

SUPREME COURT OF THE UNITED STATES

Mobile v. Watson

116 U.S. 289 (1886) · Decided January 4, 1886

OPINION

WOODS, J.

116 U.S. 289 (1886) MOBILE v. WATSON. SAME v. UNITED STATES, ex rel. WATSON. Supreme Court of United States. Argued December 10, 11, 1885. Decided January 4, 1886. ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ALABAMA. *296 Mr. Hannis Taylor and Mr. J. Little Smith for plaintiff in error. Mr. Braxton Bragg was with them on the brief. *299 Mr. Gaylord B. Clark and Mr. James E. Webb for defendants in error. *298 MR. JUSTICE WOODS delivered the opinion of the court.

After stating the facts in the language reported above, he continued: It is not disputed that the bonds issued by the City of Mobile upon which the plaintiff brought suit and recovered judgment against the Port of Mobile, were the valid obligations of the City of Mobile, which was bound by its contract to levy and collect annually a tax of \$95,000, to be applied to the payment of the principal and interest of the issue of bonds of which those held by the plaintiff formed part.

It is apparent from the statement of the case that the act of February 11, 1879, "to vacate and annul the charter of the City of Mobile and provide for the application of the assets thereof in discharge of the debts of said corporation," and the act of the same date, "to incorporate the Port of Mobile and provide for the government thereof," and the several acts subsequent thereto on the same general subject, make no adequate provision for the payment of the bonds held by the plaintiff, and other bonds of the same issue, of which, according to the answer of the Port of Mobile to the petition for the writ of mandamus, there still remain, unsatisfied, bonds to the amount of \$323,914.

The effect of this legislation is to take from the officers of the City of Mobile all power to lay a tax for their payment, and to leave no means for their satisfaction. The assets of the City of Mobile turned over to the commissioners appointed by authority of the act to vacate its charter being largely reduced for the general creditor by prior liens and exemptions from levy by execution, and their proceeds being first required to be applied to the floating debt of the city, have afforded no satisfaction to the plaintiff, and it is not pretended that payment could or would be made to him out of the proceeds of such assets.

If, therefore, the plaintiff cannot exact payment from the Port of Mobile, the effect of the legislation referred to is to deprive him of all remedy upon the bonds issued by the City of Mobile

and the contract providing for their payment, valid when *300 made, and valid still. It is, therefore, a vital question in the case whether the Port of Mobile is the legal successor of the City of Mobile, and bound for its debts.

The "agreement of facts" made in the suit upon the bonds is conceded to be a true statement of the facts therein recited. From this paper and other admissions made in the answer of the Port of Mobile to the rule to show cause, and the legislation of the State of Alabama made a part of the record, it appears that on the day when the act was passed vacating and annulling the charter, and dissolving the corporation of the City of Mobile, another act was passed to incorporate the Port of Mobile; that all the territory embraced within the limits of the Port of Mobile was formed of part of the territory, and included all the thickly settled and closely built portion of the City of Mobile; that out of more than \$16,000,000 of taxable property of the City of Mobile, all but \$900,000 was included within the limits of the Port of Mobile; and that fourteenth-fifteenths of the inhabitants of the City of Mobile were inhabitants of the Port of Mobile.

While, therefore, the area of territory of the Port of Mobile was little more than half that of the City of Mobile, it is apparent that the former included substantially the same taxable property, and the same body of people, as the City of Mobile. It further appears that all the property, except its wharves, of the City of Mobile, used by it for public and governmental purposes, was by the authority of the act of February 24, 1881, turned over and delivered to the Port of Mobile for its use without compensation to be paid therefor.

We are of opinion, upon this state of the statutes and facts, that the Port of Mobile is the legal successor of the City of Mobile, and liable for its debts. The two corporations were composed of substantially the same community, included within their limits substantially the same taxable property, and were organized for the same general purposes. Where the legislature of a State has given a local community, living within designated boundaries, a municipal organization, and by a subsequent act or series of acts repeals its charter and dissolves the corporation, and incorporates substantially the same people as a municipal body under a new name for *301 the same general purpose, and the great mass of the taxable property of the old corporation is included within the limits of the new, and the property of the old corporation used for public purposes is transferred without consideration to the new corporation for the same public uses, the latter, notwithstanding a great reduction of its corporate limits, is the successor in law of the former, and liable for its debts; and if any part of the creditors of the old corporation are left without provision for the payment of their claims, they can enforce satisfaction out of the new.

In illustration and support of this proposition, the following cases are in point: In *Girard v. Philadelphia*, 7 Wall. 1, it was held by this court that the annexation to the city of Philadelphia, having a territory of only two square miles, of twenty-eight other municipalities with all their

inhabitants, comprising districts, boroughs, and townships of various territorial extent, and the changing of its name, did not destroy its identity or impair its right to hold property devised to it.

