Doe Vs. Braden

Doe Vs. Braden

SooperKanoon Citation : sooperkanoon.com/80480

Court : US Supreme Court

Decided On : 1853

Appeal No. : 57 U.S. 635

Appellant : Doe

Respondent : Braden

Judgement :

Doe v. Braden - 57 U.S. 635 (1853)
U.S. Supreme Court Doe v. Braden, 57 U.S. 16 How. 635 635 (1853)

Doe v. Braden

57 U.S. (16 How.) 635

ERROR TO THE DISTRICT COURT OF THE UNITED

STATES FOR THE NORTHERN DISTRICT OF FLORIDA

SYLLABUS

In the ratification by the King of Spain of the treaty by which Florida was ceded to the United States, it was admitted that certain grants of land in Florida, amongst which was one to the Duke of Alagon, were annulled and declared void.

A written declaration, annexed to a treaty at the time of its ratification, is as obligatory as if the provision had been inserted in the body of the treaty itself.

Whether or not the King of Spain had power, according to the Constitution of Spain, to annul this grant is a political and not a judicial question, and was decided when the treaty was made and ratified.

Page 57 U. S. 636

A deed made by the duke to a citizen of the United States during the interval between the signature and ratification of the treaty cannot be recognized as conveying any title whatever. The land remained under the jurisdiction of Spain until the annulment of the grant.

This was an ejectment brought by the lessee of Clark and the other plaintiffs in error against Braden to recover all that tract or parcel of land in Florida which is described as follows, namely:

"Beginning at the mouth of the river heretofore called or known as the Amanina, where it enters the sea, to-wit, at the point of the twenty-eighth degree and twenty-fifth minute of north latitude, and running along the right bank of that river to its head spring or main fountain source; thence by a right line to the nearest point of the river St. John; then ascending said river St. John along its left bank to the lake Macaco; then from the most southern extremity of that lake, by a right line, to the head of the river heretofore known or called the Hijuelas; and then descending along that river's right bank to its mouth in the sea; thence continuing along the coast of the sea, including all the adjacent islands, to the mouth of the River Amanina, the beginning point aforesaid, containing twelve millions of acres of land."

The cause went on regularly by the appearance of the defendant, the confession of lease, entry, and ouster, and the admission of counsel on behalf of the United States to defend the suit.

In May, 1852, the case came up for trial at the City of St. Augustine.

The counsel for the plaintiff offered in evidence the following duly verified papers:

1. A memorial of the Duke of Alagon to the King of Spain, dated 12 July, 1817, praying the King to be pleased to grant him the uncultivated lands not already granted, in East Florida, situated between the banks of the River Santa Lucia and San Juan, as far as their mouths into the sea, and the coast of the Gulf of Florida and its adjacent islands, with the mouth of the River Hijuelos by the twenty-sixth degree of latitude, following along the left bank of said river up to its source, drawing thence a line to Lake Macaco, descending thence by the way of the River San Juan to Lake Valdez, and drawing another line from the extreme north part of said latter lake to the source of the River Amanina, thence pursuing the right bank of said river to its mouth by the 28th or 25th degrees of latitude, and continuing along the coast of the sea with all its adjacent islands, to the mouth of the River Hijuelos, in full property for himself and his

Page 57 U. S. 637

heirs, and permitting him the importation of negroes free of duty to work and cultivate said lands, a favor which he hopes to obtain from the innate benevolence of Your Majesty, whose precious life may God preserve many years, as he prays.

"MADRID, 12 July, 1817."

2. The order of the King upon the above, addressed to the Royal and Supreme Council of the Indies, as follows:

"His Majesty having taken cognizance of the contents therein, and in consideration of the distinguished merit of this individual and of his well known zeal for the royal service, and likewise in consideration of the advantages which will result to the state by the increase of the population and civilization of the aforesaid territories, which he solicits, he has deigned to resolve, that the same be communicated to the supreme council, declaring to them that the favor which he solicits is granted to him, provided the same be not contrary to the laws; all of which I communicate to your Excellency by his royal order for your information and that of the council, and for the other necessary ends. God preserve Your Excellency many years."

"PALACE, December 17, 1817."

