

CASE NO. 458 N. D.

CASE No.

458

NORTHERN DISTRICT

PORTION of RANCHO de NAPA GRANT

ELISA SPENCER

CLAIMANT

LAND CASE 458 ND pgs. 13

FEB 6 1963

PLASTER BOARD
25% COTTON FIBER
U.S.A.

p. 548

No. ~~548~~ 458

458
U. S. District Court,
DISTRICT OF CALIFORNIA.

In re petition of
Eliza Spencer
vs.
for Confirmation to her of
portion of Rancho de Napa
IN ADMIRALTY.

PAPERS IN THE CASE.

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No. 458 (p. 548)

In the United States District Court in and for the District of California.

To the HON. OGDEN HOFFMAN,

Judge of said Court:

Now comes Edwin Spencer and presents this his petition and claim for certain lands situate in Napa County, California, the same being a portion of that tract of land commonly known as the "Rancho de Napa," which petition and claim is made by authority of an Act of Congress, approved June 20th, 1884, entitled "An Act authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title," of which Act a true copy is hereunto annexed marked Exhibit "A," and made a part of this petition.

That in accordance with said Act your petitioner respectfully represents:

That on the 21st day of September, A. D. 1838, Juan B. Alvarado, then Political Chief of Upper California, granted to one Salvador Vallejo a tract of land known as "Napa," which tract of land is situate in the County of Napa, State of California, and is the same tract of land named in the said Act of Congress as the "Rancho de Napa."

That said grant was presented to the Departmental Assembly of Upper California, and was by that body duly and legally approved on the 23rd day of September, 1838.

That on the 8th of February, 1844, juridical possession of the lands granted as aforesaid was delivered to the said Salvador Vallejo.

That the tract of land thus granted to said Vallejo was never presented as an entirety to the Board of Commissioners created by Act of Congress of date March 3rd, 1851, for confirmation, although portions of said land were presented to said Board in accordance with the requirements of said last named Act, and the portions and parcels thereof thus presented were finally confirmed thereunder.

That the exterior boundaries of said Rancho were finally surveyed in October, 1858, by C. C. Tracey, U. S. Deputy Surveyor, and the survey thereof finally approved by the proper authorities. That said Rancho was by said survey segregated from the public domain, and the boundaries

thereof thus established, conformed to the boundaries of said Rancho as defined in the original title of Salvador Vallejo.

That the boundaries thus established have ever since been recognized by all parties and the United States as the true boundaries of said Rancho.

That the boundaries of said Rancho as established by said survey are as follows:

"Commencing at a large, dead oak standing on the right bank of the Arroyo Napa, established by the Mexican authorities at the time of giving juridical possession, as one of the corners of said Rancho, thence (variation 16° E.) S. 22½° W. along the division line between the Rancho de Napa and the Rancho Entre Napa, 302.61 chains to the center of Carneros Creek, the center of said Creek at said point being the common corner of said Rancho de Napa and the Rancho Entre Napa; thence up the center of said Creek, following its meanderings, to a stake marked "N. No. 3," in a mound of stones, which stake is set where the old trail from Napa to Sonoma crossed said creek at the upper crossing; thence N. 14½° E. 427 chains to the S. W. corner of the Caymus Rancho; thence N. 14½° E. 140 chains to the center of Napa River; thence down the center of Napa River, following its meanderings, to the junction of Napa River and Napa Creek; thence up Napa Creek to the place of beginning.

