Sylvester Vs. Washington

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Appeal No. : 215 U.S. 80

Appellant : Sylvester

Respondent : Washington

Judgement :

Sylvester v. Washington - 215 U.S. 80 (1909)
U.S. Supreme Court Sylvester v. Washington, 215 U.S. 80 (1909)

Sylvester v. Washington

No. 40

Argued November 4, 5, 1909

Decided November 15, 1909

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ERROR TO THE SUPREME COURT

OF THE STATE OF WASHINGTON

SYLLABUS

Where, in the state court, plaintiff in error set up the invalidity of a deed under the provisions of an act of Congress and judgment could not be rendered against him without sustaining the deed, this Court has jurisdiction under 709, Rev.Stat. *Anderson v. Carkins,* 135 U. S. 483 ; *Nutt v. Knut,* 200 U. S. 12 .

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Where Congress appropriates for a territory to erect buildings, the implication is that the territory must control the land on which the buildings are to be erected, and where land is cheap, the implied authority will not be limited to merely leasing the land. *Quaere* whether an organized territory has not power to purchase land for a seat of government.

Under the Oregon Donation Act of September 27, 1850, c. 76, 9 Stat. 496, as amended July 17, 1850, c. 84, 2, 10 Stat. 305, no condition except residence for four years was necessary to validate a sale by a settler before a patent.

On a writ of error where the rights of the parties depend upon the validity of a deed under an act of Congress, this Court is confined to the question of validity under the statute and the effect of the deed, if valid, upon the later rights and acquisitions of the grantor is a matter of local law; and, in this case, the Court will not disturb the assumption of the state court that a settler giving a valid deed before patent perfected the title and obtained the patent on behalf of his grantee, or else that the patent enured to the benefit of the grantee.

46 Wash. 585 affirmed.

The facts are stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is an action brought by the heirs of one Edmund Sylvester to recover a parcel of land patented to him by the United States under the Oregon Donation Act of September 27, 1850, c. 76, 9 Stat. 496, and the amendments to the same. The state took up the defense and alleged that Sylvester

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settled on the land on February 1, 1850, resided there continuously for more than four years, and then with his wife, the plaintiff Clara Sylvester, by deed of bargain and sale without covenants, conveyed the land to the Territory of Washington on January 18, 1855. This conveyance was made in accordance with a territorial act of January 9, 1855, to provide for the seat of government. The state alleged that it and the territory, its predecessor, have been in open and adverse possession ever since, and relied upon the statute of limitations as well as upon the deed. To this defense, there is a very verbose reply to the following effect:

The grantor offered the land to the territory as a gift so long as it should be used as a site for the seat of government and the territorial capitol building erected and maintained thereon. The offer was accepted, and an act was passed establishing the seat of government there, provided the owners or claimants gave a release of the land. January 9, 1855. Thereupon Sylvester made the above-mentioned deed, which the plaintiffs prefer to call a release or a quitclaim, as it was called in another territorial act of a few days later, January 28, 1855, accepting the deed. At the time of Sylvester's conveyance, he was a claimant, but had not complied with the requirements of the donation act in other respects than the occupation for more than four years. On this ground, it is alleged that his deed was void. On July 1, 1858, he made final proof; there was no adverse claim, and on May 3, 1860, a patent was issued to him. He died in 1887, and after the State of Washington had been admitted to the Union at its request, the plaintiffs executed another deed of the premises; but this deed purported to be made

"upon the express condition that the tract shall be and remain the site of the capitol of Washington, and that, in the event of the location of the capitol elsewhere than upon his tract, these presents shall be null and void."

As a further ground of recovery, it is alleged that the state has ceased to use the tract for the seat of government. Finally, it is alleged that, under the Act of Congress of March 2, 1853, c. 90, 10 Stat.

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172, organizing Washington Territory, the territory was not authorized or permitted to acquire title to the land in suit. It is added that the statute of limitations did not run, because the plaintiffs could not sue the territory or state until authorized to do so by the act of 1895, c. 95, p. 188, for the first time.