3. A cedula, issued by the extinct Council of the Indies, addressed to the Governor, Captain-General of the Island of Cuba and its district, to the Intendant of the Army and Royal Exchequer of the Havana and its districts, and to the Governor of the Florida. This document bore date on the 6th of February, 1818, and after reciting the petition and grant, concluded as follows:

"Wherefore I command and require you, by this my royal cedula, that in conformity with the laws touching this matter, effectually to aid the execution of said gift, taking all the measures proper to carry it into effect without prejudice to the rights of a third party, and in order that the said Duke of Alagon may be enabled to put into execution his design, agreeably in every respect to my benevolent wishes, in furtherance of the agriculture and commerce of said possessions, which demand a population proportioned to the fertility of the soil and the defense and security of the coast, reporting hereafter successively the progress that may be made, it being understood that the importation of negroes, comprehended in said gift, is to be made, as far as the traffic in them is concerned, in conformity with the regulations prescribed in my royal order of the nineteenth of December ultimo, for such is my will; and that account be taken of this royal order in the contaduria-general of the Indies. Given at the palace this sixth day of February, one thousand eight hundred and eighteen."

4. A power of attorney from the Duke of Alagon to Don Nicholas Garrido, dated 27 February, 1818.

Page 57 U. S. 638

5. A decree of Coppinger, Governor of Florida, dated 27 June, 1818, putting Garrido into possession of the land claimed.

6. A deed of conveyance, dated 29f May, 1819, from the Duke of Alagon to Richard S. Hackley, of Richmond, Virginia. This deed conveyed a part of the lands in question to Richard S. Hackley and company for the purpose of immediately

opening, clearing, and settling them.

7. The deposition of Ann Rachel Hart, of Baltimore, Maryland, that Richard S. Hackley was a native-born citizen of the United States.

8. A deed from Richard S. Hackley, dated 14 September, 1836, to Joseph D. Beers, Lot Clark, and David Clarkson, the lessors of the plaintiff.

9. An admission by the counsel for the United States that Braden, the defendant, was in possession of 587 45/100 acres of land, lying on the Manatee River, in the present County of Hillsborough, which was covered by the foregoing titles, and was of the value of two thousand dollars and upwards.

The defendant, to prove the issue on his part, read in evidence certified copies of patents for his land from the United States.

A great number of other documents and testimony were offered by the defendant and plaintiff, but a particular notice of them is not deemed necessary in the present report.

On the conclusion of the argument, the court instructed the jury as follows:

"1st. The foundation of the plaintiff's title is the concession or order of the King of Spain of the 17th of December, 1817, and the cedula or royal order of the 6th of February, 1818, which, together, constitute the grant or concession to the Duke of Alagon to the lands in question. Whether the order of the 17th of December, 1817, was complete in itself and amounted to a grant I deem it unimportant to inquire, because it was reaffirmed and made operative by the cedula or royal order of the 6th of February, 1818, which related back to the order of the 17th of December, 1817, and hence that may be considered the date of the concession, explained and rendered more full and perfect by the order of the 6th of February, 1818, and it is so considered for the purposes of this suit."

"Taking these two orders together, it is manifest from their tenor and spirit and it is more particularly apparent from the orders and proceedings of the King and the Council of the Indies in the early part of 1818 that one object and intent, and one

condition of the grant or concession to Alagon, and one of the principal inducements on the part of the King to make the

Page 57 U. S. 639

grant, was the colonization and settlement of the country and the agricultural and commercial advantages which it was supposed would arise to the province therefrom. And it is equally clear that the grant was made subject to the laws of Spain, and particularly subject to such laws of the Indies as were applicable to the case, and that the Duke of Alagon, in his proceedings to carry into effect the objects of the grant and to avail himself of its benefits, was bound to conform to those laws."

"The testimony goes to show not only what those laws were, but that early in 1818, and before the Duke of Alagon had sold or conveyed any of these lands, his attention was distinctly called to them by the King and the council of the Indies, or by the proper officials of the Spanish government, and that every effort was made on the part of the King of Spain to ensure the due observance of them by the Duke of Alagon, and that he was especially cautioned and advised that he could not by law, and would not be permitted to alienate the lands or any part of them, particularly to strangers or foreigners. After this, and before any treaty had been ratified and confirmed between the United States and Spain, and while the province of East Florida was still under the dominion of Spain and subject to the laws of Spain, the deed of May, 1819, was executed by Alagon to Richard S. Hackley."

"Second. Therefore, if the jury are satisfied that the laws of Spain and the Indies were such as have been read to them and that it was not lawful for a Spanish subject to sell or transfer lands to a stranger or foreigner, then this deed of May, 1819, from Alagon to Hackley was in violation of law and void, and conferred no title upon Hackley."

"The Duke of Alagon could not, if those laws have been correctly and satisfactorily proved, legally make any such conveyance, and had he attempted so to do here in

the province of East Florida, where it ought to have been done if at all, he would have been prevented by the governor from doing it, and no notary here could have executed the papers without violation of law and of the royal order."

