

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Rutkin v. Reinfeld

122 F. Supp. 265 (S.D.N.Y. 1954) · Decided June 22, 1954

SUMMARY

The court denied defendants’ motions under Federal Rules of Civil Procedure 50(a) and 50(b) to dismiss the action, direct a verdict, or set aside a jury verdict. The plaintiff alleged a continuing conspiracy to defraud him through transactions involving a Canadian distillery and Browne Vintners Old. The court held that the claims were not barred by the applicable statutes of limitation, alleged illegality, general release, or assignment, and entered judgment for the plaintiff on the jury’s \$77,200 verdict.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Murphy, District Judge
JURISDICTION	New York
DECIDED	June 22, 1954
DISPOSITION	other
PROCEDURAL POSTURE	After a five-week jury trial and a general verdict awarding plaintiff \$77,200 against all defendants, defendants moved under Federal Rules of Civil Procedure 50(a) and 50(b) for dismissal, directed verdicts, and judgment notwithstanding the verdict. The court had reserved judgment on the earlier Rule 50 motions and considered all motions together.
STANDARD OF REVIEW	Under Rule 50, judgment as a matter of law is improper where the issues left to the jury are factual issues about which reasonable persons could differ. The court also considered whether the verdict was legally barred by the statute of limitations, illegality, release, or assignment.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the district and circuit, subject to controlling appellate and Supreme Court precedent.

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QUESTIONS PRESENTED

1. Whether plaintiff's claims were barred by the applicable statute of limitations under New York's conflicts and borrowing rules.
2. Whether the alleged transactions were too illegal to support recovery because they allegedly violated United States prohibition laws or New York alcoholic-beverage licensing law.
3. Whether a general release and an assignment required setting aside the jury's verdict as a matter of law.
4. Whether defendants were entitled to judgment as a matter of law because the evidence was insufficient or the verdict was against the weight of the evidence.

HOLDINGS

1. A federal diversity court must apply the forum state's conflict-of-laws rules, including its rules for selecting the applicable statute of limitations. New York's borrowing rule required consideration of the limitation period of the forum or the place where the claim arose, but the plaintiff's claims were not barred because the jury found a single, continuous conspiracy whose objectives included preventing discovery of the concealed transactions.
2. The alleged acquisition and preparation of a Canadian distillery did not establish illegality under United States prohibition law where the conduct occurred in Canada and was lawful there, absent circumstances making American law applicable to the foreign conduct.
3. The alleged failure to disclose plaintiff's interest in Browne-Vintners did not, as a matter of law, bar plaintiff's fraud claim because the fraud was not an integral part of the alleged licensing violation and plaintiff was not the person who allegedly omitted the required disclosure.
4. The general release and assignment did not require setting aside the verdict as a matter of law because the jury was properly instructed that the release and assignment would bar recovery only if the relevant factual conditions were found, and the general verdict necessarily resolved those factual questions in plaintiff's favor.
5. Defendants were not entitled to judgment as a matter of law because the factual issues submitted to the jury were issues on which reasonable persons could differ and plaintiff had presented a prima facie case.

KEY QUOTATIONS

"The theory of this case is that of a unitary wrong, viz., a civil conspiracy, made actionable by the attainment of two of its objectives, viz., defrauding the plaintiff in the L. L. & B. and Browne Vintners Old transactions."
(269-270)

"With respect to defendants' contention that the verdict generally is against the weight of the evidence, and that plaintiff has failed to make out a prima facie case, the issues of fact which were left to the jury were ones

about which reasonable men might differ under the evidence adduced at trial.” (272)

FACTUAL BACKGROUND

Plaintiff alleged that he and Joseph Reinfeld were equal partners in transactions involving L. L. & B. Distilleries, Ltd., and that Reinfeld conspired with the Bronfman defendants to divert partnership benefits and conceal the transactions. Plaintiff also alleged that, in 1940, assets and liquor agencies of Browne-Vintners Co., Inc., in which he claimed an interest, were sold or transferred for inadequate consideration and that benefits received by Reinfeld were concealed from him. A jury found a single conspiracy and awarded plaintiff \$77,200, finding that plaintiff discovered the alleged claims in 1946 and 1948, respectively.

