

Sampeyreac Vs. United States

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Appeal No. : 32 U.S. 222

Appellant : Sampeyreac

Respondent : United States

Judgement :

Sampeyreac v. United States - 32 U.S. 222 (1833)

U.S. Supreme Court Sampeyreac v. United States, 32 U.S. 7 Pet. 222 222 (1833)

Sampeyreac v. United States

32 U.S. (7 Pet.) 222

APPEAL FROM THE SUPREME

COURT OF ARKANSAS

SYLLABUS

Construction of the Act of Congress passed 5 May, 1830, entitled

"An act for the further extending the powers of the judges of the Superior Court of the Territory of Arkansas, under the Act of 26 May, 1824, and for other purposes."

Under the provisions of an Act of Congress passed on 26 May, 1824, proceedings were instituted in the Superior Court of the Territory of Arkansas, by which a confirmation was claimed of a grant of land alleged to have been made to the petitioner, Sampeyreac, by the Spanish government, prior to the cession of Louisiana to the United States by the Treaty of April 3, 1803. This claim was opposed by the district attorney of the United States, and the court after hearing evidence, decreed that the petitioner recover the land from the United

states. Afterwards, the, district attorney of the United States, proceeding on the authority of the Act of 8 May, 1830, filed a bill of review, founded on the allegation that the original decree was obtained by fraud and surprise, that the documents produced in support of the claim of Sampeyreac were forged, and that

the witnesses who had been examined to sustain the same were perjured. At a subsequent term, Stewart was allowed to become a defendant to the bill of review, and filed an answer, in which the fraud and forgery are denied, and in which he asserts that if the same were committed, he is ignorant thereof, and asserts that he is a *bona fide* purchaser of the land for a valuable consideration, from one John J. Bowie, who conveyed to him the claim of Sampeyreac by deed, dated about 22 October, 1828. On a final hearing, the court being satisfied of the forgery, perjury, and fraud, reversed the original decree. *Held* that these proceedings were legal, and were authorized by the act of 5 May, 1830.

Almost every law providing a new remedy affects and operates upon causes of action existing at the time the law is passed. The law of 1830 is in no respect the exercise of judicial powers; it only organizes a tribunal with the powers to entertain judicial proceedings. The act, in terms, applies to bills filed, or to be filed. Such retrospective effect is no unusual course in laws providing new remedies.

The act of 1830 does not require that all the technical rules in the ordinary course of chancery proceedings on a bill of review shall be pursued in proceedings

instituted under the law.

In the case of [Polk's Lessee v. Wendell](#), 5 Wheat. 308, it is said by this Court that, on general principles, it is incontestable that a grantee can convey no more than he possesses. Hence those who come in under a void grant can acquire nothing.

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The appellant, Sampeyreac, under the Act of Congress of 26 May, 1824, entitled

"An act enabling the claimants to lands within the limits of the State of Missouri, and Territory of Arkansas, to institute proceedings to try the validity of their claims,"

exhibited the bill against the United States, which was filed in the clerk's office of the Superior Court in the Territory of Arkansas, in chancery sitting, on 21 November, 1827, stating that, being an inhabitant of Louisiana, he did, on 6 October, 1789, address a letter to the governor of the then Spanish province of Louisiana, asking for ten arpens of land in front, with the usual depth, on Strawberry River, within the District of Arkansas, to be granted to him in full property, and that the said governor did, on 11 October, 1789, make an order of survey upon said petition, which the appellant alleged, was such a claim as might have been perfected into a complete title, under and in conformity to the laws, usages and customs of the government of Spain, under which the same originated, had not the sovereignty of the country been transferred to the United States, and was therefore provided for by the Treaty between the United States and the French republic made 30 April, 1803. The bill prayed that this claim might be confirmed according to the provisions of the act of Congress before mentioned.

