CASE NO.
89

SOUTHERN DISTRICT

CANON DE SANTA ANITA GRANT

BERNANDO YORBA
CLAIMANT

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 387

Bernardo Yorba CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Cañon de Santa Anita"

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, *that on this* ninth *day of* October, *Anno Domini One Thousand Eight Hundred and Fifty-*Two, *before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;*

The Petition of Bernardo Yorba *for the Place named* "Cañon de Santa Anita" *was presented, and ordered to be filed and docketed with No.* 387 *and is as follows, to wit;*

(Vide page 3 *of this Transcript.)*

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

Los Angeles October 15th 1852.

In Case No. 387 Bernardo Yorba for the place named "Cañon de Santa Anita" the deposition of Ignacio P. Coronel a witness in behalf of the Claimant, taken before Commissioner Hiland Hall, with document marked H. H. A, and the translation thereof marked a, annexed thereto was filed;

Vide page 3 of this Transcript)

Los Angeles October 19th 1852.

In the same Case the deposition of Abel Stearns, a witness in behalf of the Claimant, taken before Commissioner Hiland Hall, was filed;

(Vide page 5 of this Transcript.)

2

San Francisco September 26' 1853.
Case No. 387 Called; Submitted on Briefs and taken under advisement.

San Francisco Jan. 24' 1854
In the same Case Commissioner R. Aug. Thompson delivered the opinion of the Board confirming the claim.
(Vide page 31 of this Transcript)

3

Petition

To the Hon Commissioners for Ascertaining and Settling private Land Claims in California

Bernado Yorba respectfully represents that on the 30th of July 1834 a concession of Land was made to him by Jose Figueroa then Governor of California acting under authority of the laws then in force which concession was in due form approved by the Territorial Deputation on the 31st of July 1834 and a formal grant of the land as title was issued to him on the 1st of August 1834 That the land thus granted is called the "Cañon de Sta Ana" with boundaries defined in the title containing three leagues more or less and is situated in the present County of Los Angeles That Judicial possession of the land was given to him on the 11th of December 1834 That he has lived upon the land since the date of the grant or a short time thereafter, He knows of no other claim to any part of the land

He herewith files the original grant and act of judicial possession marked "Exhibit A" with a translation thereof marked "2" and relies in support of his claim upon said documents and such other evidence as he may hereafter present And prays the confirmation of his title

A P Crittenden
Atty for Claimant

Filed in Office October 9th 1852
Geo Fisher Secy

89 SD
PAGE 4

Deposition of Ygnacio Coronel

Office of the U S Land Commission
Los Angeles Oct 15th 1852

On this 15th day of October 1852 before me Helena Heale one of the Commissioners for ascertaining and settling private land claims in California personally appeared Ygnacio Coronel a witness produced on the part of Bernado Yorba claimant of "El Cañon de Santa Ana" which

4

claim is No 387 on the Docket of said Commissioners who being duly sworn testified as follows the Associate Law Agent of the United States having been Notified and attending

Question First What is your Name & age? where do you reside? If in California how long have you resided here?

Answer – My Name is Ygnacio Y Leonel I am fifty Eight years of age – I live in Los Angeles and have resided in California about Nineteen years

Question Second – Are you acquainted with the Signatures of Jose Figueroa – Agustin V Zamorana, Jose Matias Moreno and Jose Perez?

Answer I am

Question Third – Examine the document on file in this case Marked Exhibit "A" and say whether or not the Signatures of said persons are genuine

Answer I have examined said document, the Signatures of Jose Figueroa and Agustin V Zamorano to the title of Zamorano to the Certificate accompanying it of Jose Matias Moreno to the Certificate endorsed on the diseño and of Jose Perez whenever it appears in the act of judicial possession are all genuine

Question Fourth – Who was Governor of California on the 1st of August 1834 and Who was Secretary?

Answer – Don Jose Figueroa was Governor and Agustin V Zamorano Secretary

Question Fifth. Who was Secretary in May 1846?

Answer – Jose Matias Moreno was acting as Secretary at Los Angeles in the absence of Jose Ma Covarrubias the regular incumbent

Question Sixth – Who was first Alcalde of the jurisdiction of Los Angeles during the Month of December 1834

Answer – Don Jose Perez was first Alcalde and Judge and Judge of the First Instance

Yg° Y Leonel

290

5

Sworn and Subscribed before
Hedana Hall Comr
Filed in Office Oct 15 1852
Geo Fisher Sey.

Deposition of Abel Stearns

Office of the U S Land Commission Los Angeles
On the 19th day of October 1852 before me Hedana Hall one of the Commissioners for ascertaining and settling private Land claims in California personally appeared Abel Stearns a witness produced on behalf of Bernado Yorba claimant of "El Cañon de Sta Ana" in the case which is No 387 on the docket of said Commissioners who having been duly sworn testified as follows; the Associate Law Agent of the United States being present

Question First — What is your name and age? where do you reside? If in California how long have you resided here?

