Lane Vs. Watts

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Appeal No. : 235 U.S. 17

Appellant : Lane

Respondent : Watts

Judgement :

Lane v. Watts - 235 U.S. 17 (1914)
U.S. Supreme Court Lane v. Watts, 235 U.S. 17 (1914)

Lane v. Watts

No. 889

Petition for rehearing distributed to Justices October 12, 1914

Decided November 2, 1914

235 U.S. 17

APPEAL FROM THE COURT OF APPEALS

OF THE DISTRICT OF COLUMBIA

SYLLABUS

Opinion in *Lane v. Watts,* 234 U. S. 525 , explained and leave to file petition for rehearing denied.

Quaere whether the Act of August 4, 1854, incorporating the territory acquired under the Gadsden Treaty with, and making it subject to,

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the laws of the Territory of New Mexico made the provisions of 8 of the Act of July 22, 1854, applicable thereto.

Statutory reservations of lands within territory acquired under treaty which are covered by claims of private parties may be subject to repeal, and so *held* as to reservations of Mexican lands under 8 of the Act of July 22, 1854. *Lockhart v. Johnson,* 181 U. S. 516 . *Quaere* whether the Act of June 21, 1860, did not repeal *pro tanto* the reservation provisions of 8 of the Act of July 22, 1854.

Where the lands involved have not been reserved, but are necessarily included within one or the other of two grants, they are not public lands, nor subject to disposal by the Land Department.

The question of superior title of contesting claimants to lands within territory acquired under the Gadsden Treaty cannot be determined in an action between the government and one of the claimants and to which the other claimant is not a party.

The facts, which are the same as those involved in *Lane v. Watts,* 234 U. S. 525 , are stated in the opinion.

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MR. JUSTICE Mc KENNA delivered the opinion of the Court.

Leave to file an application for rehearing is asked. We see no reason to grant it, but to avoid misunderstanding of the opinion, we may add a few words.

The opinion is explicit as to the main elements of decision. It decides that the title to the lands involved passed to the heirs of Baca by the location of the float and its approval by the officers of the Land Department and order for survey in 1864, in pursuance of the Act of 1860, 12 Stat. 71, 72, c. 167. A survey, it was said, was necessary to segregate the land from the public domain, and the condition was satisfied by the Contzen survey. It follows, therefore, that the land was not subject to homestead or other entry under the public land laws, and the asserted jurisdiction of the Land Department over it for that purpose could be restrained.

It is suggested, however, by appellees that appellants urge that certain claimed Mexican grants conflict with the location, and that the opinion leaves uncertain the effect of this, and that therefore it may encourage or require further litigation. Appellants assert that the effect of the claimed Mexican grants is reserved from decision, and yet the Land Department is enjoined from exercising any jurisdiction over the conflicting areas.

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A few words of explanation will make certain the extent of our decision. In adjustment of the conflict between the Baca grant and the grant to the Town of Las Vegas, the Act of 1860 was passed. The quantity and the manner of location were defined. The land was to be located in square bodies and be "vacant land, not mineral, in the Territory of New Mexico," and it was made the duty of the Surveyor General of New Mexico to survey and locate the lands when selected by the heirs of Baca. There were no other conditions, and these were fulfilled in 1864.

But it is said that portions of the tract as located were then embraced in two claimed Mexican grants, to-wit, the Tumacacori and Calabazas grant and the San Jose de Sonoita grant, and that, by virtue of 8 of the Act of July 22, 1854, 10 Stat. 308, c. 103, the lands covered by such claims were reserved from other disposal and therefore from location under the Baca float. That section made it the duty of

the Surveyor General of New Mexico, under such instructions as might be given by the Secretary of the Interior, to ascertain the character and extent of claims to such lands under the laws, usages, and customs of Mexico and Spain, and to make full report on all such claims as originated before the cession of the territory to the United States by the treaty of Guadalupe Hidalgo of 1848, and report the same to Congress for its consideration and action. It was provided that,

"until the final action by Congress on such claims, all lands covered thereby shall be reserved from sale or other disposal by the government, and shall not be subject to the donations granted by the previous provisions of this act."

Subsequently, by the Act of August 4, 1854, the territory acquired under the Gadsden treaty was incorporated with the Territory of New Mexico and made subject to the laws of that territory, 10 Stat. 575, c. 245. Assuming, not deciding, that this provision made 8 applicable to lands acquired under the Gadsden Treaty, the reservation

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was statutory and subject to repeal. *Lockhart v. Johnson,* 181 U. S. 516 . And there are grounds for a contention that the Act of 1860, making a grant to the Baca heirs, effected a repeal *pro tanto* of the reservation of the Act of 1854. But there are answers more directly under 8 of that act. The mere fact of a claimed Mexican grant did not reserve the lands covered by it. *Ibid.* It was only after their presentation to the Surveyor General of New Mexico for his report thereon that the lands were reserved "until the final action of Congress." There was no reservation except by this statute, and it related only to lands covered by a claim presented to the Surveyor General. There is no language in the treaties which implies a reservation. *Lockhart v. Johnson,* at p. 181 U. S. 523 .

The Tumacacori and Calabazas grant was not presented to the Surveyor General until June 9, 1864, and his report was not laid before Congress until May 24, 1880. A petition for confirmation of the San Jose de Sonoita grant was not presented to the Surveyor General until December, 1879. It will be seen, therefore, that there

was no disclosure of these claims until after the selection of the Baca grant and its location by the Land Department, the consummation of which was accomplished by the approval of the location April 9, 1864. Besides, the Tumacacori and Calabazas claim was held untenable and void by this Court (*Faxon v. United States,* 171 U. S. 244), and the greater part of the San Jose de Sonoita claim was rejected in *Ely v. United States,* 171 U. S. 220 . And we may say that, before the Contzen survey was made, 8 of the Act of 1854 had been repealed. *Lockhart v. Johnson, supra.*

The contention that the lands covered by these claims were reserved by the Act of 1854 being untenable, it results that the only conflict with the Baca float as located April 9, 1864, which requires consideration and decision

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is the one arising from that part of the San Jose de Sonoita claim, which has been confirmed as against the United States. And, in any event, the lands in that conflict are not public lands or subject to disposal by the Land Department. They belong either to the owners of the Baca float or to the owners of the confirmed portion of the San Jose de Sonoita grant. But which is the superior claim we cannot now consider or decide, because the Sonoita claimants are not parties to this cause, and because the question will more properly arise in the local courts, and not in a proceeding in the District of Columbia against the Secretary of the Interior.

With this explanation of our former opinion, leave to file the petition for rehearing is denied.