

Stanford Vs. Taylor

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Court : US Supreme Court

Decided On : 1855

Appeal No. : 59 U.S. 409

Appellant : Stanford

Respondent : Taylor

Judgement :

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Stanford v. Taylor

59 U.S. (18 How.) 409

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF MISSOURI

SYLLABUS

Where an imperfect Spanish title to land in Missouri was confirmed by the commissioners but the claim required a survey to ascertain its limits and boundaries,

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evidence cannot be received that the survey was erroneously made by showing possession by the confirmer of land in a different place than that where the survey placed his land.

The case is stated in the opinion of the Court.

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MR. JUSTICE CATRON delivered the opinion of the Court.

The plaintiff, Stanford, sued Taylor in ejectment, claiming title to the land in dispute under a concession from

"Don Francisco Cruzat, lieutenant-governor, dated in 1785, who decreed as follows:"

"In view of what is set forth in the present memorial, presented by Angela Chovin, widow of the deceased Miguel Bolica, of this Town of St. Louis, under date of the sixth of May of the current year, I have granted to her, in proprietary title, for her, her heirs, and others who may represent her right, forty arpens front of land upon forty in depth, along the river called De los Padres, Des Peres, from the north to the south, which is bounded on the one side by the lands of Louis Robert and on the other by the domain of the King,"

&c.;

This claim was confirmed in general terms to Jean F. Perry, as assignee, by the board of commissioners sitting at St. Louis, in 1811, for 1,600 arpens, "situate in the District of St. Louis, on the River Des Peres," and ordered to be surveyed "conformably to the possession, by virtue of a concession, or order of survey, from Francis Cruzat, lieutenant-general."

The plaintiff derives title under Perry.

The survey directed to be made by the board of commissioners

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was not executed till 1834, when the Surveyor General ordered the land to be located west of Louis Robert's tract and on both sides of the River Des Peres. But the plaintiff insists that the land granted and confirmed adjoins Robert's tract on the east, and that the location is so plainly apparent on the face of the concession as not to require a survey, and furthermore he offered to show by proof that the possession of Perry, the confirmer, was part of a tract of land east of the tract of Louis Robert of seven by forty arpens and adjoining it, and if located there would include the premises in controversy. The court rejected the evidence offered and permitted the defendant to give in evidence the official survey of the tract of 1,600 arpens, to overcome the effect of which the plaintiff offered to prove that the official survey was improperly made west of Robert's tract, and not adjoining it, whereas it should have been made east of the same. This evidence was also rejected when the court instructed the jury as follows:

"The parties agreeing that the official survey of confirmation, under which the plaintiff claims the land in dispute, does not include the premises sued for, the jury ought to find for the defendant."

To the rejected of the parol evidence, and to the charge of the court, the plaintiff excepted.

The law is settled that where there is a specific tract of land confirmed according to ascertained boundaries, the confirmer takes a title on which he may sue in ejectment. The case of [*Bissell v. Penrose*](#), 8 How. 317, lays down the true rule.

But where the claim has no certain limits and the judgment of confirmation carries along with it the condition that the land shall be surveyed and severed from the public domain and the lands of others, then it is not open to controversy that the title attaches to no land, nor has a court of justice any authority in law to ascertain and establish its boundaries, this being reserved to the executive department. The case of [*West v. Cochran*](#), 17 How. 403, need only be referred to as settling this

point. And the question here is whether the concession to Perry is indefinite and vague, and subject to be located at different places.

It is to be forty by forty arpens in extent; it is to lie along the River Des Peres from the north to the south, and to be bounded on the one side by the lands of Louis Robert and on the other by the domain of the King. On which side of Robert's land it is to lie we are not informed further than that it is to lie along the river from north to south. The record shows that if surveyed west of Robert's tract, the forty by forty arpens includes the River Des Peres, but if surveyed east of Robert's land, it will not include the river. The uncertainty of outboundary

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in this instance is too manifest, in our opinion, to require discussion to show that a public survey is required to attach the concession to any land.

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