in all material particulars. A Spanish land claim of 1790, which is the foundation of this controversy, was sold and conveyed by the original owner, one Miguel Llano, during his life. It was therefore no part of his succession which the parish court undertook to administer. The court below sustained the demurrer of the defendants, and dismissed the bill. For the reasons stated in *Hodge v. Palms*, we think the decree should be reversed, and the cause remanded, with directions to permit the defendants to answer the bill. It is so ordered.

FLETCHER et al. v. McARTHUR et al.

(Circuit Court of Appeals, Sixth Circuit. May 13, 1895.)

No. 235.

PROBATE COURT—JURISDICTION—COLLATERAL ATTACK.

Where a probate court in Louisiana has assumed to grant administration upon the estate of one who, at the time of his death, was in fact a resident of Mississippi, and whose estate has been judicially administered there, such action of the court is wholly unauthorized by law, and its decree can be impeached collaterally.

Appeal from the Circuit Court of the United States for the Eastern District of Michigan.

This was a suit by Jane Virginia Fletcher and others against William McArthur and others to impress a trust upon the legal title to certain lands and for an accounting. The circuit court sustained a demurrer to the bill. Complainants appeal. Reversed.

Robert B. Lines and Dwight C. Rexford, for appellants.

H. M. Duffield and J. T. Keena, for appellees.

Before TAFT and LURTON, Circuit Judges, and SEVERENS, District Judge.

SEVERENS, District Judge. This is the last of the cases *Garrett v. Boeing* (No. 197) 68 Fed. 51; *Hodge v. Palms* (No. 232) Id. 61; *McCants v. Peninsular Land Co.* (No. 233) Id. 66; *Morancy v. Palms* (No. 234) Id. 64; and *Fletcher v. McArthur* (No. 235), to be disposed of. It is like the others in all essential particulars save