

SUPREME COURT OF GEORGIA

Sharpe v. Mathews

123 Ga. 794 (Ga. 1905) · Decided August 4, 1905

SUMMARY

The court held that an instrument executed in deed form and delivered to the grantee conveyed title subject to the grantor's reserved life estate, rather than operating as a will. Because the defendant entered and possessed the property under a bona fide claim of title, he was not a tenant at sufferance. The dispossessory proceeding was therefore unavailable, and the judgment granting a nonsuit was affirmed.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Evans, J.
JURISDICTION	Georgia
DECIDED	August 4, 1905
DISPOSITION	affirmed
PROCEDURAL POSTURE	Administrator-plaintiff appealed from a judgment of nonsuit entered in a summary dispossess proceeding against defendant as an alleged tenant at sufferance.
STANDARD OF REVIEW	Whether the evidence authorized the judgment of nonsuit, including whether the instrument was a deed and whether the evidence established a landlord-tenant relationship sufficient for summary dispossess proceedings.
PRECEDENTIAL VALUE	Published opinion; precedential Georgia Supreme Court decision.
PARTIES	W. H. Sharpe, administrator of Betsey A. Mathews v. Daniel L. Mathews

TOPICS

- eviction
- landlord tenant
- real estate
- civil procedure

PRACTICE AREAS

- real estate
- landlord-tenant law
- summary dispossess proceedings

QUESTIONS PRESENTED

1. Whether the instrument executed and delivered by Betsey A. Mathews was a deed or a testamentary instrument.
2. Whether Daniel L. Mathews was a tenant at sufferance subject to summary dispossession proceedings when he entered possession under the instrument claiming ownership in good faith.

HOLDINGS

1. The instrument was a deed, not a will, and conveyed title to Daniel L. Mathews subject to Betsey A. Mathews's reserved life estate.
2. Daniel was not a tenant at sufferance because he did not enter or possess the land under Betsey as a tenant; he entered under the deed while asserting a bona fide claim of ownership. Accordingly, the summary dispossession proceeding was unavailable.

KEY QUOTATIONS

“The relation of landlord and tenant did not, therefore, exist, and the summary proceeding authorized by the Civil Code, §4813, was not available.” (797-798)

“Under these circumstances, he could not be summarily evicted as a tenant holding over, and the judgment awarding a nonsuit should not be disturbed.” (798)

FACTUAL BACKGROUND

Betsey A. Mathews executed and delivered to her son, Daniel L. Mathews, a document in deed form conveying the land while reserving the property to herself for life. Daniel entered possession under the instrument, in good faith, claiming the land as his own. Although the evidence addressed the payment of the stated consideration and Daniel's support obligations, Daniel testified that he did not enter or hold the premises as his mother's tenant. Betsey later sought to dispossess him as a tenant at sufferance.

PROCEDURAL HISTORY

Betsey A. Mathews sued to dispossess Daniel L. Mathews as a tenant at sufferance. After her death, W. H. Sharpe, her administrator, was substituted as plaintiff. The trial court granted defendant's motion for nonsuit after plaintiff presented its evidence, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Griffith v. Douglas, 120 Ga. 582
- Watson v. Toliver, 103 Ga. 123
- Godfrey v. Walker, 42 Ga. 562, 575

- Willis v. Harrell, 118 Ga. 906
- 2 Bl. Com. 150

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