

**United States Vs. Hughes**

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**Court :** US Supreme Court

**Decided On :** 1850

**Appeal No. :** 52 U.S. 552

**Appellant :** United States

**Respondent :** Hughes

**Judgement :**

United States v. Hughes - 52 U.S. 552 (1850)

U.S. Supreme Court United States v. Hughes, 52 U.S. 11 How. 552 552 (1850)

**United States v. Hughes**

**52 U.S. (11 How.) 552**

*APPEAL FROM THE CIRCUIT COURT OF THE*

*UNITED STATES FOR THE DISTRICT OF LOUISIANA*

## **SYLLABUS**

Where a person entered land according to law, but omitted to obtain a patent for it, and another person afterwards obtained a patent from the United States by proceeding as if it were vacant land, knowing at the same time that it was not

vacant, the patent thus obtained will be set aside.

Nor is it a sufficient objection to a decree that the process was by an information in the nature of a bill in chancery, filed by the attorney for the United States. A simple bill in equity would have been better, but this process being so in substance, the case will not be dismissed for want of form.

An individual owner of land would in such a case be entitled to the relief of having the patent set aside, and the United States, as a landholder, must be entitled to the same.

The deeds of conveyance filed as exhibits show the property to have been sold for two thousand dollars, and that it was afterwards converted into a sugar estate. This is sufficient to maintain the jurisdiction of this Court.

The attorney of the United States filed an information in the nature of a bill in chancery against David M. Hughes, who was the real defendant, and also against Sewall and Hudson, nominal defendants.

On 12 April, 1814, Congress passed an act 3 Stat. 122 for the final adjustment of land titles in the State of Louisiana and Territory of Missouri.

The fifth section was as follows:

"SEC. 5. And be it further enacted that every person, and the legal representatives of every person, who has actually inhabited and cultivated a tract of land lying in that part of the State of Louisiana which composed the late Territory of Orleans, or in the Territory of Missouri, which tract is not rightfully claimed by any other person, and who shall not have

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removed from said state or territory, shall be entitled to the right of preemption in the purchase thereof under the same restrictions, conditions, provisions, and regulations in every respect as is directed by the act entitled 'An act giving the right of preemption in the purchase of lands to certain settlers in the Illinois Territory,'

passed February 5, 1813."

See 2 Stat. 797.

This act of 1813 prescribed the mode of proceeding, that the party should make known his claim to the register &c.;

Prior to or on 22 February, 1822, one John Goodbee presented the following application to the Register and Receiver of the Eastern District of Louisiana.

"GENTLEMEN -- I apply to become the purchaser of a tract of land by virtue of settlement under the Act of Congress of 12 April, 1814, situated as follows, in the Parish of Iberville, principally on the north side of the Bayou Goula, designated as No. one by the surveyor, and is the same land which was inhabited and cultivated by Daniel Beedle, or Bidelle, in the year 1813, under whose settlement I claim by purchase. This land belongs to the United States, and is not rightfully claimed by any other person; neither has said Bidelle removed from the state. The land claimed has not been surveyed according to law, but I apply for the right of preemption to one hundred and sixty superficial acres at the price provided by law, and offer proofs of the facts set forth."

"JOHN GOODBEE"

Whereupon the register and receiver issued the following certificate and receipt.

" No. 8"

"The applicant having proved to the satisfaction of the Register and Receiver for the Eastern District of Louisiana that he has a preemption right to the land claimed, I in consequence certify that he is entitled to one hundred and sixty superficial acres of land as applied for, subject, however, to the sectional or divisional lines to be hereafter run under the authority of the United States."

"SAM. H. HARPER, *Register* "

"February 22, 1822"

"Receiver's Office, New Orleans"

"February 26, 1822"

"Received of John Goodbee two hundred dollars, being the purchase money for one hundred and sixty superficial acres of land, in the Parish of Iberville, designated as No. 1 by the surveyor,

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to which he has a preemption right, according to the certificate of the register, No. 8, exhibited to me."

"J. J. MCLANAHAN, *Receiver* "

"160 acres a 1 25/100, \$200. Original filed 9th Oct., 1845."

"PAUL DEBLIEUX, *Clerk* "

Subsequently proper returns of survey were made on which the land was fully described and designated as lot No. 1, on the north side of Bayou Goula, or section 54 in township 10 west of the Mississippi of range 12 east.

