

241 U. S.

Counsel for Parties.

68 Fed. Rep. 742, 745; *Godwin v. Francis*, L. R. 5 C. P. 295; *Queen v. Riley* [1896], 1 Q. B. 309, 314, 321; *Howley v. Whipple*, 48 N. H. 487, 488; *State v. Holmes*, 56 Iowa, 588, 590.

Judgment affirmed.

STOWE, TRUSTEE IN BANKRUPTCY OF HARVEY, v. HARVEY.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

No. 329. Argued April 27, 28, 1916.—Decided May 8, 1916.

In this case the substantial controversy was whether a transfer made by the bankrupt to his wife of certain valuable certificates of stock was made before or after insolvency; and, notwithstanding doubts engendered by conflicting statements and questionable circumstances and the different conclusion reached by the trial court, this court agrees with the conclusion reached by the Circuit Court of Appeals that the gift was made during the period of solvency.

In California, where the bankrupt resided, title to stock may be transferred by delivery of certificates and the corporate books are not for public information.

219 Fed. Rep. 17, affirmed.

THE facts, which involve the legality of a transfer of assets made by the bankrupt more than four months prior to the filing of the petition, are stated in the opinion.

Mr. A. E. Shaw, with whom Mr. Bert Schlesinger, Mr. Edwin H. Williams and Mr. Edward M. Cleary were on the brief, for appellant.

Mr. Charles S. Wheeler, with whom Mr. John F. Bowie was on the brief, for appellee.

MR. JUSTICE McREYNOLDS delivered the opinion of the court.

J. Downey Harvey of San Francisco was adjudged a bankrupt November 17, 1911. Appellant having become trustee of the estate instituted this proceeding to set aside a transfer by the bankrupt to his wife—defendant in error—of certain stock in Shore Line Investment Company because made without consideration and with intent to delay and defraud his creditors. The complaint alleges that the gift was made and stock transferred in November, 1909, when it is admitted Harvey was insolvent. Mrs. Harvey maintains that her husband gave the stock and actually delivered the properly endorsed certificate to her in 1905, during all of which year his solvency is conceded. The substantial controversy throughout has been upon the question of fact thus raised.

Having heard witnesses, the trial court held the transfer was made in 1909 and rendered a decree in favor of the trustee. The Circuit Court of Appeals after a careful review of the evidence, reached a contrary conclusion. 219 Fed. Rep. 17. We are now asked to reverse its decree and sustain the trial court.

Notwithstanding doubts necessarily engendered by some conflicting statements and questionable circumstances, upon consideration of the whole record we think the decision of the Circuit Court of Appeals is correct.

Appellant also suggests (a) that the gift is void because Mrs. Harvey permitted her husband for more than four years to retain apparent title to the stock and hold himself out as its real owner; and (b) that there was no actual and continuous change of possession as required by the state statute against fraudulent conveyances. In reply to these suggestions it seems only necessary to cite *National Bank v. Western Pacific Ry.*, 157 California, 573, 581, which announces as settled doctrine in California

241 U. S.

Syllabus.

that title to stock may be transferred by delivery of certificates and corporate books are not for public information.

The judgment of the Circuit Court of Appeals is

Affirmed.

MR. JUSTICE MCKENNA took no part in the consideration or decision of this case.

LANE, SECRETARY OF THE INTERIOR, v.
UNITED STATES EX REL. MICKADIET AND
TIEBAULT.

ERROR TO THE COURT OF APPEALS OF THE DISTRICT OF
COLUMBIA.

No. 449. Argued April 10, 1916.—Decided May 22, 1916.

The general rule that courts have no power to interfere with the performance by the Land Department of the administrative duties devolving upon it, although they may, when the functions of the Department are at end, correct, as between proper parties, errors of law committed by the Department in such administration, *held* to be applicable in this case, as no exception exists to take it out of the rule.

Under the acts of May 8, 1906 and June 25, 1910, the Secretary of the Interior has exclusive authority and jurisdiction to determine the heirs of an allottee Indian who are entitled to succeed to the allotment made to him under the act of February 8, 1887, in case of his death during the restricted period; and this authority includes the right to reopen and review a previous administrative order on proper charges of newly discovered evidence or fraud while the property is still under administrative control.

A court has no power to issue a writ of mandamus to control the conduct of the Secretary of the Interior concerning a matter within his administrative authority.

43 App. D. C. 414, reversed.