St. John's Law Review

Volume 2
Number 2 *Volume 2, May 1928, Number 2*

Article 13

Constitutional Law--Full Faith and Credit Clause--Statute of Limitations (Roche v. McDonald, 48 S.Ct. 142 (1928))

St. John's Law Review

in New York prior to the enactment of the N. I. L., nor is it the rule in England. The rule that existed in this state, and that exists in England, was that a person signing for, or on behalf of, a principal was not liable on the instrument, notwithstanding he had no authority to bind his principal. There was an implied warranty on his part that he possessed the requisite authority, and if he did not, he became liable upon such warranty for the damages resulting from the breach.[4]

It is submitted that the rule as stated in the affirming opinion is the sounder, inasmuch as the agent when he signs without authority is in reality not an agent but a principal acting in his own behalf, deriving the benefits of his act, and should, therefore, be primarily liable on the instrument itself and not incidentally on a warranty of authority.

CONSTITUTIONAL LAW—FULL FAITH AND CREDIT CLAUSE—STATUTE OF LIMITATIONS.—In an action brought in a superior court of Washington, a judgment was rendered against McDonald on June 24, 1918, in favor of Dart. In February, 1924, Dart assigned this judgment to Roche. In March, McDonald being then temporarily employed in Oregon, Roche brought suit against him upon the judgment in a circuit court of that State. He was personally served with a summons, appeared and demurred to the complaint. The demurrer was overruled and subsequently, in October, 1924, more than six years after the rendition of the Washington judgment, judgment was rendered against him in default of answer for the amount of the original judgment with interest.

Shortly thereafter Roche brought this suit against McDonald, upon the Oregon judgment, in the superior court of Washington. McDonald answered denying the validity of the Oregon judgment under a Washington statute which provided that after six years from the rendition of any judgment it should cease to be a charge against the judgment debtor, and no suit should be had extending its duration or continuing it in force beyond such six years.[1] In reply Roche set up and relied on the full faith and credit clause of the Constitution.[2] The superior court entered judgment for defendant and this was affirmed by the Supreme Court of Washington.[3] *Held*, judgment reversed and the case remanded for further proceedings. Roche *v.* McDonald, 48 Sup. Ct. 142 (U. S. 1928).

It is settled that the full faith and credit clause of the Constitution requires that the judgment of a State Court having jurisdiction of the

---

Ryan *v.* Hebert, 46 R. I. 47; 124 Atl. 657 (1924); Pain *v.* Holtcamp, 10 Fed. (2d) 443 (C. C. A. 8th, 1925); Austin Nichols & Co. *v.* Gross, 98 Conn. 782, 120 Atl. 596 (1923).

[4] Haupt *v.* Vint, 68 W. Va. 657 (1911); White *v.* Madison, 26 N. Y. 117 (1862); Dusenbury *v.* Ellis, 3 Johns. Cas. 70 (1802); White *v.* Skinner, 13 Johns. 307 (1816); Feeter *v.* Heath, 11 Wendell, 477 (1833); Collen *v.* Wright, 40 Eng. L. & Eq. 182.

[1] Rem. Comp. Stat. Wash. §§ 459, 460.

[2] U. S. Const. Art. 4 § 1.

[3] 136 Wash. 322, 239 Pac. 1015, 44 A. L. R. 444 (1925).

parties and the subject matter in suit shall be given in the courts of every other State the same credit, validity and effect which it has in the State where it was rendered, and be equally conclusive upon the merits.[4] This is likewise true where a judgment in one State is based upon a cause of action which arose in the State in which it is sought to be enforced; and the judgment, if valid where rendered, must be enforced in such other state though repugnant to its own statutes.[5]

In Fauntleroy *v.* Lum[6] the original cause of action arose in Mississippi out of a gambling contract in cotton futures. Such contracts were by statute in that State unenforceable. Suit was, however, instituted in Missouri, the defendant being temporarily there and a judgment for the plaintiff was recovered. When suit was brought in Mississippi on the Missouri judgment, the defendant had judgment which was affirmed by the Supreme Court of Mississippi. This decision was reversed in the United States Supreme Court where the rule which is controlling was reiterated. "A judgment is conclusive as to all the media concludendi, and it needs no authority to show that it cannot be impeached in or out of the State by showing that it was based upon a mistake of law."

In the instant case the Oregon judgment, being valid and conclusive between the parties in that State, was equally conclusive in the Courts of Washington and under the full faith and credit clause should have been enforced by them. The defendant could not avail himself of the obvious error of the Oregon court in its interpretation of the Washington statute of limitations.

CORPORATIONS—DISREGARD OF CORPORATE FICTION—LICENSING OF INSURANCE AGENTS.—The Supreme Court of Ohio has lately contributed a most interesting adjunct to that steadily expanding body of law centred about the disregard of the corporate fiction. An Ohio corporation organized in 1916 for the purpose of acting as local agent for fire insurance companies, sought a license for the conduct of its business for the fiscal year ending February, 1928. All formal statutory prerequisites had been met. The State Superintendent of Insurance denied the application, on the ground that "no person may be licensed to act as an insurance agent unless a resident of this state."[1] It appeared that a controlling interest in the Ohio corporation was owned by a foreign corporation extensively engaged in insurance brokerage and, at the time, the holder of an Ohio foreign insurance broker's license. The domestic corporation resorted to mandamus, setting forth in its petition the above facts and the avowed ground of the superintendent's refusal. Respondent demurred. *Held*, demurrer sustained. State *ex rel.* Marsh & McLennan Co. *v.* Safford, State Superintendent of Insurance, 159 N. E. 829 (Ohio, Dec. 28, 1927).

---

[4] Hampton *v.* McConnel, 3 Wheat. 234. 4 L. Ed. 378 (1818); Hancock National Bank *v.* Furnum, 176 U. S. 640. 20 S. Ct. 506, 44 L. Ed. 619 (1899).

[5] Fauntleroy *v.* Lum, 210 U. S. 231, 28 S. Ct. 641, 52 L. Ed. 1039 (1907); Kenney *v.* Supreme Lodge, 252 U. S. 411. 40 S. Ct. 371, 64 L. Ed. 683 (1919).

[6] *Supra* note 5.

[1] Ohio General Code § 644.