Real Property - Adverse Possession under Divorce Decree Claimed to Be Invalid

Anonymous

Follow this and additional works at: http://scholarship.law.marquette.edu/mulr

Part of the Law Commons

Repository Citation
Anonymous, Real Property - Adverse Possession under Divorce Decree Claimed to Be Invalid, 28 Marq. L. Rev. 57 (1944).
Available at: http://scholarship.law.marquette.edu/mulr/vol28/iss1/15

This Article is brought to you for free and open access by the Journals at Marquette Law Scholarly Commons. It has been accepted for inclusion in Marquette Law Review by an authorized administrator of Marquette Law Scholarly Commons. For more information, please contact megan.obrien@marquette.edu.
rendition of copyrighted musical numbers in Wisconsin unless such person shall first obtain a license from the Secretary of State, and that it is a misdemeanor for a person to attempt to compel persons in Wisconsin to purchase licenses for the rendition of musical numbers unless the license from the Secretary of State has been obtained. The District Court upheld the contention of the defendant and dismissed the complaint. Plaintiff appealed. **Held,** a Wisconsin statute should not be permitted to prohibit the bringing of a federal suit. Plaintiff's failure to obtain a license did not place it outside the protection of the law so that a resident of Wisconsin could confiscate its property. Plaintiff's failure to secure a license was an offense against Wisconsin alone. The "clean hands" maxim should be applied only where the prosecution of the plaintiff's rights would involve the protection of plaintiff's wrongdoing, and not where it involves punishment for extraneous transgressions. *Leo Feist Inc. v. Young,* 138 F. (2d) 972 (C.C.A. 7th, 1943).

---

**Real Property — Adverse Possession Under Divorce Decree Claimed to Be Invalid.** — Plaintiffs, heirs of William Johnson, husband, claim title to land also claimed by the heirs of Virginia Johnson, wife. The land was originally conveyed to the husband and occupied by him and his wife as a homestead. Prior to December 9, 1915, the husband deserted the wife who remained in possession of the property. On December 9, 1916, the wife divorced the husband. In the decree, it was provided that the husband be divested of title to the tract and that title be vested absolutely in the wife, who thereafter continued to live on the land. The husband knew of the divorce. Plaintiffs, husband's heirs, contended that the decree of divorce was void because it was rendered in chambers on constructive service and contained a recital to the effect that the husband appeared by attorney ad litem appointed by the court to notify him of the filing of the suit against him, and that the possession of the wife not being hostile in its inception did not thereafter become adverse.

The court did not pass upon the validity of the divorce decree, and held that since the husband knew of the decree and that the wife continue to live on the land owned by him, the wife's possession was adverse to the husband and the wife acquired title to the land. *Bride v. Walker,* 176 S.W. (2d) 148 (Ark. 1943).