Upon this petition, the clerk of the court issued a subpoena against the district attorney of the United States, which was executed on 24 November, 1827. To this bill, the district attorney of the United States filed an answer, at the December term of said court, 1827, denying, generally the facts and allegations in said bill, and

alleging that Sampeyreac was a fictitious person, or was a foreigner, and then dead. On 19 December, 1827, the district attorney of the United States moved to postpone the final adjudication of the case until the following term, for the following reasons:

1. The petition and subpoena in this case were served on the United States within one month of the present term of this Court, but more than fifteen days allowed by law, and in consequence of this short notice, the United States attorney has not answered this bill until the present term.

2.

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Has not had a sufficient length of time to take counter-depositions, if counterevidence does exist.

3. There are many more cases pending in this Court on the same principles, and similarly situated in all respects, and the attorney for the United States asks this continuance for the purpose of procuring such evidence as may exist on the part of the government.

The court proceeded to hear the cause, and upon the deposition of one John Heberard, entered on that day a decree against the United States in favor of said Sampeyreac for four hundred arpens of land.

On 14 February, 1828, a deed, purporting to be a deed executed by Sampeyreac, transferring his claim to the clerk's certificate of the existence of this decree, and of all his right, title, and interest in said decree, to John J. Bowie, was proved and admitted to record on the 22 day of October, 1828, in the office of the Circuit Court of Hempstead County, in the Territory of Arkansas, and which title was transferred by Bowie to Joseph Stewart, in December, 1828, by virtue of which transfer the said Stewart filed with the register of the land office at Little Rock, an application for the N.E. 17, 11 S., 26 W., and E. 1/2, S.E. 17, 11 S., 26 W., and W. 1/2 N.E. 13, 11 S., 27 W. which application was admitted by the register, on 13 December,

1828.

At the April term, 1830 of the court, the United States attorney, upon leave granted, filed a bill charging that the decree entered by the court, at the December term, 1827, in the case of Sampeyreac, was obtained by fraud and surprise, and alleging that the court erred in proceeding to the trial of said cause at the said December term without having set said cause for hearing and without affording the United States time to prove the injustice of the claim. The bill charged that the original petition to Governor Mero and the order of survey were forgeries which fact had come to the knowledge of the attorney since the decree was made; that Sampeyreac was a fictitious person, or, if he ever did exist, was dead; that Heberard and the other witnesses committed perjury in this case; and that the petition and order of survey were made since 1789; and that record evidence had been discovered since the

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decree which would be produced upon the hearing to prove the forgery.

Sampeyreac was proceeded against as an absent defendant, after the return of the subpoena, that "he was not to be found in the Territory of Arkansas," and a decree *pro confesso* was entered as to him on 28 October, 1830. Before this decree was entered, Joseph Stewart was permitted to file his answer and was made a defendant in this case, which was excepted to on the part of the United States, and a bill of exceptions was signed by the court on 28 October, 1830.

It was not charged or contended that Stewart purchased with a knowledge of the forgery either of the original grant or of the transfer from Sampeyreac to Bowie.

The final decree reversing and annulling the decree entered in favor of Sampeyreac at December term, 1827, was delivered by the court February 7, 1831. From this decree this appeal was taken by Joseph Stewart for himself and Sampeyreac.

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MR. JUSTICE THOMPSON delivered the opinion of the Court.

This case comes up on appeal from the Superior Court in the Territory of Arkansas. The decree of the court was founded upon proceedings instituted under an act of Congress entitled

"An act for further extending the powers of the judges of the Superior Court of the Territory of Arkansas under the Act of 26 May, 1824, and for other purposes,"

passed 8 May, 1830, 4 Stat. 399. This act declares that the act of 1824, *id.*, 39,

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shall be continued in force so far as the said act relates to the claims within the Territory of Arkansas, until 1 July, 1831, for the purpose of enabling the court in Arkansas, having cognizance of claims under the said act, to proceed by bills of review, filed or to be filed in the said court on the part of the United States for the purpose of revising all or any of the decrees of the said court in cases wherein it shall appear to the said court or be alleged in such bills of review that the jurisdiction of the same was assumed in any case on any forged warrant, concession, grant, order of survey, or other evidence of title. And in every case wherein it shall appear to the said court, on the prosecution of any such bill of review, that such warrant, concession, grant, order of survey, or other evidence of title is a forgery, it shall be lawful, and the said court is hereby authorized to proceed, by further order and decree to reverse and annul any prior decree or adjudication upon such claim, and thereupon such prior decree or adjudication shall be deemed and held in all places whatever to be null and void to all intents and purposes.

