

Ward Vs. Gregory

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Court : US Supreme Court

Decided On : 1833

Appeal No. : 32 U.S. 633

Appellant : Ward

Respondent : Gregory

Judgement :

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32 U.S. (7 Pet.) 633

APPEALS FROM THE COURT OF APPEALS

FOR THE TERRITORY OF FLORIDA

SYLLABUS

A mandamus was issued by the Superior Court of Appeals of the Eastern Middle District of Florida directed to the Register and Receiver of the Western Land District of Florida commanding them to permit the entry and purchase of certain

lands. From this proceeding the register and receiver appealed to this Court. The appeal was dismissed, the proceeding at mandamus being at common law, and therefore the removal to this Court should have been by writ of error.

White moved to dismiss these cases, on the grounds that the proceedings were at law in the courts of the United States for the Territory of Florida, and that they had been brought up from the court of appeals of that territory by appeals instead of by writs of error.

On 13 December, 1826, on the applications of the appellees to the Superior Court of Appeals for the Middle District of Florida, a mandamus was issued directed to George W. Ward, the Register of the Western Land District of Florida, and to Richard K. Call, receiver of public moneys in said district, commanding them to permit the persons praying for the mandamus to enter and purchase certain sections of land described in the writ under the provisions of the Act of Congress of 22 April, 1826, which gave rights of preemption in the purchase of land to certain settlers in the States of Alabama and Mississippi and the Territory of Florida. From the superior court the case was removed by a writ of error to the Court of Appeals for the Territory of Florida, and on 21 January, 1831, the order of the superior court was affirmed by the court of appeals. From this judgment the United States appealed to this Court.

The Court ordered the appeal to be dismissed, the proceeding by mandamus being at common law, and therefore the cases should have been brought up by writs of error.