Bank v. Rider & a.

An endorsee of a note, having knowledge of such facts as should put him on inquiry as to the validity of the endorsement, is charged with a knowledge of what he would have learned by such inquiry.

Assumpsit, on a note signed by D., payable to his own order, and by him endorsed, and also by R., one of the defendants, by their firm name. N., one of the partners, defended, and offered evidence tending to show that he had no knowledge of the indorsement, and that it was not endorsed in the course of the partnership business, but was an accommodation to D.

The plaintiffs excepted to the refusal of the court to instruct the jury that they were entitled to recover against the defendants if they received the note in good faith, without knowledge that N. had not assented to the endorsement, although it was endorsed by one of the partners in the name of the firm without the knowledge or assent of N., and for the accommodation and benefit of the maker.

The court, against the plaintiffs' objection, instructed the jury that the defendants would be liable unless the plaintiffs knew, or had reasonable ground to believe, that the note was endorsed without the knowledge or assent of N., or the circumstances were such as to put them upon inquiry; that if they were put upon inquiry they would be charged with a knowledge of all they would have learned on such inquiry.

Verdict for the defendants, and motion for a new trial.

W. H. Hackett and *F. W. Hackett*, for the plaintiffs, cited and commented on *Stall* v. *Catskill Bank*, 18 Wend. 466; *Bank of Rochester* v. *Bowen*, 7 Wend. 158; *Tanner* v. *Hall*, 1 Pa. St. 417; *Goodman* v. *Simonds*, 20 Howard 343; and *Miller* v. *Consolidation Bank*, 48 Pa. St. 514.

Frink, for the defendants.

Stanley, J. The instructions requested were properly refused. They lacked an essential qualification. If the plaintiffs had reasonable cause to believe that N. did not assent to the endorsement, or if the circumstances at the time they took the note were such as to put them on inquiry whether N. assented to the endorsement, they were bound to inquire, and would be charged with knowledge of all they would have learned on such inquiry. *Warren* v. *Swett*, 31 N. H. 332; *Dow* v. *Sayward*, 14 N. H. 9. The instructions given were correct. *Wagner* v. *Freschl*, 56 N. H. 495.

Judgment on the verdict.

Smith, J., did not sit.