UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Rutkin v. Reinfeld

229 F.2d 248 (2d Cir. 1956) · Decided January 25, 1956

SUMMARY

The Second Circuit reversed a jury judgment for the plaintiff and dismissed the complaints. The court held that the claims were barred by applicable New York statutes of limitations because civil conspiracy does not postpone accrual until the conspiracy's final act. It also held that the claims were unenforceable because they arose from illegal bootlegging transactions and the plaintiff's undisclosed interest in a liquor corporation.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Lumbard, Circuit Judge; Lumbard
JURISDICTION	Federal
DECIDED	January 25, 1956
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed from a judgment entered on a jury verdict awarding plaintiff $77,200 in damages, plus interest.
STANDARD OF REVIEW	De novo review of the legal application of statutes of limitation and the enforceability of claims based on illegality; the court reviewed the sufficiency of the evidence and legal effect of the undisputed transaction history.
PRECEDENTIAL VALUE	Published federal appellate opinion
PARTIES	Joseph Reinfeld, Renfield Importers, Ltd., Harold C. (Sonny) Levin, also known as Harold C. Renfield, Samuel Bronfman, Allen Bronfman, Browne-Vintners Co., Inc. v. Rutkin

TOPICS

statute of limitations · civil procedure · appellate procedure · contracts · corporate law

PRACTICE AREAS

civil procedure · contracts · corporate law · commercial litigation · appellate procedure

QUESTIONS PRESENTED

1. Whether the plaintiff's civil conspiracy theory delayed accrual of the L. L. & B. claim until the alleged conspiracy's later acts or concealment.
2. Whether the L. L. & B. claim was barred by the applicable New York statute of limitations.
3. Whether the Browne-Vintners Old claim was governed by the six-year limitation period for claims involving breach of duty by corporate officers or directors and was barred by that period.
4. Whether claims arising from transactions intended to facilitate illegal liquor trafficking were unenforceable for illegality.
5. Whether a plaintiff who concealed an ownership interest from New York liquor authorities could enforce that interest in court.

HOLDINGS

1. In a civil action, the statute of limitations runs from the injury caused by the specific overt act or acts, not from the last act of a continuing conspiracy. Alleging a continuing conspiracy cannot extend the limitations period for an injury that occurred years earlier.
2. The L. L. & B. claim was barred by the applicable New York statute of limitations because the injury occurred in 1931, or at the latest when plaintiff should have discovered the claim in 1932, rather than when later alleged conspiracy benefits were received.
3. The Browne-Vintners Old claim was governed by the six-year limitation period applicable to the underlying corporate injury and was barred because the transaction occurred on December 20, 1940 and the claim was not asserted until the supplemental complaint filed November 13, 1951.
4. A plaintiff may not obtain judicial enforcement of rights arising from a transaction entered into with the purpose of violating another country's law or from an illegal partnership agreement, even when the transaction occurred outside the forum or the prohibitory law was later repealed.
5. A plaintiff who participated in concealing an ownership interest from New York liquor authorities in violation of the Alcoholic Beverage Control Law may not invoke the courts to enforce that concealed interest.

KEY QUOTATIONS

> *"The damage for which recovery may be had in a civil action is not the conspiracy itself but the injury to the plaintiff produced by specific overt acts."* (252)

> *"It is at the time of injury that the "right to relief by action" arises and the statute therefore begins to run at the moment such injury occurs."* (252)

> *"No allegation of conspiracy can thus jump an eight or nine year gap to make a shambles of the statute of limitations and pervert its salutary purpose to set stale claims at rest."* (252)

> *"He is therefore in no position to assert rights based upon the L. L. & B. contract."* (256)

> *“Thus as the acts which caused the alleged damages to the plaintiff all flowed from illegal transactions — the L. L. & B. transaction and the plaintiff’s interest in Browne-Vintners Old — the trial judge should have granted the defendants’ motion to dismiss the case.”* (257)

FACTUAL BACKGROUND

Rutkin and Reinfeld were partners in a bootlegging enterprise and allegedly acquired an interest in the L. L. & B. distillery in Canada for use as a source of liquor for illegal importation into the United States. Rutkin alleged that Reinfeld secretly transferred or surrendered the partnership's interest to the Bronfmans and concealed benefits received in return. Rutkin also claimed an undisclosed beneficial interest in Browne-Vintners Old, a New York liquor corporation, and alleged that defendants fraudulently caused its assets and liquor agencies to be sold or transferred for inadequate consideration. The transactions occurred in 1931 and 1940, while the action was filed in 1948 and supplemented in 1951.

