

**1750. Excerto das alegações do processo Seixas vs. De Peister e parecer do Procurador-Geral sobre o caso.**

(in “*Items relating to the Seixas Family, New York*”, Publications of the American Jewish Historical Society, 27, 1920, pp. 350-353.)

Case: Isaac Mendes Seixas  
Admr. with the will annexed of Ab. Mendes Seixas, deceased  
ag<sup>t</sup>  
Isaac and Ab. De peyster

Miguel Pacheco de Silva, late of London, deceased, in his Lifetime send over Goods to Isaac & Ab. De Peyster to be disposed of upon Commision at 5 p<sup>r</sup> Cent. Their accounts and dealings were of several years and to very great value but no compleat Settlement was ever had between them during the Lifetime of said Pacheco who died about the year 1738, having first made a will on the 6<sup>th</sup> of March in the year 1737/8 by which he appointed Rodrigo Pacheco and Daniel Mendes Seixas his Executors. On the 29<sup>th</sup> of November 1745, on the Solicitations of the said Executors the said Isaac and Abraham De Peyster account with the said Miguel Pacheco da Silva, late deceased, Estate by an account Current in which they settle the Ballance under their hands by the Stile of Isaac & Abraham De Peyster, to be due when what's outstanding shall be received, being about 424£ *and bad debts* (out of the said 424£) *not to their prejudice* to be Two thousand One Hundred and Twenty three pounds Sixteen Shillings and Eleven pence half penny. Afterwards, the aforesaid Daniel Mendes Seixas, being in England as *Surviving Executor* of the aforesaid Miguel Pacheco (Rodrigo Pacheco, the other Executor being dead) by his letter of attorney bearing date the 29<sup>th</sup> of January in the year 1750, among other things did especially authorize and impower Isaac Mendes Seixas of the City of New York, Merchant, to take out, if necessary, Letters of administration at New York of all and singular the goods, chattels and Credits of the said Deceased with his will annexed for the use and benefit of the constituent &<sup>ca</sup>. In consequence of which letter of attorney the said Isaac Mendes Seixas applied to the Prorogative office of New York for administration on the goods chattles and Credits which were of the said deceased together with his will annexed during the absence of the aforesaid Daniel Mendes Seixas Surviving Executor as aforesaid, which was agreable to such application granted to him on the 25<sup>th</sup> of June 1756. The said Isaac and Abraham De Peyster having

sometime in the year 1750 delivered unto Isaac Mendes Seixas administrator as aforesaid an other accounts current in which by charging the Estate with a Ballance due to them by the aforesaid Rodrigo Pacheco Ex.<sup>r</sup> as aforesaid in his own Right they draw a Ballance against our Testator of £154.15.4  $\frac{3}{4}$  in their favour, the dispute arising is whether such monies due to the said De Peysters by the said Rodrigo Pacheco *in his own Right* ought to be charged ag<sup>t</sup>, our Testator even tho he be Executor of the Testator's Estate. To settle which dispute by the most amicable and goodly method.

[O resto do documento encontra-se desaparecido.]

A Case  
For Mr. Attorney Gen<sup>l</sup>s Opinion

It is desired that M<sup>r</sup>. Attorney General will be so good as to answer this short case by the beginning of the week as the Ships will then sail for New York. 2 Guineas.

J.<sup>as</sup> Bernard Soll.<sup>r</sup>

21 F. Threadneedle Street

A Case

That M<sup>r</sup>. Abraham Mendes Seixas by his will dated the 6<sup>th</sup> of March 1737/8 nominated Mr. Rodrigo Pacheco & Mr. Daniel Mendes Seixas or the survivor of them the Ex[ecu]tor or Adm[inistrat]or of the Survivor of them to be executors of his will in trust for the purposes therein mentioned.

The said Abraham Mendes Seixas dyed in the year 1738, whereupon the said Rodrigo Pacheco and Daniel Mendes Seixas proved said will and continue to act in the Execution thereof till the year 1749, when Mr. Pacheco dyed, since which Mr. Seixas the surviving Ex[ecu]tor hath taken upon himself the whole burthen thereof.

That on his demanding a ballance due from Messrs. Isaac & Abraham Peisters, Merchants at New York, to the Estate of y<sup>e</sup> said Abraham Mendes Seixas, they refuse to pay it unless the s<sup>d</sup>. Daniel Mendes Seixas will allow in the account a sum of money which Mess.<sup>rs</sup> De Peister alledge is due to them from y.<sup>e</sup> s.<sup>d</sup> Rodrigo Pacheco the deceased Ext<sup>or</sup>. of said Abraham Mendes Seixas, & insist that as he was an Ext<sup>or</sup>. they have a right to set off the Ballance due from him to them against the sum due from them to the Estate of the Testator.

N. B. Messrs. Piesters in the year 1747 sent an account currant signed by them to the said Ext<sup>ors</sup>. in which no mention is made of any Debt due from Pacheco to them.

Mr. Attorney Generals opinion is desired in order to satisfy the people of New York.

Q-1: Whether the said Messrs. De Piesters have any right or pretence whatsoever to sett of the Ballance due from Rodrigo Pacheco dece<sup>d</sup>, to them against the Ballance due from them to the Estate of the Testator; and if they are not obliged to pay such ballance to Mr. Dan<sup>l</sup> Mendes Seixas, the surviving Exe[cuto]r without any Deduction on that amount.

As the Debt from Pacheco has no relation to the Testator's estate, I am of opinion, it can be set off or deducted out of the Debt from Messrs. Piesters to the Testators Estate & those Gentlemen are obliged to pay their debt to the Survivor without such deduction.

Q-2<sup>d</sup>: Whether one of the Executors is answerable for money received out of the Testators estate by the other Executor and misapply<sup>d</sup> by him?

I am of opinion one Executor is not answerable for y.<sup>e</sup> money received by the other Executor solely, tho misapplied by him.

D. Ryder  
22 Febry. 1750