Upon the proceedings on the bill of review instituted under this act, the court pronounced the following decree:

"It is therefore adjudged, ordered, and decreed that the former decree of this court in favor of the defendant, Bernardo Sampeyreac, against the United States, for four hundred acres of land, pronounced and recorded at the December term of this

court in the year 1827, be and the same is hereby reversed, annulled, and held for naught."

From this decree the present appeal was taken.

To a right understanding of the questions which have been made at the bar, it will be necessary briefly to state the proceedings which took place under the original bill. That bill or petition was filed on 21 November, 1827, under the provisions of the Act of 26 May, 1824, 4 Stat. 39, setting forth that the complainant, Bernardo Sampeyreac, on 6 October, 1789, he then being an inhabitant of Louisiana, presented a petition to the then governor of the province asking a grant for a tract of land in full property containing ten arpens in front, by the usual depth, on

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Strawberry River, &c.; That afterwards, on 11 October, 1789, the governor granted the petition. That at the time the grant was so made, an order of survey was issued to the surveyor general of the province. That by virtue of such grant and order of survey, the petitioner acquired a claim to the land, which claim was secured to him by the Treaty between the United States and the French Republic of the 30 April, 1803. The district attorney put in an answer denying the several facts and allegations in the bill and alleging that grants could only be made legally to persons in existence and actually residing in Louisiana. That Sampeyreac, in whose name the bill is filed, was a fictitious person, never having had any actual existence, or, if such person ever had any existence, he was a foreigner, or was now dead and made no transfer or assignment of the claim in his lifetime. That he had no legal representative in existence, nor was there anyone now living who was authorized to file this bill or prosecute this suit, and prayed that the bill might be dismissed. A witness named John Heberard was examined and sworn to all the material facts necessary to establish the claim, and the court thereupon ordered, adjudged, and decreed that the said Bernardo Sampeyreac recover of the United States the said four hundred arpens of land.

The bill of review is founded upon the allegation that the original decree was obtained by fraud and surprise. That the original petition and order of survey exhibited in the case are forged. That Heberard and the other witnesses in the cause committed the crime of perjury. That the order of survey was never signed by Mero, Governor of Louisiana, as the same purports to have been, and that this fact has come to the knowledge of the district attorney since the decree was entered, and the bill further charges that the said Sampeyreac is a fictitious person. At the October term, 1830, this bill was taken *pro confesso* against Sampeyreac, at which term the appellant, Joseph Stewart, appeared in court and prayed to be made a defendant and have leave to file an answer to the bill. This was resisted

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by the district attorney, but an order was made by the court permitting Stewart to be made a defendant, with leave to file an answer, to which the district attorney excepted. The answer of Stewart denies the frauds and forgeries alleged in the bill, but avers that if there was any fraud, corruption, or forgery, he is ignorant of it, and that he was a *bona fide* purchaser of the claim for a valuable consideration, from one John J. Bowie, who conveyed to him the claim of the said Bernardo Sampeyreac by deed bearing date about 22 October, 1828. Upon the final hearing, the court reversed the original decree, as has been already stated.

The objections which have been taken at the bar to this decree may be considered under the following points:

1. Whether, under the act of 1824, the court had authority to entertain the bill of review, and if not, then
2. Whether the act of 1830 is a constitutional law, and confers such authority.
3. Whether the proceedings on this bill of review can be sustained under the act of 1830.

4. Whether, admitting Stewart to be a *bona fide* purchaser of the claim of Sampeyreac, he is protected against the title set up by the United States.

