

JAMES S. SMITH, Appellant, VS. FENTON ANN HILL, O. G. R. HILL and  
THOMAS L. HILL, Appellees.

LRSC 1; 1 LLR 157

[January Term, A. D. 1882.]

*Appeal from the Court of Quarter Sessions and Common Pleas, Maryland County. Ejectment.*

1. A conveyance of land made by a party who had and held an absolute title therein, bars all claim of heirs or persons claiming under the original title of the conveyor. A deed, lawfully executed, is evidence against all parties to it and it is evidence of all title or rights transferable by it.

2. In suits brought to recover real property unlawfully withheld it is a misjoinder for strangers to join in the action as plaintiffs, where the grantee or person entitled to relief is living and under no legal disability.

This an appeal case that was originally tried in the Court of Quarter Sessions of Maryland County, Republic of Liberia, at its August term, A. D. 1880, and is brought up from said court upon a bill of exceptions, for review. Therefore the court proceeds to consider the character of the positions assumed by the said plaintiffs (now appellees) in their complaint.

1 st, "The appellees say that Delia Hill, deceased, was possessed of the piece of land described in their complaint." 2nd, "That the title of the said Delia Hill hath lawfully come to them, the said appellees, and that the appellant James S. Smith unlawfully detains the land from the said appellees." 3d, "That the said James S. Smith obtained a certain deed of transfer from the said Delia Hill upon the terms expressed in said appellees' complaint." 4th, "That the two hundred and fifty dollars was not the true consideration agreed upon by the said Delia Hill and the said James S. Smith to be paid for the said lot number eighteen." 5th, "That although the said Delia Hill during her lifetime did transfer unto the said James S. Smith the piece of land, lot number eighteen, the said James S. Smith failed to do as he should have done, as was by mutual understanding the consideration agreed upon."

In our attempt to discriminate the right from the wrong involved in this case, we indulge the pleasant belief that it will require but a very little exercise of the mind to enable us to distribute to each party that exact justice that the reasonableness of the case allows.

The court says, the second plea in the answer of the defendant (now appellant) which alleges that the facts stated in the complaint of the plaintiffs (now appellees) in this case are not true, is supported by the law and evidence in this case, so far as it relates to that part of the allegation in the complaint which says that Delia Hill, deceased, was possessed of the lot of land, number eighteen, in the upper ward of the city of Buchanan, in the County of Grand Bassa, Republic of Liberia, and that the title of the said Delia Hill hath lawfully come to them, the said appellees; for by the admission of the appellees and the evidence in the case it is clearly shown that a consideration of two hundred and fifty dollars is declared upon the face of the said transfer deed, from the said Delia Hill to the said James S. Smith, to have been the amount paid for the said piece of land, lot number eighteen; and this transfer was made in the lifetime of the said Delia Hill, whereby all the rights that the said Delia Hill did have to the said lot of land, number eighteen, was transferred to the aforementioned appellant James S. Smith, in fee simple, forever. This being the case, certainly she was, in her lifetime, divested of every species of interest, as owner of the lot

number eighteen, that could pass to her heirs, from the fact that the title of the said James S. Smith is complete and valid, in respect to said lot, as will be shown more clearly in the sequel.

We assert that the said transfer deed we so often refer to gives to the said James S. Smith a complete and bona fide title to the said piece of land in question. And we entertain the opinion that we are supported in this declaration by the universal doctrine of the law on written contracts and other instruments.

And notwithstanding the said appellees in their complaint allege that the amount of two hundred and fifty dollars, specified in the said deed, was not the true consideration agreed upon by the said parties, we say, if such was the case and the grantor, who had a right, at any stage of the arrangement that was being made for the transfer of the said land, to dispose of it in any way that would secure to the appellant the lawful right thereto, she did, by the terms of the said deed and the delivery thereof, establish in the said appellant a sufficient title to the said described premises. For the execution of a deed for real property is one of the most solemn acts that mankind can perform in the way of a business transaction; therefore, when it is properly and lawfully executed, it is evidence against all parties to it, and it is evidence of all title or rights transferable by it to all mankind. It is also the best evidence of its own terms and character, when fraud was not used as one of the ingredients to procure the same.

Our next consideration is to show that there was a misjoinder of plaintiffs (now appellees). Whatever may have been the character of the deed from the said Delia Hill to the said James S. Smith, other than was by its terms expressed therein, or unless it had been fraudulently obtained so as to entitle the appellees to bring this suit, they were bound by the warranty of the deed to defend the said appellant and his heirs in the peaceful enjoyment of the said described premises. The said Delia Hill's heirs, executors and administrators being her legal securities to the said appellant, for his quiet possession of the said lot of land, he is forever estopped from bringing any suit against the said appellant for the said land on the ground of heirship.

Then, again, the said appellees, Fenton Ann Hill and O. G. R. Hill, not being parties to the deed executed by the appellant in favor of Thomas Woodfall Hill, his heirs, executors, administrators and assigns, and the said Thomas Woodfall Hill not being dead, the said Fenton Ann Hill and O. G. R. Hill had no right to join in this action brought in consequence of an ouster of the possession of the said Thomas Woodfall Hill, from the said piece of land, lot number eighteen, since their names do not appear to the deed as parties to the same. Here the misjoinder is very obvious, to our minds.

In respect to the motion made by defendant (now appellant) in the court below to dismiss the case, the motion being founded on an affidavit, it was not confined to the general rules of pleadings, for the very object of a motion to obtain some rule or order of court, which the party who tenders it thinks becomes necessary, in the progress of the cause; or to get relieved in a summary manner from some matter which would work injustice. The inconvenience of this misjoinder in this case is apparent from the conclusion of the court below, consequently the motion to dismiss the case ought to have been sustained upon the plea of misjoinder, since, in an action at law, a misjoinder vitiates the entire declaration. Therefore this court says that the court below erred in not dismissing the case upon the plea of misjoinder, after hearing the same, and also in the giving of final judgment in this case.

Therefore, it is the decision of this court that the misjoinder of plaintiffs in the court below (now appellees in this cause) vitiated the entire declaration in the case, and that the title of the appellant James S. Smith to the said piece of land, lot number eighteen, as described in the aforementioned deed from the aforementioned Delia Hill, deceased, to the said James S. Smith, is a good and bona fide title for the said lot of land number eighteen, and that the appellees in this case are forever estopped from disturbing the said James S. Smith, his heirs, executors, administrators and assigns, in the peaceful enjoyment of all the rights conferred upon him by the said deed. And that by the terms of the said deed, the appellees in this case are legally bound to defend the appellant, James S. Smith, his heirs, executors, administrators and assigns, against any person or persons claiming any part of the said described premises; and the said appellant shall continue in the lawful possession of said lot number eighteen, described in this decision.

The judgment of the Court of Quarter Sessions of Maryland County, Republic of Liberia, given in this case as above referred to, at its August term, A. D. 1880, is hereby reversed; and the appellees are ruled to pay all costs incurred in this action.