
Gooding v. Oliver.

insolvent debtors, the personal representatives of those insolvent debtors are not necessarily to be made parties, but that such suits may be prosecuted and decided without participation or interference on the part of such representatives; that in conformity with this construction of the statute of Maryland, by the supreme court of the state, the circuit court of the United States for the district of Maryland, and this court, in the cases herein mentioned, have concurrently ruled in direct opposition to the pretensions of the appellants now advanced.

Regarding the decision just pronounced as in conflict with all that has been heretofore ruled upon the subjects of this controversy, and as transcending the just authority of this court to reject the construction of the statute of Maryland proclaimed by the supreme court of that state, I am constrained to declare my dissent from the decision of this court, and my opinion that the decrees of the circuit court, in these cases, should be affirmed.

Order.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the district of Maryland, and was argued by counsel; on consideration *whereof it is now here ordered, adjudged, and *274] decreed by this court, that the decree of the said circuit court in this cause be and the same is hereby reversed with costs, and that this cause be and the same is hereby remanded to the said circuit court for further proceedings to be had therein in conformity to the opinion of this court.

JOHN GOODING, JUNIOR, ADMINISTRATOR *de bonis non* OF
JOHN GOODING, DECEASED, APPELLANT, v. CHARLES
OLIVER AND ROBERT M. GIBBES, EXECUTORS OF ROBERT
OLIVER, DECEASED.

The decision in the preceding case, of *Williams, administrator of Williams, v. Oliver's executors*, again affirmed.

THIS was an appeal from the circuit court of the United States for the district of Maryland.

In its leading features, it was identical with the preceding

Gooding v. Oliver.

case of Williams, administrator of Williams, against the same defendants.¹

Oliver had purchased Gooding's share in the Mexican Company, from Winchester, the trustee in insolvency, which was passed upon by the Baltimore county court and the Maryland court of appeals, under the same circumstances and at the same time with the preceding case.

Gooding died intestate, on the 15th of February, 1839, and John Glenn administered upon his estate on the 15th of February, 1852. John Gooding, Junior, the appellant, afterwards became the administrator *de bonis non*.

The circuit court dismissed the bill filed by the appellant, and it was argued in this court together with the preceding case.

Mr. Justice NELSON delivered the opinion of the court.

This is an appeal from a decree of the circuit court of the United States for the district of Maryland.

The case involves the same questions, and is in all respects the same, as the case of the administrator of Williams against the executors of Oliver, just decided.

The decree of the court below is therefore reversed, and the case remanded to the court below.

Mr. Chief Justice TANEY, Mr. Justice McLEAN, and Mr. Justice DANIEL, dissented.

*For the opinions of Mr. Chief Justice Taney and Mr. Justice Daniel, see the preceding case of Williams, administrator of Williams, v. Gibbes and Oliver, executors of Robert Oliver, deceased. [*275]

Order.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the district of Maryland, and was argued by counsel. On consideration whereof it is now here ordered, adjudged, and decreed by this court, that the decree of the said circuit court in this cause be and the same is hereby reversed with costs, and that this cause be and the same is hereby remanded to the said circuit court for further proceedings to be had therein, in conformity to the opinion of this court.

¹ See also *Mayer v. White*, 24 How., 320, 322.