Title: Shelley v. Kraemer
Author(s): Nancy Farm Mannikko
Source: ***Encyclopedia of Civil Rights in America***. Ed. David Bradley and Shelley Fisher Fishkin. Vol. 3. Armonk, NY: Sharpe Reference, 1998. p799-800.
Document Type: Topic overview
Full Text: COPYRIGHT 1998 M.E. Sharpe, Inc.

Shelley v. Kraemer

1948: U.S. SUPREME COURT decision banning states from enforcing racially motivated RESTRICTIVE COVENANTS.

The arguments presented to the Supreme Court in *Shelley v. Kraemer* involved several cases, including one originating in Missouri and one in Michigan, where white property owners had obtained court orders to remove African Americans from recently purchased homes. In both cases the sellers of the properties in question had signed restrictive covenants in which they pledged to sell to whites only. Attorneys for the NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP) had been preparing to argue a case challenging the constitutionality of racially restrictive covenants for almost twenty years. Only two previous cases involving restrictive covenants had come before thePage 800 | Top of Article U.S. Supreme Court. In both (*Corrigan and Curtis v. Buckley*, 1926, and *Hansberry v. Lee*, 1940) the Court's decisions had sidestepped questions about the constitutionality of the covenants themselves.

Although none of the cases associated with *Shelley* matched the profile of the ideal case NAACP attorney Thurgood MARSHALL had hoped for, the timing proved right. Liberal Democrats in President Harry S TRUMAN'S administration opposed restrictive covenants and urged the president to support the NAACP brief. Truman, who had just received the report of a national commission investigating civil rights in the United States, conferred with his solicitor general, Clark Clifford, and with officials in the JUSTICE DEPARTMENT. On October 30, 1947, Attorney General Tom Clark announced that the Justice Department would become involved in *Shelley v. Kraemer*. After consulting with other government departments, such as Interior, the Justice Department filed an *amicus curiae* (friend of the court) brief condemning restrictive covenants as being damaging to the country.

Not surprisingly, the Court ruled in favor of the victims of restrictive covenants. However, with *Shelley* the Court edged only a little closer to dealing directly with racial issues in HOUSING DISCRIMINATION. The Court stopped short of outlawing racial clauses in restrictive covenants, but did bar states from enforcing them. That is, private property owners could still create and sign restrictive covenants that barred certain classes of prospective buyers, but compliance had to be voluntary. If an owner violated the terms of a covenant, neighbors could no longer ask for relief in the form of court orders removing unwanted new neighbors from their property. The question of whether aggrieved neighbors could sue for perceived damages was, however, left

open until 1953. At that time the Supreme Court's decision in BARROWS V. JACKSON banned the use of racial clauses in restrictive covenants entirely.

—*Nancy Farm Mannikko*

Source Citation

Mannikko, Nancy Farm. "Shelley v. Kraemer." *Encyclopedia of Civil Rights in America*. Ed. David Bradley and Shelley Fisher Fishkin. Vol. 3. Armonk, NY: Sharpe Reference, 1998. 799-800. *Gale Virtual Reference Library*. Web. 24 Aug. 2010.

Document URL

http://go.galegroup.com/ps/i.do?&id=GALE%7CCX3459600602&v=2.1&u=txshracd2543&it=r&p=GVRL&sw=w

Gale Document Number: GALE|CX3459600602