Meigs Vs. McClung's Lessee

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Court : US Supreme Court

Decided On : 1815

Appeal No. : 13 U.S. 11

Appellant : Meigs

Respondent : McClung's Lessee

Judgement :

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13 U.S. (9 Cranch) 11

ERROR TO THE CIRCUIT COURT FOR

THE DISTRICT OF EAST TENNESSEE

SYLLABUS

In the Treaty of 25 October, 1805, with the Cherokees, the reservation of three miles square for a garrison lies below and not above the mouth of the Highwassee, where the United States has placed the garrison.

Error to the Circuit Court for the District of East Tennessee in an action of ejectment brought by M'Clung's lessee against Meigs and others.

On the trial in the court below, a bill of exceptions was taken which stated the case as follows:

The plaintiff's lessor claims the land under a grant from the State of North Carolina to John Donelson dated 11 July, 1788, for 1,500 acres lying on the north side of Tennessee River, opposite to a high bluff of rocks of diverse colors. The defendants resided on the land as officers, and under the authority of the United States, which had a garrison there and had erected works at an expense of $30,000. The place where the defendants resided was two miles at least above the termination of the treaty line opposite the mouth of the Highwassee. In 1805, the line between the United States and the Cherokee Indians was run, according to the treaty, under the direction of the defendant, Meigs, who was an agent of the United States for that purpose; and afterwards the garrison reserve of three square miles was laid off by the direction of the defendant Meigs opposite and above the mouth of the Highwassee River, making the treaty line from the three forks of Duck River to the point on Tennessee River opposite the mouth of Highwassee the lower line of said reservation and the Tennessee River the southern line, meandering the river and reducing it to a straight line of three miles in length.

The defendant's read a copy of a letter written by D. Smith and the defendant Meigs, who were commissioners on the part of the United States at the treaty holden with the Cherokee Indians on 25 October, 1805, dated at Washington, January 10, 1806, and addressed to the Secretary of War, in which they say

"By the treaty with the Indians concluded at Tellico on 25 October, 1805, there was reserved three square miles of land for the particular disposal of the United States on the north bank of the Tennessee, opposite to and below the mouth of Highwassee. This reservation is ostensibly predicated on the supposition that the

garrison at southwest point, and the United States factory now at Tellico, would be placed on the reserve during the pleasure of the United States. But it was stipulated with Doublehead that whenever the United States should find this land unnecessary for the purposes mentioned, then it is to revert to Doublehead, provided, as a condition, that he retain one of the square miles to his own use

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and that he is to relinquish his right and claim to the other two sections of one mile square each in favor of John D. Chisholm and John Riley, son to Samuel Riley, one of the interpreters in the Cherokee nation in equal shares."

"As it is proper that this be recognized, we have made this statement for your information,"

"And have the honor to be, &c.;"

"DANIEL SMITH"

"RETURN J. MEIGS"

When the defendant and the other officers of the United States went to look for the place to erect the garrison in pursuance of the reserve, they went first below the mouth of Highwassee, But it was a low and marshy country, affording no good site for a garrison and no water or spring was to be had there.

The plaintiff's counsel insisted that the Indian title to the land was extinguished and that he had a right to recover, and prayed the court so to instruct the jury, to which the defendant's counsel objected and insisted that the defendants were entitled to recover against the plaintiff, because the Indian title was not extinguished and because the land was occupied by the United States' troops, and the defendants as officers of the United States, for the benefit of the United States, and by their direction, and because the garrison was erected on the land really reserved for that purpose by the treaty, as they insisted it was out of the land ceded that the reserve was made. That it must, by the letter of the treaty, be understood to be land reserved to the Indians, out of the part ceded, and not a reserve in favor of

the United States out of the land not ceded by the Indians, and that the term "reserve" in the treaty controlled the other expressions "opposite and below the mouth of Highwassee." That the United States had a right by the Constitution to appropriate the property of individual citizens, and that the line run, was the true line of the reservation.

But the court overruled the objections of the defendant's counsel and charged the jury that the land reserved

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for a garrison was opposite to and below the mouth of the Highwassee, and that the land opposite to and above was ceded to the United States by the Indians by the treaty of Tellico, and that the United States had no right to appropriate the land mentioned in the plaintiff's declaration. And that the plaintiff was authorized by law to recover if the land covered by his grant lay opposite to and above the mouth of the Highwassee. That if the treaty had expressly reserved the three miles square for the disposal of the United States opposite and above the mouth of Highwassee, the Indian title would be thereby extinguished, as that reserve would be north of the treaty line. That if the land thus reserved was at the time vacant land the United States could appropriate it as it pleased, but if it was private property, the United States could not deprive the individual of it without making him just compensation therefor. And further that by the expressions used in the said treaty, the Indian title to all land north of the treaty line, from the point opposite the mouth of Highwassee to Fort Nash, except such tracts as were expressly reserved for the Indians, was extinguished, and that the three square miles reserved for the United States must, according to the treaty, be situate opposite and below the mouth of Highwassee. To this opinion the counsel for the defendants excepted.

