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Action to establish or liquidate claim against person or corporation for whom receiver has been appointed, in a court other than court appointing receiver, without consent of latter court

[Cumulative Supplement]

The reported case for this annotation is Chicago Title & Trust Co. v. Fox Theatres Corporation, 69 F.2d 60, 91 A.L.R. 991 (C.C.A. 2d Cir. 1934).

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See annotation in 29 A.L.R. 1501, on the question as to receivership as affecting right of stockholder to bring action for protection of himself and other stockholders.

Cases in which the jurisdiction of a court other than the receivership court to proceed with the suit against the receivership defendant is sustained, and a judgment rendered therein given effect against the receiver as to the existence or amount of the claim, solely on the ground that such suit was commenced prior to the institution of the receivership proceedings, —as, for example, Pine Lake Iron Co. v. La Fayette Car Works (1893, C. C.) 53 Fed. 853; Mercantile Trust Co. v. Pittsburgh & W. R. Co. (1887, C. C.) 29 Fed. 732; Consolidated Music Co. v. Brinkerhoff Piano Co. (1933, C. C. A. 10th) 64 F. 2d 884; Evans v. Illinois Surety Co. (1925) 319 Ill. 105, 149 N.E. 802; Marshall v. Wabash R. Co. (1918) 201 Mich. 167, 167 N.W. 19, 8 A.L.R. 435; Brunk v. Hamilton-Brown Shoe Co. (1933) — Mo. —, 66 S.W. 2d 903, —are not strictly within the scope of the annotation, although, in some of the cases herein treated, such was the fact and the court may have been influenced thereby.

It is a well-settled principle of law that when a court of competent jurisdiction acquires jurisdiction over the subject-matter of a case, its authority therein continues until the matter is finally and completely disposed of, and no court of co-ordinate authority is at liberty to interfere with its action. 7 R. C. L. 1067.

As a corollary to this rule is the rule that a court which first acquires lawful jurisdiction over a specific property, by the seizure thereof or otherwise, withdraws that property from the jurisdiction of every other court, so far as it is necessary

to accomplish the purpose of the suit, and is entitled to retain such control over such property as is requisite to effectuate its final judgment or decree in respect thereto, free from the interference of every other tribunal. 7 R. C. L. 1068.

Upon this principle, when a receiver has been appointed by one court of the property of the receivership defendant, and such property has thereby been brought into the control of the court appointing the receiver, the receiver may not be sued in another court, without leave of the court appointing him (unless such suit is permitted under a statute); and this rule has been applied, not only in suits to recover the property held by him, but also in suits for a money demand or for damages. 23 R. C. L. 125.

Where, however, the suit in another tribunal is one not against the receiver himself, but against the receivership defendant, and its object is not to subject the property in the hands of the receiver or in the custody of the receivership court, but merely to establish or liquidate a claim or demand personally against the receivership defendant, the position has been taken that leave to sue by the court appointing the receiver is not necessary. Chicago Title & T. Co. v. Fox Theatres Corp. (C. C. A. 2d) (reported herewith) ante, 991.

In such case, of course, the judgment rendered merely determines the existence and the amount of the claim, and does not entitle the plaintiff to levy execution on or otherwise proceed against the property in the hands of the receiver. It must be filed for allowance in the receivership court, and, when so filed, due recognition must be accorded to it in the distribution of the estate. The plaintiff is not bound to re-establish the claim in the receivership court. See Riehle v. Margolies (1929) 279 U.S. 218, 73 L. ed. 669, 49 S. Ct. 310.

The above stated rule that a suit to establish or liquidate a claim against a receivership defendant, without the leave of the court appointing the receiver, may be instituted in another court, was applied in the reported case (Chicago Title & T. Co. v. Fox Theatres Corp. (C. C. A. 2d)), in its holding that claims arising from contract and in tort, against a corporation for which a receiver has been appointed by a Federal court, may be established and liquidated in a state court, without the leave of the court appointing the receiver, because the liquidation of a claim is strictly a proceeding in personam, which does not directly deal with receivership assets, and that the receivership court is not vested with the exclusive power of liquidating for itself the amount of such claim.

