

UNITED STATES *V. WENZ ET AL.*

*Circuit Court, D. Colorado.*

March 6, 1888.

PUBLIC LANDS—PATENTS—ACTIONS TO SET ASIDE—LAPSE OF TIME—INNOCENT PURCHASERS.

Patents to lands, after a lapse of 17 years, will not be set aside at the instance of the government, on the ground of fraud in entering the lands and procuring them, in the absence of any proof of a conspiracy, and where it is not shown that subsequent purchasers of the lands had knowledge of such fraud.

In Equity. Bill to cancel patents to land.

*H. W. Hobson*, for complainant.

*Platt Rogers, W. F. Stone, and Geo. Rogers*, for, defendants.

BREWER, J. This is a bill filed by the government to set aside the patents to certain tracts in Boulder county, Colorado. I have read the entire testimony, and need only say that recent rulings of the supreme court: leave no room for question, and settle this case adversely to the government. There is no evidence of any conspiracy. The land officers are not witnesses. As to whether the land was agricultural or mineral, and as to whether the proper improvements and residence were made and had, the testimony is not clear and satisfactory. The entries were made in 1871, nearly 17 years ago; and, even if wrong were shown on the part of the one entering the land and receiving the patent, there is nothing to show knowledge thereof on the part of the purchasers and present owners. Let decree go for defendants, dismissing the bill. Similar decree may be entered in the other and like cases submitted with this.