SUPREME COURT OF FLORIDA

Smith v. Jones

162 So. 496 (Fla. 1935) · Decided June 27, 1935

SUMMARY

The opinion addresses whether a court could displace a statutory liquidator of an insolvent trust company with a successor trustee and receiver at the request of a minority group of bondholders. The court held that the complaint and evidence did not establish sufficient fraud or mismanagement to justify replacing the statutory liquidator, and recognized the liquidator-trustee’s authority and duty to manage and lease the trust property. The orders appointing the successor trustee and receiver were reversed and the cause was remanded.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Brown; Whitfield, C. J.; Davis, J.; Ellis, P. J.; Terrell, J.; Buford, J.
JURISDICTION	Florida
DECIDED	June 27, 1935
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from orders of the Circuit Court ousting a statutory liquidator-trustee, appointing a successor trustee and receiver, and ordering delivery of trust property to the receiver.
STANDARD OF REVIEW	The appellate court reviewed whether the pleadings and record established sufficient grounds in equity to displace the statutory liquidator and appoint a receiver, including whether the trial court abused its discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Arthur C. Brown v. Jones

TOPICS

trust administration · trustee duties · equitable lien · remedies · civil procedure

PRACTICE AREAS

trusts · equitable remedies · bank and trust company liquidation · receivership

QUESTIONS PRESENTED

1. Whether a court may displace a statutory liquidator of an insolvent trust company and appoint a successor trustee or receiver absent a sufficient showing that the statutory liquidation system is inadequate or has been abused.
2. Whether the liquidator-trustee had authority and, under the circumstances, a duty to lease the trust property for the benefit of the bondholders.
3. Whether necessary expenses advanced by the trustee for administration of the trust estate constitute a lien against the trust property that permits the trustee to retain control until payment.

HOLDINGS

1. A statutory liquidator of an insolvent bank or trust company may be displaced by a successor trustee or court receiver only upon a sufficient showing of fraud, mismanagement, abuse, or inadequacy of the statutory liquidation procedure to protect the complainants' property rights. The unsworn bill and record did not make that showing.
2. Under the circumstances, the liquidator-trustee had authority, and a duty, to lease the hotel property to the best possible advantage for the bondholders while preserving the property during depressed rental and real-estate conditions.
3. Necessary costs and expenses properly incurred in administering and defending a trust are chargeable against the trust estate, and the trustee may have a lien on the trust property for those amounts and reasonable counsel fees.

KEY QUOTATIONS

> *"But in our opinion, no sufficient showing of fraud or mismanagement was made by appellees to authorize the displacement of the statutory liquidator by a successor trustee or court receiver"* (at 242)

> *"we consider that it was the duty of the trustee under those circumstances to rent the property to the best possible advantage."* (at 241)

FACTUAL BACKGROUND

The Guardian Trust Company, acting as trustee for bondholders, acquired the Casa Loma Hotel at a foreclosure sale and held title for the bondholders. A State Comptroller-appointed liquidator subsequently administered the trust companies and leased the hotel to Arthur C. Brown, who had also leased it the preceding year. Eight nonresident bondholders holding $6,600 of a $150,000 bond issue sought to remove the liquidator and obtain a court-appointed receiver, while the liquidator asserted a claim for $10,300 in advances for insurance, repairs, and other necessary trust expenses.

PROCEDURAL HISTORY

Bondholders filed a bill seeking removal of the statutory liquidator, appointment of a successor trustee and court receiver, and possession of hotel property held for the bondholders. The Circuit Court entered the challenged orders without requiring a bond from the successor trustee or receiver. The Supreme Court of Florida reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The orders appointing the successor trustee and receiver and displacing the statutory liquidator were reversed, and the cause was remanded.

CASES CITED

- Power v. Chillingworth, 93 Fla. 1031, 113 So. 280
- Amos v. Trust Co., 54 F.2d 285, 289
- State v. Circuit Court, 102 Fla. 112, 135 So. 866
- Bank v. Hankins, 42 F.2d 209
- State v. Willmer, 102 Fla. 64, 135 So. 759
- Bay Biscayne Co. v. Baile, 73 Fla. 1120, 75 So. 860
- Johnson v. Lehman, 131 Ill. 609, 19 A.S.R. 63
- Pennsylvania v. Williams, 79 L.Ed. advance sheets No. 7, 384
- Gordon v. Ominsky, 79 L.Ed. advance sheets No. 7, 390
- Gordon v. Washington, 79 L.Ed. advance sheets No. 11, 626
