
United States v. Heirs of Berreyesa.

THE UNITED STATES, APPELLANTS, v. THE WIDOW AND HEIRS OF JOSE E. BERREYESA, DECEASED.

A decree of the District Court affirmed, in a case where the genuineness of the grant of land in California and the fulfilment of its conditions are established.

This court declines to give instructions to the court below relative to the location and survey of this grant. No question was decided in the court below upon this subject, and it is to be presumed it will act according to the established rules on the subject.

THIS was an appeal from the District Court of the United States for the northern district of California.

The case is stated in the opinion of the court.

It was argued by *Mr. Stanton* for the United States, and by *Mr. Goold* for the appellees.

Mr. Justice CAMPBELL delivered the opinion of the court. The appellees were confirmed in their claim to a parcel of land in the county of Santa Clara, known by the name of San Vicente, and being a part of the Canada de los Capitancillos, containing one square league, and adjoining the lands of Justo Larios.

They are the widow and heirs at law of Jose E. Berreyesa, who became possessed of the land in 1834, under the authority of the Governor, Figueroa, and occupied it, with his family, until 1842. In that year he presented a petition to the Governor, representing these facts, and complained that his neighbor Larios had disturbed his enjoyment and repose, and desired that there might be granted to him two sitios, from the house of Larios to the Matadera, with all the hills that belong to the Canada. He says that he served the country in the army for twenty-four years and upwards, without receiving pay, and that he had with him eleven children.

A reference was made of the petition to the justice of the pueblo, who called Larios before him, and an agreement was then made between the parties in reference to the division line.

Gridley et al. v. Wynant.

This report was returned to the Governor, who directed that a title should issue to the applicant, and that the expediente be remitted to the Departmental junta, for its approval. The decree and titulo describe a parcel of land included within natural boundaries; but in the conditions, it is confined to a single league in quantity.

Subsequently to this, Berreyesa complained to the Governor of the limitation, insisting that his petition had been for two leagues, and that he had returned the grant, to have it corrected. The Governor directed the proper inquiries, and the result was to concede the prayer of the petitioner; but, for some reason, the grant did not issue.

The board of commissioners confirmed the claim of the petitioners for one square league; and this decree was confirmed by the District Court on appeal, and it ordered the land to be located, according to the description and within the boundaries set out in the original grant, and delineated in the map contained in the expediente, to both of which reference is made for a more particular description. The genuineness of this grant and the fulfilment of the conditions are fully established, and the validity of the claim is unquestionable.

The appellees have requested the court to give instructions relative to the location and survey of this grant, similar to those found in the case of the United States *v.* Fossatt, 20 Howard. But no question was decided in the court below upon the location of the lines of the tract, and it would be irregular for this court to assume that the action of that court will not conform to the established rules on the subject. The decree of the District Court has not been called in question by the appellees; and should any difficulty arise in the location of the grant, it will be competent for the appellees to invoke the aid of that court.

Decree affirmed.

RUEL C. GRIDLEY, CLARISSA H. BEEBE, SARAH P. SNYDER,
AND CHARLES SNYDER, AND OTHERS, APPELLANTS, *v.* DAVID
WYNANT.

Where a married woman became a trustee of land for the benefit of her son in law, and executed a deed (without joining her husband) to a bona fide pur-