So in *Broughton v. Pensacola*, 93 U.S. 266, 270, it was said by Mr. Justice Field, in delivering judgment, that when "a new form is given to an old corporation, or such a corporation is reorganized under a new charter, taking in its new organization the place of the old one, embracing substantially the same corporators and the same territory, it will be presumed that the legislature intended a continued existence of the same corporation, although different powers are possessed under the new charter and different officers administer its affairs, and in the absence of express provision for their payment otherwise, it will also be presumed in such case that the legislature intended that the liabilities as well as the rights of property of the corporation in its old form should accompany the corporation in its reorganization."

In *O'Connor v. Memphis*, 6 Lea, 730, the Supreme Court of Tennessee went so far as to say that "Neither the repeal of the charter of a municipal corporation, nor a change of its name, nor an increase or diminution of its territory or population, nor a change in its mode of government, nor all of these combined, will destroy the identity, continuity, or succession *302 of the corporation if the people and territory reincorporated constitute an integral part of the corporation abolished...

The corporators and the territory are the essential constituents of the corporation, and rights and liabilities naturally adhere to them." In *Mount Pleasant v. Beckwith*, 100 U.S. 514, a municipal corporation had been dissolved and its territory divided between and annexed to three adjacent corporations. Upon this state of facts the court held that, unless the legislature otherwise provided, the corporations to which the territory and the inhabitants of the divided corporation had been transferred, were severally liable for their proportionate share of its debts, and were vested with its power to raise revenue wherewith to pay them by levying taxes upon the property transferred and the persons residing therein.

See also *Colchester v. Seaber*, 3 Burrow, 1866; *Cuddon v. Eastwick*, 1 Salk. 192; *People v. Morris*, 13 Wend. 325; *New Orleans Railroad Co. v. City of New Orleans*, 26 La. Ann. 478. In the case of *Amy v. Selma*, recently decided by the Supreme Court of Alabama, and not yet reported, a question almost identical with the one now in hand was considered.

The legislature of Alabama had passed an act, approved December 11, 1882, entitled "An Act to vacate and annul the charter and dissolve the corporation of the City of Selma, and to provide for the application of the assets thereof to the payment of the debts thereof." That act repealed the charter of the City of Selma and all acts amendatory thereof, and declared the corporation dissolved, and all offices held under any of said acts, except for the purposes and during the period provided by the repealing act, abolished, and that all powers of taxation given to the City of Selma by acts of the legislature were resumed by and lodged in the legislature.

It transferred to the custody and control of the State of Alabama all property, real and personal, held and used by the corporation for governmental or other public purposes, and declared that the inhabitants and territory within the territorial limits and jurisdiction of said corporation were resolved into the body of the State.

The residue of the act was substantially similar to the *303 act of February 11, 1879, "to vacate and annul the charter and dissolve the corporation of the City of Mobile," etc. This was followed by an act approved February 17, 1883, "to incorporate the inhabitants and territory formerly embraced within the corporate limits of the municipal corporation, since dissolved, styled the City of Selma, and to establish a local government therefor."

This act, after reciting the dissolution of the City of Selma and the repeal of its charter, among many other provisions, formed the inhabitants residing within the territory formerly covered by the City of Selma into a municipal corporation under the name and style of "Selma;" provided for officers of the municipality and prescribed their duties; authorized them to levy taxes, but declared that no funds derived by the corporation thereby created from taxes or any other source should be used for the payment of any of the debts of the City of Selma, and transferred and made over to Selma the property which had been held and used by the City of Selma, to be held and used for the same uses and trusts to which it had been devoted while in the possession of the City of Selma.

This act was followed by an act approved February 19, 1883, to carry into effect any plan or scheme for the compromise, adjustment, and settlement of the existing indebtedness of the late corporation, known as the City of Selma, which might be agreed upon between the creditors of the said City of Selma and commissioners appointed under and by virtue of the act... of December 11, 1882.

With this series of acts in force the Supreme Court of Alabama, in the case mentioned, was called on to construe the act "to vacate and annul the charter and dissolve the corporation of the City of Selma, and to provide for the application of the assets thereof to the payment of the debts thereof." It held that this act was without operation upon the debts and liabilities of the City of Selma lawfully contracted; that the act of February 19, 1883, to incorporate the inhabitants and territory formerly embraced within the limits of the City of Selma was a reorganization, under the corporate name of Selma, of the same corporators, and embraced substantially the same territory as the City of *304 Selma; that the corporation called Selma was the successor of the City of Selma, and bound for the payment of its debts; and that a suit at law, founded on a judgment against the City of Selma, was maintainable against its successor, Selma.

This construction of these statutes of the State of Alabama by its highest court being in accord with our own views, and in harmony with former decisions of this court on the same general subject, is decisive of the question in hand, unless there is some material difference between the legislation concerning the City of Selma and that concerning the City of Mobile.

