H. COOPER, Appellant, vs. McGILL & BROS., Appellees.

LRSC 3; 1 LLR 93 (1878)

[January Term, A. D. 1878.]

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

Interlocutory *judgment—Appeal—Final* judgment.

An appeal cannot be taken from an interlocutory judgment. The appellate court will not review cases by piecemeal..

Appeals, where provided for by statutes, must be taken in strict accordance with the provisions of the statutes relating to same.

Final judgment is that which puts an end to the •matter in controversy, so far as the same is within the purview of the court. Until final judgment no valid appeal can be taken.

This is an action of injunction brought up on appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County, From the record in this case it appears that no final decree was given in the court below, but that the appeal was taken after an interlocutory decree that did not put an end to the issues in the case.

In the case of Minus vs. Crayton before this court at its session of 1874, the following decision was given: "That no appeal lies from a court of inferior jurisdiction to the Supreme Court, until after final judgment has been given"; a principle with respect to appellate proceedings fully sustained by law, and not without reason.

"The appellate court," says Freeman on Judgments (sec. 33), "will not review cases by piecemeal. The interests of litigants require that causes should not be prematurely brought to the higher courts. The errors complained of might be corrected in the court in which they originated, or the party injured by them, notwithstanding the injury, have final judgment in his favor. If a judgment interlocutory in its nature were the subject of appeal, each of such judgments rendered in the case could be brought before the appellate court, and litigants harrassed by useless delay and expense and the courts burdened with unnecessary labor."

On motion offered during the present session of this court, we stated that an appeal is a privilege or relief authorized by statute, and must be regulated by the provisions of the act so granting it; and we still entertain the same view as to its nature in this respect. Our statute provides that "every person against whom any judgment is rendered shall be entitled to an appeal from any decision or opinion of any court, except such courts of appeals." (Lib. Stat. 1st Book, p. 77, ch. 20, sec. 1.) But the sixth section of the same chapter declares, "Every appeal must be taken within sixty days after final judgment." Thus, while the right to appeal from every decision, interlocutory or final, is granted, the appeal cannot be taken until after final judgment is rendered.

Again our statute provides "that in all cases which shall be decided by the Court of Common Pleas, the person or persons considering himself or themselves aggrieved by such decision, may appeal to the Supreme Court after such decision, i.e., after the decision deciding the case." (Lib. Stat. rst Book, p. 109, sec. 9.)

But it is needless to enlarge upon this point so fully established even by the learned counsels themselves (representing either side in this case) who during the present session ably submitted arguments and citations to authorities in this and other cases, to sustain this position, that a party should not appeal and remove his case from the court below before final judgment..

A final judgment or decree is one that puts an end to the suit, or, in other words, completely disposes of the cause, so far as the court had power to dispose of it. It is a judicial decision of this character, settling the right or interest in controversy between parties to a cause, that is essential to invoke appellate jurisdiction.

An adjudication, however, is not final so long as a question which it was one of the objects of the suit to determine, remains undetermined, and the rights of the party thereto remain preserved for further adjudication. Such appears to be the nature of this case; the rights of the parties have not yet been decided upon; no final judgment has been rendered in the case, and therefore the bringing it up to this court is premature.

We have observed the several exceptions taken to the matters ruled upon during the trial of this case in the lower court, but not regarding the case as being properly before us for review we do not propose to examine these exceptions.

It is decreed that the case be dismissed, and appellant ruled to pay costs. The clerk is hereby commanded to issue a mandate to the court from whence this case came, informing it of this decree. .

Key Description: Appeal and Error (Interlocutory and intermediate decisions; Necessity of final determination)