
Mercers' Lessee v. Selden.

*RICHARD B. ALEXANDER, PLAINTIFF IN ERROR, v. MOSES GRAHAM, DEFENDANT IN ERROR.

In error to the Circuit Court of the United States for the District of Columbia, in and for the county of Washington.

The plaintiff in error having filed an order in writing, directing the clerk to dismiss this suit, it is thereupon now, here, considered, ordered, and adjudged by this court, that this writ of error be and the same is hereby dismissed with costs.

LESSEE OF JOHN MERCER, AND MARY SCOTT MERCER, HIS WIFE, PLAINTIFFS IN ERROR, v. WILLIAM CARY SELDEN, DEFENDANT.

The statute of limitation of Virginia, passed in 1785, barred the right of entry, unless suit was brought within twenty years next after the cause of action accrued. The savings are infancy, coverture, &c., and such persons are barred if they do not bring their action within ten years next after their disabilities shall be removed.¹

The circumstances under which the defendant held in this particular case, constitute an adverse possession.²

Disabilities which bring a person within the exceptions of the statute cannot be piled one upon another; but a party, claiming the benefit of the proviso, can only avail himself of the disability existing when the right of action first accrued.³

The general rule of law is, that there must be an entry during coverture, to enable the husband to claim a tenancy by the curtesy.⁴

THIS case was brought up by writ of error from the Circuit Court of the United States for the eastern district of Virginia.

The facts in the case are stated in the commencement of

¹ FOLLOWED. *Hogan v. Kurtz*, 4 Otto, 779. CITED. *De Mill v. Moffat*, 49 Mich., 130.

² See *Withers v. Jenkins*, 14 So. Car., 612.

³ S. P. *Thorpe v. Raymond*, 16 How., 247; *Doe v. Barksdale*, 2 Brock., 436; *Den v. Richards*, 3 Greene (N. J.), 347; *Jackson v. Wheat*, 18 Johns. (N. Y.), 40; *Bradstreet v. Clarke*, 12 Wend. (N. Y.), 692; *Starke v. Starke*,

3 Rich. (S. C.), 438; *McFarland v. Stone*, 17 Vt., 165.

But where there are two or more coexisting disabilities in the same person when his right of action accrues, he is not obliged to act until the last is removed. *Sims v. Everhardt*, 12 Otto, 310; 1 Morr. Tr., 18, citing this case.

⁴ Otherwise as to wild lands, *Davis v. Mason*, 1 Pet., 503, 506; *Barr v. Galloway*, 1 McLean, 476.