The decision in the reported case (Chicago Title & T. Co. v. Fox Theatres Corp. (C. C. A. 2d)) is based primarily on, and is supported by, the authority of Riehle v. Margolies (1929) 279 U.S. 218, 73 L. ed. 669, 49 S. Ct. 310, where it was held that a default judgment obtained in an action for a breach of contract commenced in a state court by a creditor of a corporation for which a receiver was, pending the action in the state court, appointed in a Federal court, might not be contested by the receiver as to the amount of the claim adjudicated. The reasoning of the lower court, to the effect that to require the receiver to recognize the state court's judgment and to disallow the reconsideration of the claim by the court appointing the receiver would impair the jurisdiction of the latter court over the assets already in its custody when the state court's judgment was rendered, because liquidation of the claim was a part of the distribution of the estate, and distribution was a part of jurisdiction over the res, was disapproved. The decision is based on the broad ground that the appointment of a receiver of a debtor's property by a Federal court confers upon it Federal jurisdiction to decide all questions incident to the preservation, collection, and distribution of the assets, but it does not necessarily draw to the Federal court the exclusive right to determine all questions or rights of action affecting the debtor's estate, and not on the narrow ground that the jurisdiction of the state court attached first, and the court pointed out that because of the latter fact the above-stated rule would be, a fortiori, true. The court said: "The contention that the judgment is not conclusive rests upon the argument that, because the appointment of the receiver draws to the appointing court control of the assets, and in the distribution of them among creditors there is necessarily involved the determination both of the existence of the claim and of the amount of the indebtedness, the Federal court must have the exclusive power to make that determination. The argument ignores the fact that an order which results in distribution of assets among creditors has ordinarily a twofold aspect. In so far as it directs distribution, and fixes the time and manner of distribution, it deals directly with the property. In so far as it determines, or recognizes, the power of determination of the existence and

amount of the indebtedness of the defendants to the several creditors seeking to participate, it does not deal directly with any of the property. The latter function, which is spoken of as the liquidation of a claim, is strictly a proceeding in personam. Of course, no one can obtain any part of the assets, or enforce a right to the specific property in the possession of a receiver, except upon application to the court which appointed him. … But the judgment of the state court does not purport to deal with the property. The sole question involved there was the existence and amount of Margolies's claim against the corporation. And the sole question involved here is the proof of that claim. There is no inherent reason why the adjudication of the liability of the debtor in personam may not be had in some court other than that which has control of the res. It is only necessary that in the receivership proof of the claim be made in an orderly way, so that it may be established who the creditors are and the amounts due them." In a later part of the opinion, however, the court attempted to confine the scope of its decision to a suit commenced in the state court prior to the appointment of a receiver in a Federal court, saying: "Whether such a judgment recovered in a suit commenced after the appointment of the receiver would operate as res judicata, we need not consider. For Margolies's suit was begun before. He had, under § 265 of the Judicial Code, U. S. C. title 28, § 379, the right to prosecute that suit to judgment, despite the institution later of the receivership proceedings. He must have, as an incident thereof, the further right to have it accepted therein as an adjudication of the existence of the indebtedness." And the fact that neither the receivership defendant nor the receiver undertook to defend the state court suit was regarded as immaterial, on the ground that a judgment of the court having jurisdiction of the parties and of the subject-matter operates as res judicata, even if obtained upon a default.

It should be observed that in the reported case (Chicago Title & T. Co. v. Fox Theatres Corp. (C. C. A. 2d)) the fact that the suit in the state court in the Margolies Case (1929) 279 U.S. 218, 73 L. ed. 669, 49 S. Ct. 310, supra, was commenced prior to the appointment of a receiver by the Federal court, was regarded as immaterial to the decision reached therein.

The decision in the reported case (Chicago Title & T. Co. v. Fox Theatres Corp. (C. C. A. 2d)) seems to be also supported, directly or inferentially, by other cases, involving the same or analogous questions. While the authority of some of these cases is not very strong on the point under annotation, because of the fact that the suit against the receivership defendant was commenced before the appointment of the receiver, and the question involved was as to the continuance of a pending suit rather than as to the institution of a suit, yet the language used tends to indicate that the decision would have been the same as to an action in personam instituted after the appointment of the receiver.