Answer My name is Able Stearns my age fifty four years & I reside in Los Angeles where I have resided for many years, having lived in California ever since the year 1829

In answer to further questions by the Counsel for the Claimant the witness testified as follows —

I am acquainted with the Rancho Cañon de Sta Ana it is situated on the North West side of the River Santa Ana and is bounded by the river I was employed as Surveyor at the giving of judicial possession of the land to Bernado Yorba & my signature is attached to the record of such possession which is now shown me The Alcalde who gave the possession was Jose Perez in the year 1834 The paper showing such proceedings is a genuine paper & the proceedings took place as therein stated said paper is Document A annexed to the Deposition of G T Coronel in this case At the time of the giving of judicial possession Yorba had a house on the

307

6

land in which he lives with his family He had a Stock of Cattle & horses he has resided there ever since He has always been one of the most extensive Cultivators of land in this Section of the Country He has two Vineyards & at this time has not less than Eight thousand head of cattle with numbers of horses & Sheep

Abel Stearns

Sworn and Subscribed before me

Hiram Hale Comr

Filed in Office Oct 19th 1852

Geo Fisher

Secy

Expediente pertenecente a D. Bernardo Yorba del

Espediente perteneciente a D. Bernardo Yorba del Rancho de San Antonio del Cajon.

Año de 1834.

Sello Primero Seis pesos.

Habilitado provicionalmente por la Administracion de la Aduana maritima de Monterrey para los años de mil ochocientos treinta y ocho y mil ochocientos treinta y cinco.

Figueroa. Rafael Gonzales.

Sen. José Figueroa General de Brigada del Ejercito de la Republica Mejicana, comandante General Inspector y Jefe Superior Politico del territorio de la Alta California.

Por cuanto el ciudano Bernardo Yorba, Mejicano por nacimiento, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre del cañon de Santa Ana, colindante con la Sierra mision de San Gabriel y Rancho de Santa Ana, y Santa Gertrudis; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y Reglamentos: usando de las facultades que me son conferidas y de conformidad con el acuerdo de la ecelentisima Deputacion Territorial del dia treinta y uno de Julio aprobado la concesion del citado terreno del cañon de Santa Ana, hecho en decreto de treinta del mismo mes al referido Ciudadano Bernardo Yorba; a nombre de la Nacion Mejicana he venido en conferir de el terreno mencionado, declarando le la propiedad de el por las presentes letras y sugeto á las condiciones siguientes.

1ª Que se someterá a las que estableciere el reglamento que se ha de formar para la distribucion de terrenos baldios y que entre tanto ni el agraciado ni sus herederos podran dividir ni enagenar el que se les adjudica: imponer censo vinculo, fianza, hipoteca, ni otro Gravamen aunque sea por causa piadosa, ni pasarlo á manos muertas.

2ª Dejar en el lo sin perjudicar las travesias Caminos

y servidumbres: la disfrutará libre y exclusivamente destinándolo al uso ó cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada.

3ª Solicitará del Juez respectivo que le dé posesion Jurídica en virtud de este despacho por el cual se demarcan los linderos en cuyos límites pondrá á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

4.ª El terreno de que se hace mencion es de tres sitios de ganado mayor poco mas ó menos segun esplica el diseño que corre en el Espediente. El Juez que diere la posesion lo hará medir conforme á ordenanza para señalar los linderos, quedando el sobrante que resulte á la nacion para los usos convenientes.

5ª Si contravinieren á estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de él en el libro a que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á primero de Agosto de mil ochocientos treinta y cuatro.

José Figueroa. Agustin V. Zamorano. Lnio. Rueda tomada razon de este titulo sobre adjudicacion de terrenos a fojas cuarenta y cinco. numero cuarenta y tres que obra en la secretaria de mi cargo. En Monterey a tres de Agosto de mil ochocientos treinta y cuatro.

Zamorano.

En el Pueblo de Nra. Sra de los Angeles de la Alta California a diez de Dbre de mil ochocientos treinta y quatro ante mi José Perez Alcalde Constl de esta Jurisdiccion por Cumplto D. Bernardo Yorba ha manifestado la necesidad que tiene de q. se le dé la Jurídica posesion del terreno que se le ha adjudicado asumente con la prevencion tercera del despacho q. obtiene de la Gefatura de este territorio procedi en union de los testigos de asistencia. El Juez que suscribe así lo mandó decretó y firmó de que doy fee

11

En el rancho llamado Lanos de Sonora Punsiscuo del Pueblo de los Angeles a once de Dbre de mil ochocientos treinta y quatro apuis de presentar á la medicion de Dho. terrenos pa dar la Posesion de los tres sitios que corresponden al citado nombré por oficial agrimensor a D. Abel Stearnes y por cordeleros á los ciud.os Julian Manriquez y Pedro Peres á los quales recibi juramento que otorgado ante mi y los testigos de asistencia por el que hicieron desempeñar fiel y legalmte el encargo que se les habia conferido y al efecto firmó con migo el agrimensor ante los testigos de mi asistencia menos los cordeleros que no saben. José Peres.

De assta. Manuel Arrega. assta. Vicente Moraga.

En el rancho mencionado, dhi, mes y ans en pues ecucion de las presentes diligencias, hise alistar una cuerda aciada en sus extremos y unos palos y habiendo sido situados á orillas del Rio, se tiró la cuerda rumbo al Norte 16 grados al Sur y se medieron y contaron quince mil varas en donde mandé poner la correspondiente mohonera. Seguidamente se siguió la medida rumbo al norte 5 grados de Norte y se contaron y midieron cinco mil quinientas varas. En seguida se tiró la medida rumbo al Este 16 grados al Norte y se medieron y contaron catorce mil varas de este punto se siguió la medida rumbo al Sur 150 grados de esta hasta el rio contando cinco mil doscientas varas; dejando algo el Sobrante por el punto del Este y poniendo donde correspondió las respectivas mohoneras; concluido esto acto lo firmaron por ante mi actuando en papel comun por no haber del q. corresponda.

