SUPREME COURT OF UNITED STATES

Chastleton Corporation et al.

Vs.

Sinclair et al.

No. 467.

Argued March 12-13, 1924.

Decided April 21, 1924.

Mr. W. Gwynn Gardiner, of Washington, D. C., for appellants.

Messrs. Chapin Brown and R. H. McNeill, both of Washington, D. C., for appellees.

[Argument of Counsel from pages 544-545 intentionally omitted]

Mr. Justice HOLMES delivered the opinion of the Court.

This is a bill in equity brought to restrain the enforcement of an order of the Rent Commission of the District of Columbia cutting down the rents for apartments in the Chastleton apartment house in this city. The defendants are the Rent Commission and the tenants of the building. The order was passed on August 7, 1922, and purports to fix the reasonable rates from the preceding first of March. The bill seems to have been filed on October 27, 1922, and seeks relief on several grounds. The first and most important is that the emergency that justified interference with ordinarily existing private rights in 1919 had come to an end in 1922, and no longer could be applied consistently with the Fifth Amendment of the Constitution. Subordinate ones are that the plaintiff Hahn bought the premises on September 25, 1922, it would seem under foreclosure of a preexisting mortgage or deed of trust, and that he and his grantee, the Chastleton Corporation, were strangers to the proceeding before the Commission and not bound by it, but that the tenants not only were relying upon it but

were making it a ground for demanding repayment from the Corporation of rents paid in excess of the sums fixed by the Commission after March 1, 1922, although the Corporation did not receive them. On motion the bill was dismissed by the courts below, the Court of Appeals, in view of Block v. Hirsh, [1921] USSC 106; 256 U. S. 135, 41 Sup. Ct. 458, 65 L. Ed. 865, 16 A. L. R. 165, leaving it for this Court to say whether conditions had so far changed as to affect the constitutional applicability of the law. The allegations do not make the position of the Chastleton Corporation and Hahn sufficiently clear and therefore we feel bound to consider the constitutional question that the bill seeks to raise.

It is objected that the plaintiffs have an adequate remedy at law by way of appeal. But apart from the fact that it is doubtful whether the Chastleton Corporation and Hahn were not entitled to treat the order as a nullity so far as they were concerned, it is open to equal doubt whether in a proceeding under the law they could assail its validity. There are many tenants to be dealt with. However looked at a bill in equity is the natural and best way of settling the parties' rights. See, e. g., Marcus Brown Holding Co. v. Feldman, [1921] USSC 108; 256 U. S. 170, 41 Sup. Ct. 465, 65 L. Ed. 877.

The original Act of October 22, 1919, c. 80, tit. 2, 41 Stat. 297, considered in Block v. Hirsh, was limited to expire in two years. Section 122. The Act of August 24, 1921, c. 91, 42 Stat. 200, purported to continue it in force, with some amendments, until May 22, 1922. On that day a new act declared that the emergency described in the original title 2 still existed, reenacted with further amendments the amended Act of 1919, and provided that it was continued until May 22, 1924. Act of May 22, 1922, c. 197, 42 Stat. 543.