PROCEDURAL HISTORY

Rutkin brought a diversity action alleging that defendants conspired to deprive him of benefits from the L. L. & B. distillery transaction and the Browne-Vintners Old transaction. The jury returned a verdict for Rutkin and made special findings concerning when each claim accrued and when Rutkin should have discovered it. The trial court denied defendants' motions to dismiss and motions to set aside the verdict and enter judgment for defendants. The Second Circuit held that both claims were barred by applicable statutes of limitation and that the claims were unenforceable because they arose from illegal transactions, reversed the judgment, and directed dismissal of the complaints.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The judgment was reversed and the complaints were dismissed.

CASES CITED

- Klaxon Co. v. Stentor Electric Manufacturing Co., 313 U.S. 487 (1941)
- Rutkin v. United States, 343 U.S. 130, 72 S.Ct. 571, 96 L.Ed. 833 (1952)
- Nalle v. Oyster, 230 U.S. 165, 182, 33 S.Ct. 1043, 57 L.Ed. 1439 (1913)
- Lewis Invisible Stitch Mach. Co. v. Columbia Blindstitch Mach. Mfg. Corp., 80 F.2d 862, 864 (2d Cir. 1936)
- Momand v. Universal Film Exchanges, 172 F.2d 37, 49 (1st Cir. 1948), cert. denied, 336 U.S. 967 (1949)
- Park-In Theatres v. Paramount-Richards Theatres, 90 F. Supp. 727, 729 (D. Del. 1950), aff'd, 185 F.2d 407 (3d Cir. 1950), cert. denied, 341 U.S. 950 (1951)
- Williamson v. Columbia Gas & Electric Corp., 186 F.2d 464, 469 (3d Cir. 1950), cert. denied, 341 U.S. 921 (1951)
- Higgins v. Crouse, 147 N.Y. 411, 416, 42 N.E. 6 (1895)

- Hastings v. H. M. Byllesby & Co., 293 N.Y. 404, 411-412, 57 N.E.2d 733 (1944), cert. denied sub nom. Hastings v. Haystone Securities Corp., 324 U.S. 860 (1945)
- Zwerdling v. Bent, 291 N.Y. 654, 51 N.E.2d 933 (1943)
- Gottfried v. Gottfried, 269 App. Div. 413, 56 N.Y.S.2d 50 (1st Dep't 1945)
- Harriss v. Tams, 258 N.Y. 229, 240-245, 179 N.E. 476 (1932)
- Graves v. Johnson, 156 Mass. 211, 30 N.E. 818, 15 L.R.A. 834 (1892)
- Walkerville Brewing Co. v. Mayrand, 4 Dom. L.R. 500 (1928), rev'd, 2 Dom. L.R. 945 (1929)
- McMullen v. Hoffman, 174 U.S. 639, 19 S.Ct. 839, 43 L.Ed. 1117 (1899)
- Rosenblum v. Frankel, 279 App. Div. 66, 108 N.Y.S.2d 6 (1st Dep't 1951)
- Parise v. Pepe, 270 App. Div. 769, 59 N.Y.S.2d 497 (2d Dep't 1951)
- O'Connor v. O'Connor, 263 App. Div. 820, 31 N.Y.S.2d 372 (2d Dep't 1941)
- Bruces Juices v. American Can Co., 330 U.S. 743, 756 n., 67 S.Ct. 1015, 91 L.Ed. 1219 (1946)
- Fitzsimons v. Eagle Brewing Co., 107 F.2d 712, 126 A.L.R. 681 (3d Cir. 1939)
- Toll v. Friedman, 272 App. Div. 587, 74 N.Y.S.2d 176 (1st Dep't 1947)
- Dunmar Robes Ltd. v. Buenaventura, 279 App. Div. 286, 109 N.Y.S.2d 699 (1st Dep't 1952)
- Government of the French Republic v. Cabot, 190 Misc. 517, 76 N.Y.S.2d 290 (Sup. Ct. N.Y. County 1947)
- Flegenheimer v. Brogan, 284 N.Y. 268, 30 N.E.2d 591, 132 A.L.R. 613 (1940)
- Romano v. Bono, 168 Misc. 897, 6 N.Y.S.2d 204 (Sup. Ct. Kings County 1938)