That your petitioner is the claimant and owner of the following described portion of said Rancho:

All those certain lots pieces and parcels of land situated lying and being in Napa County State of Cal. Sonoma being portions of lots numbered forty and fifty of the Pueblo de Salvador, and particularly described as follows:

Beginning at a point in the middle of Napa Creek where the West line of the Shuman tract intersects the said creek thence along said line N 17¾° W 106½ chains to a stake marked

G. S. and E. S. with a bottle buried beside
it with a paper describing corner and
date of survey, thence N $77\frac{1}{4}^{\circ}$ E $28\frac{3}{4}$
chains to the West line of Spencer's
addition to Napa City to a stake
marked G. S. and E. S. with a blue
Soda bottle deposited thence along the
West line of Spencer's addition S $12\frac{3}{4}^{\circ}$
E $20\frac{9}{10}$ chains to the line of Vincent's
land, thence along his line S $77\frac{1}{4}^{\circ}$ W
 $10\frac{9}{100}$ chains to the middle of Napa
Creek thence along the middle of
Napa Creek to the place of ac-
quiring containing $45\frac{7}{8}$ acres of land.

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That said lands are included within the exterior boundaries of said "Rancho de Napa."

That your petitioner derains title to said land last above described through the original Mexican grantee, the said Salvador Vallejo.

That "Exhibit B" hereto annexed and made a part of this petition, exhibits the deraignment of title from said Salvador Vallejo to petitioner.

That the deeds set forth in said deraignment of title are of record in the Recorder's office, of said Napa County, and are sufficient in form and legal effect to, and do vest in the petitioner the title of said Vallejo to that portion of said Rancho now in petitioner's possession.

That neither the claim of petitioner, nor that of his predecessors in title, to that portion of said Rancho now in his possession has ever been passed upon by proper authority.

That the claim of the original grantee to said lands was good and valid under the Mexican

laws relating to such cases.

That there is not now, nor has there ever been, any valid adverse claim to said land which petitioner claims or any part thereof existing under the pre-emption, homestead or other laws of the United States.

That there is not now, nor has there ever been any person or persons having or holding any portion of said lands under valid claims under the pre-emption, or homestead, or other laws of the United States.

That there are no persons entitled to receive releases from this claimant to any portion of said land in his possession, as provided by said Act of June 20th, 1884.

That petitioner is in the sole and exclusive possession of the lands to which he seeks for a confirmation of his title, and he and his predecessors in title have been in such sole and exclusive possession since the year 1844.

Wherefore your petitioner prays for a decree of this Honorable Court, confirming the claim of petitioner to the lands herein petitioned for, and for such other general and special relief as may be meet in the premises. And your petitioner will ever pray.

Ester Wilson
Spencer Hering
Attorneys for Petitioner.

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EXHIBIT "A."

An Act authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claimants to the lands situated in Napa County, California, known as the Rancho de Napa, who deraign title through the original Mexican grantee of said Rancho, and whose claims or those of their predecessors in title have not been hitherto passed upon by proper authority, are hereby permitted and authorized to present their claim to said lands in the District Court of the United States, for the district of California, within one year next after the passage of this Act, and not afterward, for examination; and upon the hearing of said case if it shall appear to said Court that the claim of the original grantee was good and valid under Mexican laws relating to such cases, and that the claimants are entitled to have such confirmation, the said Court shall by decree confirm said claim: *Provided*, that no lands shall be confirmed to said claimants to which there are any valid claims existing under the pre-emption, homestead, or other laws of the United States, at the date of the passage of this Act; nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may loose by pre-emption, homestead, or other claims or rights as aforesaid: *Provided further*, that said claimants before filing their claim shall execute releases to any person who may have or hold any portion of said lands under valid claims under the pre-emption, homestead, or other laws of the United States, at the date of the passage of this Act to the portions of said lands so held respectively; and before rendering a decree of confirmation the said Court shall ascertain that said releases have been duly executed.

SECTION 2. That the United States and any party in interest are hereby granted the right of appeal to the Supreme Court of the United States, within six months next after any decree shall be entered, in the manner allowed in other cases of appeal; and the said Court in the examination of the claims presented by any person under this Act shall be governed, so far as applicable, by the provisions of the Act passed March 3rd, A. D. 1851, entitled "An Act to ascertain and settle private land-claims in the State of California."

