

SUPREME COURT OF TENNESSEE

Bowser v. Bowser

29 Tenn. 49 (1849) · Decided September 15, 1849

SUMMARY

The court reviewed an action for forcible detainer involving a tenant who remained in possession after the termination of the original lease. It held that the tenant could show that the landlord’s title had expired or been transferred, thereby ending the landlord-tenant relationship and permitting an attornment to another landlord. The court affirmed the judgment for the defendant.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                               |
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| COURT                 | Supreme Court of Tennessee                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Crozier, special judge                                                                                                                                                                                                                                                        |
| JURISDICTION          | Tennessee                                                                                                                                                                                                                                                                     |
| DECIDED               | September 15, 1849                                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | John Bowser brought an action for forcible detainer against George Bowser. After a jury verdict for George Bowser, the circuit court refused to set aside the verdict and grant a new trial. John Bowser brought the case to the Supreme Court of Tennessee by writ of error. |
| STANDARD OF REVIEW    | Review of the circuit court's jury instructions and refusal to set aside the verdict and grant a new trial; the Supreme Court determined whether there was error in the charge or in refusing a new trial.                                                                    |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                |
| PARTIES               | John Bowser v. George Bowser                                                                                                                                                                                                                                                  |

TOPICS

- landlord tenant
- eviction
- real estate
- civil procedure
- remedies

PRACTICE AREAS

- real estate
- landlord-tenant law
- forcible detainer

QUESTIONS PRESENTED

1. Whether a tenant defending a forcible-detainer action may show that the landlord's title or interest in the premises expired or was transferred.
2. Whether John Bowser's conveyance of his title and interest to Martha Bowser dissolved the landlord-tenant relationship and permitted George Bowser to attorn to another landlord.
3. Whether the circuit court erred in refusing to set aside the jury verdict and grant a new trial.

#### **HOLDINGS**

1. A tenant may show, regardless of the form of the action, that the landlord's title has expired, that the landlord sold his interest in the premises, or that the interest was alienated by judgment and operation of law.
2. The deeds from John Bowser to Martha Bowser could be considered to determine whether John Bowser had voluntarily ceased to be George Bowser's landlord; if the relationship had ceased, George Bowser could lawfully attorn to another landlord.
3. The circuit court did not err in refusing to set aside the verdict and grant a new trial because sufficient evidence supported a verdict for George Bowser on the ground that John Bowser had transferred his title and thereby dissolved the landlord-tenant relationship.

#### **KEY QUOTATIONS**

*“the tenant may always show that his landlord’s title has expired, or that he has sold his interest in the premises, or that it is alienated from him by judgment and operation of law.”* (29 Tenn. at 50)

*“If the relation of landlord and tenant had ceased, it was competent for the defendant to show that fact, no matter what the form of the action in which he was sued.”* (29 Tenn. at 50)

#### **FACTUAL BACKGROUND**

George Bowser originally occupied the land under a lease from Blythe, who was John Bowser's tenant. After Blythe's lease ended, George remained in possession with John Bowser's tacit permission. Before suit, John Bowser allegedly conveyed all of his title and interest in the land to Martha Bowser, and George defended the forcible-detainer action on the ground that the conveyance dissolved the landlord-tenant relationship.

#### **PROCEDURAL HISTORY**

George Bowser defended the forcible-detainer action by asserting that John Bowser's title had been transferred through execution proceedings and that John Bowser had separately conveyed his title and interest to Martha Bowser. The circuit court instructed the jury that the defendant could show that the landlord-tenant relationship had been dissolved and could attorn to another landlord. The jury found for George Bowser, and the circuit court's refusal to disturb that verdict was affirmed.

#### **DISPOSITION**

affirmed

## CASES CITED

- 8 Hump. 22
- Wood v. Turner, 8 Hump. 685

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