

United States v. Huertas.

counsel: On consideration whereof, this court is of opinion, that there is no error in so much of the decree of the superior court for the district of East Florida, made in this case, as declares to be valid, and as confirms the title of the petitioner to the land described in the second survey mentioned in the said decree, containing 1600 acres, made the 26th of November 1824; and doth affirm so much thereof. But this court is of opinion, that there is error in so much of the said decree, as confirms the title of the petitioner to the land described in the first survey, made on the first day of November 1824, because the said survey is admitted by the petitioner, to contain more than 14,400 acres of land, not previously granted. This court doth, therefore, reverse so much of the said decree as confirms the title of the petitioner to the land contained in the said survey, according to the exterior boundaries in the said decree described; and doth remand the cause to the said superior court, with directions to conform its decree to the decree of this court, by ordering the said tract to be so surveyed, as to contain 14,400 acres of and, not previously granted, and no more.

*UNITED STATES, Appellants, *v.* ANTONIO HUERTAS.

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Florida land-claims.

The decree of the superior court of East Florida, confirming a concession of land by Governor Kindelan, to the appellee, affirmed.

APPEAL from the Superior Court of East Florida.

This case was submitted by *Call*, for the United States; and by *White* for the appellee.

MARSHALL, Ch. J., delivered the opinion of the court.—The appellee had obtained a concession for 10,000 acres of land, from Governor Kindelan, in March 1813. The petitioner, in his application to the governor, sets forth many and great services rendered to the government, in the course of which he had sustained considerable loss, in the last insurrection. He also states that he has ten children, and fourteen slaves. Governor Kindelan, in his decree making the concession, states his own knowledge of the facts set forth in the petition, but grants the 10,000 acres, with the precise condition to use the same for the purpose of raising cattle, “without having the faculty of alienating the said tract, without the knowledge of this government.”

On the 20th of July 1816, Governor Copinger granted a complete title to this land. His grant recites the decree made by Governor Kindelan, and the boundaries of the land. This claim was laid before the board of commissioners, and recommended for confirmation. Don Antonio Huertas presented his petition to the court for the district of East Florida, by which tribunal his claim was adjudged valid. It was confirmed to him to the extent, and agreeable to the boundaries as in the grant, and the plat of the survey of said land, made by Andrew Burgevin, on the 19th of September 1818, and filed in the cause.

No exception can be taken to this decree, unless the survey *made by Burgevin varies from the grant. The description in the survey [*476 corresponds, in many respects, with that in the grant; but does not pursue its calls with such regular precision as to prove, completely, their exact

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identity. But as this objection was not taken in the superior court for the district, where a survey could have been ordered, if deemed necessary ; as the testimony in favor of identity greatly preponderates ; and as the judge appears to have entertained no doubt that the survey represented truly the and granted ; this court thinks the judgment ought not to be reversed on that account. It is, accordingly, affirmed.

THIS cause came on to be heard, on the transcript of the record from the superior court for the eastern district of Florida, and was argued by counsel : On consideration whereof, it is ordered, adjudged and decreeed by this court, that the decree of the said superior court in this cause be and the same is hereby affirmed in all respects.

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*UNITED STATES, Appellants, *v.* EUSEBIO M. GOMEZ.

Florida land-claims.

The decree of the superior court of East Florida, confirming a grant of land to the appellee, affirmed.

APPEAL from the Superior Court of East Florida.

The case was submitted to the court by *Call*, for the United States ; and by *White*, for the appellee.

MARSHALL, Ch. J., delivered the opinion of the court.—This claim is for 12,000 acres of land, on Jupiter Island, in East Florida, for which a concession was made by Governor Estrada, on the 16th day of July 1815. The concession is for services, and is unconditional. It was declared valid by the district court to the extent of the grant. The decree is affirmed.

THIS cause came on to be heard, on the transcript of the record from the superior court for the eastern district of Florida, and was argued by counsel : On consideration whereof, it is ordered, adjudged and decreeed by this court, that the decree of the said superior court in this cause be and the same is hereby affirmed in all respects.

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*UNITED STATES, Appellants, *v.* GEORGE FLEMING'S HEIRS.

Florida land-claims.

The decree of the superior court of East Florida, confirming a grant of land to the ancestor of the appellees, affirmed.

APPEAL from the Superior Court of East Florida.

The case was submitted to the court by *Call*, for the United States ; and by *White*, for the appellees.

MARSHALL, Ch. J., delivered the opinion of the court.—This claim is for 20,000 acres of land, situated on the banks of the river St. Sebastian, to the south of Indian river, between the eastern coast of Florida and the river St. John's. The complete title was granted by Governor Coppering to George Fleming, the ancestor of the plaintiffs, on the 24th of September