
United States v. Murphy. United States v. Pratt.

goods were surrendered by Ross. Upon the return of such a certificate, the court would have directed it to be put on file with the other papers in the suit, as a voucher for the protection of Ross from further responsibility to the parties, and as evidence that its decree in that particular had been executed. Such a course is not merely a form, to be followed or not, as parties to such a decree may please, but it is a cautionary requirement, to prevent further litigation, by exactness in the performance of a decree in equity. Had it been observed in this instance, this suit would not have been brought.

The instruction as given is in conformity with the decree. Having examined every assignment of error, we shall direct the judgment of the court below to be affirmed.

THE UNITED STATES, APPELLANTS, *v.* JAMES MURPHY. THE
UNITED STATES, APPELLANTS, *v.* EMANUEL PRATT.

This court again decides that a claim to land in California, founded upon "Sutter's general title," is not valid.

THESE two cases were appeals from the District Court of the United States for the northern district of California.

The cases are stated in the opinion of the court.

They were argued by *Mr. Stanton* for the appellants.

Mr. Justice CAMPBELL delivered the opinion of the court.

The appellees in these suits were respectively confirmed in their claims to land in the valley of the Sacramento river.

Their applications were made to Micheltorena in 1844; and upon a reference, Captain Sutter reported that the land was vacant. Upon the advice of the secretary, further action was deferred until the Governor could visit that portion of the Department, and leave was given to the petitioner to occupy the land until that time.

In December of that year, the "general title" to Sutter was issued, and in 1845 or 1846, after the deposition of Michelto-

Callan et al. v. Statham et al.

rena as Governor, Sutter gave copies of that title to the petitioners. In the testimony of Sutter, in the case of Pratt, he says "that he applied for the paper a few weeks before the couriers arrived with it; that duplicates were sent to him, and that it was designed as a bounty to the soldiers who had served under him, for their services in the war."

We have already expressed our opinion upon the merits of this title in several cases, during this and the last term; and it remains only to say that the decrees of the District Court must be reversed, and the causes remanded, with directions to the District Court to dismiss the petition in each.

JOHN F. CALLAN AND MICHAEL P. CALLAN, APPELLANTS, v.
CHARLES W. STATHAM AND OTHERS.

Where a bill in chancery was filed to set aside a deed as being fraudulent against creditors, and it is charged in the bill that the consideration mentioned in the deed was not paid, it is not satisfactory that the defendant relies upon the answer that it was paid, considering the answer, which is responsive to the bill, as evidence of the payment, when the execution of the deed is surrounded by circumstances of suspicion.

In the present case, the payment of the purchase money was alleged to be a secret transaction between the vendor and vendee, and there were other circumstances attending the deed which surrounded it with suspicion. The evidence of payment must have been in the possession of the defendants, and they ought to have produced it.

The title of the defendant, although encumbered, could have been made clear; the price alleged to have been paid was inadequate; the vendor remained in possession and collected all the rents without accounting to the vendee; the circumstance that the vendor was heavily in debt, and suits pending and maturing to judgment when he made the deed—all these things induce this court not to disturb the decree of the court below, which directed the property to be sold for the satisfaction of creditors.

THIS was an appeal from the Circuit Court of the United States for the District of Columbia.

The facts of the case are stated in the opinion of the court.

It was argued by *Mr. Walter S. Cox* and *Mr. Davis* for the