"The same objection applies to the deed of conveyance to Hackley of the 30th of June, 1820. That conveyance was likewise in violation of law and against the express injunctions of the King. It was made in Madrid instead of the province of East Florida, and while the Spanish law was in full force and effect here."

"Third. The court is further of opinion that the grant to the East Florida, where it ought to have been by the King on the final ratification of the treaty, by and with the consent of the cortes, as appears from the evidence in the case, and

Page 57 U. S. 640

whether this revocation or annulment of the grant by the King and cortes was founded upon the fact that Alagon had justly forfeited all right to the lands by disregarding the objects and conditions of the grant and by attempting to transfer the lands to a foreigner, or upon the right of eminent domain, and upon the ground that it was necessary in order to complete the treaty, and therefore for the public good and general welfare of the nation, to resume or revoke the grant, it was in either case a rightful and legitimate use of sovereign power, and one which cannot be questioned in a court of justice."

"Fourth. The court is further of the opinion that even if the grant was not rightfully annulled by the treaty, yet it is not a grant which, by the terms of the treaty, would stand ratified and confirmed, or which the United States are bound to confirm, although made before the 24th of January, 1818; that the United States is bound to ratify and confirm it only to the same extent that it would have been valid if the territory had remained under the dominion of Spain; and it is manifest from the evidence in the case that if the treaty had not been made, the grant would not have been held valid by the Spanish government; it was in fact revoked and annulled by the King and cortes. The United States therefore is not bound either by the rules of public law, by the universal principles of right and justice, or by the

terms of the eighth article of the treaty to recognize or confirm it."

"Fifth. The court is further of the opinion that inasmuch as this claim under the grant to the Duke of Alagon has never been recognized and confirmed by the United States or by any board of commissioners or court authorized by Congress to adjudicate or decide upon the validity of the grant, it is therefore a claim 'not recognized or confirmed,' and within the meaning of the first section of the Act of Congress of 3 March, 1807, relating to settlements &c.;, on the public lands, 2 Stat. 445, and that the claimants therefore, have only an equitable or inchoate title, at best, and have not the right to take possession; but, on the contrary, are expressly forbidden so to do until their title has been confirmed. Consequently that not having the right of possession or the complete legal title, they cannot sustain an action of ejectment; that their only redress is by application to the political power or legislative department of the government; that the courts of justice cannot furnish it without a violation of law."

"These points being fully conclusive as to the rights of the parties, the court deems it unnecessary to notice other points raised in the course of the trial and arguments. "

Page 57 U. S. 641

"From these views of the court, however, the jury are bound to find a verdict for the defendant, and are so instructed accordingly."

"To all of which charge, and each and every paragraph or section of the same, the plaintiffs counsel excepted, and prayed their exception to be noted in the words following: "

"To all and every part of which instructions and directions, so far as adverse to the plaintiffs, the plaintiffs except, and especially to each and all of the directions and propositions and points contained in each of the articles or paragraphs of said instructions numbered, respectively, in the said instructions, 1, one, 2, two, 3, three, 4, four, and 5, five"

"And the plaintiff prays the court to sign and seal this his bill of exceptions, which is accordingly done this twenty-fourth day of May, eighteen hundred and fifty-two."

"[Signed] I. H. BRONSON, Judge [SEAL]"

Page 57 U. S. 654

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

This controversy has arisen out of the treaty with Spain by which Florida was ceded to the United States.

The suit is brought by the plaintiff in error against the defendant to recover certain lands in the State of Florida. It is an action of ejectment. And the plaintiff claims title under a grant from the King of Spain to the Duke of Alagon. This is the foundation of his title. And if this grant is null and void by the laws of the United States, the action cannot be maintained.

The treaty in question was negotiated at Washington by Mr. Adams, then Secretary of State, and Don Louis De Onis, the Spanish Minister. It was signed on the 22d of February, 1819, and by its terms the ratifications were to be exchanged within six months from its date.

It appears from the treaty that the negotiations commenced on the 24th of January, 1818, by a proposition from the Spanish government to cede the Floridas to the United States. The grant to the Duke of Alagon bears date February 6 in the same year, and consequently was made after the King of Spain had authorized his minister to negotiate a treaty for the cession of the territory, and after the negotiation had actually commenced. It embraces ten or twelve millions of acres.