The only difference that can be supposed to have any bearing upon the question under discussion is, that the act incorporating Selma embraced the same territory as that covered by the City of Selma, whereas the Port of Mobile covered little more than half the territory embraced by the City of Mobile.

We think this difference between the two cases is an immaterial one. The Supreme Court of Alabama, in the case of the Mobile and Spring Hill Railroad Co. v. Kennerly, 74 Ala. 566, assumed that the City of Mobile and the Port of Mobile had substantially the same corporators and the same boundaries. And we are of opinion that the exclusion from the limits of the Port of Mobile of the sparsely settled suburbs of the City of Mobile, a territory of little value, as fairly appears by the record, and consisting, as stated by the counsel for plaintiff, without contradiction, largely of fields, swamps and land covered with water, will not serve to distinguish this case from the case of Amy v. Selma.

We repeat, therefore, that in our judgment the Port of Mobile is the legal successor of the City of Mobile, and bound for its debts. It follows from this proposition that the remedies necessary to the collection of his debt, which the law gave the creditor of the City of Mobile, remain in force against the Port of Mobile.

The laws which establish local municipal corporations cannot be altered or repealed so as to invade the constitutional rights of creditors. So far as such corporations are invested with subordinate legislative powers for local purposes, they are the mere instrumentalities of the States, for the convenient administration of their affairs, and are subject to legislative *305 control.

But when empowered to take stock in or otherwise aid a railroad company, and they issue their bonds in payment of the stock taken, or to carry out any other authorized contract in aid of the railroad company, they are to that extent to be deemed private corporations, and their obligations are secured by all the guarantees which protect the engagements of private individuals.

Broughton v. Pensacola, 93 U.S. 266; Mount Pleasant v. Beckwith, 100 U.S. 514. Therefore the remedies for the enforcement of such obligations assumed by a municipal corporation, which existed when the contract was made, must be left unimpaired by the legislature, or, if they are changed, a substantial equivalent must be provided. Where the resource for the payment of the bonds of a municipal corporation is the power of taxation existing when the bonds were issued, any law which withdraws or limits the taxing power and leaves no adequate means for the payment of the bonds is forbidden by the Constitution of the United States, and is null and void.

Von Hoffman v. Quincy, 4 Wall. 535; Edwards v. Kearzey, 96 U.S. 595; Ralls County Court v. United States, 105 U.S. 733; Louisiana v. Pillsbury, 105 U.S. 278; Louisiana v. Mayor of New Orleans, 109 U.S. 285. These propositions receive strong support from the decisions of the

Supreme Court of Alabama. *Commissioners of Limestone County v. Rather*, 48 Ala. 433; *Edwards v. Williamson*, 70 Ala.

145; *Slaughter v. Mobile County*, 73 Ala. 134. It follows that the contract by which, under authority of the legislature, the City of Mobile agreed to levy a special tax for the payment of the principal and interest of the class of bonds to which those held by the plaintiff belong is still in force, and its obligation rests upon its legal successor, the Port of Mobile.

All laws passed since the making of the contract, whose purpose or effect is to take from the City of Mobile, or its successor, the power to levy the tax and pay the bonds, are invalid and ineffectual, and will be disregarded. Mr. Justice Field, when delivering the judgment of this court in *Wolff v. New Orleans*, 103 U.S. 358, 368, said: "The courts, therefore, treating as invalid and void the legislation abrogating or *306 restricting the power of taxation delegated to the municipality, upon the faith of which contracts were made with her and upon the continuance of which alone they can be enforced, can proceed, and by mandamus compel, at the instance of the parties interested, the exercise of that power, as if no such legislation had ever been attempted."

And so in *Ralls County Court v. United States*, 105 U.S. 733, 738, it was said by the Chief Justice, speaking for the court, that "all laws of the State which have been passed since the bonds in question were issued, purporting to take away from the county courts the power to levy taxes necessary to meet the payments, are invalid, and, under the well settled rule of decision in this court, the Circuit Court had authority, by mandamus, to require the County Court to do all the law, when the bonds were issued, required it to do to raise the means to pay the judgment, or something substantially equivalent."

The Port of Mobile has the machinery and officers requisite for the assessment of property and for the levy and collection of taxes to carry on the city government. There is no reason why the taxes necessary to pay the judgment of the plaintiff cannot be levied and collected by the same officers. There is no obstacle to the full and complete performance by the Port of Mobile and the Mobile Police Board of the duties required by the peremptory writ of mandamus issued by the Circuit Court.

It follows from the views we have expressed that the judgment of the Circuit Court in favor of the plaintiff for \$7308.80 and costs against the Port of Mobile, and the judgment directing the peremptory writ of mandamus to be issued against the Port of Mobile and the Mobile Police Board for the satisfaction of such judgment, are both warranted by law. Judgments affirmed.