

Bower v Marris

(1841) Cr & Ph 351, 10 LJ Ch 356

Court: pre-SCJA 1873**Judgment Date:** circa 1841**Catchwords & Digest****BANKRUPTCY AND INSOLVENCY - BANKRUPTCY - DISTRIBUTION OF BANKRUPT'S ESTATE - DISTRIBUTION OF ESTATE AND PAYMENT OF DIVIDENDS - DISPOSAL OF SURPLUS - PAYMENT OF INTEREST OUT OF SURPLUS -- METHOD OF ACCOUNTING IN APPLYING DIVIDENDS**

One of two obligors in a joint and several bond became bankrupt. The obligee having by several dividends in the bankruptcy been paid 20s in the pound upon the amount of principal and interest due at the date of the commission, also carried in a claim in respect of the same bond under a decree in a suit for the administration of the estate of the co-obligor, who had died: Held the amount due to the obligee in respect of such claim was to be computed by treating the dividends as ordinary payments on account, ie, by applying each dividend in the first place to the payment of the interest due at the date of such dividend, and the surplus, if any, in reduction of the principal. Semble: the same principle of computation was applicable in bankruptcy as between bankrupt and the creditors, where there was a surplus of the estate after payment of 20s in the pound upon all the debts proved.

EXECUTORS AND ADMINISTRATORS - ADMINISTRATION AND DETERMINATION OF QUESTIONS BY THE COURT - GENERAL ADMINISTRATION - ADMINISTRATION OF INSOLVENT ESTATES - ADMINISTRATION APART FROM BANKRUPTCY - TO WHAT EXTENT BANKRUPTCY RULES APPLIED - INTEREST ON DEBT - PAYMENT OF INTEREST OUT OF SURPLUS -- APPLICATION OF DIVIDENDS -- METHOD OF ACCOUNTING

One of two obligors in a joint and several bond became bankrupt. The obligee having by several dividends in the bankruptcy been paid 20s in the pound upon the amount of principal and interest due at the rate of the commission, also carried in a claim in respect of the same bond under a decree in a suit for the administration of the estate of the co-obligor who had died: Held the amount due to the obligee in respect of such claim was to be computed by treating the dividends as ordinary payments on account, that is, by applying each dividend in the first place to the payment of the interest due at the date of such dividend, and the surplus, if any, in reduction of the principal.

Semble: the same principle of computation was applicable in bankruptcy as between bankrupt and the creditors, where there was a surplus of the estate after payment of 20s in the pound upon all the debts proved.

Cases referring to this case**Annotations:** All Cases**Court:** ALL COURTS**Sort by:** Judgment Date (Latest First)

Treatment	Case Name	Citations	Court	Date	CaseSearch
Considered	Prince, Re, Hardman v Willis	(1935) 51 TLR 526	Ch D	circa 1935	CaseSearch Entry
Distinguished	Calgary and Medicine Hat Land Co Ltd, Re, Pigeon v Calgary and Medicine Hat Land Co Ltd	[1908] 2 Ch 652, 78 LJ Ch 97, 16 Mans 36, 99 LT 706	CA	circa 1908	CaseSearch Entry
Distinguished	Smith v Law Guarantee and Trust Society Ltd	[1904] 2 Ch 569, 73 LJ Ch 733, 12 Mans 66, 91 LT 545, 20 TLR 789	CA	circa 1904	CaseSearch Entry

Cases considered by this case**Annotations:** All Cases**Court:** ALL COURTS**Sort by:** Judgment Date (Latest First)

Treatment	Case Name	Citations	Court	Date	CaseSearch
Considered	Raikes v Todd	(1838) 8 Ad & El 846, 8 LJQB 35, 1 Per & Dav 138, 1 Will Woll & H 619	pre-SC JA 1873	circa 1838	CaseSearch Entry
Considered	Devaynes v Noble, Clayton's Case	(1816) 8 LJ Ch 256, 1 Mer 529, 572, 35 ER 767, [1814-23] All ER Rep 1	pre-SC JA 1873	circa 1816	CaseSearch Entry
Considered	Baring v Noble, Clayton's Case	(1816) 1 Mer 572, 35 ER 781, [1814-23] All ER Rep 1	pre-SC JA 1873	circa 1816	CaseSearch Entry
Considered	Deey, ex p	(1812) 2 Rose 148, 2 Ball & B 77	pre-SC JA 1873	circa 1812	CaseSearch Entry
Considered	Bromley v Goodere	(1743) 1 Atk 75	pre-SC JA 1873	circa 1743	CaseSearch Entry

Document information**Court**

English court pre-dating November1874

Judgment date

circa 1841