2001

Larson Ford Sales Inc. v. J. Taylor Silver : Brief of Respondent

Utah Supreme Court

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IN THE

SUPREME COURT

OF THE

STATE OF UTAH

LARSON FORD SALES, INC.,

Plaintiff and Respondent,

-vs-

J. TAYLOR SILVER,

Defendant and Appellant.

Case No. 14391

RESPONDENT'S BRIEF

APPEAL FROM AN ORDER OF THE THIRD DISTRICT COURT FOR SALT LAKE COUNTY, STATE OF UTAH THE HONORABLE BRYANT H. CROFT, JUDGE, PRESIDING.

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APPEAL FROM AN ORDER OF THE THIRD DISTRICT COURT FOR SALT LAKE COUNTY, STATE OF UTAH, THE HONORABLE BRYANT H. CROFT, JUDGE, PRESIDING.

NATURE OF CASE

This appeal involves the validity of Section 78-6-10 of the Utah Code Annotated (1953), which requires a defendant who is dissatisfied with a Judgment rendered against him in Small Claims Court to appeal that Judgment within five (5) days from the entry thereof to the District Court of the county in which said court is held.

DISPOSITION IN LOWER COURT

On August 5, 1974, the defendant appealed from an adverse decision entered on July 11, 1974, by the Honorable LeRoy

H. Griffiths, Judge of the Small Claims Court of Murray City, Utah, to the Third Judicial District Court of the County of Salt Lake. On December 15, 1975, on motion of plaintiff, the Honorable Bryant H. Croft, Judge of the District Court for Salt Lake County, dismissed the appeal of defendant, J. Taylor Silver, pursuant to Section 78-6-10 of the Utah Code Annotated (1953), on the grounds that the appeal was not taken timely. Plaintiff admits that Gordon Esplin appeared on behalf of the defendant at the Hearing on December 15, 1975, and that arguments were heard by the Court. Plaintiff apologizes for the clerical error in stating that no one appeared on behalf of defendant.

RELIEF SOUGHT ON APPEAL

The appellant appeals on the law only, requesting a determination as to the validity of Section 78-6-10 of the Utah Code Annotated (1953), and seeks the court to overrule the decision of the Trial Court.

STATEMENT OF FACTS

By Affidavit dated June 5, 1974, plaintiff filed suit in the Small Claims Court of Murray City, Utah, to recover $197.66, from J. Taylor Silver, a Utah resident, for parts and services used in repairing his car (R. 4). Trial was held before the Honorable LeRoy H. Griffiths, Judge of the Small Claims Court of Murray City on July 11, 1974, and Judgment was entered against J. Taylor Silver and in favor of plaintiff in the amount of $106.23. On August 5, 1974, twenty-five (25) days after the Judgment was rendered in Small Claims Court, J. Taylor Silver obtained counsel

and filed a Notice of Appeal with Murray City Court (R. 3). Defendant's counsel also filed a motion pursuant to Rule 73(e) of the Utah Rules of Civil Procedure requesting that defendant be allowed to appeal without posting bond, on the grounds that defendant was not financially able to afford a bond, and was only able to pay the filing fees, (R. 8-9). Said Motion was granted, ex parte, on the 6th day of August, 1974, and plaintiff did not object to said Motion. On December 3, 1975, plaintiff filed a Motion to Dismiss the defendant's appeal in the District Court for Salt Lake County, State of Utah, on the grounds and for the reasons that Section 78-6-10 of the Utah Code Annotated (1953) requires that an appeal from Small Claims Court be made within five (5) days from the entry of Judgment, and that the appeal in this case had not been taken until twenty-five (25) days after entry of Judgment (R. 15). Plaintiff's Motion to Dismiss was heard on Monday, December 15, 1975, at the hour of 2:00 P.M., before the Honorable Bryant H. Croft, Judge of the District Court for Salt Lake County, State of Utah. At that time, the Court heard arguments of John L. McCoy representing the plaintiff and Gordon F. Esplin representing the defendant, and the Court thereafter entered its Order dismissing the appeal of J. Taylor Silver as requested in the Motion of plaintiff. Thereafter, plaintiff filed his appeal with this Court.

ARGUMENT

POINT I

THE PURPOSE OF SMALL CLAIMS COURT IS TO AFFORD THE SMALL CLAIMANT AN OPPORTUNITY TO SEEK LEGAL SATISFACTION UNENCUMBERED BY THE EXPENSES AND DELAY USUALLY ASSOCIATED WITH LITIGATION.

