

United States Vs. Galbraith

United States Vs. Galbraith

SooperKanoon Citation : sooperkanoon.com/80854

Court : US Supreme Court

Decided On : 1859

Appeal No. : 63 U.S. 89

Appellant : United States

Respondent : Galbraith

Judgement :

United States v. Galbraith - 63 U.S. 89 (1859)

U.S. Supreme Court United States v. Galbraith, 63 U.S. 22 How. 89 89 (1859)

United States v. Galbraith

63 U.S. (22 How.) 89

APPEAL FROM THE DISTRICT COURT OF THE UNITED

STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA

SYLLABUS

Where the clear weight of the proof is against the possession or occupation by the grantee of land in California, the date of the grant was altered without any explanation of the alteration, and the genuineness of the signature of the governor

to a certificate of approval of the departmental assembly doubted, this Court will reverse the decree of the court below confirming the claim, and remit it for further evidence and examination.

Page 63 U. S. 90

The history and nature of the case are stated in the opinion of the Court.

Page 63 U. S. 94

MR. JUSTICE NELSON delivered the opinion of the Court.

The appellees, who derived their title from Juan N. Padilla, the original grantee, presented their claim before the board of land commissioners in 1852 for five square leagues of land known by the name of Bolsa de Tomales, situate in the County of Sonoma, California. The board, after hearing the proofs, decreed in favor of the claim, which, on appeal to the district judge, was affirmed.

The documentary evidence of the title includes a petition to the governor for the tract, dated at Monterey, May 14, 1846, accompanied with a certificate of Manuel Castro, prefect, that

Page 63 U. S. 95

the land was vacant and grantable, dated same place, 10th same month; a marginal reference for information by the governor, Pio Pico, dated Los Angeles, 20 May, 1846; a note of concession, dated same place, 12 June, 1846; and a formal title, dated same time and place, both signed by the governor, and J. M. Moreno, secretary *ad interim*.

Proof was given of the signatures of the governor and secretary, and that these papers were found among the Mexican archives, which had been transferred to the custody of the Surveyor General of the United States for California.

The original grant of the formal title to the grantee was given in evidence by the claimants, dated Los Angeles, 12th February, 1846; also, a certificate of the governor and secretary, of the approval on the 12th June by the departmental assembly dated 14 June, 1846.

Some attempt was made to prove possession and occupation by Padilla before and since the date of the grant, which were denied by the government. The clear weight of the proof in the case is against any possession or occupation. The two witnesses in support of it, aside from Padilla, clearly confounded the possession of the ranch of Padilla, called the Roblar de la Miseria, with that of the Bolsa de Tomales, both of which are in the same section of country. Padilla states that he had possession of the land in 1844, built on it in that year; that he cultivated the land, and had cattle on it from that time until he sold it to Molena and Berreyesa, in the latter part of the year 1848, or beginning of the year 1849. In this he is expressly contradicted by some half a dozen witnesses, some of whom cannot be mistaken as to the facts. It appears from the evidence that Padilla, at the breaking out of the disturbances in the early part of 1846, adhered to the Mexican government, and was charged with having been concerned in killing some Americans in the fore part of that year, was pursued by an American force, and fled from that part of the country, and did not return until after the war. See *also* the testimony of Padilla in the case of the claim of Josefa de Haro and others, No. 101, before the board of commissioners, *and see* his grant of Roblar de la Miseria, 25 November, 1845.

Page 63 U. S. 96

It is admitted that the original grant of the title in form, which was in the hands of the claimants, has been altered so as to bear date the 12th February, instead of the 12th June, 1846. No explanation was given of the alteration, though it was apparent on the face of the paper.

The genuineness of the signature of the governor, Pio Pico, to the certificate of the approval of the departmental assembly, was doubted by the board of

commissioners.

The board said, after alluding to the alteration of the date of the grant,

"There are many things connected with the claim which, under the conclusion at which the commission has arrived, were not altogether satisfactory. The time when the grant was made, only a few days before the Americans took possession of the country, the evident and palpable attempt to alter the date so as to make it appear several months anterior to the time when it was issued, and the manifest want of similarity in the signatures of Pio Pico to the papers of approval, with the usual mode of signing his name, are circumstances which greatly detract from the good faith of the claim. The evidence, however, they say, makes out a *prima facie* case, which, in the absence of any rebutting testimony, entitles the petitioners to a decree of confirmation."

The Court is of opinion that, in consideration of the doubtful character of the claim, and entire want of any merits upon the testimony, the decree of the court below should be

Reversed and the case remitted for further evidence and examination.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com