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29 U.S. 145
33 How. 143
11 L. Ed. 534

JAMES ISAAC BASSETT, AND ROBERT
W.

APPELLANTS AND APPELLEES,

vs.

SYLVANUS HOLMES, A. H. HARPER, GEORGE A.
DWIGHT ET AL.

December Term, 1857

PDF

THIS was an appeal from the circuit court of the United States of Columbia, South Carolina for the county of W.

The case is stated in the opinion of the court.

It was argued by Mr. DANA for the appellants, and by Mr. FORTLE and Mr. PERRY, for the appellees. There was also a brief filed by Mr. BRADLEY, as counsel for Bradenworth, Luskfield, and Brink.

Mr. DANA made the following points:—

1. That the notes were dated on the 1st of May, 1846, and payable in two years. The mortgage had no date and was the 1st of May, 1846, whereas he sold on the 1st of October, 1847.

2. The allegations set up that Holmes had verbally agreed with Harper to pay the interest semi-annually, &c., cannot be sustained to raise the deed or enlarge the powers of the trustee. Nor could the consent of Holmes acquire the rights of his heirs, devisees, and assigns. They had a right to redeem the property as long as the notes became due, the property being worth more than the face of it.

3. The notice of sale was not properly given.

4. The mortgage was not a lien for Harper.

The trustee could not purchase the estate himself, he could not buy in the

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