WILLIS BLUNT, Appellant, vs. J. W. BARBOUR, Appellee.

LRSC 4; 1 LLR 58 (1872) (1 January 1872)

[January Term, A. D. 1872.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Bill in Equity.

1. A conveyance made during minority, if confirmed after arriving at lawful age, is binding on the conveyor.
2. Where a party not under legal disability stands by and allows property which he claims, to be conveyed, titles perfected and adverse possession taken, without objecting at the proper time, he is afterward estopped from raising his claims or disturbing the peaceful possession of the occupant.

This is a case sent up from the Court of Quarter Sessions and Common Pleas, Montserrado County, sitting in equity, upon an appeal. The exception taken to the decree of the court below is based principally on the following points :—

Because the judge of the lower court decided that a certain deed said to have been executed by J. W. Barbour, the defendant below and now appellee, who, in his oral testimony, denied having signed any deed, and that when said deed was executed, he, the defendant, was an infant nineteen years old, and that he was not present during the transaction, although said deed was introduced as evidence by the plaintiff in the lower court and was not objected to by the defendant (now appellee) when he had the privilege and opportunity so to do.

From a careful examination of the record in this case, it is quite evident that the appellee, knowingly and with his full consent, allowed the aforesaid deed to be put in as evidence, and that he, the said appellee, did not object to said deed when it was both his privilege and duty so to do if any objections he had. The said appellee was therefore estopped from afterwards denying the said deed as his own act. (11 Bouv. Law Dict. p. 416; Liberia Stat. Bk. I, p. 34, sec. 13 ; I Greenleaf on Evidence, sec. 197; Lib. Stat. Bk. I, p. 35, sec. 25.) The court admits that it was optional with the appellee to have avoided or confirmed his said act when he became of age; as it is shown that he was an infant when the deed was executed. But it is manifest from the record that his (the appellee's) subsequent acts confirmed and made good the deed after arriving at lawful age.

The said appellee, as is disclosed by the testimony, attempted to buy back said premises from J. H. Lynch, and also from J. M. Moore, to whom Lynch sold the property. Even if appellee had a legal right to said premises, he did not, as was his bounden duty, assert his claim promptly; but on the contrary he intentionally and quietly stood by and allowed Lynch to transfer said premises to Moore, then Moore to Witherspoon, then by the High Sheriff, Fuller to Payne, then Payne to Blunt, the appellant in this case. During this lapse of time the appellee made no attempt to assert his title. These facts decidedly operate against the appellee, and the more so as the statute of 1860 requiring all deeds, mortgages and other conveyances to be registered, afforded the appellee an ample and easy method of preventing any deed from being registered and thus prevent any transfer from being complete. The appellee knowingly and of his own will neglected to avail himself of the benefit of the law, either to assert or establish his claim. Equity will not, therefore, give the relief; he is estopped by his own acts.

It is contrary to equity and good conscience that a man should stand by and allow his neighbor to expend money for the purchase and improvement of property, and conceal the fact that he is the owner and thus entrap his neighbor, then come forward and take advantage of his laches. The rule of equity is that he must assert his claim promptly or lose his relief. (I Story, Equity, 192, 385, 388; Il Story, Equity, 1537, 1541, 1546; Adams on Equity, 150, 151.)

The statement that appellee was absent when said deed was executed does not appear to the mind of the court as an established fact; but if indeed he was absent, the records show to the satisfaction of the court that the whole transaction was fully understood and endorsed by the appellee. In fine, the testimony of the appellee impresses the court with the belief that he suppressed facts which he must have known and which he ought to have disclosed. The exception to the decree of the lower court is sustained.

This court decides that the decree of the lower court is reversed, and the appellee be and he is hereby enjoined perpetually from disturbing W. Blunt, the appellant, in the quiet possession of the western half of lot No. 72 in the city of Monrovia; appellee to pay all costs.