In Brown v. Duffin (1926, C. C. A. 6th) 13 F. 2d 708, the court, in passing upon a question not strictly within the scope of this annotation, said: "We think the established principles are that, as between state and Federal courts having concurrent jurisdiction, if the suit is clearly one in which the court must take possession of the property in order to give the relief asked, the court which is first appealed to by commencement of suit gets exclusive jurisdiction. … While, if the suit is wholly in personam, there is no exclusion of one by the other, and no obstacle exists to the prosecution of either until one of them reaches the stage of final judgment, whereupon it may be pleaded in bar in the other." It was held in this case that the institution of receivership proceedings against a corporation in a Federal court did not necessarily bar the continuance of a suit previously instituted in a state court for an accounting against the liquidating trustees of the corporation, although the court observed that such a suit was so far collateral to the receivership that, if instituted after the appointment of the receiver, it should not be allowed.

In Hatch v. Morosco Holding Co. (1927, C. C. A. 2d) 19 F. 2d 766, the decision in which was affirmed in Riehle v. Margolies (1929) 279 U.S. 218, 73 L. ed. 669, 49 S. Ct. 310, involving the same state of facts, the court stated: "If the state suit seeks to establish a lien upon, or affect possession of, the property which the Federal court had previously taken under receivership, the state suit will be stayed. If, however, the state suit seeks only a judgment in personam, the two may go on concurrently. … The prosecution of the pending state suit, seeking only a judgment in personam against the defendant corporation, did not impair the jurisdiction of the Federal court, and, as we held on the former appeal, could not be stayed." And it was further held that a judgment obtained in a state court after the appointment of the receiver in the Federal court, but in a proceeding commenced before the appointment of the receiver, liquidating the amount of the plaintiff's claim against the receivership defendant, was conclusive evidence of the existence and amount of the

indebtedness, because § 265 of the Judicial Code, U. S. C. title 28, § 379, conferring upon the suitors the right to continue a pending action in the state court, would be of little value, if the Federal receivership court might litigate de novo the very issues decided by the state court.

See Equitable Trust Co. v. Denney (1928, C. C. A. 7th) 24 F. 2d 169, not strictly in point on the facts, where the court approved the rule that the appointment of a receiver for the property of an insolvent does not draw to the appointing court the exclusive right to determine all questions or rights of action involving the insolvent, or necessarily make that court the sole arbiter of all legal questions affecting the estate of the insolvent.

It was held in Lippke v. Portable Mill. Co. (1932) 215 Iowa, 134, 244 N.W. 845, that the pendency of receivership proceedings in a Federal court does not bar the jurisdiction of the state court over an action against the receivership defendant by one of its employees for the breach of an employment contract, in view of a provision of the order of the court appointing the receiver to the effect that such appointment should not alter or change rights or liabilities under existing contracts between the receivership defendants and its employees. The court observed that the mere pendency of a receivership in the Federal court did not necessarily oust the jurisdiction of the local court over the defendant and its property; and that while, in case of a conflict of jurisdiction between the Federal court and the state court, it would be the duty of the state court to respect the proper jurisdiction of the Federal court, and to interpose no impediment thereto, there was no such conflict in this case.

In New York v. Illinois Surety Co. (1917) 180 App. Div. 513, 167 N.Y. Supp. 752, it was held that the prior appointment of a receiver for the defendant surety company, in a court of Illinois, did not prevent the plaintiff from instituting an action in New York upon a bail bond in order to reduce his claim to a judgment and have his right judicially determined.

And in Jacobs v. Central Vermont R. Co. (1928) 132 Misc. 144, 228 N.Y. Supp. 705, an action in New York under the Federal Employers' Liability Act against a foreign railroad corporation doing business in New York, for which receivers were appointed in Vermont, the court, under the authority of New York v. Illinois Surety Co. (1917) 180 App. Div. 513, 167 N.Y. Supp. 752, held that the appointment of a receiver for a corporation does not dissolve the corporation, or operate to prevent parties having claims against the corporation from proceeding in a court other than that appointing the receiver, as they could have done when the corporation was managing its property. In support of this decision the court cited the Federal statute allowing a receiver to be sued without the previous leave of the court by which he was appointed. The court said that under the above circumstances the plaintiff is entitled to prosecute his claim so that his right may be judicially determined.

