

SUPREME COURT OF FLORIDA

Ryan's Furniture Exchange, Inc. v. McNair

162 So. 483 (Fla. 1935) · Decided June 19, 1935

SUMMARY

The Supreme Court of Florida reviewed by certiorari an order in supplementary proceedings to execution that treated Ryan's Furniture Exchange, Inc. as a continuation of the judgment debtor and directed seizure of its property. The court held that third parties claiming property adversely to both the judgment creditor and debtor must be made actual parties and afforded notice and a full and fair opportunity to be heard before their property rights are adjudicated. The circuit court's order was quashed and the matter remanded for further proceedings consistent with due process.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Davis; Whitfield; Ellis; Terrell; Brown; Buford
JURISDICTION	Florida
DECIDED	June 19, 1935
DISPOSITION	quashed
PROCEDURAL POSTURE	Ryan's Furniture Exchange, Inc. petitioned the Supreme Court of Florida for certiorari to review a circuit court order in supplementary proceedings to execution that adjudicated property in the corporation's possession to be assets of the judgment debtor and directed the sheriff to seize it.
STANDARD OF REVIEW	Certiorari review of whether the circuit court departed from the essential requirements of law and afforded due process in supplementary proceedings to execution.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Florida; binding precedent within Florida.
PARTIES	Ryan's Furniture Exchange, Inc. v. M. G. McNair, as Receiver of the Putnam National Bank

TOPICS

- writ of certiorari
- due process
- civil procedure
- appellate procedure
- replevin

PRACTICE AREAS

civil procedure

appellate procedure

constitutional law

remedies

commercial litigation

QUESTIONS PRESENTED

1. Whether a circuit court may finally adjudicate the property rights of third parties in supplementary proceedings to execution without making those third parties actual parties and providing notice and an opportunity to be heard.
2. Whether the circuit court's order directing seizure of property held by Ryan's Furniture Exchange and acquired from H. C. Richard complied with due process and the Florida supplementary-execution statutes.
3. Whether certiorari was an appropriate remedy to review the circuit court's order.

HOLDINGS

1. A court may not finally adjudicate, impair, or cut off the property rights of third parties in supplementary proceedings to execution unless those third parties are first made actual parties to the proceeding and given a full and fair opportunity to be heard.
2. The circuit court's order did not satisfy the essential requirements of law because it conclusively adjudicated the rights of Ryan's Furniture Exchange and H. C. Richard without making them parties or serving them with process.
3. Certiorari was an appropriate remedy to quash the circuit court order because the order departed from the essential requirements of law by adjudicating third-party property rights without due process.

KEY QUOTATIONS

"If during the course of proceedings supplementary to execution the rights of third parties claiming adversely both to plaintiff in execution as well as to defendant in execution appear to be involved, no rights of such third parties should be adjudged to be affected, impaired or finally cut off by any order of court made in such proceedings supplementary to execution, unless such third parties have been first fully impleaded and brought into the case as actual parties to the proceeding and as such, given an opportunity to fully and fairly present their claims as parties entitled to a full and fair hearing after the making up of definite issues to be tried, and not as mere spectators or bystanders in the cause." (at 120)

"The Circuit Court order of March 15, 1935, attacked by this writ of certiorari is not in conformity with the essential requirements of law in that it undertakes to finally decide and definitely adjudicate against Ryan's Furniture Exchange, Inc., and against H. C. Richard, its predecessor in title, rights of property asserted by them which should not be finally determined adversely to their claims until said Ryan's Furniture Exchange, Inc., and said H. C. Richard are duly made actual parties to the proceeding by being served with a rule nisi summoning them to show cause why a final order determining their rights, title and interest in the disputed assets should not be made." (at 123)

FACTUAL BACKGROUND

McNair, as receiver of the Putnam National Bank, held a judgment for \$20,786.53 plus costs against Ryan Bros., Inc., and an execution was returned unsatisfied. In supplementary proceedings, a commissioner heard evidence and the circuit court found that Ryan's Furniture Exchange, Inc. was a continuation of Ryan Bros. and that its property had been transferred fraudulently. The circuit court ordered the sheriff to seize the furniture company's property even though Ryan's Furniture Exchange and its predecessor in title, H. C. Richard, had not been made parties to the proceedings or given a full opportunity to contest the property claims.

PROCEDURAL HISTORY

M. G. McNair, as receiver, obtained a judgment against Ryan Bros., Inc. and initiated supplementary proceedings after execution was returned unsatisfied. After hearings before a court-appointed commissioner, the circuit court confirmed findings that Ryan's Furniture Exchange was a continuation of Ryan Bros. and ordered seizure of its property. The Supreme Court issued certiorari and a supersedeas, then quashed the circuit court's order and remanded for proceedings consistent with its opinion.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The record was remanded to the circuit court for appropriate proceedings consistent with the opinion. Any determination of the rights of Ryan's Furniture Exchange or H. C. Richard required that they first be made actual parties, served with an appropriate rule nisi, and afforded a full and fair hearing; available claim-and-bond procedures or other appropriate proceedings could then be used.

CASES CITED

- South Florida Trust Co. v. Miami Coliseum Co., 101 Fla. 1351, 133 So. 2d 334
- Sebring Co. v. O'Rourke, 101 Fla. 885, 134 So. 556
- Florida Guaranteed Securities v. McAllister, 47 F.2d 762
- Reese v. Baker, 98 Fla. 52, 123 So. 2d 3
- Redman v. Kyle, 76 Fla. 79, 80 So. 2d 300
- Tibbetts v. Olson, 91 Fla. 824, 108 So. 2d 679
- McDaniel v. McElvy, 91 Fla. 770, 108 So. 2d 820, 51 A.L.R. 731
- Fiehe v. Householder Co., 98 Fla. 627, 125 So. 2
- Ponder v. Moseley, 2 Fla. 207, 48 Am. Dec. 194
- Wilson v. Hayward, 6 Fla. 171
- Jordan v. Petty, 5 Fla. 326
- Massey v. Pineapple Orange Co., 87 Fla. 374, 100 So. 2d 170
- City of Coral Gables v. Hopkins, 107 Fla. 778, 144 So. 385

