

Soulard Vs. United States

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Court : US Supreme Court

Decided On : 1830

Appeal No. : 29 U.S. 511

Appellant : Soulard

Respondent : United States

Judgement :

Soulard v. United States - 29 U.S. 511 (1830)

U.S. Supreme Court Soulard v. United States, 29 U.S. 4 Pet. 511 511 (1830)

Soulard v. United States

29 U.S. (4 Pet.) 511

APPEALS FROM THE DISTRICT COURT OF THE

UNITED STATES FOR THE DISTRICT OF MISSOURI

SYLLABUS

In the treaty by which Louisiana was acquired, the United States stipulated that the inhabitants of the ceded territory should be protected in the free enjoyment of their property. The United States, as a just nation, regard this stipulation as the avowal

of a principle which would have been held equally sacred, though it had not been inserted in the contract.

The term "property," as applied to lands, comprehends every species of title inchoate or complete. It is supposed to embrace those rights which lie in contract, those which are executory as well as those which are executed. In this respect, the relations of the inhabitants of Louisiana to their government is not changed. The new government takes the place of that which has passed away.

In the District Court of Missouri, the appellants, under the Act of Congress of 26 May, 1824, instituted proceedings to try the validity of their claims to certain lands in Missouri, the titles to which they claimed to derive under the former Spanish government.

The district court gave a decree against the claimants.

MR. CHIEF JUSTICE MARSHALL stated:

The Court has held the two cases of *Soulard and John T. Smith against the United States* under advisement. After bestowing upon them the most deliberate attention, we are unable to form a judgment which would be satisfactory to ourselves or which ought to satisfy the public.

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government takes the place of that which has passed away.

In the full confidence that this is the sentiment by which the government of the United States is animated and which has been infused into its legislation, the Court has sought sedulously for that information which would enable it to discern the actual rights of the parties, and to distinguish between claims founded on legitimate contracts with those authorized to make them on the part of the Crown, or its immediate agents and such as were entirely dependent on the mere pleasure of those who might be in power, such as might be rejected without giving just cause of imputation against the faith of those in office. The search has been unavailing.

When Louisiana was transferred to the United States, very few titles to lands, in the upper part of that province especially, were complete. The practice seems to have prevailed for the deputy governor, sometimes the commandants of posts, to place individuals in possession of small tracts and to protect that possession without further proceeding. Any intrusion on this possession produced a complaint to the immediate supervising officer of the district or post, who inquired into it, and adjusted the dispute. The people seem to have remained contented with this condition. The colonial government, for some time previous to the cession, appears to have been without funds, and to have been in the habit of remunerating services with land instead of money. Many of these concessions remained incomplete.

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If the duty of deciding on these various titles is transferred by the government to the Judicial Department, the laws and principles on which they depend ought to be supplied. The edicts of the preceding governments in relation to the ceded territory; the powers given to the governors, whether expressed in their commissions, or in special instruction; and the powers conferred on and exercised by the deputy governors and other inferior officers, who may have been authorized to allow the inception of title, are all material to a correct decision of the cases now

before the Court and which may come before it. We cannot doubt the disposition of the government to furnish this information if it be attainable. We are far from being confident that it is attainable, but have determined to hold the cases which have been argued under advisement until the next term in the hope that in the meantime we may be relieved from the necessity of deciding conjecturally on interests of great importance.

THE CHIEF JUSTICE added: since the determination which has been communicated had been agreed upon, the Court has been informed that the edict of August the 24, 1770 is in the office of the Secretary of State.

Had that edict been sufficient for the decision of the Court, it would have disposed of the cases at this term. But other information is required which has been referred to in the opinion. It is therefore considered proper to hold the cases under advisement.

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