

CALIFORNIA COURT OF APPEAL

Flagg v. Sloane

1 Cal. App. 2d 142 (Cal. Ct. App. 1934) · Decided September 27, 1934

OPINION

MARKS, J.

MARKS, J. This is an action to recover \$120,000 unpaid purchase price of 5,000 shares of the capital stock of the California Land Buyers Syndicate, a bankrupt corporation. The action involves 5,000 shares of stock of the par value of \$25 each. Five thousand dollars was paid to the corporation by R. L. Stewart and the stock issued. It was not delivered but was placed in escrow in accordance with the permit of the commissioner of corporations.

This appeal is taken on the judgment roll alone. We must therefore presume that the findings of fact are all supported by the evidence. The findings of fact show that all of the stock here in question was issued in the name of R. L. Stewart and was never sold, assigned or transferred by him; that it could not have been as no permit therefor was ever issued; that neither Darnall nor Fletcher ever appeared on the books of the corporation as the owners of this stock.

The only possible interest of Darnall or Fletcher in any of this stock was through what was called a "participation agreement" whereby Stewart agreed to assign certain of the stock to them at some time in the future. This was never done, or attempted, as the permit issued by the commissioner of corporations prohibited Stewart from giving any other person any interest in any of the stock.

*144This case came before this court on the motion of the defendant Sloane to dismiss the appeal or affirm the judgment as to him.

(Flagg v. Sloane, 135 Cal. App. 334 [26 Pac. (2d) 874].) The motion was granted and the judgment affirmed as to him. The opinion in that case disposes of all the pertinent questions presented here. The appeal is without merit and the judgment is affirmed as to O. E. Darnall and Ed Fletcher, Jr., the two remaining respondents. Barnard, P. J., and Jennings, J., concurred.