

APPELLATE TERMS OF THE SUPREME COURT OF NEW YORK

Kieselstein v. Shoebel

110 N.Y.S. 907 (App. Term 1908) · Decided June 5, 1908

SUMMARY

The court considered whether a debtor's payment to the original creditor discharged the debt after the debtor had received notice that the claim had been assigned to the plaintiff. Because the evidence concerning competing assignments and the timing of payment was confused and incomplete, the judgment was reversed and a new trial was ordered.

CASE DETAILS

COURT	Appellate Terms of the Supreme Court of New York
JURISDICTION	New York
DECIDED	June 5, 1908
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a judgment for the defendant in an action on an assigned claim.
STANDARD OF REVIEW	The court examined the sufficiency and clarity of the evidence supporting the judgment and ordered a new trial in the interests of justice.
PRECEDENTIAL VALUE	published
PARTIES	Sol Kieselstein v. Charles Shoebel

TOPICS

- assignment and delegation
- commercial litigation
- contracts
- civil procedure
- remedies

PRACTICE AREAS

- commercial litigation
- contracts
- civil procedure

QUESTIONS PRESENTED

- Whether a single partner could execute an assignment of an account due to the partnership.
- Whether payment by the debtor to the original creditor after notice of an assignment discharged the debtor's obligation.

3. Whether the confused, meager, and indefinite evidence required reversal and a new trial.

HOLDINGS

1. Either partner of Ahrens & Slimer could execute an assignment of the claim due to the firm.
2. A debtor who pays the original creditor after receiving due notice that the claim has been assigned to another does so at the debtor's peril.
3. The judgment had to be reversed and a new trial granted because the evidence was so confused, meager, indefinite, and unsatisfactory that the circumstances surrounding the competing assignments and payment could not be determined.

KEY QUOTATIONS

“The rule of law is that a debtor who pays the original creditor after due notice of the assignment of the claim to-another makes such payment at his peril” (909)

“but the evidence here is so confused, meager and indefinite, and generally so unsatisfactory, that it is almost impossible to determine the real circumstances of the case.” (909)

FACTUAL BACKGROUND

Ahrens & Slimer, doing business as the New York Shirt Company, sold goods worth \$52.90 to Shoebel. Ahrens alone executed a written assignment of the claim to Kieselstein and sent Shoebel notice of the assignment and a demand for payment. Shoebel nevertheless delivered a check payable to the original creditor, which was indorsed by Slimer and Jerome Eisner and paid through the clearing house. The record did not clearly establish whether Slimer had separately assigned the claim to Eisner or when Shoebel made and delivered the check.

PROCEDURAL HISTORY

Kieselstein sued Shoebel on a claim assigned to Kieselstein by the New York Shirt Company. The Municipal Court, Borough of Manhattan, Fifth District, entered judgment for Shoebel. The Appellate Term reversed the judgment and ordered a new trial because the evidence concerning the assignments and payment was confused and insufficiently definite.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Conduct a new trial to clarify the circumstances of the competing assignments, the notice received by Shoebel, and the timing and legal effect of the payment.

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