On 14 May, 1836, David Michael Hughes entered this land as if it were a tract of public land, containing 175 46/100 acres, and on 16 April, 1841, obtained a patent from the United States.

On 3 April, 1846, the receiver gave a certificate to John Goodbee that he had received from him the sum of \$19.32, the price of 15 46/100 acres at \$1.25 per acre, that being the excess of the land beyond the original estimate and payment.

On 20 January, 1848, Thomas J. Durant, Attorney of the United States for the District of Louisiana, filed in the circuit court an information and bill, commencing as follows:

"To the Honorable the Judges of the Circuit Court of the United States for the Fifth Circuit and District of Louisiana, in chancery sitting: Informing, showeth unto your

honors, Thomas J. Durant,"

&c.;

The bill then went on to narrate the facts of the case as above set forth.

It further states that on or about 14 May, 1836, Hughes, who resided near the Town of Alexandria, Louisiana, did make an application to the register of the land office of New Orleans to enter and purchase the said lot of land at private sale, falsely representing to the register that the said land was then subject to entry and sale, and that he was by the said register permitted to enter the said land as if the same was liable to private entry, and that he, still falsely representing the said land as subject to private entry and sale, did on the same day pay the receiver the sum of \$219.32, and that there was issued to him by the register the usual certificate given in such cases. That on 16 April, 1841, Hughes presented the said certificate to the Commissioner of the General Land Office at Washington, still falsely representing the land as subject to private entry and sale and that he had legally paid for the same, and did procure the commissioner to issue a patent to him. That all the acts and doings of the register

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and receiver in permitting Hughes to enter and pay for the land were done in error, and were at the time, and now, null and void, and that the acts and doings of the Commissioner of the General Land Office were also, then and now, null and void because the land had long before been sold by the United States to John Goodbee, and that Hughes is bound in equity and good faith to restore and give up the patent and not to pretend or set up any title to the said land.

That Goodbee is dead, and that the land is in the joint occupation and settlement of Robert Sewall, who resides on it, and of Franklin Hudson, a minor, who is represented by his tutor, and that they pretend to possess said land as owners under title derived from Goodbee, and that the said parties in possession ought to be made parties to the proceedings in the case.

It is further stated that so soon as the error in issuing a patent and the other acts preparatory thereto were discovered, Hughes was requested to give up and restore the patent and receive back the money he had erroneously paid for the land, but refused to do so; on the contrary, he had commenced suit in one of the state courts against the possessors, who hold under Goodbee, to deprive them of the land by means of said patent, to the damage and injury of the United States, who are bound in equity and good faith to hold harmless all persons who have derived title from Goodbee from the consequences of errors and mistakes of their own, and their officers, and particularly from those of the error in issuing a patent to Hughes.

The bill then charges combination and confederacy and that Hughes had refused to comply with the requests made to him, and sets forth his pretenses for so doing, and the defendant Hughes is required to answer the following interrogatories nos. 1, 2, 3, 4, 5, 6, 7, 8, and 10, and the other defendants nos. 9 and 11.

1st. Whether the said land was not entered by David Michael Hughes at the land office of the United States in New Orleans, on 14 May, 1836.

2d. Whether, in making said entry, he, the said David Michael Hughes, did not represent said land to the register of the land office as land that was then subject to entry and private sale.

3d. Whether, at the time of making said entry, he, the said David Michael Hughes, did not know that the said land had previously been sold by the United States to John Goodbee.

4th. Whether he, the said David Michael Hughes, did on 16 April in the year 1841 obtain or procure a patent for said land from the General Land Office in Washington.

5th. Whether said David Michael Hughes has, since the patent was procured by him and before the institution of these

proceedings, been called upon to restore and give up said patent to the proper officer of the United States on the ground that said patent was erroneously issued and delivered to him, and to receive back the money which he paid into the Treasury as the price of said land.

6th. Whether the said David Michael Hughes has not refused to give up said patent when so called upon.

7th. Whether the said David Michael Hughes has not commenced and is not now carrying on proceedings at law in one of the state courts of Louisiana to obtain possession of said land by virtue of said patent, and if yea, in what court, and who are the parties defendant in said suit.

8th. Whether, at the time of his procuring said patent from Washington, he, the said David Michael Hughes, did not have information or did not have reason to believe that the said land had formerly been entered and paid for by John Goodbee.

