

Pleasants v. Maryland Insurance Co.

assessors' books were always accessible. The purchaser is bound to take notice of the non-payment of the taxes ; he purchases at his peril.

\*55] *\*Swann, contrà.*—The statute uses the definite article, *the proprietor.* The question is, *which proprietor?* Scott or Preston? We say, it means him who was proprietor when the tax was laid, and in whose name the land was assessed, and who was unquestionable liable, in the first instance. He was “the proprietor”—“the defaulter” contemplated by the legislature. If he was liable, did his liability cease when he sold the land? or is he still liable? There is nothing in the law to justify an idea, that the legislature contemplated a succession of proprietors who should be successively liable; a succession of debtors; nor that they should be all liable at once; nor that the corporation should have its choice out of the several successive proprietors. It suggests the idea of one proprietor only, and of one debtor or defaulter only; and if but one, it can be no other than him who was confessedly liable—him who was proprietor at the time of the assessment. The tax is a lien on the lot so far as to authorize the court to direct it to be leased out to any one who will pay the taxes, in case the goods and chattels of the debtor cannot be found.

The books of the assessor and collector are not matter of record. The purchaser has no right to inspect them. The tax is a secret lien.

February 19th, 1814. THE COURT affirmed the judgment, without assigning their reasons.

Judgment affirmed.

#### PLEASANTS v. MARYLAND INSURANCE COMPANY. (a)

##### *Marine insurance.—Valuation.*

When a cargo is insured by diverse policies, in some of which the rate of exchange is fixed, at which the prime cost of the cargo shall be valued; in ascertaining the amount of the interest of the assured, upon settlement of those policies in which the rate of exchange is fixed, the whole cargo is to be valued at that rate of exchange, without regard to the rate of exchange by which the value may have been ascertained in the other policies.

ERROR to the Circuit Court for the district of Maryland, in an action upon a policy of insurance, dated on the 18th of May 1810, on the cargo of the brig Elizabeth, from St. Petersburg or Cronstadt, to Philadelphia, \*56] against all risks, for \$6000, “valuing \*the invoice ruble at 46 cents.” The invoice amounted to 95,565.71 rubles, equal, at 46 cents per ruble, to \$43,960.23.

Before this policy was made, the plaintiff had effected eight other policies in Philadelphia, to the amount of \$36,900. In the first seven of these policies, there was no valuation of the ruble; but in the eighth, it was valued at 40 cents. The defendants, at the time of executing this policy, had no knowledge of those affected in Philadelphia.

The vessel and cargo were captured by a Danish vessel and condemned. The plaintiff abandoned in due time. The underwriters at Philadelphia paid. But on settlement of the seven first policies, in which the value of

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the ruble was not fixed, and which insured \$29,000, the underwriters, in order to ascertain whether the plaintiff's interest in the cargo amounted to the sum insured by those policies, viz., \$29,900, insisted upon fixing the value of the ruble at thirty-three and a third cents.

On settlement of the eighth policy, which valued the ruble at forty cents, and which insured \$7000, the calculation (in order to ascertain whether the plaintiff had still a sufficient interest left to entitle him to receive the \$7000 insured by that policy) was made, by converting the whole amount of the invoice into dollars at 40 cents per ruble, and deducting therefrom the \$29,900 received upon the seven preceding policies. By this mode of calculation, it appears (according to the statement in the bill of exceptions which, however, does not seem to be accurate), that after the plaintiff had received the \$29,900 insured by the seven first policies, and the \$7000 insured by the eighth policy, his remaining interest to be covered by the ninth policy, was only 1481.74 rubles, equal, at 46 cents per ruble, to \$682 58.

But if, on settlement of this last policy, the plaintiff is entitled to have the value of his interest in the cargo ascertained by converting the whole amount of the invoice \*into dollars, at the rate of 46 cents per ruble, [\*57 and, deducting therefrom the \$36,900 covered by the eight prior policies, then his remaining interest to be covered by this policy would be more than the \$6000 insured thereby.