The fact that this grant had been made came to the knowledge of the Secretary pending the negotiation, and he also learned that two other grants -- one to the Count of Punonrostro and the other to Don Pedro de Vargas, each containing some millions of acres, had also been made under like circumstances. These

three grants covered all or nearly all of the public domain in the territory proposed to be ceded. And the Secretary naturally and justly considered that grants of this description made while the negotiation was pending, and without the knowledge or consent of the United States, were acts of bad faith on the part of Spain, and would be highly injurious to the interests of the United States if Florida became a part of

Page 57 U. S. 655

their territory. For the possession and ownership of such vast tracts of country by three individuals would be altogether inconsistent with the principles and policy on which this government is founded. It would have greatly retarded its settlement and diminished its value to the citizens of the United States. For no one could have become a landholder in this new territory without the permission of these individuals and upon such conditions and at such prices as they might choose to exact.

Acting upon these considerations, the Secretary insisted that if the negotiations resulted in a treaty of cession, an article should be inserted by which these three grants and any others made under similar circumstances should be annulled by the Spanish government.

The demand was so obviously just and the conduct of Spain in this respect so evidently indefensible that after much hesitation it was acceded to, and the 8th article introduced into the treaty to accomplish the object. By this article,

"All grants made since the 24th of January, 1818, when the first proposal on the part of his Catholic Majesty for the cession of the Floridas was made, are thereby declared and agreed to be null and void,"

and all grants made before that day are confirmed.

With this provision in it, the treaty was submitted to the Senate, who advised and consented to its ratification on the 24th of February, 1819, and it was accordingly ratified by the President.

Before, however, the ratifications were exchanged, the Secretary of State was informed that the Duke of Alagon intended to rely on a royal order, of December 17, 1817, which is recited in the grant hereinbefore mentioned, as sufficient to convey to him the land from that date, and upon that ground claimed that his title was confirmed, and not annulled, by the treaty.

The Secretary, it appears, was satisfied that this royal order conveyed no interest to the Duke of Alagon and that the grant in the sense in which that word is used in the treaty was not made until the instrument, dated the 6th of February, 1818, was executed.

But as a claim of this character, however unfounded, would cast a cloud upon the proprietary title of the United States, and as claims might also be set up under similar pretexts under the grants to the Count of Punonrostro and Vargas, the Secretary deemed it his duty to place the matter beyond all controversy before the ratifications were exchanged. He therefore requested and received from Don Louis de Onis a written admission that these three grants were understood by both of them to have been annulled by the 8th article of the treaty, and that it was

Page 57 U. S. 656

negotiated and signed under that mutual understanding between the negotiators. And having obtained this admission, he notified the Spanish minister that he would present a declaration to that effect upon the exchange of ratifications, and expect a similar one from the Spanish government to be annexed to the treaty.

But the King of Spain for a long time refused to make the declaration required or to ratify the treaty with the declaration of the American government attached to it. And a great deal of irritating correspondence upon the subject took place between the two governments. Finally, however, the King of Spain ratified it on the 21st of October, 1820, and admitted, in his written ratification annexed to the treaty, in explicit terms that it was the positive understanding of the negotiators on both sides when the treaty was signed that these three grants were thereby annulled, and declared also that they had remained and did remain entirely annulled and

invalid, and that neither of the three individuals mentioned, nor those who might have title or interest through them, could avail themselves of the grants at any time or in any manner.

With this ratification attached to the treaty, it was again submitted by the President to the Senate, who on the 19th February, 1821, advised and consented to its ratification. It was ratified accordingly by the President, and the ratifications exchanged on the 22d of February, 1821. And Florida on that day became a part of the territory of the United States under and according to the stipulations of treaty -- the rights of the United States relating back to the day on which it was signed

We have made this statement in relation to the negotiations and correspondence between the two governments for the purpose of showing the circumstances which occasioned the introduction of the 8th article, confirming Spanish grants made before the 24th of January, 1818, and annulling those made afterwards, and also for the purpose of showing how it happened that the three large grants by name were declared to be annulled in the ratification, and not by a stipulation in the body of the treaty. But the statement is in no other respect material. For it is too plain for argument that where one of the parties to a treaty, at the time of its ratification, annexes a written declaration explaining ambiguous language in the instrument or adding a new and distinct stipulation, and the treaty is afterwards ratified by the other party with the declaration attached to it, and the ratifications duly exchanged -- the declaration thus annexed is a part of the treaty and as binding and obligatory as if it were inserted in the body of the instrument. The intention of the parties is to be gathered from the whole instrument as it stood when the ratifications were exchanged.