José Peres. Abel Stearnes. de assta. Manl Arraga. assta. Vicente Moraga.

Filed in office. Oct. 15th. 1852.

Geo. Fisher. Secy.

12

13

Translation of Original Title & Act of Possession

Sello primero seis pesos
Furnished provisionally by the administration of the Custom House of Monterey for the years 1834 and 1835

Figueroa Rafael Gonzales

Govno político de la alta California

Jose Figueroa Brigadier General of the Army of the Mexican Republic, General Commanding, Inspector and Superior Political Chief of the Territory of Upper California

Whereas the Citizen Bernardo Yorba a Mexican by birth has asked for his personal benefit and that of his family the land known by the name of the "Cañon de Santa Ana" bounded by the Mission of San Gabriel and the Ranchos of Santa Anna and Santa Gertrudes the proceedings having been taken and inquiries made as required by the Laws and regulations: in the exercise of the powers which are confirred upon me and in conformity to the Decree of the Territorial Deputation of July 31st Approving of the Concession of the said land of the "Cañon de Santa Ana" made the 30th of the same month to the said Citizen Bernardo Yorba In the name of the Mexican Nation I have granted him the said land declaring it his property by these presents subject to the following Conditions

1st That he shall submit himself to those which may be established by the regulation to be adopted for the distribution of Vacant lands and that in the mean while neither the grantee nor his heirs shall have power to decide nor alienate what is adjudicated to him nor impose on it any tax entail, reversion Mortgage nor other charge though for pious cause nor convey it in Mortmain

2nd He may enclose it without injuring the Crops roads or Servitudes. He shall enjoy it freely and exclusively applying it to the use or cultivation that best suits him but within one year at the most he shall build a house and it shall be inhabited

3rd He shall solicit the proper judge to give him the

14

Judicial possession in virtue of this Decree by whom the boundaries shall be marked out an which he shall put in addition to the monuments some fruit trees or forest trees of some utility

4th The land herein mentioned is three leagues de ganado mayor a little more or less as explained in the map (diseño) attached to the Espediente – The Judge who may give the possession shall have it measured in conformity to the Ordonance in order to mark its boundaries leaving the surplus which remains to the nation for the appropriate uses

5th If he should vedate these conditions he shall lose his right to the land and it may be denounced by another Wherefore I Order that this title being held firm and valid be recorded in the book to which it belongs and be delivered to the party for his security and other objects Given at Monterey the 1st of August 1834

Jose Figueroa Agustin V Zamorano Sec

This title is recorded among the adjudications of vacant lands at page 45 No 43 in the Office under my charge Monterey August 3rd 1834 Zamorano

In the Pueblo of Our Lady of the Angels of Upper California this 10th day of Decr 1834 before me Jose Perez Constitutional Alcalde of this jurisdiction Whereas D Bernado Yorba has shown the necessity of his having judicial possession of the land adjudicated to him according to the 3rd Condition of the Decree issued to him by the Govt of this Territory let assisting witnesses go with me to the said place called the "Cañon de Santa Ana" I the subscribing Judge so Order and Sign to which I certify, Jose Perez

Asoq Manl Araga Asoq Victe Moraga

On the Rancho called the "Cañon de Santa Ana" in the jurisdiction of the Pueblo of Los Angeles on the 11th of Decr 1834 for the purpose of proceeding to the measurement of said land in order to give to the party judicial possession of the three leagues

324

15

which belong to him I named as Official Surveyor Don Abel Stearns and for Chain bearers the Citizens Julian Maunques and Pedro Perez to whom I administered an Oath which was taken before me and the Assisting Witnesses that they would faithfully and legally discharge their duties — Signed with me by the Surveyor before the Assisting Witnesses, the Chain Bearers Not Knowing how to Write

Abel Stearns — Jose Perez
Asog Manl Anaga — Asog Vict Moraga

At the said Rancho on the same day month and year to prosecute the proceedings I caused a cord to be prepared having Stakes of wood at its extremities And we being on the Banks of the River the line was run West 16° South 15000 Varas where I Ordered a land mark to be placed, thence N 9° W 5500 Varas thence East 16° North 14000 Varas thence South 40° East 5200 Varas to the River leaving some Surplus on the East and placing the proper Monuments where they belonged This act being Concluded was Signed before me On Common paper there being None Sealed

Jose Perez — Abel Stearns
Asog — Asog
Manl Anaga — Vincente Moraga

Filed in Office October 9th 1852
Geo Fisher
Sur

There is a map in this document

209

17
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Jurisdicion del Pueblo de los Angeles. Nº 43. Año de 1834.

Espediente
Sobre el paraje nombrado el Cañon de Santa Ana
Solicitado por.
D. Bernardo. Yorba.
21.

31

180

Pueblo de los Angeles. Sor. Gefe Superior Politico.

