

United States Vs. Clarke

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Court : US Supreme Court

Decided On : 1835

Appeal No. : 34 U.S. 168

Appellant : United States

Respondent : Clarke

Judgement :

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APPEAL FROM THE SUPREME

COURT OF EAST FLORIDA

SYLLABUS

The decree of the Supreme Court of East Florida confirming a concession of land to the appellee granted to him by Governor Coppinger in December, 1817, confirmed.

A concession on condition becomes absolute when the condition is performed.

The original concession by Governor Coppinger on the petition of George J. F. Clarke was made on 17 December, 1817, of twenty-six thousand acres of land in the places he solicited in his petition, and a complete title was made of twenty-two thousand acres, part of the same, in December, 1817. Twenty thousand acres, part of the whole concession, were sold by the appellee. The other four thousand were surveyed in conformity with the decree 17 December, 1817, and a complete title to the same was made by Governor Coppinger on 4 May, 1818.

By the Court:

"The claimant cannot avail himself of the grant of 4 May, 1818, made after 24 January, 1818, the time limited by the Florida treaty. He must rest his claim on the concession made on 17 December, 1817."

The validity of concessions of land by the authorities of Spain in East Florida is expressly recognized in the Florida treaty and in the several acts of Congress.

The eighth article allows the owners of land the same time for fulfilling the conditions of their grants from the date of the treaty, as is allowed in the grant for the date of the instrument. And the Act of 8 May, 1822, requires every person claiming title to lands, under any patent, grant, concession, or order of survey dated previous to 24 January, 1818, to file his claim before the commissioners appointed in pursuance of the act. All the subsequent acts on the subject observe the same language, and the titles under these concessions have been uniformly confirmed when the tract did not exceed a league square.

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

This case is in many respects similar to that which has been decided at this term, between the same parties. The appellee

filed his petition before the District Court of East Florida, asserting a title to twenty-six thousand acres of land, granted by Don Jose Coppinger, governor of that territory, while under the dominion of His Catholic Majesty.

The petition presented by Clarke to the Spanish governor asks, in consideration of services and as a remuneration for losses sustained, all which he states, twenty-six thousand acres of land in the following places: twenty-two thereof in the Hammocks of Cuscoville and Chachala, and the four remaining at a vacant place called Yallahassa, on the west of the River St. John.

On 17 December, 1817, the governor passed a decree granting in absolute property to the said Don George Clarke the twenty-six thousand acres of land in the places he solicits in his petition, and a complete title was made in December, 1817, to twenty-two thousand lying in the Hammocks, known by the names of Cuscoville and Chachala. The petition filed in the district court states that twenty thousand acres, part of this tract, have been surveyed at the place designated and sold to John De Centralgo.

The other four thousand acres were surveyed in conformity with the decree, and a complete title made by Governor Coppinger on 4 May, 1818.

The court decreed the claim to be valid, and reciting that twenty thousand acres, part of the twenty-two thousand, had been on the same day confirmed to Moses E. Levy, on his petition for the same, proceeded to decree the remaining four thousand acres to the petitioner.

The United States appealed from this decree.

The only question not already decided which is made in this case arises from the fact that the full title for the four thousand acres of land in controversy was made after 24 January, 1818. The petitioner therefore cannot avail himself of that grant, and must rest his claim on the concession made 17 December, 1817. That concession is unconditional, but the counsel for the United States contends that it can give no valid title. The argument is understood to have been applied to concessions made absolutely, as well as to those made on condition, and the

Court will therefore consider it as

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applicable to both. A concession on condition becomes absolute when the condition is performed.

The validity of concessions is, we think, expressly recognized both in the treaty and in the several acts of Congress.

The eighth article allows the owners of lands the same time for fulfilling the conditions of their grants, from the date of the treaty, as is allowed in the grant from the date of the instrument, and the Act of 8 May, 1822, requires every person claiming title to lands under any patent, grant, concession, or order of survey, dated previous to 24 January, 1818, to file his claim before the commissioners appointed in pursuance of that act. All the subsequent acts on the subject observe the same language, and the titles held under these concessions have been uniformly confirmed where the tract did not exceed a league square. The question is not now open for discussion.

The decree is confirmed.

This cause came on to be heard on the transcript of the record from the Superior Court for the Eastern District of Florida, and was argued by counsel, on consideration whereof it is ordered, adjudged, and decreed by this Court that the decree of the said superior court in this cause confirming the title of the claimant be and the same is hereby affirmed in all respects.