

SUPREME COURT OF ILLINOIS

Hardin v. Forsythe

99 Ill. 312 (1880) · Decided May 18, 1880

SUMMARY

The Illinois Supreme Court considered whether parties who entered land could defend an ejectment action by asserting title acquired from the plaintiff's landlord after the action commenced. The court held that a tenant and those claiming through the tenant generally may not dispute the landlord's title, but may rely on a conveyance from the landlord that terminates or transfers the landlord's title. Because the defendants acquired the relevant title through deeds from the plaintiff's landlord, the court affirmed the judgment for the defendants.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Craig
JURISDICTION	Illinois
DECIDED	May 18, 1880
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment for the defendants in consolidated ejectment actions.
STANDARD OF REVIEW	The court reviewed the refusal of jury instructions and evidentiary rulings for legal error and considered whether the verdict and judgment were supported under the governing law.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; precedential.
PARTIES	Seth W. Hardin v. Andrew Forsythe, James Kirk, Eliza Wallace Forsythe

TOPICS

- ejectment
- landlord tenant
- title disputes
- evidence
- real estate

PRACTICE AREAS

- real property
- ejectment
- evidence
- civil procedure

QUESTIONS PRESENTED

1. Whether a tenant may dispute the title of the landlord under whom the tenant entered possession.
2. Whether a person succeeding to a tenant's possession acquires greater rights and may dispute the landlord's title.
3. Whether a tenant or successor in possession may rely on a conveyance of the landlord's title to defeat an ejectment action.
4. Whether color of title, payment of taxes for seven successive years while land was vacant, and subsequent possession established a defense against title derived through judgment liens.
5. Whether the trial court properly excluded an unrelated forcible-entry record, a prior-trial attorney admission, and evidence of the contents of a deed record.

HOLDINGS

1. A tenant may not dispute or set up an adverse title to that of the landlord under whom the tenant entered possession unless the tenant first restores possession and places the landlord in the position occupied before possession was transferred.
2. The rule barring a tenant from disputing the landlord's title applies equally to a person who acquires possession from, through, or under the tenant, whether by collusion or otherwise; that person acquires no greater rights than the tenant.
3. A tenant or a stranger succeeding to the tenant's possession may show that the landlord's title has terminated or passed to another, including through a conveyance or execution sale. A defendant in ejectment may also prove that the defendant acquired the plaintiff's title after the action commenced, and that acquisition may defeat recovery.
4. A purchaser whose deed was not recorded until after judgment liens attached may prevail against title acquired through sales on those judgments if the purchaser held color of title, paid all taxes on the vacant land for seven successive years, and subsequently acquired possession under that color of title, personally or through a tenant.
5. The trial court properly excluded a forcible-entry action involving different parties because it had no bearing on any issue, and properly excluded an attorney's admission made for a prior trial because it could not be used at a subsequent trial without the defendants' consent.
6. Evidence of the contents of a recorded deed was properly excluded where the proponent did not show that the original could not be produced or that due diligence had been used to obtain a certified copy.

KEY QUOTATIONS

"The same principle which forbids a tenant to dispute the title of his landlord, applies to any person who may acquire the possession from, through or under the tenant."

"But while the rule is well established that a tenant can not dispute the title of his landlord, or set up an adverse title to that of the landlord, he may, however, show that the title of the landlord has terminated,"

“If the jury, from the evidence, found the fact to be that after the suit was commenced the defendants acquired the plaintiff’s title, we perceive no reason why such fact would not defeat a recovery on behalf of plaintiff.”

“The judgment will be affirmed.”

FACTUAL BACKGROUND

Hardin claimed title and possession through deeds derived from William B. Egan and brought ejectment against persons occupying the land. Hardin had entered into a lease with Maurice Wakeman, who claimed title through an unrecorded deed from Egan, and Hardin then leased portions of the property to occupants who had been in possession as squatters. After the ejectment suits were filed, the defendants obtained conveyances deriving from Wakeman's claimed title. The evidence also showed that Wakeman had held color of title, paid taxes on the vacant land for seven successive years, and subsequently obtained possession through himself or his tenant.

PROCEDURAL HISTORY

Hardin and Maurice Wakeman each filed an ejectment action in 1866 concerning separate interests in the same section of land. The actions were transferred to the Circuit Court of Cook County, amended, and consolidated. After a jury trial, the circuit court entered judgment for the defendants, and the Illinois Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Tilghman v. Little, 13 Ill. 239
- Franklin v. Palmer, 50 Ill. 202
- Jackson v. Dement, 9 Johns. 55