We repeat what was stated in Block v. Hirsh, [1921] USSC 106; 256 U. S. 135, 154[1921] USSC 106; , 41 Sup. Ct. 458, 65 L. Ed. 865, 16 A. L. R. 165, as to the respect due to a declaration of this kind by the Legislature so far as it relates to present facts. But even as to them a Court is not at liberty to shut its eyes to an obvious mistake, when the validity of the law depends upon the truth of what is declared. [1921] USSC 106; 256 U. S. 154, 41 Sup. Ct. 458, 65 L. Ed. 865, 16 A. L. R. 165. Chas. Wolff Packing Co. v. Court of Industrial Relations, [1923] USSC 161; 262 U. S. 522, 536[1923] USSC 161; , 43 Sup. Ct. 630, 67 L. Ed. 1103, 27 A. L. R. 1280. And still more obviously so far as this declaration looks to the future it can be no more than prophecy and is liable to be controlled by events. A law depending upon the existence of an emergency or other certain state of facts to uphold it may cease to operate if the emergency ceases or the facts change even though valid when passed. Perrin v. United States, [1914] USSC 62; 232 U. S. 478, 486, 487[1914] USSC 62; , 34 Sup. Ct. 387, 58 L. Ed. 691. Missouri v. Chicago, Burlington & Quincy R. R. Co., [1916] USSC 187; 241 U. S. 533, 539, 540[1916] USSC 187; , 36 Sup. Ct. 715, 60 L. Ed. 1148. In Newton v. Consolidated Gas Co., [1922] USSC 45; 258 U. S. 165, 42 Sup. Ct. 264, 66 L. Ed. 538, a statutory rate that had been sustained for earlier years in Willcox v. Consolidated Gas Co., [1909] USSC 22; 212 U. S. 19, 29 Sup. Ct. 192, 53 L. Ed. 382, 15 Ann. Cas. 1034, 48 L. R. A. (N. S.) 1134, was held confiscatory for 1918 and 1919.

The order, although retrospective, was passed some time after the latest statute, and long after the original act would have expired. In our opinion it is open to inquire whether the exigency still existed upon which the continued operation of the law depended. It is a matter of public knowledge that the Government has considerably diminished its demand for employees, that was one of the great causes of the sudden afflux of people to Washington, and that other causes have lost at least much of their power. It is conceivable that, as is shown in an affidavit attached to the bill, extensive activity in building has added to the ease of finding an abode. If about all that remains of war conditions is the increased cost of living that is not in itself a justification of the Act. Without going beyond the limits of judicial knowledge, we can say at least that the plaintiffs' allegations cannot be declared offhand to be unmaintainable, and that it is not impossible that a full development of the facts will show them to be true. In that case the operation of the statute would be at an end.

We need not inquire how far this Court might go in deciding the question for itself, on the principles explained in Prentis v. Atlantic Coast Line Co., [1908] USSC 160; 211 U. S. 210, 227[1908] USSC 160; , 29 Sup. Ct. 67, 53 L. Ed. 150. See Gardner v. Barney, [1867] USSC 25; 6 Wall. 499, 18 L. Ed. 890; South Ottawa v. Perkins, [1876] USSC 182; 94 U. S. 260, 24 L. Ed. 154, Jones v. United States, [1890] USSC 239; 137 U. S. 202, 11 Sup. Ct. 80, 34 L. Ed. 691; Travis v. Yale & Towne Manufacturing Co., [1920] USSC 52; 252 U. S. 60, 80[1920] USSC 52; , 40 Sup. Ct. 228, 64 L. Ed. 460. These cases show that the Court may ascertain as it sees fit any fact that is merely a ground for laying down a rule of law, and if the question were only whether the statute is in force to-day, upon the facts that we judicially know we should be compelled to say that the law has ceased to operate. Here however it is material to know the condition of Washington at different dates in the past. Obviously the facts should be accurately ascertained and carefully weighed, and this can be done more conveniently in the Supreme Court of the District than here. The evidence should be preserved so that if necessary it can be considered by this Court.

Judgment reversed.

Mr. Justice BRANDEIS (concurring in part).

So far as concerns the Chastleton Corporation and Hahn, I agree that the decree should be reversed. So far as concerns the plaintiff Lake, the bill was properly dismissed for want of equity; among other reasons, because his administrative appeal from the order of the Rent Commission was pending in the Supreme Court of the District when this suit was begun, and still remains undisposed of. Prentis v. Atlantic Coast Line Co., [1908] USSC 160; 211 U. S. 210, 29 Sup. Ct. 67, 53 L. Ed. 150.