The only question saved by the bill of exceptions at the trial below, was whether the plaintiff should recover according to the latter mode of calculation. The plaintiff contended for the latter, but the court overruled him, and directed the jury that he was only entitled to recover according to the former; they found a verdict accordingly; whereupon, the plaintiff brought his writ of error.

The point was now submitted to the court, without argument, by *Harper*, for the plaintiff in error, and *Jones and Pinkney*, for the defendant.

February 21st 1814. (All the judges being present.) JOHNSON, J., delivered the opinion of the court, as follows:—This is the case of an insurance on a voyage from St. Petersburg or Cronstadt to Philadelphia, effected in the year 1810; the vessel was captured and the assured abandoned. The only difficulty arises on the principles upon which the loss shall be adjusted.

Besides this policy, eight others were effected in Philadelphia. In seven of them, no valuation was attached to the ruble; in the eighth, it was valued at 40 cents, and on this, which was the ninth in order, at 46 cents. In settling the first seven, the ruble was estimated at thirty-three and a third cents, which was the received value at Philadelphia; on the eighth, it was settled at the stipulated value of 40 cents. The value of goods laden on board the ship was proved to be 95,565 rubles. The sum paid on the first eight policies corresponded to the adjusted value of 94,084 rubles, leaving a balance of only 1481, equal, at 46 cents, to about \$682 unpaid. But if the whole amount of \*the cargo be brought into dollars at 46 cents [\*58 to the ruble, and the sum in dollars actually paid on the other policies be deducted, there will still remain more unpaid than would exhaust the whole sum underwritten on the ninth policy.

On the part of the defendant, it is contended, that the compensation paid to the plaintiff on the other policies, is absolute and complete as to the cor-



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responding amount in rubles, leaving only 1481 unpaid. On the other hand, the plaintiff contends, that the compensation was only relative, and cannot affect his rights as between himself and this defendant. And of this opinion, is the majority of the court.

The object to be attained is, to secure to the assured a fair indemnity under all the advantages which he has purchased of the insurers. The intention of the parties, in attaching a fixed value to the ruble, appears in the order for insurance, to wit, "to distinguish between the paper and specie ruble." It is very well known, that the ruble is the money of account in Russia; it was originally a coin corresponding in value to the American dollar; but by the forced circulation of a paper representative of the ruble, dependent on nothing but mere national faith or national force for its value, the silver ruble has nominally doubled or trebled itself in value. The astonishing and rapid fluctuation in its value appears from the evidence in this case, in which it is stated that in the year 1810, it varied from forty-eight to twenty-five cents. To secure the assured against the effects of this fluctuation, was the object of the parties in attaching a specific value to the ruble; and as the whole cargo would be affected in value by this cause, and the policy was upon the cargo, generally, we are of opinion, that no other principle in calculating the loss, would afford him the indemnity stipulated for in the policy. The principle contended for by the defendant is subject \*59] to this obvious objection, that it is not reciprocal. \*Had the adjustment of the value of the ruble in the other cases exceeded forty-six cents, that adjustment would not in any respect have resulted to his benefit.

There is one difficulty of which the court are fully aware, which is, that the interest assigned in the abandonment, if estimated in rubles, will be inversely as the rate at which the ruble is estimated, so that he who pays most would acquire least. But in this case, the objection does not arise; as the plaintiff, by a compromise with the underwriters on some of the other policies, has reserved a sufficient interest in the subject of abandonment, to meet the just claims of these underwriters. And in no case would this consideration create a difficulty as between the parties to a policy. Among the underwriters alone, in the distribution of the proceeds of the thing abandoned, would it be necessary to determine on the correct rule to be applied in such a case.

Had the policy, which is the subject of this suit, been a valued policy, and declared the value of the whole cargo to be \$43,929, the actual amount at the stipulated valuation of the ruble, the same objection would have presented itself, but certainly would not have availed to prevent a recovery. The judgment below must, therefore, be reversed, and the case remanded.

Judgment reversed.