

this instrument is hereby directed to be recorded in order to preserve and make the same public so as to operate and bear upon the crops of the year eighteen hundred and ——— grown and produced on the aforesaid plantation." Prior to the making of this contract, one B. Saloy purchased the plantation from the lessor, and he became a party to the contract, expressly agreeing that his claim as lessor for rent should be "subordinate and inferior in rank to the claims and privileges of said Block as the furnisher of supplies or for advances furnished under the contract," and that said Block should be first reimbursed out of the crops of 1883 "in the full amount of his advances hereunder, without regard and in preference to demands of said Saloy for the rental of said plantation." Under this contract, Block made advances exceeding in their total amount the sum of \$15,000. When the account was closed, in April, 1884, it was found that a considerable sum was still due to Block from the lessees. Prior to that time, and on November 26, 1883, the said Saloy brought a suit in a state court for rent of the plantation, amounting to \$4,800, and obtained the issuance of the writ of provisional seizure, under which he caused a part of the crops to be seized. He afterwards gave a release bond and took full possession of the property.

The prayer of the bill was that complainant might be declared to have a lien and privilege upon the property thus seized and held by Saloy, it being alleged that this seizure was in violation of his contract to permit the complainant to have a first lien on the crop for his advances. Saloy, however, died before the suit was brought, leaving his estate by will to his wife as universal legatee, who, as alleged by the bill, accepted the same purely and simply, and was duly recognized, and was given possession by the proper state court. Shortly afterwards, she also died intestate, and the property descended to the persons named as defendants in the bill, who were alleged to have accepted this succession purely and simply and to have been put in possession of the property by the proper court, by reason whereof they became liable for all the debts due by the said Saloy, including complainant's demand. The cause was heard before a master, and, after numerous exceptions to his report were disposed of, a decree was rendered against Madeline Pons for her proportion of the amount found due on the accounting. The main point made against the decree was that complainant had made advances in excess of the \$15,000 specified in the contract, and that the lessees had consigned to him, and he had sold, products of the plantation exceeding that sum; and it was contended that as soon as his net sales amounted to \$15,000 Saloy's rights as landlord became thenceforth superior to the lien for advances, and that he then had a lawful right to enforce his lien for rent by seizing the products of the plantation.

P. L. Fourchy and O. B. Sansum, for appellant.

John D. Rouse and Wm. Grant, for appellee.

Before PARDEE and McCORMICK, Circuit Judges, and BRUCE, District Judge.

PER CURIAM. An examination of the record in connection with the briefs and argument shows no error in the record prejudicial to the appellant, and the decree appealed from is affirmed.

---

MILLER v. HOUSTON CITY ST. RY. CO.

(Circuit Court of Appeals, Fifth Circuit. June 17, 1895.)

No. 382.

CORPORATIONS—TITLE TO STOCK.

In 1873, 180 shares of stock of the H. Co. were issued to one H., on account of B., for cash advanced by B. in the organization of the company. In 1874, on an adjustment of accounts between B. and the company, 1,468 shares of stock were issued to B. in full settlement, the original shares being thereafter treated as canceled, though not surrendered. In 1875, B.

delivered the original certificates to the plaintiff, as margin on a purchase of cotton for future delivery, no money or valuable consideration appearing, however, to have been given for them. The plaintiff held the shares until 1884, when he showed them to the general manager of the H. Co., and was notified by him that the stock would not be recognized, and belonged to the canceled files of the company. In 1888 plaintiff made a formal demand for transfer of the stock, and in 1889 brought suit for damages for the company's refusal to transfer it. *Held*, that the plaintiff was in no better position than B. to assert title to the stock, and could not recover.

In Error to the Circuit Court of the United States for the Eastern District of Texas.

This was an action by Walter T. Miller against the Houston City Street-Railway Company to recover damages for a refusal to transfer certain stock. Upon the first trial, before the court without a jury, judgment was rendered for the defendant, and, on error, a new trial was awarded. 5 C. C. A. 134, 55 Fed. 366. The case was again tried by the court without a jury and judgment given for the defendant. Plaintiff brings error. Affirmed.

R. V. Davidson and F. D. Minor, for plaintiff in error.

M. W. Garnett, for defendant in error.

Before PARDEE and McCORMICK, Circuit Judges, and BRUCE, District Judge.

PER CURIAM. The undisputed evidence in the case shows that in October, 1873, William Brady, then president of the Houston City Street-Railway Company, caused to be issued to T. W. House, for his (Brady's) account, 180 shares of stock for and on account of cash advanced by him (Brady) in the organization of the company; that thereafter, in 1874, other matters of account having arisen between Brady and the company, a settlement was had of all the matters involved, and 1,468 shares of stock were issued to William Brady in place of all stock originally issued, and in full settlement of all amounts found to be due. After such settlement, although the original stock certificates issued in October, 1873, were not surrendered, they were treated as canceled, and thereafter neither William Brady, nor any one else for him, ever attempted to vote, or assert any right or claim under the said certificates, until the plaintiff in error asserted his pretensions resulting in the present suit. In the summer or fall of 1875, William Brady delivered the original stock certificates, issued as aforesaid in 1873, to the firm of Miller & Co., of New York, who received the same as marginal security in cotton purchases for future delivery, but who are not shown to have paid or advanced any money or other valuable consideration for or on account of the same. The said firm of Miller & Co. asserted no claim under the said certificates until 1884, when the plaintiff in error showed the certificates to the president of the Houston City Street-Railway Company, at the time in New York. The president then told him that said stock would not be recognized, exhibiting an official list of the stock of the company, which did not embrace any of the stock in controversy. August 25, 1884, the vice president and general manager of the railway company by letter notified