SECTION 3. That the United States Surveyor General for California is hereby directed, upon the filing in his office by said claimants of a certified copy of a final decree of confirmation under the provisions of this Act, to cause said claim to be surveyed as other claims of like nature are now surveyed under existing laws and, upon the approval of said survey, by the proper authority a patent shall issue to said claimants in the usual form.

Approved June 20th, 1884.

Exhibit
B

Salvador Vallejo, and Ma Carrillo, his
wife

to

John E. Brown

Deed

Dated

April 11th 1850

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Grant of the Lot 50 of the Pueblo de Salvador
situated in Napa County California

Recorded in Liber A of Deeds for 5 Records of Napa Co

Salvador Vallejo and Ma Luz Carrillo,
his wife

to

John E. Brown and John Walker

Deed

Dated

April 12th 1850

Convey Lot 40 of the Pueblo de Salvador
situated in Napa County California

Recorded in Liber A of Deeds for 60 Records
of Napa County, July 8th 1850

John E. Brown

to

Levi H. Hardman

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Deed

Dated

May 15th 1850

Containing Lot 50 of the Pueblo de Salvador.
Recorded in Liber A of Deeds for 23 Records Napa Co

John E. Brown and John Walker

to

Levi H. Hardman

Deed

Dated

May 15 1850

Recorded in Liber A of Deeds for 24 records
of Napa County

Levi H. Hardman and Alice his wife

to

Dwight Spencer

Deed

Dated

August 31 1857

Recorded in Liber D of Deeds for 246,
August 31 1857.

In the District Court of the Judicial District
of Napa County California

Ely Spencer

Plaintiff.

vs
August Spencer

Defendant.

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Action for Damages. Decree granting &
conforming to Ely Spencer all that
portion of Lots 40 and 50 of Pueblo de
Savador described as follows:

Beginning at a point in the middle
of Napa Creek where the west line of
the Spencer tract intersects the said creek
thence along said line $N 17^{\circ} 4' W 10^{\frac{1}{2}}$
chains to a stake marked D. S. and E. S.
with a hole bored beside it with a
paper describing corner and date of survey
thence $N 77^{\circ} E 28^{\frac{3}{4}}$ chains to the
West line of Spencer Addition to Napa
City to a stake marked D. S. and
E. S. with a hole bored beside it
thence along the west line of Spencer
addition $S 17^{\circ} 3' E 20^{\frac{9}{2}}$ chains to the
line of C. Vogels land, thence along his
line $S 77^{\circ} 4' W 10^{\frac{9}{2}}$ chains to the
middle of Napa Creek thence along

The middle of Napa Creek to the place
of beginning containing $45\frac{78}{100}$ acres of land.

W. A. Laid

December 12th 1879

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Recorded in Liber 27 of Deeds for 280

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Records of Napa Co.

528

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In the United States
District Court in and
for the District of
California

In the matter of the
application of Eliza
Spencer for the con-
firmation to her of
a portion of the
Rancho de Napa

Petition

Filed June 19 '1885

Southard Hoffman
Clerk

Wm. D. Grimwood
Deputy Clerk

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1 In the District Court of the
2 United States, District of California.

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4 In the Matter of the Petition
5 Oliza Spencer
6 for confirmation of a
7 portion of Rancho de Napa.
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11 Now comes the United States
12 by S. G. Kilborn its attorney and
13 answers the petition of Oliza Spencer
14 on file herein and for answer thereto
15 denies generally and specifically
16 each and every allegation in
said petition contained.

17 S. G. Kilborn
18 United States Attorney.
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No. 458

United States District Court

DISTRICT OF CALIFORNIA.

In the Matter of the Petition
of Oliver Spencer for
Plaintiff

~~vs.~~
Confirmation of portion of
Rancho de Napa
Defendant

Answer and Opposition
of United States.

Filed July 7th 1885

Lawrence Hoffmann Clerk

By P. D. Grimwood
Deputy Clerk

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S. G. HILBORN,
UNITED STATES ATTORNEY
For the District of California.

Service of within day of 188

Attorney for