1. We think it unnecessary to go into an examination of the questions which have been made under the first point. Although the act of 1824 directs that every petition which shall be presented under its provisions shall be conducted according to the rules of a court of equity, it may admit of doubt whether all the powers of a court of chancery in relation to bills of review, are vested in that court. And as the view taken by this Court upon the other points renders a decision upon this unnecessary, we pass it over without expressing any opinion upon it.

2. The ground upon which it has been argued that the act of 1830 is unconstitutional is that a right had become vested in Stewart before the act was passed, and that the effect and operation of the law is to deprive him of a vested right. To determine the force and application of this objection, it becomes necessary to look at the claim as it now appears before the Court. It is found by the decree of the court below and is

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admitted at the bar that Sampeyreac is a fictitious person. That the petition purporting to have been presented by him to Mero, Governor of the province of Louisiana, and the order of survey alleged to have been made thereupon, are forgeries. These are the only evidence of title upon which the original claim rests. And it is proved and admitted that the deed purporting to have been given by Sampeyreac to Bowie, under whom Stewart claims, is also a forgery. The bill or petition filed in the original cause alleges that the claim is secured by the Treaty between the United States and the French Republic of 30 April, 1803. This, however, has not been insisted upon on the argument here, and there is certainly no color for pretending that a claim founded in fraud and forgery is sanctioned by the treaty. The title to the land in question passed by the treaty, and became vested in the United States, and there has been no act on the part of United States by which they have parted with the title.

It is contended, however, that this right or title has been taken away by the original decree in this case under the act of 1824. By the 14th section of that act, all its provisions are extended to the Territory of Arkansas, and it is declared that the superior court of that territory shall have, hold, and exercise jurisdiction in all cases in the same manner and under the same restrictions and regulations in all respects as is given by the said act to the District Court of the State of Missouri. And by the second section of the act it is declared that in all cases, the party, against whom the judgment or decree of the court may be finally given shall be entitled to appeal within one year from its rendition to the Supreme Court of the United States, the decision of which court shall be final and conclusive between the parties, and should no appeal be taken, the judgment or decree of the district court shall in like manner be final and conclusive. No appeal was taken within the year, and the question is whether the United States, by neglecting to appeal, has lost its right, and if not whether the remedy provided by the act of 1830 to assert that right is in violation of the Constitution. If Sampeyreac was a real person and appeared here, setting up this objection, it might present a different question, although it is not admitted, even in that case,

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that the United States would be concluded as to the right. But the original decree in this case was a mere nullity; it gave no right to anyone. The title still remained in the United States, and the most that can be said is that by omitting to appeal within the time limited by the act, the remedy thereby provided was gone, and the decree became final and conclusive with respect to such remedy. But the act of 1830 provides a new remedy, and it may be added that the act of 1824 declares the decree to be final and conclusive between the parties. And as Sampeyreac was a fictitious person, he was no party to the decree, and the act, in strictness, does not apply to the case. But considering the act of 1830 as providing a remedy only, it is entirely unexceptionable. It has been repeatedly decided in this Court that the retrospective operation of such a law forms no objection to it. Almost every law providing a new remedy affects and operates upon causes of action existing at the time the law is passed. The law of 1830 is in no respect the exercise of judicial

powers; it only organizes a tribunal with powers to entertain judicial proceedings. When the original decree was entered, there was no person in existence whose claim could be ripened into a right against the United States by omitting to appeal. Stewart was not only no party to the decree, but his purchase from Bowie was nearly a year after the decree was entered. Had Sampeyreac been a real person having a decree in his favor, and Stewart had afterwards purchased of Bowie the right which that decree established, it might have given him some equitable claim; but it would have been subject to all prior equitable as well as legal rights. Nor would it be available in any respect in the present case, for Stewart in no manner whatever connects himself with Sampeyreac. As it is admitted that the deed purporting to have been given by Sampeyreac to Bowie is a forgery, Stewart is therefore a mere stranger to this decree, and can derive no benefit from it.

