

Goldberg Vs. Daniels

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Court : US Supreme Court

Decided On : Dec-01-1913

Appeal No. : 231 U.S. 218

Appellant : Goldberg

Respondent : Daniels

Judgement :

Goldberg v. Daniels - 231 U.S. 218 (1913)

U.S. Supreme Court Goldberg v. Daniels, 231 U.S. 218 (1913)

Goldberg v. Daniels

No. 79

Argued November 14, 1913

Decided December 1, 1913

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ERROR TO THE COURT OF APPEALS

OF THE DISTRICT OF COLUMBIA

SYLLABUS

The United States, as the owner in possession of property, cannot be interfered with behind its back; nor can the courts compel the officer having the custody of such property to surrender it in a proceeding to which the United States is not, and cannot be made, a party.

Mandamus will not lie at the instance of one who in response to advertisement has made the highest bid for a vessel to compel the Secretary of the Navy to deliver the vessel.

The discretion of the Secretary of the Navy is not ended by receipt and opening of bids for a condemned naval vessel even though they

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satisfy the condition prescribed. Mandamus will not lie to compel him to accept the highest bid.

37 App.D.C. 282, affirmed.

The facts, which involve the jurisdiction of the court to issue a writ of mandamus directing the Secretary of the Navy to carry out the terms of a bid in response to advertisements for sale of a naval vessel, are stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a petition for a mandamus directing the Secretary of the Navy to deliver the United States cruiser *Boston* to the petitioner. The petition alleges that, after survey, condemnation, and appraisal, the cruiser was stricken from the Naval Register under the Act of August 5, 1882, c. 391, 2, 22 Stat. 296; that thereafter, the Secretary of the Navy advertised for proposals of purchase under the Act of March 3, 1883, c. 141, 22 Stat. 599; that the petitioner bid more than the

appraised value, sending a certified check for the whole sum bid; that, when the bids were opened on the day fixed, the petitioner's was the highest, but that the Secretary refused to deliver the vessel, and sent back the check, which the petitioner holds subject to the Secretary's order. The answer admits the facts, but sets up that the bid is not an acceptance of an offer, but is itself only an offer, subject to be accepted or not at the discretion of the Secretary, and that the Secretary never accepted the petitioner's bid, the government having decided to lend the cruiser to the Governor of Oregon for use by the naval militia of that state. The petitioner demurred, but the petition was dismissed on the ground that the discretion of the Secretary was not ended by the receipt and opening of the bids, even though they satisfied all the conditions prescribed. 37 App.D.C. 282, *sub nom. United States v. Meyer*.

We see no sufficient reason for throwing doubt upon this premise for the decision, but there is another that comes earlier in point of logic. The United States is the

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owner, in possession of the vessel. It cannot be interfered with behind its back, and, as it cannot be made a party, this suit must fail. *Belknap v. Schild*, [161 U. S. 10](#) ; *International Postal Supply Co. v. Bruce*, [194 U. S. 601](#) , [194 U. S. 606](#) ; *Oregon v. Hitchcock*, [202 U. S. 60](#) , [202 U. S. 69](#) ; *Naganab v. Hitchcock*, [202 U. S. 473](#) , [202 U. S. 476](#) .

Judgment affirmed.