

## BAKER v. BEACH et al.

(Circuit Court, D. Washington, N. D. February 3, 1898.)

## NATIONAL BANKS—ASSESSMENTS ON STOCKHOLDERS—LIABILITY OF ESTATES.

The widow of a deceased stockholder of an insolvent national bank, who by authority of the will undertook to settle the estate as executrix without judicial proceedings, but failed to transfer such stock to herself or other person, cannot, on the ground that the estate is fully settled, escape liability as executrix for assessments on such stock to the extent of assets of the estate under her control.

This was a suit in equity by Charles H. Baker, as receiver of the Merchants' National Bank of Seattle, against A. I. Beach, Mary L. Macdonald, as executrix of the last will and testament of James Reid Macdonald, deceased, and others, to enforce a liability for assessments on national bank stock.

Stratton, Lewis & Powell, for complainant.  
Ira Bronson, for defendants.

HANFORD, District Judge. The question to be decided in this case is as to the liability of the defendant Mary L. Macdonald, in her capacity as executrix of the last will of her husband, for an assessment upon shares of stock of the Merchants' National Bank, of which he was owner at the time of his death. The will authorizes the executrix to settle up the estate without judicial proceedings. The executrix has paid all claims against the estate and liabilities of her husband which existed at the time of his death, and now claims the estate and all property rights of the deceased in her own right as the widow of the deceased and as guardian of her minor child. The shares of stock being personal property, ownership thereof passed to her as legal representative of the deceased,—that is, as executrix of the will,—and the estate in her hands was liable for assessment thereon. As executrix, she could have transferred the title to herself individually, or to any other person. But, having failed to make such transfer, she cannot be said to have completely settled up the estate, so as to claim exemption from liability in her capacity as executrix to the extent of the value of any assets of the estate remaining subject to her control. As the law makes no provision for discharging an executrix who assumes to carry out the provisions of a will in settling up the estate of a deceased person without other authority than the will itself, exemption from liability incident to ownership of any property which belonged to the deceased in his lifetime cannot be claimed until the title to all personal property of the deceased has been transferred, and until the heirs have obtained possession of all real property. A decree will be entered according to the prayer of the bill.

## BAKER v. REEVES et al.

(Circuit Court, D. Washington, N. D. February 3, 1898.)

**1. TRANSFER OF STOCK IN NATIONAL BANK—INSOLVENCY OF BANK—LIABILITY FOR ASSESSMENTS.**

A stockholder in a national bank, with knowledge that the bank is in a failing condition, cannot make a voluntary transfer of his stock to one financially irresponsible, and thereby escape liability for assessments.

**2. SAME—INSOLVENT BANK—LIABILITY OF OWNER OF STOCK AT TIME OF FAILURE.**

The owner by assignment of stock in a national bank at the time of its failure is liable for assessments thereon, though his assignor, who transferred it knowing that the bank was in a failing condition, is also liable.

This was a suit in equity by Charles H. Baker, as receiver of the Merchants' National Bank of Seattle, against W. H. Reeves, Minnie Reeves, and Ira Bronson, to recover an assessment on certain shares of stock in the bank.

Stratton, Lewis & Powell, for plaintiffs.  
Boyd J. Tallman, for defendants.

HANFORD, District Judge. The object of this suit is to hold each of the defendants liable for an assessment upon stock of which the defendant William H. Reeves was owner, and which he transferred to his daughter, Minnie Reeves, and subsequently held as her assignee or agent. In that capacity he transferred part of it to the defendant Bronson.

At the time of the first transfer, William H. Reeves was a director of the bank, and fully informed as to its condition. It was a time of general financial depression, and it was difficult to keep on hand the amount of money required as a reserve fund to meet the demands of the depositors, and to maintain the credit and standing of the bank. Minnie Reeves is the daughter of William H. Reeves, and at the time owned no property, and was dependent on him for support, and was a student in college. William H. Reeves voluntarily, and without any request from his daughter, or consideration, transferred the stock to her, and immediately thereafter she indorsed the certificates and left them in his keeping. I am convinced that at the time of making the transfer of stock to his daughter, Mr. Reeves hoped and believed that the bank would survive, and that his present would be a benefit, rather than an incumbrance, to his daughter; but the bank was in a failing condition, and there was then ground to apprehend that it would become insolvent, and be compelled to go out of business. With knowledge of its condition, he could not transfer the stock to a person financially irresponsible, and thereby escape the liability of a shareholder for assessments to meet the demands of creditors. *Bowden v. Johnson*, 107 U. S. 251-264, 2 Sup. Ct. 246. The defendant Bronson, having received the stock, and being the holder of it at the time of the failure of the bank, is liable for the assessment; and, for the reasons stated, the defendant William H. Reeves is also liable.

Upon the authority of the case of *Gilbert v. Van Arman*, Fed. Cas.