Small Claims Courts are a common part of the court system and are present in almost every American Jurisdiction. e.g. Cal. Civil Proc. Code, § 117 et seq. (West 1954); Idaho Code § 1-2301 et seq. These Courts were established to provide small claims litigants with speedy, low cost hearings, by employing a procedure designed to minimize the technicalities normally confronting the parties involved in a legal dispute. This concept benefits persons of all socio-economic levels by reducing the time and expense involved in litigation. Attorneys are not needed (and in some states even forbidden: e.g., Cal Civil Pro. Code § 117g; Idaho Code § 1-2308) and courtroom procedure is informal. Access to the courts is thereby made readily available to people who would normally be discouraged by the expense and formality of a lawsuit. More people are allowed their day in court with no abandonment of the rules of substantive law. The courts also benefit from this type of system with a reduced caseload. A maximum number of cases can be adjudicated in a minimum amount of time without overloading the court system or prolonging a remedy to the parties. One of the procedural aspects which the Legislature had to determine when establishing Small Claims Court was the mode of appeal. The Utah Legislature determined that five (5) days was the most appropriate and beneficial amount of time to be allowed for an appeal while furthering the goals of the Small Claims Court. Section 78-6-10, Utah Code Annotated (1953). Contrary to appellant's contentions, five (5) days does not deny a defendant access to the courts, but simply requires that he exercise his appeal option within the prescribed

five-day period so that the case may be disposed of judiciously. Furthermore, Section 78-6-10 of the Utah Code Annotated (1953) denies the plaintiff an appeal under any circumstances unless a counterclaim has been interposed by defendant. Therefore, in the interest of speedy and judicious treatment of small claims matters, the Legislature saw fit to facilitate this type of court system by restricting the mode of appeal of all small claimants. Nor is the five-day-appeal provision unreasonable since it applies equally to all small claimants equally situated within the State of Utah. As the court said in Rinaldi v. Yeager, 384 U.S. 305, 16 LEd2d 477, 86 S.Ct. 1947, which is cited in appellant's Brief, "Once the avenues to appellate review are established, they must be kept free of unreasonable distinctions that can only impede open and equal access to the courts." This case stands for the principle that once an appeal procedure has been established, it must be kept open and equally accessible to all people who come within its confines. In the present case, the appellant was not treated differently from any other small claims court defendant and was equally afforded the "avenue" of appellant review set forth in Section 78-6-10 of the Utah Code Annotated (1953).

POINT II

THERE IS NO CONSTITUTIONAL RIGHT TO AN APPEAL FROM SMALL CLAIMS COURT

Section 9, Article 8 of the Constitution of the State of Utah provides a right of appeal from final judgments of District and Justice's Courts under those conditions provided

by law, However, this provision does not apply to Small Claims Court, and in the absence of Constitutional or Statutory provision granting a right to appeal, due process and equal protection are not violated by the absence or restriction of an appeal privilege. Patterich v. Carbon Water Conservancy District, 107 Ut. 55, 145 P2d 502 (1944); Skaggs v. Small Claims Court for Los Angeles Judicial District of Los Angeles County, 68 C2d 76, 435 P2d 825 (1968). Small Claims Court is not a court contemplated by the Constitution and is strictly a creature of Statute, entitled only to those rights provided by law.

POINT III

EQUAL PROTECTION OF THE LAWS IS NOT DENIED BY THE APPLICATION OF A SPECIFIC COURSE OF PROCEDURE TO LEGAL PROCEEDINGS IN WHICH A PARTICULAR PERSON IS AFFECTED, WHEN SUCH A COURSE IS ALSO APPLIED TO ANY OTHER PERSON IN THE STATE UNDER SIMILAR CIRCUMSTANCES AND CONDITIONS.

Equal protection of the laws is denied only if a statute does not provide equal access to the court by imposing a rule which does not apply equally to all persons invoking the same kinds of claims and rights. In the case of Utah small claimants, all defendants are provided the same right of access to the courts. Five (5) days is allowed to each and every small claims defendant, with no variation in treatment made amongst the class. In the case of Missouri v. Lewis, 101 U.S. 22, 25 LEd 987 (1946), it was held that equal protection of the laws in respect to legal proceedings does not required that every person in the land shall possess the same rights and privileges of every other person, and does not forbid proper and reasonable classification in the field of court proceedings. See also

Salzburg v. Maryland, 346 U.S. 545 (1954); State v. Phillips, 540 P2d 943 (1975). Small Claims Court is exactly that, a reasonable classification designed to treat a specific type of person or litigant. Equal protection of the law regarding appeals implies only that all litigants similarly situated may appeal to the courts under like conditions, with like protections and without discrimination. It is a well-settled rule that a state may classify persons and objects for the purpose of legislations, and may pass laws applicable only to persons or objects within a designated class. Skinner v. Oklahoma, 316 U.S. 535, 86 LEd 1655, 62 S.Ct. 1110.

POINT IV

THE EQUAL PROTECTION CLAUSE DOES NOT EXACT UNIFORMITY OF PROCEDURE, AND THE LEGISLATURE MAY REASONABLY CLASSIFY LITIGATION AND ADOPT ONE TYPE OF PROCEDURE FOR ONE CLASS AND A DIFFERENT TYPE FOR ANOTHER.