Page 57 U. S. 657

It is not material, therefore, to inquire whether the title of the Duke of Alagon takes date from the royal order of December 17, 1817, or from the grant subsequently made on the 6th of February, 1818. In either case, the treaty by name declares it to be annulled.

It is said, however, that the King of Spain, by the constitution under which he was then acting and administering the government, had not the power to annul it by treaty or otherwise; that if the power existed anywhere in the Spanish government, it resided in the cortes; and that it does not appear in the ratification that it was annulled by that body or by its authority or consent.

But these are political questions and not judicial. They belong exclusively to the political department of the government.

By the Constitution of the United States, the President has the power, by and with the advice and consent of the Senate, to make treaties provided two-thirds of the Senators present concur. And he is authorized to appoint ambassadors, other public ministers and consuls, and to receive them from foreign nations; and is thereby enabled to obtain accurate information of the political condition of the nation with which he treats; who exercises over it the powers of sovereignty, and under what limitations; and how far the party who ratifies the treaty is authorized, by its form of government, to bind the nation and persons and things within its territory and dominion, by treaty stipulations. And the Constitution declares that all treaties made under the authority of the United States shall be the supreme law of the land.

The treaty is therefore a law made by the proper authority, and the courts of justice have no right to annul or disregard any of its provisions unless they violate the Constitution of the United States. It is their duty to interpret it and administer it according to its terms. And it would be impossible for the executive department of the government to conduct our foreign relations with any advantage to the country, and fulfill the duties which the Constitution has imposed upon it, if every court in the country was authorized to inquire and decide whether the person who ratified the treaty on behalf of a foreign nation had the power, by its constitution and laws, to make the engagements into which he entered.

In this case, the King of Spain has by the treaty stipulated that the grant to the Duke of Alagon, previously made by him, had been and remained annulled, and that neither the Duke of Alagon nor any person claiming under him could avail

himself of this grant. It was for the President and Senate to determine whether the King, by the Constitution and laws of Spain, was

Page 57 U. S. 658

authorized to make this stipulation and to ratify a treaty containing it. They have recognized his power by accepting this stipulation as a part of the compact and ratifying the treaty which contains it. The constituted and legitimate authority of the United States therefore has acquired and received this land as public property. In that character it became a part of the United States, and subject to and governed by their laws. And as the treaty is by the Constitution the supreme law, and that law declared it public domain when it came to the possession of the United States, the courts of justice are bound so to regard it and treat it, and cannot sanction any title not derived from the United States.

Nor can the plaintiff's claim be supported unless he can maintain that a court of justice may inquire whether the President and Senate were not mistaken as to the authority of the Spanish monarch in this respect, or knowingly sanctioned an act of injustice committed by him upon an individual in violation of the laws of Spain. But it is evident that such a proposition can find no support in the Constitution of the United States, nor in the jurisprudence of any country where the judicial and political powers are separated and placed in different hands. Certainly no judicial tribunal in the United States ever claimed it or supposed it possessed it.

The plaintiff seems to suppose that he has a stronger title than that of the Duke of Alagon. It is alleged that the Duke of Alagon, on the 29th of May, 1819, conveyed the greater part of the land granted to him by the King of Spain to Richard S. Hackley, a citizen of the United States. This deed to Hackley was after the signature of the treaty and before the exchange of ratifications, and the plaintiff claims through Hackley, and contends that this American citizenship protected his title.

But if the deed from the Duke of Alagon to a citizen of the United States was valid by the laws of Spain, and vested the Spanish title in Hackley, yet the land in his

hands remained subject to the Spanish law and the authority and power of the Spanish government as fully as if it had continued the property of the original grantee. Hackley derived no title from the United States, nor were his rights in the land, if he had any, regulated by the laws of the United States, nor under their protection. It was a part of the Territory of Spain, and in her possession and under her government, until the ratifications of the treaty were exchanged. And until that time, the rights of the individual owner, and the extent of authority which the government might lawfully exercise over it, depended altogether upon the laws of Spain. And whatever rights he may have had under the deed of the Duke of Alagon, they were extinguished by the

Page 57 U. S. 659

government from which he held them while the land remained a part of its territory and subject to its laws. It was public domain when it came to the possession of the United States, and he had then no rights in it.

In this view of the case, it is not necessary to examine the other questions which appear in the exception or have been raised in the argument. The treaty is the supreme law, and the stipulations in it dispose of the case. The judgment of the district court must therefore be

Affirmed.

ORDER

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Florida, and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said district court in this cause be and the same is hereby affirmed with costs.