

GEORGE CYRUS, Appellant, vs. THOS. G. FULLER, Appellee.

LRSC 5; 1 LLR 181

[January Term, A. D. 1884.]

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

Ejectment.

A bastard has no inheritable blood and cannot be heir to any one unless by some express statutory provision.

This action is brought up from the Court of Quarter Sessions, Montserrado County, upon a bill of exceptions under the statute regulating appeals. The trial was had at the September term of said court, A. D. 1833, at which trial a verdict and judgment were rendered for the appellee.

The appellant claims ownership to the eastern half of lot number two hundred and ninety-one, situated in the city of Monrovia, as surviving heir of the late Rosaline Canot, the former owner of said premises, against which title the court ruled. Consequently the appellant excepts to the opinions, rulings and judgment of the court below, as will be seen in the record and bill of exceptions filed, and brings the same before this judicature for review.

This court takes occasion to say it has carefully examined the record and proceedings of the court below and finds them in keeping with law and the practice of courts of law. In this action George T. Cyrus, the appellant, seeks to eject Thomas G. Fuller, appellee, from the eastern half of the lot number two hundred and ninety-one, appellant claiming ownership thereto by inheritance or descent, alleging that as grandson of Rosaline Canot he has a legal right to inherit the same.

From the evidence it is clear that Rosaline Canot died seized of the property in dispute, leaving a will or testament in which she gave to her daughter, Palmyra Harriott, the property in dispute. It further appears in the evidence that before the death of Palmyra Harriott she also made a testament in which she gave the premises in dispute to her sister Frances Cyrus. The court further observes, from the evidence, that Rosaline Canot had three legitimate children, namely, Frances, Palmyra, and George, living at the time of her death, as well as one bastard or illegitimate child, Mary by name. To this latter child, Mary, the testator left in her will certain personal property. In the will of Rosaline Canot she expressed a desire that her lands descend to her heirs. In process of time this daughter Mary, as above referred to, gave birth to a bastard child, who is the appellant in this suit: Frances Cyrus dying without issue and making no testament and being seized of the premises at the time of his death, the appellant claims ownership thereto.

From the evidence it further appears that L. A. and H. W. Johnson, Sr., did in the year 1872, institute a suit for the recovery of these premises still in dispute, as collateral heirs, which case was by appeal brought before this court for review, and after solemn arguments this court rendered a decree (not knowing at the time of the decree that George Cyrus, the son of the testator Rosaline Canot, was dead) that George was the only lawful heir of Frances Cyrus' estate, and that this property was his by descent; but should it be afterward discovered that he is dead and without issue, and has not conveyed the same to anyone, then his property shall escheat to the Republic of Liberia, and should be sold as public property. According to this decree (George Cyrus being dead, dying without issue, and not

conveying to any one) this property was offered for sale at public auction and the appellee, Thomas G. Fuller, for valuable consideration bought the same, obtained a fee simple deed from the Republic and has made valuable improvements thereon.

The appellee assumes in defence of his title to these premises, 1st, that he is the bona fide owner by lawful purchase, and 2nd, that the appellant being a bastard has no inheritable blood according to the common law, and hence cannot be heir to anyone. From the evidence it admits of no doubt that both the appellant and his mother were bastards, hence. the legal right of the appellant to the property in dispute as lawful heir is now the question for the determination of this court.

We take •occasion here to repeat the doctrine maintained by this court in its decree rendered in the case of L. A. and H. W. Johnson, Jr. (see the decree) , to wit:

A bastard has no inheritable blood, and cannot be heir to any one by the common law. The court is aware that the Legislature of many states in tenderness has so altered the common law as to allow bastards to inherit from their mother, as well as from each other. But even this modification in no case provides that they can inherit as collateral kinsman, and in the absence of a special statute made or adopted by this Republic, this court must be and is bound by the doctrine of the common law in deciding the question.

In the ruling, verdict and judgment, this court, seeing that substantial justice has been done by the court below, fails to see why the judgment should be disturbed. Therefore this court affirms the judgment of the court below, and adjudges that the appeal be dismissed, and that the appellee recover from the appellant the costs in this action.