The decision in the Jacobs Case (**N. Y.**) supra, was affirmed in Gaboury v. Central Vermont R. Co. (1928) 225 App. Div. 145, 231 N.Y. Supp. 630, where it was held that the action was maintainable against the corporation, the receivership defendant, although not against the receiver himself, as to whom leave of the court appointing him was necessary. However, upon appeal to the court of appeals in (1928) 250 N. Y. 233, 165 N. E. 275, it was held that the action was not maintainable in New York, on the ground, however, that after the appointment of the receiver the foreign corporation was not acting as a corporation within the limits of New York, and that the director who received the summons did not represent it in any of its corporate functions.

And it was held in Pringle v. Woolworth (1882) 90 N.Y. 502, that a policyholder was not debarred from maintaining an action against an insurance company merely because a receiver was appointed of the property of such company, because the appointment of a receiver for a corporation does not dissolve it.

See Kansas City, M. & O. R. Co. v. State (1914) 106 Tex. 249, 163 S.W. 582 (writ of error dismissed in (1916) 241 U.S. 650, 60 L. ed. 1221, 36 S. Ct. 553), where it was held that the state could maintain against a railroad company proceedings for a mandatory injunction to compel it to construct a line through a certain town, which the railroad company was obligated to construct, notwithstanding the appointment of a receiver for the railroad company in a Federal court. The

court said: "The railroad company had failed and refused to perform an unquestionable duty to the public, and the district court had authority to compel the performance of that duty. The appointment of a receiver by the Federal court did not interfere with the jurisdiction of the state court over the corporation, and would not prevent the enforcement of any judgment against the corporation which would not interfere with the receiver's possession and control of the property. … When the receiver was appointed, right of possession of the property of the corporation vested in the receiver, and the state court had no power to require the corporation to do any act which would interfere with the possession by the receiver of its railroad track or other property. But the state court had jurisdiction to determine the issues between the state and the corporation."

In Kansas City, M. & O. R. Co. v. Latham (1915, Tex. Civ. App.) 182 S.W. 717, a case not within the scope of this annotation on its facts, the court said: "Pending a receivership in the Federal court, a state court has jurisdiction to determine a claim against the defendant company which has not been filed in the Federal court, if the same does not interfere with the receiver's custody of the property."

See Calhoun v. Lanaux (1888) 127 U.S. 634, 32 L. ed. 297, 8 S. Ct. 1345, where it was held that the state court had jurisdiction to entertain a suit against the recorder of mortgages and a corporation for which a receiver was appointed by the Federal court, by mandamus to compel the recorder to cancel and erase from the books of his office all inscriptions against certain property of the plaintiff in favor of the corporation. The court answered the objection that no action could be commenced against receivers without permission of the court which appointed them, by saying that the action was not against the receivers, but against the corporation and the recorder of the mortgages, and further said: "This was not the case of a proceeding in the state court to deprive the receivers of property in their possession as such. That would have been a different thing, and the state court would not have had jurisdiction for such a purpose. This was only a case for enforcing the right of the petitioner to have canceled on the books of the recorder a mortgage which had been satisfied and paid—not interfering in any way with the possession of the receiver."

See also International-Great Northern R. Co. v. Oehler (1924, Tex. Civ. App.) 262 S.W. 785 (which, however, is not in point, because the action was not against the receivership defendant, but against a purchaser of the property of the railroad company at a receiver's sale), where it was held that, notwithstanding the appointment of a receiver by a Federal court, the state court had jurisdiction of an action for personal injuries because the judgment by its terms operated only against the person of the defendant, or, at most, established the amount and validity of the claim, without directing its payment out of any particular property.

So, although not within the scope of this annotation, because the suit was not against a receivership defendant, but against the purchaser of the railroad property at a receivership sale, attention may be directed to Carroll v. St. Louis-San Francisco R. Co. (1925, Mo. App.) 274 S.W. 837, where it was held that notwithstanding the reservation, in the order discharging a receiver of a railroad company, of jurisdiction by the Federal court appointing the receiver, to determine all claims against him, the state court was not ousted of jurisdiction of an action wherein recovery was sought merely of a personal judgment against the purchaser of the property, who assumed all liability of the receivers which grew out of their operation of the railroad. The court said: "There would seem to be no reason why the Federal court should seek to oust the jurisdiction of any other court as long as the matter to be litigated went no further than an attempt to secure a personal judgment against the purchaser for liability assumed by him. It is only when the property purchased is to be directly affected by the judgment of the court that it would be necessary for the court which had ordered the sale of the property to exercise control over any subsequent proceedings. When the sole issue is one of personal obligation of the purchaser to discharge the liability assumed by him, and the only judgment asked is a personal judgment against him, and the property bought is not brought into the litigation by an effort to fasten a lien or charge upon it, we can see no reason why the issues that arise in that action may not be determined by any court of competent jurisdiction."

