Plested Vs. Abbey

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Court : US Supreme Court

Decided On : Apr-07-1913

Appeal No. : 228 U.S. 42

Appellant : Plested

Respondent : Abbey

Judgement :

Plested v. Abbey - 228 U.S. 42 (1913)
U.S. Supreme Court Plested v. Abbey, 228 U.S. 42 (1913)

Plested v. Abbey

No. 156

Argued January 31, 1913

Decided April 7, 1913

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APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES

FOR THE DISTRICT OF COLORADO

SYLLABUS

Subordinate officers of the Land Department are under the control, and their acts are subject to the review, of their official superiors, the Commissioner of the General Land Office and ultimately the Secretary of the Interior.

Until the legal title to public land passes from the government, inquiry as to all equitable rights comes within the cognizance of the Land Department. *Brown v. Hitchcock,* 173 U. S. 433 , 173 U. S. 476 .

Congress has placed the Land Department under the supervision and control of the Secretary of the Interior, a special tribunal with

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large administrative and *quasi* -judicial function, and subordinate officials should not be called upon to put the court in possession of their views and defend their instruction from the Commissioner and convert the contest before the Land Department into one before the court. *Litchfield v. Register,* 9 Wall. 575.

The facts, which involve the right under the laws of the United States to purchase coal lands belonging to the United States, and the jurisdiction of the courts over the officers of the Land Department prior to issuing of the patent, are stated in the opinion.

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

The appellants prosecute this direct appeal from a decree

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sustaining a demurrer to a bill by them filed, and dismissing the cause for want of jurisdiction. The suit concerned the right of the complainants under the laws of the United States to purchase certain coal lands belonging to the United States, and

the defendants were the local land officers of the United States at Pueblo, Colorado.

The theory that the decree dismissing the bill is susceptible of being directly reviewed rests upon the assumption that the controversy, because of its nature and because of the official character of the defendants, was one of exclusive federal cognizance, and therefore the refusal to exercise jurisdiction necessarily involved a ruling concerning the authority of the court below as a federal court.

To decide the issue, it is essential to consider the averments of the bill and the reasons which led the court below to sustain the demurrer. The bill alleged that, in the spring of 1897, the complainants took possession of and commenced the improvement of two hundred forty acres of coal land, the property of the United States, situated within fifteen miles of a completed railroad, in Las Animas County, Colorado. In due time, it was averred, they filed in the local land office at Pueblo the declaratory statement authorized by 2349, Revised Statutes, and on July 1, 1907, tendered twenty dollars per acre for the land, and applied to enter the same under 2350, Revised Statutes. It was alleged that, on January 11, 1908, both the declaratory statement and the application were rejected by the local land office upon the ground that the land had been withdrawn from sale under the coal land laws by a departmental order dated July 26, 1906, and that, on appeal, the Commissioner of the General Land Office affirmed the action of the local officials, and on a further appeal such decision was approved on January 30, 1909, by the Secretary of the Interior.

The following facts were then averred:

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In June, 1910, the land in question, with other land, was restored to entry, and on June 28, 1910, the register notified the complainants in writing that they would be allowed sixty days from the receipt of the communication in which to make a formal claim to the land as to which they had previously filed a notice of claim, and that the price fixed by the United States Geological Survey for certain of the land

was one hundred and twenty-five dollars per acre, and for the remainder one hundred and fifteen dollars per acre, aggregating thirty thousand dollars for the entire tract. It was alleged that, soon afterwards, the complainants filed in the local land office a written application for the purchase of the land, and by direction of the register a notice of the application was published, and copies thereof were posted as required by statute, and due proof of the performance of such acts was filed in the land office. In September following, in response to communications from the complainants, the local land office notified complainants that payment for the land must be made within thirty days or the application to purchase would be rejected. Within the time fixed a tender of forty-eight hundred dollars was made to the receiver, as being the price fixed by 2347, Revised Statutes. The receiver refused to accept the money or to give any receipt therefor. The bill then averred that it was the intention of the land officers to refuse to permit the complainants to purchase the land unless they were willing to pay, not the alleged statutory price, but the sum of thirty thousand dollars arbitrarily fixed by the Secretary of the Interior as the price of the lands. The prayer of the bill was for both a restraining and a mandatory injunction, the one forbidding the defendant land officers from carrying out the orders of the Secretary of the Interior and the Commissioner of the General Land Office, and the other commanding the defendant land officers to accept the application of the complainants, and allow them

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to purchase the lands upon the payment of the sum of twenty dollars per acre. It was, moreover, prayed that defendants he restrained from receiving or accepting the application of any other person for the entry of the lands.