PROCEDURAL HISTORY

Plaintiff brought a diversity action seeking damages for an alleged continuing conspiracy involving two transactions affecting a partnership and corporate interests. During plaintiff's case, one supplemental-complaint count concerning his criminal tax conviction was dismissed on collateral-estoppel grounds. The jury returned a general verdict for plaintiff and supplied interrogatory answers concerning accrual and discovery dates. The court denied defendants' Rule 50 motions and entered judgment for plaintiff on the verdict.

DISPOSITION

other

CASES CITED

- Rutkin v. United States, 343 U.S. 130, 72 S. Ct. 571, 96 L. Ed. 833 (1952), affirming 189 F.2d 431 (3d Cir. 1951)
- LeRoy v. Crowninshield, 15 F. Cas. 362 (C.C.D. Mass. 1820)
- Davis v. Mills, 194 U.S. 451, 24 S. Ct. 692, 48 L. Ed. 1067 (1904)
- Erie R. Co. v. Tompkins, 304 U.S. 64, 58 S. Ct. 817, 82 L. Ed. 1188 (1938)
- Klaxon Co. v. Stentor Electric Mfg. Co., 313 U.S. 487, 61 S. Ct. 1020, 85 L. Ed. 1477 (1941)
- Guaranty Trust Co. v. York, 326 U.S. 99, 65 S. Ct. 1464, 89 L. Ed. 2079 (1945)
- Buggies v. Keeler, 3 Johns. 263 (N.Y. 1808)
- Miller v. Brenham, 68 N.Y. 83 (1877)
- Higgins v. Crouse, 147 N.Y. 411, 42 N.E. 6 (1895)
- Warner v. Republic Steel Corp., 103 F. Supp. 998 (S.D.N.Y. 1952)
- United States v. Kissel, 218 U.S. 601, 31 S. Ct. 124, 54 L. Ed. 1168 (1910)
- Eldredge v. United States, 62 F.2d 449 (10th Cir. 1932)
- American Banana Co. v. United Fruit Co., 213 U.S. 347, 29 S. Ct. 511, 48 L. Ed. 102 (1909)
- Slater v. Mexican Nat. Ry. Co., 194 U.S. 120, 24 S. Ct. 581, 48 L. Ed. 900 (1904)
- New York Central R.R. Co. v. Chisholm, 268 U.S. 29, 45 S. Ct. 402, 69 L. Ed. 828 (1925)
- United States v. Bowman, 260 U.S. 94, 43 S. Ct. 39, 67 L. Ed. 149 (1922)

- Farber v. John Aguino Sons, 253 App. Div. 600, 3 N.Y.S.2d 236 (1938)
- Griffin v. McCoach, 313 U.S. 498, 61 S. Ct. 1023, 85 L. Ed. 1481 (1941)
- Bloch v. Frankfort Distillery Inc., 247 App. Div. 864, 288 N.Y.S. 749 (1936), aff'd, 273 N.Y. 469, 6 N.E.2d 408 (1937)
- Lido Capital Corp. v. Eskelsen, 162 Misc. 323, 295 N.Y.S. 163 (1937)
- Lido Capital Corp. v. Vogel, 161 Misc. 48, 291 N.Y.S. 92 (1936)
- Toll v. Friedman, 272 App. Div. 587, 74 N.Y.S.2d 176 (1947)
- Abrams v. Meyerowitz, 175 Misc. 625, 24 N.Y.S.2d 345 (1940)
- Government of the French Republic v. Cabot, 190 Misc. 517, 76 N.Y.S.2d 290 (1947)
- United States v. Chambers, 291 U.S. 217, 54 S. Ct. 434, 78 L. Ed. 763 (1934)
- Commonwealth v. Kennedy, 170 Mass. 18, 48 N.E. 770 (1897)
- Rosasco Creameries, Inc. v. Cohen, 276 N.Y. 274, 11 N.E.2d 908 (1937)
- Flegenheimer v. Brogan, 284 N.Y. 268, 30 N.E.2d 591 (1940)
- Kirschner v. New Home S. M. Co., 135 N.Y. 182, 31 N.E. 1104 (1893)