

Case No. 1,327. BENNITZ v. UNITED STATES.
[Hoff. Land Cas. 104.]¹

District Court, D. California.

Dec. Term, 1855.²

PUBLIC LAND—GRANTS—GENERAL TITLE OF SUTTER—VALIDITY.

[The “general title of Sutter,” derived from Gov. Micheltorena, is valid.]

[See note at end of case.]

[Appeal from decision of the board of California land commissioners.]

Claim [by William Bennitz] for five leagues of land [called the “Rancho Breisgan”] in the county of Shasta, rejected by the board, and appealed by the claimant.

Jeremiah Clarke, for appellant.

S. W. Inge, U. S. Atty.

The appellant in this case claims under the general grant by Governor Micheltorena on the twenty-second of December, 1844, which has already been considered and passed upon by this court in the Case of S. J. Hensley. It appears in evidence that the present claimant was one of those in whose favor Capt. Sutter had reported, and for whose benefit the general grant was made. It further appears that the claimant in 1845 placed a tenant upon the land, by whom a portion of it was cultivated, and who continued to reside upon it until the summer or fall of 1845, when he was killed by the Indians. There seems no reason to suppose that the claimant ever abandoned his grant, and under the ruling of this court in the Case of Hensley, we think the claim should be affirmed.

NOTE, [from original report] The validity of the Sutter general title was affirmed by the circuit judge in *U. S. v. Hensley* [nowhere reported; opinion not accessible; reversed in *U. S. v. Hensley*, 1 Black, (66 U. S.) 35.]

[*Bennitz v. U. S.* was reversed by the supreme court in *U. S. v. Bennitz*, 23 How. (64 U. S.) 255; and in rendering the opinion Mr. Justice Campbell said: “The merits of the claims arising under the general title of Sutter have been discussed in the cases of *U. S. v. Nye*, 21 How. (62 U. S.) 408, and *U. S. v. Bassett*, *Id.* 412. This claim is in all respects similar, and, for the reasons assigned in those cases, is invalid.”]

¹ [Reported by Hon. Ogden Hoffman, District Judge, and here reprinted by permission.]

² [Reversed by supreme court in *U. S. v. Bennitz*, 23 How. (64 U. S.) 255.]