26 de Febro de 1834. Bernardo Yorba vecino y radicado en el de conformidad con la ley rancho de Santa ana, perteneciente á la Jurisdiccion de la materia, informa el oficios del Pueblo de los Angeles. a V.S. con el Alte ayuntamto del pueblo mejor forma y a mi derecho convenga; me de los Angeles Si el arrasado presente y digo: que habiendo Sido casado en esta instancia obtenelos de primeras mejoras de tres matrimonio requisitos prevenidos para tubo tres hijos llamados Raymundo Jues y Ser atendido, Si el terreno Domero al ponerme Si el estado Segun rez que pretende esta compra por muerte por mi litados tres hijos con alg- noido en las Veinte leguas mas bienes de campo longe de mi legitimo limitrofes ó dos litorales propiedad y ase y actualmte posey; y Siendo que expresa la ley de 18 de esta una cantidad que de el por Si demanda Agosto de 1824, Si es de Se repo del Corto terreno que ocupamos cuatro legado temporal ó otros hijos me veo en la posecion y la necesitad- adeuno, Si pertenece á pode solicitar de la consideracion de V.S. que piedad, particular ó lugar Sitio concederme a beneficio de mis tres oncelos, pueblo con tudo referidos hijos el terreno que ocupa: el sitio lo demas que lea Conbente conocido con el nombre del cañon de Sta ana para ilustrar la materia colindante con el rancho de este nombre Ivo en adecto pasaró el el de Santa Catarina y la mision de Sta Gabriel expediente al pare mint Si tanto el Sitio es abrevadero y muy guardado de la mision de San Gabriel consistido de Siete mil varas de Sur al para que informe lo que norte y hete mil ochocientos cincuenta de or le ocurro. El Sor. Don José iente ó poniente con tres pequeños aguajes ni Figueroa, Gral de brigada el de propiedad alguno ni tampoco es comprendido Comandte Gefe Superior en las veintas leguas limitrofes o dos litorales del territorio de la alta que expresa la ley. Para el efecto debidte acompaño California asi lo mando el respectivo diseño que dará á V.S. una exacta decreto y firmi de que idea del expresado terreno y tambien podrá doy fé.

José Figueroa.

proveer todo lo que dejo expuesto. Por tanto V.S. pido y suplico se dignea conder a esta Solicit- ud previos los correspondientes informes de cuya gracia recibiré reconocido Ser senalose recibir orte en papel comun pr-

400

pues no lo hay en esta poblacion del sello. Correspondiente.
Pueblo de los Angeles. Febº 15 de 1834.

Bernardo Yorba.

Pueblo de los Angeles. Marzo 6 de 1834. En virtud de este antecedente decreto del Sor. Jefe Politico del territorio, informe este Ylte Ayuntamiento que el Ciud. Bernardo Yorba es un individuo de conocido orden, que tiene todos los requisitos prevenidos para ser atendido en la gracia que solicita, que el terreno que pretende no es comprendido en las veinte leguas limitrofes ni en otro litorales que expresa la ley de 18 de Agosto de 1824 que es terreno de abrevadero con tres pequeños aguajes no de existen: que se comprende como baldio pr no hallarse en el ningunos bienes domesticos, y solo si un corto numero de ganado bacuno y caballada de la misma clase, todo de propiedad comun, colindante con los ranchos de Santa Ana, Sta Gertrudis y Mision de San Gabriel es cuanto tiene que informar este Ayuntamiento sobre el particular.

José Perez.

Vicente Moraga Srio.

Mision de Sn Gabriel 19 de Marzo de 1834.

En virtud del informe que dicha mision se le pido respecto del sitio conocido con el nombre Cañon de Sta Ana colindante con el rancho de Sta Ana de Sto, de Sta Gertrudis, y la Mision digo que el terreno que solicita Dn Bernardo Yorba, baldio y el terreno no baldio, si no ocupado por bienes de la Mision cuya propiedad reside en él, desde el tiempo en que los Señores Yorbas carecian de ganado mayor hasta la fecha, segun el unanime testimonio de todos los neofitos encargados del rancho de Sta Ana, en virtud que por los continuos corridas de caballada se ha agentado un pocio de ganado por las lomerias y otras partes; como consta el mismo interesado que puedo afirmar que quando los neofitos de esta mision obtenan su rancho, los Señores Yorbas se fatigaban, el suyo quedandose la mision se ha mencionada en pacifica posesion de aquel terreno, asi como al Ciud. Francisco Feliz que encargado por el finado Fran.

Sanchez antes de su fallecimiento afin de que se reconociera dicho punto con el objeto de plantar un nuevo Rancho en el mismo punto, con el objeto de que dase dicho Gio individuo, de Mayordomo en el para atender y cuidar del Copioso numero de Ganado mayor que haien en Rancho de Sta Ana con la unica mira de cuya en parte los perjuicios tan grandes que redundase en propio de la Nacion por los contrarias maniobras que se habian en aquel punto y sus contornos, murio el R. P. Fr. José Sanchez y se quito la cosa antes que se soy de parecer; que con dichos terreno al Dte. abusean la razon del rancho de Sta Ana. Es quando tenga que informe sobre el particular. J. Thomas Estenaga.

Pueblo de los Angeles. Abril 7. de 1834.