This point is set forth in the case of Dohany v. Rodgers, 281 U.S. 362, 74 LEd. (Adv. 365), 50 S.Ct.Rep. 299, 68 ALR 434, 441, where the Court stated that "the due process clause does not guarantee to the citizen of a state any particular form or method of state procedure. Under it he may neither claim a right to trial by jury nor a right of appeal. Its requirements are satisfied if he has reasonable notice and reasonable opportunity to be heard and to present his claim or defense, due regard being had to the nature of the proceeding and the character of the rights which may be effected by it." "Nor does the equal protection clause exact uniformity of procedure. The legislature may classify litigation and adopt one type of pro-

cedure for one class and a different type for another." As previously mentioned, Section 78-6-10 of the Utah Code Annotated (1953) does not allow the plaintiff to appeal unless a counterclaim has been interposed. The defendant, on the other hand, is given a right of appeal which must be exercised within five (5) days.

Plaintiff believes that the cases of Boddie v. Connecticut, 401 U.S. 371, 28 LEd2d 113, 91 S.Ct. 780 (1971); Griffin v. Illinois, 351 U.S. 12, 100 LEd 891, 76 S.Ct. 585; and Douglas v. California, 372 U.S. 353, 83 S.Ct. 814, 9 LEd2d 811 (1963), cited in appellant's Brief are not applicable to the issues raised by this appeal. Those cases involved indigents who, because of their poverty, could not avail themselves of redress in the courts on a level equal to that of wealthier persons. Those cases dealt with discrimination between the rich and the poor. The Small Claims Court System, however, is the exact opposite, with one of its prime benefits being to provide all persons, rich or poor, with access to the courts quickly and at a minimum expense. There is no question that the appellant, J. Taylor Silver, should have access to the courts. In this case he was the defendant and did not initiate court action, but he was provided with an additional benefit not afforded the plaintiff, that being the right to appeal from an adverse decision. J. Taylor Silver was allowed the same procedural rights as all other persons within the State of Utah equally situated. His right to appeal from Small Claims Court to District Court was not impeded in any manner, and he simply failed to exercise his option promptly as required by the law.

Appellant sets forth in his Brief the rational relation requirement of equal protection. The three main elements of this analysis, as set forth by appellant, are the purpose of the law, the reasonableness of the classification as it relates to the law, and the reasonableness of the effect of the law. Plaintiff believes that the entire Small Claims Court Act must be considered in applying this analysis to the present case. The purpose of the law is, first, to provide a means of expeditious treatment for small matters which, because of their nominal value, would foreclose the possibility of suit if it was necessary to engage counsel or become involved in lengthy court proceedings, and second, to help alleviate the caseload burden that the City and District Courts face. The classification consists of setting apart those persons engaged in disputes which involve $200.00 or less, and establishing procedural rules to govern their court proceedings. These rules necessarily set forth what, if any, is the mode of appeal. In this case, the defendant is given five (5) days to appeal, and the plaintiff is given an appeal only if he is ruled against on a counterclaim. The very real effect of this law is to treat small matters quickly and judiciously, with an equal opportunity afforded each small claimant to have his day in court and with exact procedural guidelines applied equally to all members of the class. The limited appeal privileges help attain this result.

On Page 7 of appellant's Brief he lists certain practicalities which the Court should consider in determining the

reasonableness of the classification for equal protection purposes. However, plaintiff believes that there are other practicalities which the defendant overlooked including the following:

(a) The burden which would exist on the courts if all matters and claims under $200.00 were added to the City or District Court caseload.

(b) The appropriateness of a system which allows persons to resolve minor disputes on their own without additional legal expenses or long court delays. (In fact, the Small Claims Court System favors poor claimants, as in this case.)

Also, it appears to respondent that the arguments set forth in Section 6 on Page 7 of appellant's Brief regarding short time are not applicable in this case. Both cases cited by appellant regard non-residents who are required, within short time periods, ten days in one case and five in another, to answer to the courts of another state. In addition, the Utah Supreme Court in Gallegos v. Midvale City, 27 Ut2d 492, P2d 1335 (1971), held that a plaintiff was not deprived of equal protection of the laws by a statute that required notice of a claim for damages or injury against a city be given to the Board of Commissioners or City Council of such city within thirty (30) days of the happening of the injury or damages. Section 10-7-77 of the Utah Code Annotated (1953). This Statute effectively shortened the time that a person would normally have in initiating an action in tort.

CONCLUSION

Section 78-6-10 of the Utah Code Annotated (1953) establishes a proper classification which treats all persons

within the class equally and is in total agreement with the Equal Protection Clause of the Constitution of the United States and the State of Utah. There is neither a suspect criteria involved here, such as race, nationality or alienage, nor a fundamental First Amendment right requiring a compelling governmental interest before it may be significantly regulated. Therefore, the legislation involved here need only have a rational justification for its existence. Flemming v. Nestor, 363 U.S. 603.

Respectfully submitted,

RYBERG & McCOY

Richard B. Cuatto
Attorneys for Plaintiff-Respondent

CERIFICATE OF SERVICE

THIS IS TO CERTIFY that I mailed a copy of the foregoing Brief of Respondent to Mr. Gordon F. Esplin, Attorney for Appellant, at Salt Lake County Bar Legal Services, Inc., 216 East Fifth South, Salt Lake City, Utah 84111, postage prepaid this ____ day of March, 1976.