By the 2d art. of the Treaty of 25 October 1805, Laws of United States, vol. 8, 192,

"The Cherokee's quitclaim and cede to the United States all the land which they have heretofore claimed lying to the north of the following boundary line: beginning

at the mouth of Duck River, running thence up the main stream of the same to the junction of the fork, at the head of which Fort Nash stood, with the main south fork; thence a direct course to a point on the Tennessee River bank opposite the mouth of Highwassee River. . . ."

After describing the other lines of the cession, the treaty proceeds thus:

"And whereas, from the present cession made by the Cherokees and other circumstances, the site of the garrisons at southwest point and Tellico are become not the most convenient and suitable places for the accommodation of the Indians, it may become

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expedient to remove the said garrisons and factory to some more suitable place, three other square miles are reserved for the particular disposal of the United States on the north bank of the Tennessee, opposite to and below the mouth of the Highwassee. "

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court as follows:

The land for which this ejectment was brought lies within the territory ceded to the United States by the State of North Carolina, and was claimed by a patent anterior to that cession. At the date of the grant, the Indian title had not been extinguished. On 25 October, 1805, a treaty was made between the United States and the Cherokee Indians in which the Indians ceded to the United States

"all the land lying to the north of the following boundary line: beginning at the mouth of Duck River, running thence up the main stream of the same to the junction of the fork, at the head of which Fort Nash stood, with the main south fork; thence a direct course to a point on the Tennessee River bank opposite the mouth of the Highwassee River. "

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The question on which the cause has been placed is this: is the land claimed by the plaintiff in the court below within the ceded territory?

The line mentioned in the treaty has been run, and the land in controversy lies on the north side of it, and consequently within the limits ceded to the United States; but there was a further stipulation in the treaty, which the plaintiffs in error say comprehends the lands for which this suit is brought.

After describing the ceded territory, the treaty proceeds to say:

"And whereas from the present cession made by the Cherokees, and other circumstances, the sites of the garrisons at southwest point and Tellico are become not the most convenient and suitable places for the accommodation of the said Indians, it may become expedient to remove the said garrisons and factory to some more suitable place,"

three other square miles are reserved for the particular disposal of the United States on the north bank of the Tennessee opposite to and below the mouth of Highwassee.

The ceded territory lies above the mouth of Highwassee, as does the land in controversy; yet the plaintiffs in error contend that this land is within the stipulation for a reserve of three square miles to lie below the mouth of Highwassee.

They attempt to sustain this proposition by alleging that the word "below" was inserted in the treaty by mistake, when the word "above" was intended.

This mistake ought certainly to be very clearly demonstrated before the courts of the United States can found upon its existence a judgment which shall deprive a citizen of his property.

The argument, so far as it is drawn from the treaty itself, rests on the word "reserved." It is said that the lands "reserved for the particular disposal of the United States" must necessarily be a part of the ceded territory or the term would not aptly express the idea of the parties.

The Court cannot accede to this reasoning. The treaty is the contract of both parties, each having lands. The words are the words of both parties, and the term might, without any strained construction, be applied to the lands of either. No great violence is done to the known import of the term as used in the treaty if it be considered as equivalent to the words "set apart." This construction is rendered necessary by the word "other." "Three other square miles" -- that is, other than those before ceded -- are reserved for the particular disposal of the United States. The context, instead of proving that the word, "below" was used by mistake in the treaty, would rather induce the Court to put that construction on an ambiguous term, had one been employed.

The counsel for the plaintiffs in error also rely on a letter written by the commissioners who negotiated the treaty to the Secretary of War on 10 January, 1806. But without inquiring into the weight to which such a letter is entitled in such a case, it is to be observed that the letter agrees with the terms of the treaty. It says that the three square miles reserved for the particular disposal of the United States were "opposite to and below the mouth of the Highwassee." It is unnecessary to make a further comment on this letter than to say that there is no expression in it which appears to the Court to countenance in the slightest degree the idea that the word "below" in the treaty was used by mistake instead of the word "above."

The facts that the agents of the United States took possession of this land lying above the mouth of the Highwassee, erected expensive buildings thereon, and placed a garrison there cannot be admitted to give an explanation to the treaty, which would contradict its plain words and obvious meaning. The land is certainly the property of the plaintiff below, and the United States cannot have intended to deprive him of it by violence and without compensation. This Court is unanimously and clearly of opinion that the circuit court committed no error in instructing the jury that the Indian title was extinguished to the land in controversy and that the plaintiff below might sustain his action.

The judgment is affirmed with costs.