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

Ex Parte French

Ex Parte French

SooperKanoon Citation : sooperkanoon.com/82833

Court : US Supreme Court

Decided On : 1875

Appeal No. : 91 U.S. 423

Appellant : Ex Parte French

Judgement :

Ex Parte French - 91 U.S. 423 (1875)
U.S. Supreme Court Ex Parte French, 91 U.S. 423 (1875)

Ex Parte French

91 U.S. 423

ORIGINAL

SYLLABUS

Where the judgment in favor of the defendants upon a special finding by the circuit court, embracing only part of the issues, was reversed here and the case remanded "with instructions to proceed in conformity with the opinion," *held* that the court below is precluded from adjudging in favor of the defendants upon the facts set forth in that finding, but can in all other respects proceed in such manner as, in its opinion, justice may require.

French sued Edwards and others to recover the possession of certain lands, alleging that he was the owner in fee, and that the defendants unlawfully withheld the possession from him.

The defendants answered, setting up several defenses, and among others the following:

1. Want of title in the plaintiff.

2. Statute of limitations.

3. In some instances, title in themselves.

The case was submitted to the court without a jury, and upon the trial there was a special finding of facts to the effect that the defendants were in the adverse possession of the property; that the plaintiff once held the title, but that, on the 9th January, 1863, and before the commencement of the suit, he had executed a certain instrument of writing, a copy of which was given.

Upon these facts the court found as a matter of law that the legal title passed out of the plaintiff by the operation of the instrument set forth, and did not revert on the failure of the conditions it contained, but still remained, and was vested in the grantees. Judgment was given in favor of the defendants upon this finding. The case was then brought here, and error assigned upon this ruling. At the last term it was decided that upon the facts found, the court below should have presumed a reconveyance of the property to the plaintiff by the grantees in the instrument of Jan. 9, and adjudged accordingly. The judgment was for this reason reversed, and the case remanded, "with instructions to proceed in conformity with the opinion." *See* the case reported, 88 U. S. 21 Wall. 147.

Upon the filing of the mandate in the court below, the case was set down for a new trial. French now moves here for a mandamus directing the circuit court to enter judgment in his favor for the recovery of the lands upon the facts found.

The statute covering the case is as follows, Rev.Stat., sec. 649:

"Issues of fact in civil cases in any circuit court may be tried and determined by the court without the intervention of a jury whenever the parties, or their attorneys of record, file with the clerk a stipulation in writing waiving a jury. The finding of the court upon the facts, which may be either general or special, shall have the same effect as the verdict of a jury. "

Page 91 U. S. 425

Sec. 700:

"When an issue of fact in any civil cause in a circuit court is tried and determined by the court without the intervention of a jury, according to sec. 649, the rulings of the court in the progress of the trial of the cause, if excepted to at the time, and duly presented by a bill of exceptions, may be reviewed by the Supreme Court upon a writ of error or upon appeal and, when the finding is special, the review may extend to the determination of the sufficiency of the facts found to support the judgment."

Sec. 701:

"The Supreme Court may affirm, modify, or reverse any judgment, decree, or order of a circuit court, or district court acting as a circuit court, or of a district court, in prize causes, lawfully brought before it for review, or may direct such judgment, decree, or order to be rendered, or such further proceedings to be had by the inferior court, as the justice of the case may require. The Supreme Court shall not issue execution in a cause removed before it from such courts, but shall send a special mandate to the inferior court to award execution thereupon. "

Page 91 U. S. 426

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

The finding brought here for review was special, and met only a part of the issues. If the conclusion of law to which the court came was correct, the other issues were

immaterial. The case was disposed of without reaching them. We have, however, determined that the facts found were not sufficient to justify the conclusion reached, and have ordered the court to proceed with the case notwithstanding the finding. In effect, we have decided that the court erred in not proceeding to try the other issues. Our action only precludes that court from adjudging in favor of the defendants upon the special facts found and sent here for our opinion. In all other respects, it is at liberty to proceed in such manner as, according to its judgment, justice may require.

The petition for a mandamus is denied.

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