

U. S. District Court.

Edmund P. Gaines and his wife Myra Clark Gaines versus Richard Relf, Beverly Chew, and others.

Before Judges McKINLEY and LAWRENCE.

On Sunday morning we announced the judgment of the court in this case, and now briefly revert to the arguments of counsel in behalf of plaintiffs and defendants, and to the view which the court took of the question, and on which its judgment was founded. It is in the meantime necessary to state that the judgment affects no part of the property of the late Daniel Clark, except so much of it as was claimed and owned, at the time of the trial, by Charles Patterson, by the consent of whom alone, among all the defendants, the case was brought up for final hearing, though should it be confirmed by the Supreme Court of the United States, it must go far to establish the right of Mrs. Myra Gaines to all the property in litigation.

Plaintiff's counsel contended that as defendant became possessed of the property at issue, through the executors of a revoked will, made by Mr. Clark in 1811, the sale and transfer were null and void. In support of this argument, they introduced much documentary and verbal evidence to prove that the *last* will and testament of Daniel Clark was made in 1813, and not in 1811, as the defendants contended; and that in said *last* will Myra Clark, now Myra Clark Gaines, the only legitimate child of Daniel Clark, was made *sole* heir to his estate.—Although the existence of this will was established, it was not proven that it had been probated or that it had been seen since the demise of Mr. Clark. Strong arguments were also adduced to show that the will of 1813 was kept out of sight by one of the defendants, who had surreptitiously possessed himself of it, and that he brought forward the will of 1811 immediately after Mr. Clark's death and had it probated, to the exclusion of the last and legal instrument; thus entirely depriving Mrs. Gaines of property of which she was the rightful owner.

The defendant offered in evidence the transcript of the record of the Probate Court of this city, to establish the validity of Mr. Clark's will of 1811, and to show that said will was regularly probated and proven—that Richard Relf and Beverly Chew were the testamentary executors of Mr. Clark; he further adduced a chain of authority titles to show that the property sued for, had been of the estate of Daniel Clark at his demise, and that it became his property through a *bona-fide* purchase from the legal and testamentary executors of the said Daniel Clark.

It was further argued by defendant's counsel, that Daniel Clark was never married, and consequently left no legitimate issue; that Myra Clark Gaines is not his daughter; and that if she be, being illegitimate, the mother of Mr. Clark, still living, becomes the forced heir to the property.

The court, on giving judgment, reminded the parties that by their consent the case was to be determined alone upon its merits. It then, being sufficiently advised of and concerning the premises, did finally decree and order that the defendant, Patterson, do, on or before the first day of the next term of the court, convey and surrender possession to the complainant, Myra Clark Gaines, all those lots or parcels of land being and lying in the city of New Orleans, and particularly described in his answer and exhibits, and to which he claims title under the said will of 1811.