113; Mays v. Rogers, 37 Ark. 155; Rosenthal v. Renick, 44 Ill. 203; Bishop v. O'Conner, 69 Ill. 431, 476; Johnson v. Peck, 58 Ark. 580, 25 S. W. 865. The general tenor of these decisions is that the claims of creditors to subject real estate of deceased persons to the payment of debts should be prosecuted within a reasonable time, and suggestions are made that the time allowed by law for the lien of judgments against real estate, and the time within which an action to recover real estate may be brought, furnish suitable rules to determine whether the claims are presented in reasonable time. In Bishop v. O'Conner, supra, the supreme court of Illinois says that "the period of seven years is adopted in that state as the limit within which proceedings may be instituted to sell lands by the administrator or creditors of an estate to pay debts, unless special circumstances are shown, explaining and justifying the delay." The seven years is taken by analogy from the legal limitation on the lien of judgments. If we make the rules declared in other courts the proper rule for the state of Florida, and by analogy adopt the limitation of judgments as fixing a reasonable time within which claims against the lands of a decedent should be enforced, the proceeding in this case was within a reasonable time. It is to be noticed that, according to the agreed statement of facts, payments were made on the judgment against the estate of William J. Bailey, deceased, from time to time (exact dates not given), and all the real estate in Jefferson county was first exhausted before proceedings were taken against the lands of Hernando county. Considering this in connection with the fact that the judgment creditor delayed in the execution of his judgment no longer than the law allowed, and laying to one side the question whether laches can be used affirmatively to protect and maintain a title otherwise defective, we are indisposed to hold that the circuit court erred in not maintaining appellant's bill because of the defendant's laches in executing his judgment against the estate of William J. Bailey.

It appears by the agreed statement of facts and exhibits that while the administration of the estate of Bailey was pending, while the judgment in favor of A. Florida Finlayson against the estate was outstanding and unsatisfied, the heirs of William J. Bailey partitioned among themselves, by the execution of mutual deeds, all the lands which belonged to their ancestor, William J. Bailey, at the time of his death, and that by one of these partition deeds the heirs conveyed their undivided interest as heirs at law of the said William J. Bailey in certain lands in Hernando county, including the 800 acres involved in this suit, to Virginia H. Tucker, wife of the administrator, James F. Tucker. This last-mentioned deed was upon record in Hernando county, and the appellant, whose title is through a mortgage and foreclosure proceeding of the lands in question against Virginia H. Tucker, had an abstract before it when it accepted the mortgage of Tucker and wife, which mortgage afterwards ripened into the master's deed under which the appellant now sues. Upon its face, the deed to Virginia H. Tucker was notice to the appellant that the only title which Virginia H. Tucker had to the land in question was the title which descended to the heirs of William J. Bailey, that said Bailey was dead, and that he had his domicile in the county of Jefferson at the time

of his death. Under the laws of Florida, except in certain cases not material here, letters of administration shall be granted in the county where the intestate was domiciled at the time of his death. Act Nov. 20, 1828, § 6; McClel. Dig. p. 77, § 3. The appellant was, therefore, put upon notice that the estate of Bailey must have been administered in Jefferson county, and that the administration of the same was within the jurisdiction of the courts of Jefferson county, the records of which would show whether or not the debts had been paid and the administrator discharged. "In all cases where the purchaser cannot make out a title but by deed, which leads him to another fact, the purchaser shall not be a purchaser without notice of that fact, but shall be presumed cognizant of that fact." Fonbl. Eq. c. 6, § 3; 2 Sugd. Vend. 559; Story, Eq. Jur. § 400a, notes 2 and 4. See, also, 2 Sugd. Vend. 563, § 76; 4 Kent, Comm. 179. It seems, therefore, that the appellant took only the heirs' title, and with knowledge of facts which, in equity, put him upon notice of the existence of the Finlayson judgment against the estate.

