

Haydel Vs. Dufresne

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Court : US Supreme Court

Decided On : 1854

Appeal No. : 58 U.S. 23

Appellant : Haydel

Respondent : Dufresne

Judgement :

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Haydel v. Dufresne

58 U.S. (17 How.) 23

ERROR TO THE SUPREME COURT

OF THE STATE OF LOUISIANA

SYLLABUS

In 1811, Congress passed an Act, 2 Stat. 663, giving to the owners of land in Louisiana bordering on any river, creek &c., the preference in purchasing back land, and where, by reason of bends in the river, each claimant could not obtain a

tract equal in quantity to the adjacent tract already held by him, the surveyor of the district, under the superintendence of the surveyor of the public lands south of the State of Tennessee was directed to divide the vacant land between the several claimants in such a manner as to him might seem most equitable.

These officers decided as judges upon the equities of the claimants, and their allotments are not liable to be overthrown by courts of justice upon any other ground than that of fraud, which is not imputed in this case.

The widow Francois Dufresne filed her petition in the Fourth Judicial District Court of the State of Louisiana, in the Parish of St. John the Baptist, complaining that the United States deputy surveyor had allotted to her 79 $\frac{28}{100}$ acres of back land instead of 121 $\frac{13}{100}$, and had given to Mrs. widow Marcelin Haydel, 243 $\frac{20}{100}$ acres, instead of 201 $\frac{35}{100}$, which was her fair proportion.

It is not necessary to trace the progress of the dispute or to refer to the surveys. The Fourth Judicial District Court decided that, inasmuch as the deputy surveyor had apportioned the back lands in the manner now complained of, and there was not to be found on the face of the survey such gross preference and unwarrantable proceeding, which alone, in some cases, would require the interposition of a court of justice, the defendant should be quieted in her possession. Other points were raised and decided, which it is not necessary to notice.

It was carried to the supreme court, which reversed the judgment of the court below, holding that the act of the deputy surveyor was merely ministerial, and that he was bound to make an equitable division of the back land between the front owners, in proportion to the respective quantities held by the latter.

The widow Marcelin Haydel brought the case up to this Court.

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MR. JUSTICE CATRON delivered the opinion of the Court.

The plaintiff and defendant are respectively owners of tracts of land forty arpens deep, situate in a concave bend of the Mississippi River, in Louisiana; their tracts front on different sides of the deepest point of land, and when the side lines of each tract are extended perpendicular to a base line corresponding with the bank of the river, the two tracts interfere before the second depth of forty arpens is obtained.

By the 5th section of an Act approved the 15th of February, 1811, Congress provided

"That every person who, either by virtue of a French or Spanish grant, recognized by the laws of the United States, or under a claim confirmed by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, owns a tract bordering

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on any river, creek, bayou, or watercourse in the said territory, and not exceeding in depth forty arpens French measure, shall be entitled to a preference in becoming the purchaser of any vacant tract of land adjacent to, and back of his own tract, at the same price and on the same terms and conditions as is or may be provided by law for the public lands in said territory. And the principal deputy surveyor of each district, respectively, shall be, and he is hereby authorized, under the superintendence of the surveyor of the public lands south of the State of Tennessee, to cause to be surveyed the tracts claimed by virtue of this section. And in all cases where, by reason of bends in the river, lake, creek, bayou, or watercourse bordering on the tract, and on adjacent claims of a similar nature, each claimant cannot obtain a tract equal in quantity to the adjacent tract already owned by him, to divide the vacant land applicable to that object between the several claimants in such a manner as to him may appear most equitable."

Those under whom the plaintiff and defendant hold their lands, respectively, availed themselves of the preemption accorded by this law. The husband of the plaintiff, having 155 $\frac{80}{100}$ acres in his front tract, paid into the hands of the

receiver of public moneys, \$148.75, for a certificate of the entry of 119 acres of the lands in his rear. Nicholas Haydel, under whom the defendants holds, owned a front tract containing $249 \frac{54}{100}$ acres, and paid into the hands of the receiver of public moneys the price of 248 acres, for his entry of the back lands, under the law.

