

United States v. Levi.

1816. The court decided that it was a valid title, and confirmed it to the plaintiffs to the extent, and agreeable to the boundaries, as set forth in the grant. The judgment 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 decreed 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.* MOSES E. LEVI.

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*Florida land-claims.*

The decree of the superior court of East Florida, confirming grants of land claimed by the appellee affirmed in part.

APPEAL from the Superior Court of East Florida.

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

MARSHALL, Ch. J., delivered the opinion of the court.—Moses E. Levi presented his petition to the superior court for the district of East Florida, praying that his claim to 65,000 acres of land might be declared valid, and confirmed to him, according to several different grants and surveys under which he derived title. He is not himself a grantee of any one of the tracts, but is a purchaser from various persons.

The first claim stated in his petition, is to 20,000 acres of land, derived from Philip R. Younge. On the 22d of February 1817, Governor Coppinger granted, in full title, to Philip R. Younge, for services, "twenty-five thousand acres of land, south of the place known by the name of Spring Garden, in this form: twelve thousand acres of them, adjoining the lake or pond called Second, and known by the name of Valdes, and the remaining thirteen thousand acres on the pond farther above the preceding, known by the name of Long Pond, the whole west of the river St. John's." This survey was made on the 2d of August 1819, under an order granted by the governor, of the 25th of May of the same year. The certificate and plat of the surveyor, show that the 12,000 acre tract lies on the lake called Second, but omits to state that it was also known by the name of Valdes. The 13,000 acre tract is stated to be on the long lake, called in the grant, Long Pond. The fair presumption, under all circumstances, no objection \*to identity having been made in the superior court for the district, [\*480 is, that the places are the same. The surveyor has returned another plat, describing 8000 acres, part of the 13,000 acre tract, which, with the 12,000 acre tract, were sold to the petitioner by William Travers, who purchased the same from the grantee.

The second claim stated in the petition, is to 10,400 acres of land, part of a larger tract of 15,000 acres, for which Antonio Huertas obtained a concession from the governor of East Florida, on the 15th of September 1817. This land was divided into four tracts, one of which, amounting to 10,400 acres, was sold and conveyed by Huertas to the petitioner. The concession

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grants the land as asked in the petition. The prayer of the petition is for a grant of 15,000 acres of land, on a stream which runs from the west and unites itself with the river St. John, at about twelve miles south of lake George, the survey being to commence at four or five miles west of the river St. John, and the said stream dividing the said tract into two parts." The full title was issued on the 10th day of April 1821, and the survey was made on the 5th day of the same month. It conforms to the concession, except that it does not state the distance from the St. John, at which the survey commenced. This tract was confirmed to Antonio Huertas, as well as to Moses E. Levi; but the conveyance to Levi appears in the proceedings, and is admitted by the counsel for Huertas and for Levi.

The third claim stated in the petition, is to two other tracts of land, comprising together 7400 acres, part of a tract of 10,000 acres, originally conceded in absolute property to Pedro Miranda, on the 10th day of September 1817, by the governor of East Florida. These 7400 acres of land have come, by regular conveyances, from Miranda to the petitioner. The concession grants the land described in the petition. It lies on a stream running from the west, and entering the river St. John, and called in English the Big Spring, about twenty-five miles south of St. George's lake, one of the fronts <sup>\*481]</sup> of the said tract to be on St. John's river, and to be divided in two parts by the stream aforesaid. The survey was made on the 5th of April 1821, and conforms, in all respects, to the concession.

The fourth claim stated in the petition is to two other tracts of land, comprising together 8000 acres, being part of a larger parcel, containing 10,000 acres, granted in absolute property to Fernando de la Maza Arredondo, on the 20th of March 1817, the title to which 8000 acres the petitioner derives from the grantee. The land contained in the concession, is described in the petition as lying, "five thousand of them, in a hammock to be found five or six miles east of Spring Garden, and the remaining five thousand, west of the river St. John, contiguous to a creek called Black creek, near Fleming's Island, and the pond called Doctors' Lake." Four thousand acres in each of these tracts have been conveyed to the petitioner, and the surveys conform to the concession.

The fifth claim of the petitioner is to 20,000 acres, part of a tract of 22,000 acres, granted to George J. F. Clarke. The complete title was made by the governor on the 17th of December 1817. The land is described in the grant as lying "in the hammocks, known under the names of Cusco-willo and Chachala, situate west of the place of the river St. John's, where there was a store of the house of Panton, Leslie & Co., and about thirty miles from it." The survey was executed on the 2d of August 1819, in pursuance of an order from the governor, dated the 20th of April of the same year. It conforms to the grant.