9th. Whether the said John Goodbee is now alive, and, if not, when did he die.

10th. Whether the said David Michael Hughes did not know, or was not informed when he entered said land that the land was in possession of Robert Sewall and of Franklin Hudson, or did he not know or believe that it was in possession of some parties claiming it as owners, and of whom.

11th. In whose possession is said land now, and by what title do the present possessors hold it. Is said title derived from John Goodbee, and how.

The prayer of the bill was for an injunction to restrain Hughes from proceeding at law upon the patent to obtain possession of the land, and to restrain him from selling, disposing of, or parting with the same during the pendency of this suit, and that he may be decreed to deliver up the patent to the United States to be cancelled as having been issued to him in error and without right, and for further and general relief.

Sewall and Hudson, the latter by his tutor, answered the bill, setting forth their title derived from Goodbee, praying to be dismissed from court and quieted in their title.

Hughes demurred, and for special causes of demurrer assigned:

1st. That by the showing in said bill this Court has no jurisdiction of the matter presented, as the subject of controversy between this defendant and Sewall and Hudson, being all citizens of Louisiana.

2d. Because, by the showing in said bill, the United States, as complainants, have no interest whatever in the matter in controversy.

3d. That the case made by the bill shows that Robert Sewall

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and Franklin Hudson, who are defendants in this bill, are in point of interest the only proper parties to complain against this defendant, and are not properly his co-defendants.

4th. Because, by the case made by the bill, the United States appears to litigate the private rights of one citizen against another citizen without cause or authority so to do.

5th. Because there is no law to authorize the United States to invoke the courts of the United States to repeal, revoke, and cancel a deed for land given by the United States to a citizen when the whole price is acknowledged to have been received by the United States for the land sold.

6th. Because the complaint is in form an information by the district attorney of the United States in behalf of the United States and in behalf of Sewall and Hudson for matters only cognizable by a court of equity on a bill in chancery at the instance of the party aggrieved.

7th. Because the matter asserted as a preemption right to land in John Goodbee is in law no right of preemption.

8th. Because if the right asserted was originally good as a right of preemption in Goodbee, it is shown by the bill to have been lost and forfeited as such right for want of timely payment and for many other defects &c.; in said bill appearing.

On the 24th of January, 1849, the court sustained the demurrer and dismissed the bill. The United States appealed to this Court.

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MR. JUSTICE CATRON delivered the opinion of the Court.

The Attorney of the United States for the District of Louisiana, on behalf of the United States, filed an information in the nature of a bill in chancery against David M. Hughes, having for its object the repeal and surrender of a patent for 175  $\frac{46}{100}$  acres of land, made to Hughes by the President of the United States, April 16, 1841. The bill proceeds on the ground that said patent was fraudulently obtained, being in violation of the rights of Sewall and Hudson, deriving title from John Goodbee, who entered the land as his preemption claim under the Act of April 12, 1814, paid the purchase money, and got a certificate of purchase, in 1822, for 160 acres, but when the public surveys were executed, the legal subdivision was found to contain 15  $\frac{46}{100}$  acres more, to which Goodbee's right of preemption also extended.

The validity of Goodbee's entries depends on the regulations of the land office, made in pursuance of statutes enacted by Congress, and which statutes and regulations are accurately set forth by the Attorney General in his argument in this cause, and need not be further stated here.

It appears that in 1836 Hughes entered the same land with full knowledge that those holding possession under Goodbee's title were owners and cultivating a sugar plantation on it. The existence of Goodbee's preemption right and better title was overlooked at the land office in Louisiana, where the entry of Hughes was

made, and again at the General Land Office until after his patent had issued.

As the bill was demurred to, no dispute can be raised on the question of fraud, nor can any doubt exist that this second purchase was fraudulently obtained, Sewall and Hudson being notoriously in possession of the land as owners when Hughes made his entry at the land office.

1st. The first and main objection made for defendant Hughes is that this proceeding is improper, and will not lie.

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It is to be regretted that this was not a simple bill in equity brought by the United States against the defendant Hughes, praying that the patent might be annulled and surrendered by a decree in chancery, without any attempt of assimilating the proceeding to an information brought by the Attorney General on behalf of the Crown in England to repeal a patent. In this country, the lands of the United States lying within the states are held and subject to be sold under the authority of Congress, as lands may be held and sold by individual owners or by ordinary corporations, and similar remedies may be employed by the United States as owners that are applicable in cases of others. This, we think, is manifest. It was so held in the case of [\*King v. United States\*](#), 3 How. 773.

