

Blanc Vs. Lafayette

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Court : US Supreme Court

Decided On : 1850

Appeal No. : 52 U.S. 104

Appellant : Blanc

Respondent : Lafayette

Judgement :

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52 U.S. (11 How.) 104

ERROR TO THE SUPREME

COURT OF LOUISIANA

SYLLABUS

In 1816, the register and receiver of a land office, acting under the authority of a law, reported as follows:

"We are of opinion that all the claims included under the second species of the first class are already confirmed by the Act of Congress of 12 April, 1814."

In 1820, Congress passed an Act, 3 Stat. 573, confirming all those claims which were recommended in the report for confirmation.

But where the commissioners erred in placing a claim in the second species of the first class, and erred in supposing that such a claim was already confirmed by the act of 1814, these errors prevent the act of 1820 from confirming the claim. It is consequently invalid.

By agreement of counsel in the state court, many original documents were used in the trial in the Supreme Court of Louisiana which were left out of the record when it was transmitted to this Court. It did not, therefore, furnish all the facts necessary for a complete statement of the case, which, however, have been taken from other authentic sources.

It was a conflict between a patent issued for some land near New Orleans to General Lafayette in 1825 and a claim advanced by Blanc under an old Spanish alleged grant. If the latter was not good, the patent to Lafayette covered the land in dispute. Blanc claimed under Liotaud.

On 23 May, 1801, Louis Liotaud presented a petition to the Intendant Morales praying that a tract of public land be granted to him having six arpents front on the left bank of Canal Carondelet, with the ordinary depth, if there should be such a depth vacant, being bounded on the one side by the land of Carlos Guardiola, and on all the other sides by

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public land. He states as a reason which entitled him to the favorable notice of the intendant, that his object was to establish a large garden and drain the land, which would be advantageous to the public and contribute to the salubrity of the city. And he bound himself to conform to the regulations relating to grants of land.

On this petition an order was made on February 11, 1802, which is attested by Carlos Ximenes, the notary, in these words: "Vistos: pasese este expediente al agrimensor gnl. Don Carlos Trudeau para que en vista de el informe lo conbeniente." "Let this petition be referred to the Surveyor-General, Don Carlos Trudeau, in order that he may report his opinion thereon."

These appeared to be all the papers to support the claim. No survey was ever made nor any report upon the petition.

On 12 April, 1814, Congress passed an Act, 1 Land Laws 242, confirming certain claims in Louisiana. The title of the act is, "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri." By it, certain claims were confirmed which had been presented to the register or recorder of land titles in the mode pointed out by a preceding law. Liotaud had filed a claim in the land office, stating in his application,

"This land is claimed by virtue of proceedings had before the Spanish intendency in 1801 and 1802, of which proceedings the accompanying document is a true copy, as taken from the original in the register's office for the Eastern District of Louisiana."

On 20 November, 1816, the commissioners made their report, and noticed this claim as follows:

"Louis Liotaud claims a tract of land situated in the County of Orleans on the left bank of the Canal Carondelet, leading to the Bayou St. John, containing six arpents in front and forty in depth, and bounded on one side by lands granted by the Spanish government to Carlos Guardiola and on the other side by vacant lands. This tract of land is claimed by virtue of an order of survey dated in the year 1802."

The commissioners included this claim in the second species of the first class of claims, on which the board reported as follows:

"We are of opinion that all the claims included under the second species of the first class are already confirmed by the Act of Congress of 12 April, 1814."

On 16 January, 1817, the Commissioner of the General Land Office transmitted this report to Congress, and on 11 May, 1820, Congress passed an Act, 3 Stat. 573, entitled "An act supplementary to the several acts for the adjustment of land claims in the State of Louisiana."

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The first section of this act was as follows:

"That the claims for lands within the Eastern District of the State of Louisiana, described by the register and receiver of the said district in their report to the Commissioner of the General Land Office bearing date on 20 November, 1816, and recommended in the said report for confirmation be and the same are hereby confirmed against any claim on the part of the United States."

So the matter stood until the year 1825, when, as has been already mentioned, a patent was issued to General Lafayette which included the land claimed by Liotaud.

On 1 May, 1841, George Washington Lafayette, residing in France, and John Hagan, residing at New Orleans, brought a petitory action against Evariste Blanc, who claimed under Liotaud. The defendant alleged that he then was, and had been for more than a year before the commencement of the suit, in quiet possession of the land, and denied the plaintiffs' possession or right of possession. He also pleaded the prescription of twenty and thirty years.

In May, 1846, the cause came on for trial in the Parish Court in and for the Parish and City of New Orleans, when there was a judgment for the defendant. The plaintiffs appealed to the Supreme Court of Louisiana, by which, in January, 1848, the judgment of the parish court was reversed, and to review this decision upon the ground that his claim was confirmed by an act of Congress Blanc sued out a writ of error and brought the case up to this Court.

