

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MacDonald v. Du Maurier

144 F.2d 696 (2d Cir. 1944) · No. No. 390 · Decided August 18, 1944

SUMMARY

The Second Circuit reversed a judgment on the pleadings dismissing a copyright infringement action involving alleged similarities between the plaintiff's works and Daphne Du Maurier's novel Rebecca. The majority held that, because copying and access had to be assumed on a Rule 12(c) motion, the alleged similarities could not be dismissed as unprotected or trivial at that stage; Judge Clark dissented.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Swan; L. Hand; Clark
JURISDICTION	Federal
DECIDED	August 18, 1944
DOCKET	No. 390
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from the grant of the appellee's motion for judgment on the pleadings in a copyright-infringement action.
STANDARD OF REVIEW	On a motion for judgment on the pleadings under Rule 12(c), well-pleaded allegations must be accepted as true, including the allegation that the accused work was copied, despite the opposing party's denial.
PRECEDENTIAL VALUE	published appellate opinion
PARTIES	MacDonald v. Du Maurier

TOPICS

- copyright infringement
- motion for judgment on the pleadings
- copyright fair use
- civil procedure
- appellate procedure

PRACTICE AREAS

- copyright
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether judgment on the pleadings was proper where the complaint alleged that Rebecca was copied from MacDonald's copyrighted works, even though the answer denied copying.
2. Whether the alleged similarities could be treated as unprotectable ideas or trifling common matter on a motion for judgment on the pleadings.

HOLDINGS

1. Judgment on the pleadings was improper because the court had to accept the complaint's allegation that Rebecca was copied from MacDonald's works and therefore had to assume access and copying of the common material.
2. The claim could not be dismissed on the pleadings because the alleged common material included concrete incidents and details that, if copied, could fall within copyright protection; the court did not decide that infringement ultimately existed.

KEY QUOTATIONS

"But a motion for judgment on the pleadings asks the court to determine the issue of infringement with these facts conceded." (701)

"While we agree that dispatch in litigation is highly desirable, it should not be pressed to the point where it shuts out an adequate examination of the merits." (701)

FACTUAL BACKGROUND

MacDonald wrote a story titled "I Planned to Murder My Husband," published and copyrighted in 1924, and later expanded it into the copyrighted 1927 novel Blind Windows. In 1938, Du Maurier published Rebecca, which MacDonald alleged copied her works. MacDonald filed suit in 1941, before any trial occurred.

PROCEDURAL HISTORY

MacDonald sued alleging that Du Maurier's novel Rebecca infringed her copyrighted story and novel. Before trial, the appellee moved for judgment on the pleadings, and the district judge granted the motion. The Second Circuit reversed, holding that the pleadings required the court to assume access and copying of common material and that infringement could not properly be resolved against the plaintiff on that procedural record.

DISPOSITION

reversed

CASES CITED

- Dellar v. Samuel Goldwyn, Inc., 104 F.2d 661, 662 (2d Cir. 1939)
- Collins v. Metro-Goldwyn Pictures Corp., 106 F.2d 83, 86 (2d Cir. 1939)