See also Trimble v. Guardian Trust Co. (1912) 244 Mo. 228, 148 S.W. 934, where it was held that the provisions of an order of a Federal court which appointed a receiver for a trust company, for the discharge of the receiver, to the effect

that any demand for a debt contracted by the receivership defendant prior to the appointment of the receiver should be presented to that court, did not take away the jurisdiction of the state court in an action subsequently brought to recover for legal services rendered to the receivership defendant before and during the time of the receivership. The court said: "This suit is in personam. There is no question here involved as to any special property or funds of the defendant out of which the judgment to be recovered may be paid. That receivership was not a bankruptcy proceeding which absolved the trust company from its creditors."

See Re Seaboard Airline R. Co. (1909, C. C.) 166 Fed. 376, which involved a petition to the Federal court appointing a receiver for a railroad company, for leave to sue the railroad company for wrongful death in a state court (the death occurred prior to the receivership), and the court held that the petitioner might sue in any court of competent jurisdiction. It is not clear from the opinion, however, whether the court was of the opinion that the suit could be brought without leave of the court appointing the receiver, although it expressed the view that if the suit had been against the receiver for injury growing out of the receiver's operation of the railroad property, no leave to sue in any court of competent jurisdiction would be necessary.

In Odell v. H. Batterman Co (1915, C. C. A. 2d) 223 Fed. 292, the conditions of a lease being broken by the tenant, the landlord applied to the Federal court appointing receivers for the tenant, for leave to sue the tenant and the receivers in a state court to terminate the lease. The court, in sustaining the order denying the leave, based its decision on the ground that the Federal court, because of its possession of the property through its receivers, had ancillary jurisdiction to determine whether the landlord had a right to terminate the lease, and whether there had been a default which justified the forfeiture. It is pointed out that the landlord's rights must be worked out either in the action in which the receivers were appointed, or in an independent action brought only upon leave of the court appointing the receivers; and that the lower court had discretion to decide whether it would determine the question itself or grant leave to litigate it in another court.

CUMULATIVE SUPPLEMENT

State insurance superintendent, authorized by state court rehabilitation order to take possession of mortgage guaranty company property and conduct business thereof, became in effect receiver under supervision of state court, and property became in custodia legis, so that federal court had no right to intervene, at instance of holders of guaranteed mortgage participation certificates, by appointing trustees of bonds and mortgages and restraining superintendent from interfering with their possession and control, Insurance Law N.Y. § 400 et seq. Tolfree v. New York Title & Mortgage Co., 72 F.2d 702 (C.C.A. 2d Cir. 1934).

Receivers are officers of court, and cannot be sued without court consent in its discretion. Chicago Title & Trust Co. v. Fox Theatres Corporation, 69 F.2d 60, 91 A.L.R. 991 (C.C.A. 2d Cir. 1934).

Where factory was being operated on court order by domiciliary receiver of corporation which owned stock of factory, and United States and domiciliary receiver brought action in a federal district court in federal judicial district other than judicial district in which domiciliary receiver was appointed, for enforcement of tax lien of United States on factory assets as assets of corporation, and no other claimant claimed a proprietary interest in the lien fund. United States was entitled to immediate satisfaction of lien claim so far as funds therefor were in control of federal judicial district court in which action was brought, and such court would not remit assets to domiciliary court without enforcing the lien. 26 U.S.C.A. (I.R.C.1939) § 3678(b-d). U.S. v. O.K. Tool Co., 91 F. Supp. 157, 50-1 U.S. Tax Cas. (CCH) P 9296, 39 A.F.T.R. (P-H) P 729 (D. Conn. 1950).

Generally, court will not entertain jurisdiction of suit against receiver appointed by another court until appointing court has given its consent that he be sued. Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Cavicchia, 311 F. Supp. 149, Blue Sky L. Rep. (CCH) P 70861 (S.D. N.Y. 1970).