As at the outset stated, a demurrer was sustained and the cause was dismissed for want of jurisdiction, the court in its certificate stating that this was done

"upon the ground that a ruling or decision by the officers of a local land office of the United States, made in the usual course of proceedings for the acquisition of the title to public lands, is not subject to review or correction in the courts while the title to the lands remains in the United States, and also upon the further ground

that, while the title to public lands remains in the United States, and the proceedings for acquiring that title are still *in fieri,* the courts are without power, by injunction or otherwise, to control the judgment and discretion of the officers of the Land Department in respect of the disposal of such lands under the public land laws."

In testing the correctness of the ruling, we treat as negligible the averments of the bill assailing the validity of the rejection on January 30, 1909, of the application then pending to enter the land. We do this because, if complainants had a remedy in the courts growing out of such rejection, it was their duty to invoke and pursue that remedy, and, not having done so, but, on the contrary, having for more than a year and a half acquiesced in the judgment of the Land Department, and having made subsequently an entirely new application, we think their rights must be measured by the later application. Considering the issue in that aspect, we are of opinion that the principle which caused the circuit court to hold that it had no jurisdiction to award the relief prayed, and hence to dismiss the bill, was a correct one. The United States had not parted with the legal title to the land. The defendants were subordinate officials of the Land

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Department, and the acts and omissions complained of were done pursuant to instructions from the head of the Land Department, vested by law with the power to control the conduct of his subordinates in matters of this character.

As officers administering the land laws, the defendants therefore were, in the nature of things, under the control, and their acts were subject to the review of, their official superiors -- the Commissioner of the General Land Office, and, ultimately, of the Secretary of the Interior. As said in *Litchfield v. Register & Receiver,* 9 Wall. 575, 76 U. S. 578 , subordinate officials of the Land Department should not be called upon

"to put the court in possession of their views and defend their instructions from the Commissioner, and convert the contest before the Land Department into one

before the court."

Indeed, the doctrine upon which the court below based its action has been frequently announced and enforced. It was thus epitomized in *Brown v. Hitchcock,* 137 U. S. 473 , 137 U. S. 476 -478, that, "until the legal title to public land passes from the government, inquiry as to all equitable rights comes within the cognizance of the Land Department." In *United States v. Schurz,* 102 U. S. 378 , 102 U. S. 396 , the doctrine is thus stated:

"Congress has also enacted a system of laws by which rights to these lands may be acquired, and the title of the government conveyed to the citizen. This Court has with a strong hand upheld the doctrine that, so long as the legal title to these lands remained in the United States and the proceedings for acquiring it were as yet *in fieri,* the courts would not interfere to control the exercise of the power thus vested in that tribunal. To that doctrine we still adhere."

See also United States ex Rel. Riverside Oil Co. v. Hitchcock, 190 U. S. 316 ; *Knight v. Land Association,* 142 U. S. 161 ; *Oregon v. Hitchcock,* 202 U. S. 60 ; *Naganab v. Hitchcock,* 202 U. S. 473 , and the very recent decision in *United*

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States ex Rel. Ness v. Fisher, 223 U. S. 683 . In the last-named decision, the *Litchfield* case was cited with approval, and it was again reiterated the Congress has placed the Land Department under the supervision and control of the Secretary of the Interior, a special tribunal with large administrative and *quasi* -judicial functions, to be exerted for the purpose of the execution of the laws regulating the disposal of the public lands.

Without, therefore expressing any opinion upon the merits, we hold that, under the facts stated in the bill, this resort to the courts was premature, and the judgment below must therefore be

Affirmed.