Greer County Vs. Texas

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Appeal No. : 197 U.S. 235

Appellant : Greer County

Respondent : Texas

Judgement :

Greer County v. Texas - 197 U.S. 235 (1905)
U.S. Supreme Court Greer County v. Texas, 197 U.S. 235 (1905)

Greer County v. Texas

No. 160

Submitted March 6, 1905

Decided March 20, 1905

197 U.S. 235

ERROR TO THE COURT OF CIVIL APPEALS FOR THE THIRD

SUPREME JUDICIAL DISTRICT OF THE STATE OF TEXAS

SYLLABUS

The decision in *United States v. Texas,* 162 U. S. 1 , that Greer County was not within the boundaries of Texas did not effect a cession of the territory included in the county from Texas to the United States or amount to a transfer of sovereignty, but was simply a revelation that such territory belonged to the United States. Greer County, Oklahoma, as created after that decision by the act of 1896, 29 Stat. 113, is a corporation created by different sovereignty from that which purported to create Greer County, Texas, and as such is technically a different person, and does not succeed to land situated elsewhere in Texas granted by that state prior to such decision for school purposes to Greer County, Texas.

The facts are stated in the opinion.

Page 197 U. S. 240

MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a suit brought by the State of Texas to recover certain lands in Hockley and Cochran Counties, Texas, for which patents were issued to Greer County, Texas, on July 18, 1887, under color of the general laws of the state granting four leagues of land to each county of the state for school purposes. Texas Gen.Laws, 1883, c. 55. Greer County, Texas, was created by an Act of February 8, 1860, and was organized as a county in 1886. In March, 1896, it was decided by this Court that the territory known as Greer County belonged to the United States, and not to the State of Texas. *United States v. Texas,* 162 U. S. 1 . Thereupon, by Act of Congress of May 4, 1896, c. 155, the same territory was organized as Greer County, Oklahoma -- the present defendant, plaintiff in error. 29 Stat. 113. On April 13, 1897, Texas passed a law purporting to set aside the land in controversy for the support of schools in

Page 197 U. S. 241

Texas, and directing proceedings to recover the land against all adverse claims. Gen.Laws, 1897, c. 72. Then this suit was brought. The defendant, among other things, set up that the state was attempting to impair the obligation of its grant.

The case was heard on agreed facts, and the state district court decided in favor of the state on the ground that the general laws of Texas authorized patents to be issued to the counties of Texas only, and that therefore the patents were void. Another suit was brought against a purchaser from the *de facto* Texas County of a part of the land, in which the supreme court of the state decided that the purchaser got a good title, holding that the action of the state legislature still was conclusive on the court, notwithstanding the decision in *United States v. Texas. Cameron v. State,* 95 Tex. 545. The present cause was taken to the court of civil appeals, which distinguished *Cameron v. State* and affirmed the judgment on the different ground that the grant was for public school purposes within the State of Texas; and, as the defendant could not and would not use the land for such purposes, the state was entitled to have the patents cancelled and to recover the land. 31 Tex.Civ.App. 223. Then a writ of error was obtained from this Court to enforce the constitutional right alleged by the defendant, as stated above.

The decision below and in *Cameron v. Texas* suggest interesting questions, which it is not necessary to answer. It may be doubted how far any court can be bound by legislation after this Court has declared such legislation beyond the power of the state, any more than it would be if the law had been held unconstitutional. It would be curious to consider whether the mutual mistake in a matter which, on the face of the transaction, obviously went to the root of the gift was of such a nature as to warrant an avoidance when the mistake was discovered, including the question whether the mistake was one of law or fact. *See* *Bispham v. Price,* 15 How. 162, 170-171 [argument of counsel -- omitted]; *Upton v. Tribilcock,* 91 U. S. 45 ; *Snell v. Insurance Co.,* 98 U. S. 85 , 98 U. S. 90 -92; *Griswold v. Hazard,* 141 U. S. 260 , 141 U. S. 284 ; *Hirschfield v.*

London, Brighton & South Coast Ry., 2 Q.B.D. 1. There is the further consideration whether the gift created a public charity, as contended by the plaintiff in error, and if so, or, whatever the nature of the trust, whether there is such a failure of the donee as to invalidate the gift and to destroy the legal title of the defendant, if otherwise good. *See Stratton v. Physio-Medical College,* 149 Mass. 505, 508, and cases cited.

We shall consider none of these questions, because we are of opinion that the plaintiff in error must fail on the short ground that it is a stranger to the gift. The plaintiff in error treats the change brought about by the decision in 162 U. S. 162 U.S. 1, as if it had been a cession of territory, or mere transfer of sovereignty by that or other means. It was nothing of the sort. It was a discovery that the State of Texas never had had a title to the land known as Greer County. The United States found itself at liberty to do what it chose with that land. It could have done nothing. It could have subdivided it at will. It could have made it part of some existing county. The land and its inhabitants retained no legal personality, least of all that personality with which Texas had purported to endow them. The United States, it is true, very properly did what it could to preserve the former condition of things. By 1 of the Act of May, 1896, 29 Stat. 113, it provided that

"all public buildings and property of every description heretofore belonging to Greer County, Texas, or used in the administration of the public business thereof, is hereby declared to be the property of said Greer County, Oklahoma,"

and otherwise it did all in its power to keep up the legal continuity of the county with the supposed old one. But some things were not within its power, and one thing which it could not do was to make an artificial creation of its own successor to the title to lands in Texas, supposing that title to have been parted with, by its independent flat. Without the consent of Texas, no corporation created by another sovereignty could succeed to Texas lands.

Greer County, Oklahoma, being a corporation created by a different sovereignty from that which purported to create Greer County, Texas, is technically a different person. It can claim the legal title, which Texas purported to convey to a creation of its own, only by succession, or that feigned identity familiar in the cases of executor and heir. *See Day v. Worcester, Nashua & Rochester R. Co.,* 151 Mass. 302, 307-308; Littleton 337; *North v. Butts,* Dyer, 139 *b* , 140 *a* ; *Oates v. Frith,* Hob. 130. But succession to land is governed wholly by the law of the place where the land lies. *De Vaughn v. Hutchinson,* 165 U. S. 566 , 165 U. S. 570 . The land in controversy was no part of Greer County, but lies in Texas, and Texas, so far from having assented to the succession of the defendant, has assumed to deal with the land as its own, by legislation, and has directed this suit to be brought to recover it. The legal title of the state is clear, for, on the disappearance of the *de facto* county, the state took whatever title that county had. *See Meriwether v. Garrett,* 102 U. S. 472 . The legal title is what is in question before us, and the actual continuity of the inhabitants of the county could be recognized only by way of trust. But it would be wrong to encourage the notion that the title still may be charged with a trust in favor of schools in Greer County. The aim of the statute, under which the patents were made out, was the support of Texas schools. That was its dominant purpose. We think it unlikely that any court of equity would deem it equitable to direct the fund to any other trust.

Judgment affirmed.