
Chrisman vs. Jones.

CHRISMAN VS. JONES.

1. PRESUMPTIONS: *In favor of official acts.*

In acts of an official nature everything is presumed to be rightly and duly performed until the contrary is shown.

2. PATENT: *Legal effect. Recitals, etc.*

A patent executed by the Governor, to swamp land, is sufficient evidence of title. The recitals thereof are official evidence of the facts recited.

APPEAL from *White* Circuit Court.

Hon. J. N. CYPERT, Circuit Judge.

Coody, for appellant.

B. D. Turner, contra.

HARRISON, J.:

This was an action by Francis M. Chrisman against Joseph Jones, for the recovery of a quarter section of land, which was commenced on the 23d day of August, 1873.

The defendant in his answer admitted being in possession of the land, but denied the plaintiff's title and right of possession.

Upon the trial, which was by the court sitting as a jury, the plaintiff read in evidence two deeds from the State to him, one for the east, and the other for the west half of the quarter section in controversy, as parts of the swamp and overflowed land granted to the State by Congress, executed by the Governor on the 11th of August, 1873, which was all the evidence in the case.

The court declared as the law of the case that the recital in the deeds that the land was swamp and overflowed land, and had

been confirmed to the State, was not evidence of such facts, and to entitle the plaintiff to recover, other evidence of them than the deeds, was required, and found in favor of the defendant.

The plaintiffs moved for a new trial, which was refused, and he appealed.

The deeds were sufficient evidence of the plaintiffs' title. In acts of an official nature every thing is presumed to be rightly and duly performed until the contrary is shown. Broom's Legal Max., 729; *Bank of the United States v. Dandridge*, 12 Wheat., 69; *Stewart v. Houston*, 25 Ark., 314. The recitals in the deed were official evidence of the facts recited.

The judgment must be reversed, and the cause remanded, that a new trial may be had.