El Yltre Ayuntamiento de este pueblo atento al antecedente informe del R. D. T. Tomas Estenaga. Mto de la Mision de San Gabriel en que contraria d que dio dho. Corporacion con fha 6 de Marzo ultmo ha dicho pueto expone en obsequio de su Honor y de la integridad con que ha procedido atentamente la siguiente. Que el terreno pretendido por el Ciudo Bernardo Yorba, se haga bajo el que y circunstancias que en el expresado informe de 6. de Marzo de la aprobacion, y en testimonio de la verdad pone de emplenar de que en el año de 1821 siendo Mtro de la citada mision el R. P. Fr. José Sanchez, el Mayordomo Francisco Felis, se ocurrio Segeramente por orden de dicho padre a determinar ó la mision que aquel terreno nocera de su propiedad, indemnisé los perjuicios que por dho. abandono resultaran ó Resulta y el septdo Mayordomo ejecutor de dicha autoridad fue corrigio como pueda su hecho. Este incontinente contratos pa que el podrian dar si necesarios fuere, acreditaran segeramente que el R. P. se halla equivoco en el concepto que se ha formado con referencia a este terreno segun lo manifiestan sus informes.

José Perez. Vicente Moragne. Srio.

Monterey. Mayo 10 de 1834.

Pase al Alcalde del pueblo de los Angeles ante quien la

la parte de Bernardo Gorba, prestaria una informacion de tres testigos idoneos que sean interrogados sobre los puntos siguientes. 1º Si el solicitante es Ciud.º Mejicano por nacimto si es casado y tiene hijos. Si es de buena conducta 2º Si el terreno que pretende pertenece à la propiedad de algun particular, mision pueblo ó Corporacion Si es de legado temporal ó abrevadero y que extension tendria: 3º Si tiene bienes de campo con que poblar o posibilidad de adquerirlos Evacuadas estas diligencias, buelva el Expediente para su resolucion. El Sor D. José Figueroa General de Brigada Comandte General y Pefe Superior Politico de la alta Califa así lo mandó decreto y firmo de que doy fée. José Figueroa.

Agustin V. Zamorano. Srio.

Pueblo de los Angeles. Junio 9. de 1834.

Recibido el presente expediente, evacuadas las declaraciones que exige el decreto de la del mes pasado y concluydas devuelvase el original à la prefectura para los fines que sean consiguientes. José Perez, Alcalde Const. del pueblo de los Angeles así lo acordo, mando y firmó con testigos de asistencia Legum Dro. José Perez.

Ysa. Manuel Arriaga. De asis. Vicente Moraga.

En el mismo dia, mes y año siendo presente el Ciud.º José Zeferino Reyes de esta vecindad le recibi juramto que hizo en toda forma de dho. p. Dios nuestro Señor y una señal de la Cruz y de cuyo cargo ofrecio decir verdad en lo q. supiere y fuere preguntado y siendolo sobre los particulares à que se contrahe el decreto precedente el cual se le leyo entegro dijo: que quando al Ciud.º Bernardo Gorba que es natural de esta territorio, casado en segunda nupcias y tiene seis hijos, 3 varones y mujeres que su conducta es irreprehensible y notoria es es hombre de bien. Que el terreno nombrado como es baldio que pretende à propiedad ninguna por el parage es de rayo que a de ser el rio que llaman de Sta Ana. Que la estension

del terreno es de tres ó quatro leguas de largo y una de media de ancho poco mas ó menos, que tiene bienes suficientes de campo para poblar lo tanto de Ganados como de caballada. Que lo dicho es la verdad a cargo de juramento que tiene hecho en que se le afirmó y ratificó leido que le fué su declaracion dijo presumido ser mayor de treinta años, casado y natural de este pueblo, y no firmó por no saber lo hice yo y los testigos de asistencia. Segun Derecho. = Vale = ancho. = vale = tachado = largo = no vale. José Perez.

Asto. Manuel Antuaga. Asto. Vicente Aberraga.

En la ciud. siendo presente D. Juan Perez en su persona le recibi juramto. que hizo en señal de forma dicho por Dios Nuestro Señor y la señal de la Cruz, bajo cuyo cargo ofrecio decir verdad en lo que recibiré y fuere interrogado y siendolo sobre los puntos q. indica el decreto del Sor Jefe Político ciud. lo del pasado. responde. que el Sor D. Bernardo Gorka es un hombre de buena fama y conducta, y es en buenas circunstancias dicho Sujeto es casado en Santana y donde es natural que tiene tres hijos y tres hijas: que el paraje nombrado el Cañon no pertenece á ninguna propiedad y sus siembras las hace el referido Gorka que ratifico de viaje: que hace ocho rio de Santana, este paraje adjuntos, tendra quatro leguas de largo y una de ancho: que tiene bastante Ganado y caballada, pues en Santana nadie tiene mas bienes que el ~~estado~~ Bernardo Gorka; que digo que lo expuesto es la verdad á cargo de juramto que tiene hecho en el que se afirmó y ratificó leido que le fué en esta exposicion. Dijo ser el mayor de 35 años casado y natural de este pueblo, no firmó por no saber lo hice yo y los testigos de asto conquienes actuo segun Derecho. José Perez Manuel Anzago. Asto. Vicente Aberraga.

