

PATTERSON v. SAUNDERS

Supreme Court of Virginia, 1953.
194 Va. 607, 74 S.E.2d 204.

HUDGINS, C.J., delivered the opinion of the court.

Charles C. Patterson filed his motion for judgment against Lillie M. Saunders, J.B. Gray, O.M. King, and Canton Lumber Company, Inc., seeking to recover \$50,000 damages for wrongfully cutting and removing timber from a sixty-acre tract of land * * * alleged to be owned by him. Defendants filed separate pleas of *res judicata*, in which it was alleged that the Circuit Court * * * in a chancery suit brought by the same plaintiff against J.B. Gray and O.M. King, two of the defendants named in his motion for judgment, had held that plaintiff had no title to the same sixty acres of land * * * . The trial court sustained the pleas and dismissed the case * * * .

The record of the former proceeding upon which each of the pleas of *res judicata* is based, consists of a bill in chancery, an answer and a decree. It was alleged in the bill of complaint filed by the same plaintiff * * * that he was the owner in fee of the sixty acres * * * and charged that J.B. Gray and O.M. King "have cut and are cutting 800,000 feet of heavy timber more or less on that portion of my land * * * ." The plaintiff's prayer in the bill was that J.B. Gray and O.M. King be enjoined "from cutting timber and trees on my above said land * * * and * * * from trespassing on my said land in any manner whatsoever."

The defendants in that proceeding filed a short answer denying each and every allegation set forth in the bill * * * . [T]he chancellor entered the following decree:

[T]he Court having heard the evidence, being of the opinion that the complainant has failed to establish his ownership of the property, and having failed to prove that either of the defendants have cut any timber from the complainant's land, and being of the opinion that the complainant is not entitled to any of the relief prayed for, doth adjudge, order and decree that the complainant's petition for a temporary injunction be and the same is hereby denied and this cause is dismissed * * * .

Charles C. Patterson, hereinafter designated "plaintiff," contends that the judgment of the trial court sustaining the pleas of *res judicata* is erroneous [because] * * * : (1) the court of equity in the former proceeding had no jurisdiction to try title to plaintiff's land; (2) even if it had jurisdiction, it did not pass upon the merits of the cause * * * .

The general rule is that in the absence of some peculiar equity arising out of the conduct, situation or relation of the parties, a court of equity is without jurisdiction to settle disputes as to title and boundaries of land. But where the act done, or threatened to be done, would be destructive of the substance of the estate, or would result in irreparable injury, a court of equity will assume jurisdiction, restrain the perpetration of the wrong and prevent the injury. Equity having taken jurisdiction, it will then decide the whole controversy, though the issues are legal in their nature and are capable of being tried by a court of law.

* * *

Plaintiff's bill * * * contained the essential averment that plaintiff owned the land, and referred to the deeds by which he claims to have acquired title. The answer denied this allegation. Each side was given full opportunity to introduce, and did introduce, evidence on this issue of fact. The court did more than merely deny the injunction. It disposed of the controversy on its merits and dismissed the case at the cost of plaintiff.

* * *

A judgment in a case involving two or more issues is treated as conclusive upon all of them, where all are decided in favor of the same litigant and the judgment rests upon them jointly, since the decision of one issue in such case is no less necessary or material

than the decision of the other.

* * *

The plaintiff, in the chancery cause, excepted to the entry of the decree, but took no appeal therefrom. Whether the decree was or was not supported by the evidence is [therefore] immaterial * * * .

* * *

In the case at bar the equity suit was not dismissed without prejudice. The adjudication was positive. If the plaintiff had proved that he owned the land, doubtless the court would have performed its duty, issued the injunction and restrained the defendants from cutting and removing the timber * * * .

While the court did not declare that title to the land was in the defendants, or their privies, it did declare that plaintiff was not the owner * * * .

Plaintiff does not allege in his motion for judgment, nor does he contend, that he has acquired any additional right, title or interest in the land since the entry of the final decree against him.

* * *

The judgment of the trial court is affirmed.

BUCHANAN, J., dissenting.

The opinion of the court in this case, as I believe, extends the doctrine of *res judicata* farther than has been done before and farther than should be done now. According to the opinion the unsuccessful effort of Patterson at a former time to obtain a temporary injunction to keep Gray and King from cutting timber on land claimed by Patterson * * * has resulted in his losing all title he then had * * * .

* * *

Nor yet did the decree adjudicate that Patterson had no title. The decree recited that he had “failed to establish his ownership” and “failed to prove that either of the defendants have cut any timber from the complainant’s land.” The failure of the complainant that resulted in the denial of his requested relief was a failure to introduce evidence sufficient to support his allegations. There were only two things alleged—one that he owned the land, the other that Gray and King were cutting his timber. There is nothing to show what evidence he introduced or why the court held it insufficient. He had not asked the court to adjudicate that he had the true title against all other persons. He merely asked for a temporary injunction to restrain trespassers. Had the relief he asked been granted, it would not have established his title against the defendants in the present motion for judgment. Certainly the denial of the relief he sought did not establish title in any of these defendants, none of whom submitted any claim of title for adjudication in the chancery suit. If the present defendants would not have been barred in the present suit by the granting of an injunction in the chancery suit, then the plaintiff in the present action ought not to be barred by his failure to obtain an injunction in the chancery suit.

* * *

MILLER and WHITTLE, JJ., concur in this dissent.