MR. JUSTICE WAYNE delivered the opinion of the Court.

The plaintiff in error having claimed the land in dispute under an act of Congress, and the construction of that act by the Supreme Court of Louisiana having been against the claim, the case is brought here under the twenty-fifth section of the Judiciary Act of 1789 to have the opinion given in that court reviewed by this tribunal.

The question presented is whether or not the claim of Louis Liotaud for a tract of land situated in the Eastern District of Louisiana was confirmed by the Act of Congress of 11 May, 1820, 3 Stat. 573, against any claim to the land by the United States, so that an entry could not be made upon it in favor of Major General Lafayette.

The plaintiff in error claims under Liotaud. That claim will be found in 3 American State Papers, Public Lands, 224.

It is

"That Louis Liotaud claims a tract of land, situated in the County of Orleans, on the left bank of the Canal Carondelet, leading to the Bayou St. John, containing six arpents in

front and forty in depth, and bounded on one side by lands granted by the Spanish government to Carlos Guardiola and on the other side by vacant lands. This tract of land is claimed by virtue of an order of survey dated in the year 1802."

This memorandum is found in the report of the commissioners for ascertaining and adjusting claims to land in the Eastern District of the State of Louisiana. It was transmitted to Congress on 16 January, 1817, by Josiah Meigs, the General Land commissioner. 3 American State Papers, Public Lands, 222.

The claims were divided into three general classes:

1. Such as stand confirmed by law.
2. Those which the register and receiver thought ought to be confirmed.
3. Such claims as in their opinion could not be confirmed under existing laws.

The first class comprehended three species of claims: 1. such as were founded on complete titles, granted by the French or Spanish governments; 2. claims resting upon incomplete French or Spanish grants or concessions, warrants, or orders of survey, granted prior to 20 December, 1803; 3. claims rejected by a former board of commissioners merely because the lands claimed were not inhabited on 20 December, 1803.

Liotaud's claim is put by the register and receiver in the second species. 3 American State Papers, Public Lands, 224.

This report was acted upon by Congress. It declared that

"The claims for lands within the Eastern District of the State of Louisiana, described by the register and receiver of the said district in their report to the Commissioner of the General Land Office bearing date 20 November, 1816, and recommended in the said report for confirmation, be, and the same are hereby, confirmed against any claim on the part of the United States."

Act of May 11, 1820, ch. 87, § 3 Stat. 573.

The register and receiver had said in their report that all the claims included under the second species of the first class were already confirmed by the Act of Congress of 12 April, 1814. In this they were certainly mistaken, as they were also in placing Liotaud's claim in what was termed in their report the second species of the first class of claims.

The record does not contain a copy of the order of survey in favor of Liotaud mentioned by the register and receiver, dated as they say in the year 1802. Nor is

there in it either of those documentary papers uniformly given by the intendants general of Spain when grants of land were made. We have not

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before us either a grant or order of survey in favor of Liotaud. Nothing to make the claim an inchoate right upon which a title could be enlarged in favor of Liotaud. Indeed, we do not know anything from the record about it, and all that we do know of the claim is the memorandum of the register and receiver already recited. That discloses that the order of survey mentioned had been given after the cession of Louisiana by his Majesty to the Republic of France. Register Harper and Receiver Lawrence say in their report that Liotaud's claim is founded on an order of survey dated in the year 1802. Apart from the consideration that the order for a survey is dated after the time when Spain had parted with her political sovereignty to grant land in Louisiana, there is no proof of anything having been subsequently done by Liotaud or by any official of Spain to give to Liotaud even an inchoate equity to the land. The claim, then, could not be rightfully, nor was it understandingly, put by the register and receiver under the second species of the first class of claims of incomplete French or Spanish grants or concessions, warrants, or orders of survey granted prior to 20 December, 1803.

Liotaud's claim having been mistakenly put where we find it, it is neither within the letter nor the intention of the Act of 11 May, 1820, confirming titles to land described by the register and receiver. Congress meant to confirm claims to land under some documentary right from France or Spain, and not claims by persons without any such proof. Liotaud's claim, then, under which the plaintiff in error asserts his right, does not interfere with the patent for the same land issued by the United States in favor of Major General Lafayette. It is admitted in the case that the defendants in error have acquired the rights of General Lafayette to the lands in dispute. All of us think that there was no error in the judgment of the supreme court of Louisiana, and its judgment is

Affirmed.

ORDER

This cause came on to be heard on the transcript of the record from the Supreme Court of the State of Louisiana, and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said supreme court in this cause be and the same is hereby affirmed with costs.

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