

Gasquet, Parish & Co. v. R. H. & P. M. Warren.

10 Miss. 514 (1844)

GASQUET, PARISH & CO. vs. ROBERT H. WARREN & PETER M. WARREN.

A receipt may be explained, or even contradicted by parol proof.

A sheriff has no right to receive, in satisfaction of an execution, without the plaintiff's consent, anything but gold or silver.

If the defendant in execution voluntarily pay the sheriff bank notes, even though he get a receipt in full, unless the plaintiff chooses to ratify it, will not thereby be discharged of the debt.

Neither a sheriff nor an attorney at law has a right, under their general powers, to receive bank notes in payment of an execution.

ERROR from the circuit court of Tippah county.

The plaintiffs in error obtained a judgment against the defendants, in the circuit court of Tippah county, on the 29th May, 1839; and the execution which issued thereon was bonded on the 2d of December, 1839.

All of the judgment was satisfied, except the sum of \$800, anterior to the 3d June, 1841, when a writ of *venditioni exponas* was issued for the collection of that amount, which was superseded by the defendants.

Upon this supersedeas a motion was made by the defendants to have the execution credited with the sum of \$800, and have the judgment entered satisfied on the execution docket. The plaintiffs replied that the execution was already credited with the full amount to which it was entitled, and on the 28th March, 1842, the issue thus made up was submitted to a jury, who found that the execution was entitled to an additional credit of \$800, which the court ordered to be entered, and rendered a judgment for the costs of the supersedeas against the plaintiffs.

The plaintiffs moved for a new trial, which was refused by the court, and they excepted; all the evidence is contained in the bill of exceptions, that was submitted to the jury on the trial of the issue, but the only part that is material to the question involved, is the following:

The defendants read to the jury the receipt of William Hen-

derson, sh
eight hund
against F
the above
Mississippi
the sheriff
attorneys
notes. It
Bank had
tion again
that had
for which
deposition
been give
payment
fendant t

Gholson

It is s
overruling

The r
and whe
had been
fied, the
plaintiffs
issue a
See *Mor*

In th
against
induced
part of
agreed t
by the t

Mr. C
It wi
facts, to