In substance, this is a bill in equity for and on behalf of the United States because of an injury done to the United States by Hughes, the defendant, and we will not dismiss it for want of form.

By the Constitution, Congress is vested with power to dispose of the public lands and to make all needful rules and regulations respecting them. Under existing regulations, Goodbee had a right to enter the land in dispute in exclusion of others and did so, and the United States, as owner, having been paid for the land, was bound to make the purchaser a title in the same manner that an individual would have been bound under similar circumstances.

As the patent to Hughes is a conveyance of the fee, the United States stand divested of the legal title, and therefore cannot fulfill their engagement with Goodbee and his alienees, to whom they stand bound for a legal title until the grant to Hughes is annulled.

It is manifest that if the agents of an individual had been thus imposed on, the conveyance could be set aside because of mistake on part of such agents and fraud on part of the second purchaser in order that the first contract could be complied with. Nor can it be conceived why the government should stand on a different footing from any other proprietor.

Hughes has no right to complain, for so soon as it was discovered that he had defrauded the government and those claiming under it, his purchase money was tendered and a surrender of the patent demanded, but he refused to receive the money or surrender his legal advantage.

2d. The demurrer having been sustained, and the bill dismissed by the circuit court, it is insisted here that no appeal would lie, because the matter in dispute does not appear to have amounted to \$2,000. All the assignments from Goodbee down to the present owners Sewall and Hudson are exhibited

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with the bill as a part thereof, the first of which is a notarial conveyance from Goodbee to Bush dated in 1822. It states that the consideration of \$2,000 had been paid for the land, and, there being a sugar plantation on it, we assume its value to be quite equal now. As we are bound by complainant's allegation of value, no controversy can be raised on the fact. If, however, any objection existed, value could be proved here in like manner as is usually done in cases of ejectment, where there is no allegation what the property in dispute is worth.

*We are of opinion that the patent to Hughes should be vacated and annulled, and accordingly order that the decree of the Circuit Court of the District of Louisiana be reversed; and it is adjudged and decreed, that the patent made to David Michael Hughes by the President of the United States, on 16 April, A.D. 1841, for 175*

*46/100 acres of land, being for section 54 in township 10 of range 12 east, in the district of lands subject to sale at New Orleans, Louisiana, be, and the same is hereby, vacated, and declared null and void. And it is also ordered and decreed that said David Michael Hughes do, within one calendar month from the time of filing and entering the mandate of this Court in the Circuit Court for the District of Louisiana, surrender said patent to the clerk of the aforesaid circuit court, who will certify on its face that said patent is annulled by this decree, which certificate he will sign and further authenticate under the seal of his Court, and then forward said patent to the Commissioner of the General Land Office at Washington City.*

*And it is further adjudged and decreed that said David Michael Hughes be, and he is hereby, forever enjoined from prosecuting any suit in law or equity on said patent as evidence of title.*

## **ORDER**

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the Eastern District of Louisiana, and was argued by counsel. On consideration whereof it is now here ordered and decreed by this Court that the decree of the said circuit court in this cause be, and the same is hereby, reversed, and this Court, proceeding to render such decree as the said circuit court ought to have rendered, doth order, adjudge, and decree that the patent made to David Michael Hughes by the President of the United States on 26 April, A.D. 1841, for section 54 in township 10 of range 12 east, in the district of lands subject to sale at New Orleans, Louisiana, containing 175 46/100 acres of

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land be and the same is hereby vacated and annulled; that the said David M. Hughes do, within one calendar month from the time of filing the mandate of this Court in the said circuit court, surrender said patent to the clerk of said court; that the said clerk shall certify under the seal of the said court, on the face of the said patent, that it is annulled by this decree, and then transmit the same to the Commissioner of the General Land Office at Washington City; that the said David

M. Hughes be, and he is hereby, forever enjoined from prosecuting any suit in law or equity on said patent as evidence of title. And it is further adjudged and decreed that this cause be and the same is hereby remanded to the said circuit court with directions to carry this decree into effect and for such further proceedings to be had herein in conformity to the opinion of this Court as to law and justice may appertain.

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