
 Herman v. Phalen.

specifying in what part of the 1,000 acres the 333 acres lay. In each of the cases cited, it was held, that the description was vague and the sale void. Here, the five acres are listed, and advertised as part of section 24, and the description is equally vague as any of the foregoing. And, as the State courts have *settled what certainty is required, it is our duty to follow their decisions on the State laws, [*79 regulating proceedings in cases of tax-sales. We accordingly order the judgment of the Circuit Court to be affirmed.

ORDER.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Ohio, and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this court, that the judgment of the said Circuit Court in this cause be, and the same is hereby, affirmed, with costs.

 DAVID B. HERMAN, PLAINTIFF IN ERROR, v. JAMES
 PHALEN; SAME v. SAME.

The case of *League v. De Young and Brown*, (11 How., 185,) considered and again established.

THESE two cases were brought up, by writ of error, from the Circuit Court of the United States for the Eastern District of Louisiana, and were argued together by *Mr. Allen* and *Mr. Ovid F. Johnson* for the defendant in error. No counsel appeared for the plaintiff in error.

The points in the case were argued in the case of *League v. De Young*, 11 How., 188, to which the reporter refers.

Mr. Chief Justice TANEY delivered the opinion of the court.

These two cases have been argued together and depend upon the same principles. They were decided in the Circuit Court, before the opinion of this court was pronounced in the case of *League v. De Young and Brown*, reported in 11 How., 185. In that case, all of the questions which arise in the cases before us were fully considered and decided; and that decision is adverse to the doctrines now contended for by the defendant in error. Upon reviewing the opinion in

Rundle et al. v. Delaware and Raritan Canal Company.

League v. De Young and Brown, we see no reason for changing it in any respect; and these two cases must therefore be reversed, and a mandate issued to the Circuit Court, directing the judgment in each of them to be reversed, and the judgment entered for the plaintiff in error.

ORDER.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the *80] Eastern District of Louisiana, and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this court, that the judgment of the said Circuit Court in this cause be, and the same is hereby, reversed, with costs, and that this cause be, and the same is hereby, remanded to the said Circuit Court, with directions to enter judgment for David B. Herman, the plaintiff in error.

GEORGE RUNDLE AND WILLIAM GRIFFITHS, TRUSTEES OF
THE ESTATE OF JOHN SAVAGE, DECEASED, PLAINTIFFS
IN ERROR, v. THE DELAWARE AND RARITAN CANAL
COMPANY.¹

By the law of Pennsylvania, the River Delaware is a public navigable river, held by its joint sovereigns in trust for the public. Riparian owners, in that State, have no title to the river, or any right to divert its waters, unless by licence from the States.² Such licence is revocable, and in subjection to the superior right of the State,

¹ RELIED ON in *dis. op.* *Salmon Falls Manuf. Co. v. Goddard*, *post*, *457. See *Marshall v. B. & O. R. R. Co.*, 16 How., 326, 338, 350; *Black River Imp. Co. v. La Crosse &c. Co.*, 54 Wis., 681. S. P. *Simpson v. Neal*, 89 Pa. St., 183.

² In Minnesota it is held that a riparian owner on a navigable stream may use the water flowing past his land for any purpose, so long as he does not impede navigation, in the absence of any counter-claim by the State or the United States. *Morrill v. St. Anthony Falls &c. Co.*, 26 Minn., 222. And see *State v. Minneapolis Mill Co.*, *Id.*, 229. In New York, the bed and banks of a fresh-water river, where the tide does not ebb and flow,

are the property of the riparian proprietors, the public having an easement only for passage as on a public highway; and such proprietors may use the land or water of the river in any way not inconsistent with this easement. *Chenango Bridge Co. v. Paige*, 83 N. Y., 178. The legislature, except under the power of eminent domain, can interfere with such a river only for the purpose of regulating, preserving, and protecting the public easement. *Ibid.*

For rules of interpretation of a contract of cession between the United States and a State, as respects the rights of the parties in a dividing river, see *Alabama v. Georgia*, 23 How., 505.