Action by financial agent of Cuban government against purchaser of a Cuban corporation whose property had been expropriated under a nationalization decree seeking a money judgment against purchaser for alleged conversion of bills of lading for sale of sugar and sales proceeds was an action in personam and federal court had jurisdiction to entertain the action while a state action in rem or quasi in rem was simultaneously going on in New York state in which a temporary receiver had been appointed for assets of Cuban corporation located in New York. Civil Practice Act N.Y. § 977"b. Banco Nacional De Cuba v. Sabbatino, 193 F. Supp. 375 (S.D. N.Y. 1961).

A prior state receivership action against shipyard corporation to protect Pennsylvania creditors as to local assets was different from suit by United States to foreclose government tax lien and for determination and marshaling of other liens upon corporation property, so that receivers in federal suit, who first acquired possession of property, were entitled thereto. 26 U.S.C.A. § 3678. U.S. v. Kensington Shipyard & Drydock Corp., 169 F.2d 9, 48-2 U.S. Tax Cas. (CCH) P 9392, 37 A.F.T.R. (P-H) P 127 (C.C.A. 3d Cir. 1948).

Federal court held without jurisdiction in secured creditor suit against conservators of closed South Carolina state bank, notwithstanding that conservators were statutory officers and not equity receivers appointed by state court, where conservators acted under direction of state court as receivers in same manner as if appointed by court, and were in possession of res, and creditor had recognized their authority and submitted to jurisdiction of state court (Act S. C. March 9, 1933, 38 St. at Large, p. 1174; Act S. C. May 16, 1933, 38 St. at Large, p. 489, § 1; Code S. C. 1932, §§ 7848, 7852, 7854, 7855). Reconstruction Finance Corp. v. Zimmerman, 76 F.2d 313 (C.C.A. 4th Cir. 1935).

Statute authorizing suit by unpaid subcontractors on public contractor bond authorized suit against statutory liquidator of corporate surety, notwithstanding that consent to suit had not been first obtained from state court appointing liquidator (Hurd Act, 40 USCA 270; Code Iowa 1931, Secs. 8402, 8613-c1, 8964, 10761). U.S., to Use of Colonial Brick Corp. v. Federal Sur. Co., 72 F.2d 961 (C.C.A. 4th Cir. 1934).

Appointment of receiver by court of competent jurisdiction in exercise of its chancery powers to take charge of property of corporation does not terminate or affect existence of corporation or prevent institution of action at law against it elsewhere, unless action interferes with receiver in his possession of property or has been restrained or enjoined in receivership proceedings by order binding upon plaintiff. Schwartz v. Randolph, 72 F.2d 892, 96 A.L.R. 480 (C.C.A. 4th Cir. 1934).

Where insurer became insolvent, and Florida state court appointed receiver of all assets of insurer before suit was brought in federal district court in North Carolina by insureds against reinsurers for declaratory judgment, and receiver was directed by Florida court to marshal all assets of insurer and was authorized to liquidate insurer, and reinsurers were notified that hearing would be held in Florida state court, and reinsurers appeared and submitted to jurisdiction of Florida state court, federal district court in North Carolina lacked jurisdiction over subject matter of suit for declaratory judgment and suit would be dismissed. Safeway Trails, Inc. v. Stuyvesant Ins. Co., 211 F. Supp. 227 (M.D. N.C. 1962).

Federal court had jurisdiction of bill by trustee for mortgage bondholders to establish indebtedness and obtain foreclosure decree, notwithstanding mortgaged property was in hands of receiver appointed by state district court. Vernon Ann.Civ.St. art. 2310. Lubbock Hotel Co. v. Guaranty Bank & Trust Co., 77 F.2d 152 (C.C.A. 5th Cir. 1935).

Where Supreme Court of Texas held that one Texas court had jurisdiction to declare validity of certain loan transaction involving corporation and that such suit would not interfere with receiver in custody and control of property of corporation in another Texas court, Texas courts had prior jurisdiction over and possession, custody, and control of all assets of corporation, and federal court would decline to take jurisdiction of receiver, and would not order cancellation or return of notes and deeds of trust of purchasers of stock or enter a money judgment against corporation. Zachman v. Erwin, 186 F. Supp. 681, 3 Fed. R. Serv. 2d 427 (S.D. Tex. 1959).

Where state court had appointed for insolvent corporation a receiver who was in possession of securities, action to recover title and/or possession of securities must be litigated in state court or permission obtained from that court to litigate it in United States District Court. Securities Act of 1933, §§ 1, 302, 15 U.S.C.A. §§ 77a, 77bbb. Zachman v. Erwin, 142 F. Supp. 745 (S.D. Tex. 1955).