It is said that if this bill of review was filed under the act of 1830, the court had no jurisdiction, the bill having been filed in April and the law not passed until the May following. But the act in terms applies to bills filed or to be filed, and of course

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cures his defect, if any existed. Such retrospective effect is no unusual course in laws providing new remedies. The act of 1803, amending the judicial system of the United States, 2 Stat. 244, declares that from all final judgments or decrees rendered or to be rendered, in any circuit court, &c.;, an appeal shall be allowed to the Supreme Court, &c.; It therefore forms no objection to the law that the cause of action existed antecedent to its passage so far as it applies to the remedy, and does not affect the right.

3. But it is objected in the next place, that this bill of review cannot be sustained under the act of 1830. That it was not filed and prosecuted under the limitations and restrictions and according to the course and practice of a court of chancery in such a proceeding. We think it unnecessary to examine whether all the technical rules required in the ordinary course of chancery proceedings on a bill of review have been pursued in the present case. The act clearly does not require it. It authorizes bills of review to be filed on the part of the United States, for the

purpose of revising all or any of the decrees of the said court in cases wherein it shall appear to the said court or be alleged in such bills of review that the jurisdiction of the same was assumed, in any case on any forged warrant, concession, grant, order of survey or other evidence of title. If Congress had a right to provide a tribunal in which the remedy might be prosecuted, it clearly had a right to prescribe the manner in which it should be pursued. The great and leading object was to provide for revising the original decree or granting a new trial. The material allegation required is that the original decree was founded upon some forged evidence of title, and this is very fully set out in the bill. That it was not the intention of the law that the court should be confined to the technical rules of a court of chancery on bills of review is evident from the provision in the last clause of the first section of the act, which directs the court to proceed on such bills of review by such rules of practice and regulations as it may adopt for the execution of the powers vested or confirmed in them by the act.

4. The next inquiry is whether the appellant, Stewart, has

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acquired a right to the land by reason of his standing in the character of a *bona fide* purchaser. The record contains an admission on the part of the United States that he purchased the claims of John J. Bowie by deed for a valuable consideration in good faith sometime in November or December, 1828. But this gave him no right to be let in as a party in the bill of review; he was not a party to the original bill, nor could he connect himself with Sampeyreac, the only party to the bill -- he being a fictitious person, and the interest of Stewart, whatever it might be, was acquired long after the original decree was entered. He was therefore a perfect stranger to that decree. The deed purporting to have been given by Sampeyreac to Bowie is admitted to be a forgery. Bowie, of course, had no interest, legal or equitable, which he could convey to Stewart. But admitting Stewart to have been properly let in as a party in the bill of review, the only colorable equity which he showed, was the certificate of entry given by the register of the land office, December 13, 1828, and this certificate, founded on a decree in favor of Sampeyreac, a fictitious person, obtained by fraud and upon forged

evidence of title. This certificate is entirely unavailable to Stewart. He can obtain no patent under it if the original decree should remain unreversed, for the act of 1830 forbids any patent thereafter to be issued except in the name of the original party to the decree and on proof, to the satisfaction of the officers, that the party applying is such original party or is duly authorized by such original party or his heirs to receive such patent. The original party to the decree being a fictitious person, no title would pass under the patent if issued; it would still remain in the United States. But Stewart acquired no right whatever under the deed from Bowie, the latter having no interest that he could convey. In the case of [Polk's Lessee v. Wendall](#), 5 Wheat. 308, it is said by this Court that on general principles it is incontestable that a grantee can convey no more than he possesses. Hence those who come in under the holder of a void grant can acquire nothing. Upon the whole, we think Stewart was improperly admitted

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to become a party, but considering him a proper party, he has shown no ground upon which he can sustain a right to the land in question. The decree of the court below is accordingly

Affirmed with costs.

This cause came on to be heard on the transcript of the record from the Superior Court for the Territory of Arkansas and was argued by counsel, on consideration whereof it is decreed and ordered by this Court that the decree of the said superior court in this cause be and the same is hereby affirmed with costs.

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