There was a trial and judgment for the state, which judgment was affirmed by the state supreme court. 46 Wash. 585. The facts found were substantially those set forth in the pleadings, except that it was held to be proved that Sylvester filed his notification of settlement with the Surveyor General of Oregon in February, 1854, before the date of his deed to the territory, although, as has been shown, his final proof and his receipt of a patent were after that date. The plaintiffs specially set up the invalidity of his deed under the Oregon Donation Act and the incapacity of the territory to accept it under the act by which it was organized, and claimed title on these grounds. We may assume that the present writ of error is within the jurisdiction of this Court. *Anderson v. Carkins,* 135 U. S. 483 ; *Nutt v. Knut,* 200 U. S. 12 . But, on the merits, we are of opinion that the plaintiffs have no case.

We see no ground whatever for the doubt suggested as to the power of the territory to accept the deed. If that power was not incident to the organization, it was implied by 13 of the Organic Act, as Congress granted $5,000 for "the erection of suitable buildings at the seat of government." For that purpose, it was necessary that the territory should control the land, and especially, in a region where land was so cheap as it was in those days, the implied authority cannot be confined to the taking of a lease.

On the other point, it was said that the settler acquired no rights until he not only had cultivated the land for four years, but had otherwise conformed to the provisions of the Oregon Donation Act. Section 4. Whereas, at least, he had not

made final proof. *Oregon & California R. Co. v. United States,* 190 U. S. 186 , 190 U. S. 195 . But the question in this case is not whether Sylvester had acquired rights that the government could not

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impair, or in fact preserved as against another claimant, as in *East Central Eureka Mining Co. v. Central Eureka Mining Co.,* 204 U. S. 266 , 204 U. S. 270 -271, but it is between his representatives and his grantee. That Sylvester had some rights cannot be disputed, and is recognized by 8 of the act ("all the rights of the deceased"). He was in possession, and had taken lawful steps toward getting the title. Those rights he could convey unless prohibited by law. But, by the amending Act of July 17, 1854, c. 84, 2, 10 Stat. 305, the proviso in 4 of the Donation Act, making contracts for the sale of the lands before patent void, was repealed, " *Provided,* that no sale shall be deemed valid unless the vendor shall have resided four years upon the land." As this proviso attached no condition except residence for four years, it would be more than a harsh construction to hold that the validity of the deed still depended upon the fulfillment of the other requirements for a perfect right. We are of opinion that the deed was valid, and thus the question is narrowed to the effect of the conveyance upon the title subsequently given to Sylvester by the patent of the United States. *See Brazee v. Schofield,* 124 U. S. 495 .

But the questions that come before this Court are confined to the rights of the parties under the statutes of the United States, and when it is decided that Sylvester's deed was valid under these statutes, its effect upon his later acts and acquisitions would seem to be a matter of local law. If the state court assumed, as it seems to have assumed, that Sylvester's subsequent making of final proof was to be taken to have been done on behalf of his grantee, and thus to have perfected its equitable right to the land, it is enough to say that we see no ground for disturbing the assumption. *See Nixon v. Garco,* 28 Miss. 414. If the state supreme court concurred with the trial court in holding an equitable title a sufficient answer to the plaintiff's claim, that is a matter with which we have nothing to do. Whether the decision went on this ground or assumed that the legal title also

inured to the benefit of the state does not appear. If the latter ground were adopted, we

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presume that it could not be because of the form of the deed, in the absence of words expressing or implying warranty, but would be peculiar to this class of cases. We suppose that, in the absence of a statute specially dealing with the matter, either the title would be taken to relate back or it would be held that a permitted conveyance, before the government has given a legal title to anyone, made by a person in process of acquiring a title in the statutory method, would be taken to have contemplated that the grantee should have the benefit of what was done afterwards to perfect it. Those propositions we are not called upon to discuss. *See* *Landes v. Brant,* 10 How. 348; *United States v. Clark,* 200 U. S. 601 , 200 U. S. 607 ; Rev.Stat. 2448.

Other matters were argued, as, for instance, whether parol evidence should have been received to show that the first deed was intended to be conditional, although absolute in form; the effect of the second deed and the condition that it expressed, the statute of limitations, and so forth. But the only questions open, on the most liberal interpretation, are those that we have answered, and it follows without more that the judgment must be affirmed.

Affirmed.