The appellant does not contest the general proposition as to notice, but contends that his investigation showed that Bailey had died more than ten years before, and that the heirs had waited until more than seven years after his death before dividing the real estate, and that as no administration had been undertaken in Hernando county, and no judgments or other claims recorded in Hernando county, the complainant was entitled to presume that all the debts of said estate had been satisfied or discharged, or that the creditors thereof were content to look to the property of said estate in the county where administration had been had, and, even if it was the duty of the purchaser to ascertain the place of administration (and the complainant in this case had done so), it would have found that the administration had not been closed up, but had lain dormant for more than ten years, with no effort on the part of any creditor to force a settlement from the administrator, who had removed from the county; that the defendant's intestate had recovered a judgment at least ten years before, and had never asked for execution thereon, and that the proceeds of the personal property had been more than sufficient to pay all the other indebtedness of the estate; and that such facts would have warranted the conclusion that the defendant's intestate, having a lien by virtue of said judgment upon all the realty belonging to the estate in Jefferson county, was content to look to the property in that county for the satisfaction of her judgment. To all this it may be answered that, even if the agreed statement of facts warranted the conclusions claimed, the judgment obtained against the estate of Bailey was not a specific lien upon any real estate, other than as resulted under the laws of Florida rendering the same subject to the payment of debts, that no law required the record of the judgment in any county of the state, that the record of a paper not required by statute to be recorded is not constructive notice to any one, and that there is no law in Florida to require either administrator or creditor to give any sort of notice, by publication, recording, or otherwise, to protect the assets of an estate in other counties from the claims of heirs or other creditors. For these reasons we feel constrained to hold in this case that

the appellant purchased with notice of the defective title which the heirs of Bailey held, and that in all respects the appellant stands, so far as the lands in controversy are concerned, in the shoes of the heirs, and is not an innocent purchaser without notice. As the appellant took the lands in controversy charged with the payment of the debts of the estate of Bailey, and with full notice that they were so charged, the decree of the circuit court dismissing the appellant's bill was correct, and it is affirmed.

FIDELITY INSURANCE TRUST & SAFE-DEPOSIT CO. v. ROANOKE IRON CO.

(Circuit Court, W. D. Virginia. September 6, 1898.)

RECEIVERSHIP — FACTORS' INTEREST IN PROPERTY CONSIGNED — ATTORNEY'S FEES.

In a proceeding brought by the receiver of an insolvent iron company against certain brokers to determine their interest in a quantity of iron in their possession for sale under a contract with the iron company, it was adjudged that the brokers had title to the iron, but were ordered to account to the receiver, after disposing of the iron, for the net balance remaining after reimbursement of advances and expenses. *Held*, that the brokers were not entitled to deduct from such balance any sum for attorney's fees and expenses incurred in defending their title to the iron, either under a provision in their contract with the iron company allowing them "expenses incidental to distributing the iron," or on the ground that they were acting as agents in defending the title, or on the ground of damage caused by the injunction restraining them from disposing of the iron.

Seward, Guthrie, Morawets & Steele, for Crocker Bros.

John Douglas Brown and Scott & Staples, for Philadelphia Warehouse Co.

PAUL, District Judge. The question to be disposed of arises on the application of Crocker Bros., creditors of the defendant company, to have allowed them, out of the fund under control of the court, the sum of $4,574.12 for expenses for counsel fees and attending the various hearings in the cause. Prior to and at the time of the appointment of the receiver in this cause, Crocker Bros., who were brokers in New York, had a contract with the Roanoke Iron Company, as agents, for the sale of said company's iron. Under the contract, the iron was shipped to Crocker Bros. on bills of lading in their name, was stored by them, and sold by them at their discretion; they advancing a stipulated proportion of the market price to the iron company, and accounting for the proceeds when the iron was sold, no control over these sales being reserved to the iron company. The contract contained this provision: "Account current will be rendered at suitable periods, and include proceeds of sales, payments on account, and any expenses of transportation, marine insurance, storage charges, or expenses of any nature incidental to distributing and delivering the iron." At the time of the appointment of the receiver, on the 25th of January, 1895, Crocker Bros. had in their possession, under their contract, about 6,000 tons of iron, 4,000