A federal court, even in exercise of an equity jurisdiction not otherwise inappropriate, should not appoint a receiver to displace possession of a state officer lawfully administering property for benefit of interested parties except where it appears that procedure afforded by state law is inadequate or that it will not be diligently and honestly followed. Gillis v. Keystone Mut. Cas. Co., 172 F.2d 826, 11 A.L.R.2d 455 (6th Cir. 1949).

All rights of action of corporation in receivership remain in custody of court until receivership has been terminated, and neither state court nor federal court may, by collateral suit, assume to deal with property rights or rights of action constituting part of the estate within exclusive jurisdiction of the other. Roof v. Conway, 133 F.2d 819, 26 Ohio Op. 43 (C.C.A. 6th Cir. 1943).

Attempt to enjoin enforcement of Wisconsin court order to raze four single-family houses believed to be unsafe was prohibited by Anti-Injunction Act; because individual who purchased property after entry of raze order failed to make reasonable inquiry, he was held to have notice of raze order and, thus, was not a good-faith purchaser of property. 28 U.S.C.A. § 2283. Pelfresne v. Village of Williams Bay, 965 F.2d 538 (7th Cir. 1992).

Where receiver was appointed for corporation issuing collateral trust notes and depositing collateral security with trustee, fact that trustee thereupon delivered all of remaining collateral security to receiver pursuant to order of state court appointing receiver did not transfer exclusive jurisidction over administration of trust to state court so as to deprive federal court of jurisdiction of class action by note holders against trustee for restoration of trust fund and distribution of proceeds to note holders. Citizens Banking Co. v. Monticello State Bank, 143 F.2d 261 (C.C.A. 8th Cir. 1944).

When a court of competent jurisdiction has taken possession of property through its officers such as a receiver, that property is withdrawn from the jurisdiction of all other courts, which, although having concurrent jurisdiction, may not disturb that possession. Genecov v. Wine, 109 F.2d 265 (C.C.A. 8th Cir. 1940).

Generally, receiver can neither sue nor be sued without consent of court which appointed him. Matter of Property Management & Inv., 20 B.R. 319 (Bankr. M.D. Fla. 1982).

Where federal court appointed receiver to take possession of assets of building and loan association, while creditor could maintain suit for personal judgment in state court, he could not enforce it by writ of garnishment against property in possession of the receiver previously appointed. Forst v. Intermountain Bldg. & Loan Ass'n, 49 Ariz. 246, 65 P.2d 1379 (1937).

Superior court had jurisdiction of suit on New York judgment against receiver and another, although plaintiff bringing action in Delaware had not obtained the consent of the United States District Court for the District of Delaware, which had appointed the defendant receiver to prosecution of action in Delaware against receiver. Seaman-Andwall Corp. v. Wright Mach. Corp., 262 A.2d 257 (Del. Super. Ct. 1970).

As respects exclusiveness of jurisdiction in suits growing out of operation by a receiver appointed by federal court of property in his possession, Congress has enacted that such suits may be brought in any court, having jurisdiction otherwise, without leave of court appointing the receiver. 28 U.S.C.A. § 959. Cline v. Powell, 141 Fla. 119, 192 So. 628 (1939).

Fact that payee of promissory note was in receivership, due to federal district court's disgorgement order arising from federal securities violations, did not deprive state trial court of subject matter jurisdiction over maker's damage claims against payee arising out of payee's misrepresentation that the loan proceeds were unencumbered; damage claims did not interfere with receiver's exclusive possession of and control over note, and claims made no demand upon receivership property. West's F.S.A. § 26.012(2)(a). Haire v. Overseas Holdings Ltd. Partnership, 908 So. 2d 580 (Fla. Dist. Ct. App. 2d Dist. 2005).

As between courts of equal jurisdiction, in actions for appointment of receivers, that court which first acquires jurisdiction is entitled to exercise dominion over the subject matter. State ex rel. James v. Marion Superior Court, 222 Ind. 26, 51 N.E.2d 844 (1943).