En el mismo dia, mes y año siendo presente en este Juzgado de mi cargo, D. Lejerino Ruis en su persona; lo recibi juramto que otorgo en toda forma, a Dios Nuestro Señor y una señal de Cruz de el que ofrecio decir

en lo que sepa y sea preguntado y siendo que el contenido del decreto que motiva estas diligencias digo: que conoce D. Bernardo Yorba natural de Sta Ana, sujeto de conocido orden y que las notas que lo hacen agraciable son buenas circunstancias es casado, en segunda nupcias y tiene sus hijos hombres y mujeres; que el terreno que no pretende no pertenece á alguna propiedad, del cual siembra por medio domingo de la agua que saca del rio de Santa ana en estremos es de quatro ó mas leguas y una y media de ancho; dicho sujeto tiene mucha abundancia de bienes de campo, tanto de ganado como de caballada. que esto es la verdad á cargo de juramento en que se afirmó y ratifico leida que le fué la esposicion expresado ser mayor de 35 años y casado y natural desta ciudad y lo firmo con migo y los testigos de asistencia segun derecho.

José Perez. Ante. Manuel Anzaga. Ante. Vicente Moraga.

Concluida la presente informacion remitase al conocimiento del Sor. Gefe Superior Politico segun ordena en su decreto fecha 10 del pasado, para los fines que sean convenientes. José Perez Alcalde const.l de este Pueblo de los Angeles así lo decretó, mandó y firmó con los testigos de asistencia. segun derecho.

José Perez. Manuel Anzaga. Vicente Moraga.

Van estas diligencias en papel comun por no haber en este pueblo del que corresponde ni de ningun otro.

José Perez. Secretario.

Recibido en mi poder

Sello tercero Diez centavos.

Habilitado provisionalmente por la administracion de la Aduana marítima del Puerto de Monterey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. Rafael Gonzalez.

Monterey. Julio 30 de 1834. Vista la peticion con que da principio este expediente dirijase de la autoridad municipal del pueblo de los Angeles y del padre Ministro de la Mision de San Gabriel; las expensiones de testigos con todo lo demas que se tubo presente y ver conmigo; de conformidad con lo dispuesto por las leyes y reglamentos de la materia se declaro al Ciud.o Bernardo Yorba, dueño en propiedad del paraje nombrado el Cañon de Santa Ana, colindante con la Mision de San Gabriel, y Rancho de Sta Ana y Santa Gertrudis, bajo las condiciones que se estipulan: dirijase este expediente á la excelentísima Diputacion para la debida aprobacion. El Sor. D. José Figueroa General de brigada del ejercito Comand.te General, Inspector y Gefe Superior Político del Territorio de la Alta California así lo mandó, decretó y firmó de que doy fé.

José Figueroa. Agustin V. Zamorano. Secr.

Monterey. Julio 30 de 1834. En Sesion de este dia acordó la E. Diputacion, pasé este expediente á las comisiones de colonizacion y terrenos baldios.

Figueroa. José Ma Maldonado. Secretario.

Exmo Sor.

La Comision encargada de colonizacion de terrenos baldios impuesta de este expediente que se mandó practicar y presenciar que el Ciud.o Bernardo Yorba, tiene del paraje nombrado Cañon de Sta Ana y no encontrando en ello objecion alguna que tenga Lugar en todo conforme con la ley de de 18 de Agosto de 1824 y el articulo 5 del reglamento de 21 Noviembre de 1828, ofrece á la deliberacion de esta Exma. Diputacion la siguiente proposicion." Se aprueba la concesion

hecha al Ciud.º Bernardo Yorba, del paraje nombrado Cañon de Sta Ana. Monterey. Julio 31. de 1834.

José P. Ortega. Carlos Ant.º Carrillo José R. Estudillo.

Monterey. Febrero. 31 de 1834. Dada cuenta á la H. Diputacion en Sesion de hoy con el antecedente dictamen aprueba la proposicion en que concluye y ordena que se aprueba la concesion hecha al C. Bernardo Yorba del paraje Cañon de Sta Ana. Y en consecuencia se devuelve el expediente al S. Político para su cumplimiento. Monterey. Julio. 31 de 1834.

José Figueroa. José María Maldonado.

Pedro Tercero Castañeda.

Habilitado provisionalmente por la administracion de la aduana marítima de Monterey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. Rafael Gonzalez.

Monterey. 1º de Agosto de 1834. Se vista del acuerdo de la Excma Diputacion Territorial del dia 31 de Julio de este año de la confirmacion del terreno del Cañon de Santa Ana solicitado por el Ciud.º Bernardo Yorba; líbrese el título respectivo, tómese razon de él en el Libro á que corresponde y entréguese al interesado para su resguardo y demas fines. El S. G. José Figueroa, General de Brigada, Comandte General Inspector y Gefe Superior Político del territorio de la Alta California, así lo mandé, decreté y firmé. Doy fé.

José Figueroa. Agustin V. Zamorano. Srio.

José Figueroa General de brigada de la república Mejicana Comandte General, Inspector y Gefe Superior Político de la Alta California.

Por cuanto el Ciud.º Bernardo Yorba, Mejicano por nacimiento, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre Cañon de Sta Ana, colindante con la Mision de San Gabriel y Rancho de Sta Ana y Sta Gertrudis; practicadas previamente las diligencias,

y averiguaciones concernientes, se gunto dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas á nombre de la nacion Mejicana y de conformidad con el acuerdo de la Suma Diputacion territorial del dia 31 de Julio, aprovando la concesion del Mado, terreno del canon de Santa ana, seno en decreto de 30 del mismo mes al referido Ciud.º Bernardo Yorba, ha nombre de la nacion Mejicana he venido en conferirle la propiedad de el por las presentes letras y sugeto á las condiciones siguientes.