The whole quantity of land in the rear, subject to their entries, was $322 \frac{48}{100}$ acres, as to which there was no conflict between them and any other proprietors. Of this quantity the principal deputy surveyor of the United States allotted to Haydel $243 \frac{20}{100}$ acres, and Dufresne $79 \frac{28}{100}$. His survey dividing the land in dispute was part of a township survey, and was approved in March, 1831, by the surveyor of public lands south of the State of Tennessee, and a patent was issued to Haydel for $243 \frac{20}{100}$ acres of the land, in 1845.

The petition charges error in the division, but nothing more, and asks a redivision of the land by the district court, on the sole ground of a vested equity in the plaintiff to forty acres of the land granted to Haydel. It is not alleged that Haydel controlled the surveyor, or had any connection with, or even knowledge of, the alleged error when the survey was made.

On this state of pleading and fact, the district court decided for the defendant, and dismissed the petition, and an appeal was prosecuted to the Supreme Court of Louisiana, which reversed the judgment of the district court and ordered that

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court to cause the land in dispute to be divided by a resurvey, so as to give Dufresne forty acres of the land for which Haydel had obtained a patent. This judgment was given on the assumption that, by their respective entries in the district land office, each party took an equity in the back land in proportion to the quantity of his front tract, when compared with the contending tract, and that thus the respective equities stood before and at the time when the lands were officially surveyed, and that the principal deputy who laid off the lands, under the supervision of his principal, acted in a merely ministerial capacity, and had no

discretion to divide them so as to give Dufresne less than a full proportion of the whole. If it be true that irregular entries of unsurveyed back lands, which entries were allowed by courtesy of the General Land Office, vested an equity in the enterer, and divested the United States of title, as the state court held, then it must follow that after the entries were generally made in this loose form throughout the coast of the Mississippi River in Louisiana, that the courts of justice might have decreed partitions among front proprietors in all instances, and have had the lands surveyed by judicial authority, and superseded the action of the United States altogether, as required by the act of 1811.

These anomalous entries were conditional, and made subject to a future public survey; to this effect the receipt for the money was given by the receiver and the register was instructed not to transmit the certificate of purchase until the survey was completed.

The Constitution vested Congress with power to dispose of the public lands, and to make all needful regulations for this purpose, and as respects the class of lands under consideration, the proper department ordered, as a rule having few exceptions, that they should be laid down as part of a general plan of township surveys, and in connection with the public lands and private claims adjoining, and that this general survey should settle the quantity and form of each tract of back land to which a front owner had a preference of entry.

In this instance, the survey was made by the principal deputy of the proper district, under the superintendence of the surveyor of public lands south of the State of Tennessee, as required by law; by this survey, it was ascertained that neither of the claimants here litigating could obtain a tract equal in quantity to his front tract, and therefore it became necessary for the surveyor, assisted by his immediate superior, to divide the vacant land between these two front owners, "in such manner as might seem to him most equitable." When the survey was approved, if the party here suing supposed himself aggrieved,

he was authorized to appeal from the decision of the principal deputy, and the Surveyor General south of Tennessee, to the Commissioner of the General Land Office; and from his decision, if unfavorable, to the Secretary of the Treasury.

Congress contemplated that these lands should be divided among front proprietors, by a surveyor on the ground, aided by his principal; these officers were bound to act according to their best judgment, and decide as judges on the equities of these claimants; nor could the courts of justice interfere to control their acts if they were honestly performed, the contrary of which is not alleged in this case.

This construction of the law is altogether necessary, as great confusion and litigation would ensue if the judicial tribunals, state and federal, were permitted to interfere and overthrow the public surveys on no other ground than an opinion that they could have the work in the field better done, and divisions more equitably made, than the department of public lands could do.

It is ordered that the judgment of the supreme court of Louisiana be reversed.

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, adjudged, and decreed by this Court that the decree of the said supreme court in this cause be, and the same is hereby, reversed, with costs, and that this cause be, and the same is hereby, remanded to the said supreme court, with directions for further proceedings to be had therein, in conformity to the opinion of this Court, as to law and justice shall appertain.