Executrix, whose decedent had fallen in parking lot and who brought action based on alleged negligent failure of receiver of property, in connection with foreclosure proceeding to have ice and snow removed from lot, was not required to obtain authority from foreclosure court to sue receiver. Miller v. Everest, 212 N.W.2d 522 (Iowa 1973).

Leave to sue a receiver is a jurisdictional fact, and, before such suit can be brought, leave of court by which he was appointed must be obtained. Com., by Hammond v. Gibson Oil Co.'s Receiver, 264 Ky. 272, 94 S.W.2d 685 (1936).

Once receivership proceedings were instituted against insolvent insurer, subject matter jurisdiction was vested with the district court in which the proceedings were brought, and all claims against the insurer had to be presented in that court or in the Missouri receivership proceedings and any other court was without subject matter jurisdiction over claims against the insurer. LSA-R.S. 22:733(13), 22:760. State ex rel. Guste v. ALIC Corp., 595 So. 2d 797 (La. Ct. App. 2d Cir. 1992).

A receiver cannot be sued without leave of the appointing court. Cohen v. Bologna, 52 Mich. App. 149, 216 N.W.2d 586 (1974).

Receiver appointed by judicial authority in absence of statute cannot be sued without leave of court which appointed him. Rea v. Stinson, 174 Miss. 340, 164 So. 588 (1935).

Receiver appointed by judicial authority, in the absence of statute to the contrary, cannot be sued without leave of court which appointed him. Rea v. O'Bannon, 171 Miss. 824, 158 So. 916 (1935).

A tax collector cannot maintain independent action to enforce collection of taxes assessed against property in receivership, or effect collection by sale thereof, without leave of court having jurisdiction of property. Davison v. Arne, 248 S.W.2d 582 (Mo. 1952).

Federal receivers and managers of property may be sued in any court having jurisdiction over the subject matter, and a plaintiff may litigate in the same forum he could use if the property were not being administered by a federal court. State ex rel. Thompson v. Terte, 357 Mo. 229, 207 S.W.2d 487 (1947).

In proceedings to set aside transfers by judgment-debtor corporation in fraud of creditors, court was without power to direct payment of allowances to receiver of debtor corporation, since determination of whether such payment should be made rested in court which appointed receiver. Civil Practice Act, §§ 804"a, 1547. Dailey v. Gidinsky, 293 N.Y. 889, 59 N.E.2d 790 (1944).

Action against receiver held not maintainable where permission to sue had not been obtained from court which appointed receiver. Town of Greenburgh v. Shalleck, 247 A.D. 813, 286 N.Y.S. 372 (2d Dep't 1936).

Court appointing receiver did not have exclusive jurisdiction over suit involving questions of existence of liens on certain receivership property and of damages for receiver alleged conversion thereof, and it was thus error for court where that suit was filed to impose Rule 13 sanctions on basis of plaintiff attempt to circumvent jurisdiction of appointing court over receivership property; adjudication of right to liens on property and to damages for alleged conversion of property did not interfere with receiver possession thereof, although application would have to be made to appointing court to enforce any judgment rendered by another court. Vernon Ann.Texas Rules Civ.Proc., Rule 13; V.T.C.A., Civil Practice & Remedies Code § 64.055(a). Campbell v. Wood, 811 S.W.2d 753 (Tex. App. Houston 1st Dist. 1991).

Court which rendered judgment canceling charter of insurance company and appointing receiver did not have exclusive jurisdiction to determine whether claims against company were proper and valid. Vernon Ann.Civ.St. arts. 2293 to 2320c, 2311; V.A.T.S., Insurance Code, art 21.28. Wheeler v. Metteauer, 283 S.W.2d 95 (Tex. Civ. App. Galveston 1955).

In absence of a statute permitting a suit against a receiver in a court other than the court appointing him, suit may not be maintained against a receiver without consent of appointing court. Scott v. Roberts, 230 S.W.2d 322 (Tex. Civ. App. El Paso 1950).

Statute providing that when property within state has been placed in receiver hands, receiver may sue or be sued in any court of state having jurisdiction of cause of action without leave of court appointing receiver, authorizes suit against receivers in their official capacity in any court having jurisdiction of the cause, and the statute is broad enough to embrace any kind of suit except one that interferes with the possession, custody, control, or disposition of property in receiver hands. Vernon Ann.Civ.St. art. 2310. Joiner v. Currin, 118 S.W.2d 652 (Tex. Civ. App. Dallas 1938).

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