1.ª Que se someterá á las que estableciere el reglamento y se le ha de formar p.ª la distribucion de terrenos baldios y que entretanto ni el agraciado ni sus herederos podran dividir ni enagenar el que se les adjudica, imponer censo, vinculo, prenda, hipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo á manos muertas.

2.º Podrá cercarlo sin perjudicar las travesias caminos y servidumbres, lo disfrutará libre y exclusivamente destinando lo al uso ó cultivo que mas le acomode pero dentro de un año fabricará casa y estará habitada.

3.º Solicitará del Juez respectivo que le dé posesion judicial en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites podrá á mas de las mohoneras algunos arboles frutales ó silvestres de alguna utilidad.

4.º El terreno de que hace mencion es de tres sitios de ganado mayor segun explica el diseño que corre en el expediente el Juez que diere la posesion lo hará medir conforme á ord— en cuya f.ª señalar los linderos que dando el sobrante p.ª reverte á la nacion para los usos conbenientes.

5. Si contravenisere á estas condiciones perderá su derecho al terreno y será denunciable por otro.

En cumplimiento mando que teniendose por firme el acuerdo este titulo se tome razon de él en el libro á que corresponda y se entregue al interesado p.ª su resguardo y demas fines

Dado en Monterey. 21.º de Agto de 1834.

José Figueroa. Agustin V. Zamorano. Srio.

29

Office of the Surveyor General of the United States for Calif.

I Samuel D. King Surveyor General of the United States for the State of California and as such now having in my office and under my charge and control a portion of the archives of the former Spanish and Mexican territory a Department of Upper California under and by virtue of an act of Congress approved the 5th day of March 1853. Providing for the Surveys of public lands of California and other purposes do hereby certify that the twenty preceding and hereunto annexed pages of tracing paper numbered from 1 to 20 inclusive and each of which is verified by my initials (S. D. K) exhibit true and accurate copy of a document on file and forming part of the said archives in this office.

In testimony Whereof I have hereunto signed my name officially and affixed my private seal, in lieu of the seal of office which has not arrived at the City of San Francisco Cal. this 7th day of July 1853.

Samuel D. King.
Surveyor Gl. Cal.

Filed in office. Sept. 26th 1853.

Geo. Fisher.
Secy.

190

No 387

5

31

Opinion of the Board

Bernado Yorba
vs
The United States

Case No 387
"El Cañon de Santa Ana, In the County of Los Angeles

This is a claim for three leagues of Land founded on a grant made to the claimant by Gov Jose Figueroa on the 1st of August 1834 This is one of the very few cases which have come under the observation of the Board in which the requisitions of the Mexican colonization law of August 1824 and the Regulations of Nov 21st 1828 appear to have been strictly and literally complied with— The documentary evidence filed in the case shows that after all the proceedings had been taken and enquiries made which were required by the Laws and regulations a decree of Concession was made by the Governor on the 30th of July 1834 On the following day the decree was submitted to the Territorial Deputation for their approbation and was duly approved by that body in conformity to which the grant or title in form was issued to the grantee on the 1st of August 1834 On the 11th day of December of the same year juridical possession of the land granted was given by the proper officer in due form of law and the boundaries designated and defined with unusual accuracy and certainty So far as appears from the record in this case, this may be considered as perfect title under the Mexican law investing the grantee with the full legal estate in the premises granted The only question that could by possibility arise in the case is in relation to one of the lines of the survey as described in the act of juridical possession The survey in this instance contrary to the almost uniform practise in California appears to have been made with the aid of a compass and the first line commencing on the river and evidently to run with and bound upon it calls for the course West 16° South which appears from the map to be the general direction

356

of the river at that point but a continuation of the line in it whole extent in that direction would leave the river far to the South, this descrepancy however is corrected by the evidence of the Surveyor himself taken in the case which establishes the river as one of the boundaries as well as by the grant which refers for a part of the description to the Map on which the river is also delineated as the Southern boundary This according to the well established legal doctrine, that course and distance must always yield to a fixed definite and well established Natural object or boundary removes all difficulty on the subject and fixes that line beyond all doubt The genuineness of all the Original Documents in relation to the title and juridical possession is duly proved, it is also in evidence that at the time the juridical possession was given a little more than four Months from the date of the grant the Claimant had a house on the land in which he lived with his family and has resided there ever since that he has had large stocks of Cattle horses and Sheep - he has two Vineyards and has been always one of the most extensive Cultivators of land in that Section of the Country

Upon a View of the whole case we consider it one of the best established claims which has been submitted to us for adjudication; a Decree of Confirmation will accordingly be entered

Filed in Office Jan 24th 1854
Geo Fisher
Secy

No 387

6

Decree of Confirmation

Bernado Yorba
vs
The United States

Case No 387
El Cañon de Santa Ana,

In this case on hearing the proofs and allegations it is adjudged by the Board that the claim of the Petitioner is valid and it is therefore decreed that the same be confirmed

The Land of which confirmation is made is of three square leagues in extent a little more or less situated in the County of Los Angeles being the same which has been held and occupied by the present claimant from the year 1834 to the time of filing his petition before this Board and is bounded as follows— Beginning on the bank of the River Santa Ana near the mouth of the Cañada de los Alisos and running South west with the course of said River and binding thereon fifteen thousand varas— Thence North 9° West 5500 varas thence East 16° North 1400 varas— Thence South 40° East 5200 varas to the point of beginning on the river Reference for a more particular description to be had to the original grant the record of judicial possession and Map, all of which are on file in the case

Alpheus Felch
Thompson Campbell
R Aug Thompson

Filed in Office Jany 24 1854
Geo Fisher
Secy

34

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

I, George Fisher Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Thirty Four pages, numbered from 1 to 34, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 347 on the Docket of the said Board, wherein

Bernardo Yorba

the Claimant against the United States, for the place known by the name of Canada de Santa Anita

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this twelfth day of September A. D. 1854, and of the Independence of the United States of America the seventy-ninth

Geo: Fisher

89

U. S. DISTRICT COURT,

Southern District of California.

