

Hooper Vs. Scheimer

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Court : US Supreme Court

Decided On : 1859

Appeal No. : 64 U.S. 235

Appellant : Hooper

Respondent : Scheimer

Judgement :

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Hooper v. Scheimer

64 U.S. (23 How.) 235

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF ARKANSAS

SYLLABUS

It is the settled doctrine of this Court, that no action of ejectment will lie on an entry made with the register and receiver of the land office, such being merely an equitable title, notwithstanding a state legislature may have provided otherwise by

statute.

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The law is only binding on the state courts, and has no force in the circuit courts of the Union.

It is also the settled doctrine of this Court that a patent carries the fee, and is the best title known to a court of law.

This was an ejectment brought by the Hoopers against Scheimer for an undivided one-fourth part of lots numbered one, two, three, four, five, six, seven, eight, nine, ten, eleven, and twelve, in block numbered ten, in that part of the City of Little Rock lying east of the Quapaw Line, and known as Governor Pope's Addition, and are embraced in the northwest fractional quarter of section number two, in township one north, range twelve west.

The plea was, not guilty &c.;, and upon the trial of the issue by a jury, a verdict for the defendant was returned, and he had judgment for costs.

The mode of bringing an ejectment in Arkansas is merely to state in the declaration that the plaintiff was entitled to the possession of the property and that the defendant entered upon it and ejected the plaintiff therefrom.

The Hoopers were the heirs of Cloyes, and claimed under his preemption, which has been mentioned more than once in these reports.

The defendant claimed under a patent embracing the lots in controversy, to the reading of which in evidence the plaintiffs objected on the ground that it was inoperative and void as to the said northwest fractional quarter on which said preemption had been established because said fractional quarter had been previously appropriated to the private use of said Nathan Cloyes, deceased, and that such patent had been issued without authority, in violation and without warrant of law, and for land not subject to be granted or patented; but the court overruled the objection and permitted the patent to be read, whereupon the plaintiffs

excepted.

There was other evidence on both sides given upon the trial, but it is not necessary to mention it in this report.

After the evidence was finished, the plaintiffs offered two

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prayers to the court, the purport of which was to declare the patent inoperative and void, which prayers were refused. The defendant offered five which were granted, of which it is only necessary in this report to notice the two following.

1. The patent from the United States, conveying the fee to the northwest fractional quarter of section two, in township one north, of range twelve west, to the grantee therein named, dated 2 November, 1833, not appearing to be void, is a complete and paramount legal title, and must prevail in this action over the title of the plaintiffs and any equities that may exist between parties behind it can only be assisted and be made available in a court of chancery, but cannot affect the patent in this action, and if the jury believe that the undivided interest mentioned in the declaration is embraced in the patent as a portion of the said tract of land, the finding of the jury should be for the defendant.

2. That the action of ejectment is founded on the legal title, and the plaintiffs must recover on the strength of their own title; that a patent from the United States is a higher and better legal title, and must prevail in an action of ejectment over an entry with the register and receiver or a preemption right under the laws of the United States, notwithstanding the state statute may authorize an action of ejectment to be instituted on the latter and maintained against any person not holding under a superior title.

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MR. JUSTICE CATRON delivered the opinion of the Court.

An action of ejectment was brought in the Circuit Court of the United States for eastern district of Arkansas, founded on an entry made in a United States land office. This was the only title produced on the trial by the plaintiffs.

The defendant held possession under a patent from the United States to John Pope, Governor &c., with which the defendant connected himself by a regular chain of conveyances. The circuit court held the patent to be the better legal title, and so instructed the jury, who found for the defendant, and the plaintiffs prosecute this writ of error to reverse that judgment.

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By the statute of Arkansas, an action of ejectment may be maintained where the plaintiff claims possession by virtue of an entry made with the register and receiver of the proper land office of the United States. Ark. Digest 454.

This Court held, in the case of [*Bagnell v. Broderick*](#), 13 Pet. 450,

"that Congress had the sole power to declare the dignity and effect of a patent issuing from the United States; that a patent carries the fee, and is the best title known to a court of law."

Such is the settled doctrine of this Court.

But there is another question, standing in advance of the foregoing, to-wit: can an action of ejectment be maintained in the federal courts against a defendant in possession, on an entry made with the register and receiver?

It is also the settled doctrine of this Court that no action of ejectment will lie on such an equitable title, notwithstanding a state legislature may have provided otherwise by statute. The law is only binding on the state courts, and has no force in the circuit courts of the Union. [*Fenn v. Holme*](#), 21 How. 482

It is ordered that the judgment be affirmed.

