
 United States v. Gusman.

That the District Court had no power to decree on such proof, we have already stated.

The petitioners claim as heirs of Vincent Rillieux and his wife. No proof was introduced to establish the heirship. This of course was necessary before a decree could be made to these individual claimants, as was held by this court in the case of the *United States v. LeBlanc et al.*, 12 How., 436.

It has also been urged, on the part of the United States, that no decree could be made for any specific tract of land, as no description was given in the certificate of Aubry and Foucault, from which boundaries could be ascertained. But as that paper is of no value, we do not deem it necessary to examine this question.

For the reasons above stated, we order that the decree of the District Court be reversed, and that the petition be dismissed.

ORDER.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Eastern District of Louisiana, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged, and decreed by this court, that the decree of the said District Court in this cause be, and the same is hereby, reversed and annulled, and that this cause be, and the same is hereby, remanded to the said District Court, with directions to dismiss the petition of the claimants.

 *193] THE UNITED STATES, APPELLANTS, v. JOHN GUSMAN.

THIS, like the preceding case of *The United States v. The Heirs of Rillieux*, was an appeal from the District Court of the United States for the Eastern District of Louisiana. In fact, it was a part of it, because Gusman claimed under the title of Rillieux.

Mr. Justice CATRON delivered the opinion of the court.

Gusman claims under the heirs of Rillieux, and relies on the same evidences of title that they do; and his vendors having had no title when they assumed to convey the land, it is ordered, that the decree in this case be also reversed, and the petition dismissed.

Troy Iron and Nail Factory v. Corning et al.

ORDER.

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THE TROY IRON AND NAIL FACTORY, APPELLANT, v.
ERASTUS CORNING, JOHN F. WINSLOW, AND JAMES
HORNER.

In 1834, Burden obtained a patent for a new and useful improvement in the machinery for manufacturing wrought nails and spikes, which he assigned to the Troy Iron and Nail Factory, and also covenanted that he would convey to that company any improvement which he might thereafter make.

In 1840, he made such an improvement, for making hook and brad-headed spikes, with a bending lever, which he assigned to the Troy Iron and Nail Factory in 1848.

Before this last assignment, however, viz., in 1845, Burden made an assignment with Corning, Horner, and Winslow, in which, amongst other things, it was agreed, that both parties might thereafter manufacture and vend spikes of such kind and character as they saw fit, notwithstanding their conflicting claims.

Owing to the peculiar attitude of the parties to each other at the time of making this agreement, and the language used in it, it cannot be construed into a permission to Corning, Horner, and Winslow, to use the improved machinery patented by Burden in 1840; and the right to use it, having passed to the Troy Iron and Nail Factory, a perpetual injunction upon Corning, Horner, and Winslow will be decreed.¹

THIS was an appeal from the Circuit Court of the United States for the Northern District of New York.

*The facts are all stated in the opinion of the court. [*194
The bill was filed in the Circuit Court, by the Troy Iron and Nail Factory against Corning, Winslow, and Horner, to restrain them from violating a patent issued to Henry Burden on the 8th of September, 1840, for new and useful improvements in the machinery for making hook, or brad-

¹ s. c., 15 How., 451; 1 Blatchf., 6 Fed. Rep., 892; *Lilienthal v. Washburn*, 8 Id., 709.