The judge of the superior court for the district of East Florida decreed in favor of the validity of all these claims, and confirmed them to the petitioner, to the extent of the several concessions, grants and surveys, under which they were respectively held.

The validity of the several grants depends on the principles which were discussed and decided in the case of the *United States v. Clarke*, so that the only question remaining undecided respects the conformity of the surveys with the valid title. This conformity exists in every case, unless it be

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in the tract of 10,400 acres, derived from Antonio Huertas. \*In that concession, the land is required to lie on a stream, which is sufficiently designated, the survey to commence four or five miles from the St. John's. The land lies on the stream which is required, but its distance from the St. John's is not mentioned. Two decrees of confirmation are entered for this tract. One a separate decree on the 23d, and the other a general decree on the whole claim, on the 26th of May 1832.

This court is of opinion, that there is no error in so much of the decrees of the superior court of the district of East Florida, as declares the claim of Moses E. Levi to be valid, and in so much of the said decree as confirms to the petitioner the lands conveyed to him contained in the grant to Philip R. Younge, on the 22d of February 1817, in the grant to Pedro Miranda, on the 10th day of September 1817, in the grant to Fernando de la Maza Arredondo, on the 20th of March 1817, and in the grant to George J. F. Clarke, on the 17th of December 1817, as described in the said decree; and this court doth affirm the same so far as respects the land claimed by the petitioner in these several grants and concessions.

But this court is of opinion, that there is error in so much of the decree pronounced on the 23d of May 1832, and in so much of the decree pronounced on the 26th of the same month, as confirms the title of the said Moses E. Levi to the land contained in the concession made to Antonio Huertas, according to the boundaries described in the said decrees, and doth so far reverse the same; and doth further adjudge and decree, that the said cause be remanded to the superior court for the district of East Florida, with directions to conform, in all things, to this decree: And if it shall appear to that court, that the tract of 10,400 acres has not been surveyed, according to the concession made to Antonio Huertas on the 15th of September 1817, that the same be re-surveyed, on the land contained in the said concession, and be decreed and confirmed to the petitioner, if the same be now vacant.

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, this court is of opinion, that there is no error in so much of the \*decrees of the superior court of the district of East Florida, as declares the claim of Moses E. Levi, to be valid, and [<sup>\*483</sup> in so much of the said decree as confirms to the petitioner, the lands conveyed to him contained in the grant to Philip R. Younge, on the 22d of February 1817; in the grant to Pedro Miranda, on the 10th day of September 1817; in the grant to Fernando de la Maza Arredondo, on the 20th of March 1817; and in the grant to George J. F. Clarke, on the 17th of December 1817, as described in said decree, and this court doth affirm the same so far as it respects the land claimed by the petitioner in these several grants and concessions. But this court is of opinion, that there is error in so much of the decree pronounced on the 23d of May 1832, and in so much of the decree pronounced on the 26th of the same month, as confirms the title of the said Moses E. Levi, to the land contained in the concession made to Antonio Huertas, according to the boundaries described in the said decrees, and doth so far reverse the same; and doth further adjudge and decree, that this cause be remanded to the superior court for the district of East Florida, with directions to conform in all things to this decree, and if it

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shall appear to that court, that the tract of 10,400 acres has not been surveyed according to the concession made to Antonio Huertas, on the 15th of September 1817, that the same be re-surveyed on the land contained in the said concession, and be decreed and confirmed to the petitioner, if the same be now vacant.

\*484] \*UNITED STATES, Appellants, v. PHILIP R. YOUNGE.

*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 is a claim for 5000 acres of land; part of a grant for 25,000 acres, made by the governor of East Florida to the petitioner, on the 22d of February 1817. Part of this land, 20,000 acres, was conveyed to Moses E. Levi, and both the validity of the claim, and the identity of the land, were established, in the opinion given in that case. The decree of the superior court for the district of East Florida 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 decreed, by this court, that the decree of the said superior court in this cause be and the same is hereby affirmed in all respects.

\*485] \*UNITED STATES, Appellants, v. JOSEPH H. HERNANDEZ.

*Florida land-claims.*

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

APPEAL from the Superior Court of East Florida.

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

MARSHALL, Ch. J., delivered the opinion of the court.—This is an appeal from a decree of the judge of the superior court for the eastern district of Florida, declaring the claim of the appellee to 20,000 acres of land to be valid. His title commences with the following decree, made by Governor Coppering on the 18th of November 1817.

“In attention to what the interested party sets forth and represents, and in virtue of the powers which are annexed to my authority, also conforming to the laws and royal dispositions on the distribution of lands, the memorialist being one of those settlers who most contributes to the improvement of