

SUPREME COURT OF FLORIDA

Rosenstone v. Johnston

111 So. 630 (Fla. 1927) · Decided February 19, 1927

SUMMARY

The Florida Supreme Court reviewed an order sustaining a demurrer to a bill seeking to declare an unlawful detainer judgment void and obtain equitable relief. The court held that the judgment was not void merely because the defendant was a married woman, where she had been sued as if unmarried and had previously been adjudicated a free dealer. The court also held that alleged errors in pleading or proof should have been raised in the original action or on writ of error, rather than through an equitable action to enjoin the judgment, and affirmed.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Buford; Whitfield; Terrell; Ellis; Strum; Brown
JURISDICTION	Florida
DECIDED	February 19, 1927
DISPOSITION	affirmed
PROCEDURAL POSTURE	The appellant appealed from an order of the Circuit Court of Polk County sustaining a demurrer to her bill of complaint seeking to have an unlawful-detainer judgment declared void and to obtain relief from its operation.
STANDARD OF REVIEW	Review of an order sustaining a demurrer to a bill of complaint; the court considered whether the pleaded grounds established that the prior judgment was void and subject to equitable interference.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Laura C. Rosenstone v. Johnston

TOPICS

- pleadings
- equitable relief
- appellate procedure
- civil procedure
- real estate

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Equitable remedies
- Real property litigation

QUESTIONS PRESENTED

1. Whether the unlawful-detainer judgment was void because the complaint did not allege that Rosenstone, a married woman, had been adjudicated a free dealer.
2. Whether equity could invalidate or enjoin enforcement of the prior judgment based on the asserted unavailability of unlawful detainer or alleged defects in the prior pleading or proof.
3. Whether the circuit court properly sustained the demurrer to the bill of complaint.

HOLDINGS

1. The judgment was not void on that ground. Because Rosenstone was sued as if she were unmarried, the complaint was not required to allege removal of the disabilities of coverture; such an allegation would have been necessary only if she had been sued as a married woman.
2. Equity will not intervene to enjoin a judgment rendered by a court of competent jurisdiction that acquired jurisdiction over the parties and subject matter, when no fraud is charged and the complainant had an opportunity to defend.

KEY QUOTATIONS

“Where the record shows that the judgment was that of a court of competent jurisdiction; that the court had acquired jurisdiction of the parties and of the subject matter, no fraud is charged and the complainant had opportunity to defend the action, equity will not intervene to enjoin.” (322)

“The judgment appears valid on its face and if it was erroneous, or was based upon an insufficient foundation, either in pleading or proof, such question should have been presented in the lower court and, if necessary, should have been determined on writ of error.” (322)

FACTUAL BACKGROUND

An unlawful-detainer action was brought against Laura C. Rosenstone without alleging that she was a married woman or that she had been adjudicated a free dealer. After judgment, she sought to vacate it, alleging that she was married but had previously been adjudicated a free dealer by a court of competent jurisdiction. She also argued that unlawful detainer was not an available remedy under the circumstances, although that contention was not specifically pleaded in her bill seeking equitable relief.

PROCEDURAL HISTORY

An unlawful-detainer judgment had been entered against Laura C. Rosenstone. She subsequently filed a bill in equity seeking to invalidate that judgment, asserting that it was void because she was a married woman and because unlawful detainer was allegedly unavailable under the circumstances. The circuit court sustained a demurrer to the bill, and the Supreme Court of Florida affirmed.

DISPOSITION

affirmed

CASES CITED

- Crawford v. Feder, 34 Fla. 297, 16 So. 287
- Benedict Pine-apple Co. v. A. C. L. R. R. Co., 55 Fla. 514, 46 So. 732
- Bank v. Hirsch-Kowitz, 46 Fla. 588, 35 So. 22
- Tweddle, 35 Fla. 107, 17 So. 66
- Rice v. Cummings, 51 Fla. 535, 40 So. 889
- Crawford v. Tiedman, 35 Fla. 27, 16 So. 900
- Muhlenbury Co. v. Citizens National Bank, 65 Fed. 537
- Hewett v. Great Western Beet Sugar Co., 230 Fed. 394
- Allen v. Allen, 97 Fed. 525
- Meyer v. Calera Land Co., 133 Ala. 554, 31 So. 938
- Maxwell v. Stewart, 22 U.S. L.Ed. 564
- Peacock v. Feaster, 52 Fla. 565, ____ So. ____