If protection of the rights of The Chastleton Corporation and Hahn required us to pass upon the constitutionality of the District Rent Acts, I should agree, also, to the procedure directing the lower court to ascertain the facts. But, in my opinion, it does not. For (on facts hereinafter stated which

appear by the bill and which were, also, admitted at the bar) the order entered by the Commission is void as to them, even if the Rent Acts are valid. To express an opinion upon the constitutionality of the acts, or to sanction the inquiry directed, would, therefore, be contrary to a long-prevailing practice of the Court.1

The District Rent Act of 1921 (which was in force when the proceeding before the Commission was begun, and thereafter until May 22, 1922) provides that in all 'cases the commission shall give notice personally or by registered mail and afford an opportunity to be heard to all parties in interest.' Act of October 22, 1919, c. 80, title 2, § 106, 41 Stat. 297, 300. The District Rent Act of 1922 (which was in force when the order of the Commission was entered) amended this clause concerning notice by adding thereto the words:

'Provided, That notice given by the commission to an agent for the collection of rents due his principal shall be deemed and held to be good and sufficient notice to the principal.' Act of May 22, 1922, c. 197, § 7, 42 Stat. 543, 546.

The proceeding in which the order of the Rent Commission issued was begun January 25, 1922. Its order was entered August 7, 1922. When the proceeding before the Commission was begun, the plaintiff Lake was the owner of the property subject to mortgages theretofore executed and duly recorded. After the order was entered (and while that proceeding was pending on appeal in the Supreme Court of the District) the plaintiff Hahn purchased the property under the foreclosure of one of these mortgages. Thereafter, and before the institution of this suit, Hahn conveyed the property to his coplaintiff, the Chastleton Corporation. Hahn and the corporation do not claim title under Lake. They claim title as purchasers under the foreclosure of a mortgage which antedated Lake's purchase. Notice of the proceedings before the Commission was never served on the holder of the mortgage; and, of course, not on Hahn or on the Chastleton Corporation. The only notice ever served on any one was that given, on January 25, 1922, 'to the F. H. Smith Co., Agent.' That company was then the rental agent of the property for Lake. It had no authority to represent in any way either the mortgagee or those claiming under him.

As the required notice was not served on the mortgagee, nor on those claiming under him, and as F. H. Smith Company was not the agent of any of them, the order is necessarily void as to the Chastleton Corporation and Hahn. The doctrine of lis pendens has no application to persons so situated. Terrell v. Allison, [1874] USSC 164; 21 Wall. 289, 22 L. Ed. 634; Pittsburg, Cincinnati, Chicago & St. Louis Ry. Co. v. Long Island Loan & Trust Co., [1899] USSC 20; 172 U. S. 493, 19 Sup. Ct. 238, 43 L. Ed. 528. And Congress did not undertake to make the proceeding one in rem, binding upon all the world, regardless of lack of notice.

'It [the court] has no jurisdiction to pronounce any statute, either of a state or of the United States,

void, because irreconcilable with the Constitution, except as it is called upon to adjudge the legal rights of litigants in actual controversies. In the exercise of that jurisdiction, it is bound by two rules, to which it his rigidly adhered, one, never to anticipate a question of constitutional law in advance of the necessity of deciding it; the other never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied. These rules are safe guides to sound judgment. It is the dictate of wisdom to follow them closely and carefully.' Steamship Co. v. Emigration Commissioners, [1885] USSC 11; 113 U. S. 33, 39[1885] USSC 11; , 5 Sup. Ct. 352, 355 [1885] USSC 11; (28 L. Ed. 899).

'Whenever, in pursuance of an honest and actual antagonistic assertion of rights by one individual against another, there is presented a question involving the validity of any act of any Legislature, state or federal, and the dicision necessarily rests on the competency of the Legislature to so enact, the court must, in the exercise of its solemn duties, determine whether the act be constitutional or not; but such an exercise of power is the ultimate and supreme function of courts. It is legitimate only in the last resort, and as a necessity. * * *' Chicago & Grand Trunk Ry. Co. v. Wellman, [1892] USSC 52; 143 U. S. 339, 345[1892] USSC 52; , 12 Sup. Ct. 400, 402 [1892] USSC 52; (36 L. Ed. 176).

Compare Atherton Mills v. Johnston, [1922] USSC 95; 259 U. S. 13, 42 Sup. Ct. 422, 66 L. Ed. 814.