No. 89. Docket

THE UNITED STATES,

vs. 89

Bernardo Yorba

"Cañon de Santa Anita."

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 357

September 20, 1854

W. H. Carter
Clk

~~89~~

89.

Office of the Attorney General of the United States,

Washington, 30th November 1854.

Bernardo Yorba
vs.
The United States. } 387.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No. 89.

U. S. District Court

Southern District

The United States

vs.

Bernardo Gorba

Appeal Notice

Filed Jany 10th, 1855.

J. E. Carr

Clk.

Office of the Attorney General of the United States,

Washington, 17th January 1855.

James Morehead, adm.
vs.
The United States. } 89.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 28th day of September 1854, the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No 89

U. S. District Court
Southern Dist of Cal.

The United States

vs.

James Morehead, adm.

Appeal Notice.

Filed March 8th 1855
C. E. Carr
Clk.

Mistake this no 89 is found in papers of 89 bearing a different name

In the District Court of the United States for the Southern District of California.
Los Angeles County, State of California

Bernardo Yorba
ads
The United States.

No 89. (Transcript No 387.)

To the Honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the Southern district of California.
The petition of Pacificus Ord, (of Los Angeles County) Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States; and being present here in Court in his proper person, in the name and behalf of the United States, represents as follows.
That heretofore to wit, on or about the 9th day of October A. D 1852, Bernardo Yorba presented a petition to the Commissioners to ascertain and settle private land Claims in the State of California, claiming the tract of land called Cañon de Santa Ana, in the County of Los Angeles in the words and figures following Viz:-

"To the Honorable Commissioners for ascertain-
" ing and settling private land claims
" in California, Bernardo Yorba respect-
" fully represents that on the 30th of July
1834 a concession of land was made
" to him by Jose Figueroa then Governor
" of California acting under authority of
" the laws then in force which concession
" was in due form approved by the
" Territorial Deputation on the 31st of July
" 1834. and a formal grant of the land as
" title was issued to him on the 1st of August
" 1834 that the land thus granted is called
" the "Cañon de Sta Ana" with boundaries
" defined in the title containing three leagues
" more or less. and is situated in the pres-
" ent County of Los Angeles that judicial
" possession of the land was given to him on
" the 11th ~~of~~ December 1834 That he has
" lived upon the land since the date of
" the grant or a short time thereafter, He
" knows of no other claim to any part of
" the land He herewith files the original
" grant and act of judicial ~~[illegible]~~ possession
" marked "Exhibit A" with a translation thereof
" marked B and relies in support of his

"Claim upon said documents and such
"other evidence as he may hereafter present
"and prays the Confirmation of his title"

Your petitioner further represents that
thereafter, to wit, on the 24th day of January
A.D. 1854, the said Commissioners Confirm-
ed, by final decree, the said Claim of
the said Bernardo Yorba, in the words
and figures following to wit.

"In this Case on hearing the proofs and
"allegations it is adjudged by the Board
"that the Claim of the petitioner is valid
"and it is therefore decreed that the same
"be Confirmed The land of which Confirm-
"ation is made is of three square leagues
"in extent a little more or less situated
"in the County of Los Angeles being the
"same which has been held and occupied
"by the present Claimant from the year
"1834 to the time of filing his petition
"before this board and is bounded as
"follows. Beginning on the bank of the
"River Santa Ana near the mouth of the
"Cañada de los Alisos and running South
"West with the Course of said River and
"bounding thereon fifteen thousand Varas
"Thence North 9° West 5500 Varas thence
"East 16° north 14000 Varas - Thence South

" 40° East 5200 Varas to the point of beginning
" on the river Reference for a more particu-
" lar description to be had to the original
" grant the record of juridical possession
" and map, all of which are on file in
" the Case.

" Alpheus Felch
" Thompson Campbell
" R. Aug Thompson."

That thereafter, to wit, on the 20th day of September A.D. 1854. a duly certified transcript of said decree, and proceedings, and the papers and evidence on which it was founded in said Cause, was filed in the office of the Clerk of the District Court of the United States, for the Southern district of California, and marked no 89 (Transcript No 387); reference to which it is prayed may be had and made a part of this petition.

That on the 30th day of August A.D 1854. the Honorable Caleb Cushing Attorney General of the United States received a duly Certified duplicate of said transcript of said final decree and proceedings of said Commissioners in said Cause (No 387) and the papers and evidence on which

said decree was founded.
That thereafter, to wit, on the 10th day of January A.D. 1855, the said Attorney General of the United States, filed or caused to be filed, on behalf of the United States a notice with said Clerk of said District Court for the Southern District of California, that the appeal, in said Cause of Bernardo Yorba vs the United States, from the decision of said Commissioners to ascertain and settle the private land Claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.
Your petitioner further represents that the said land Claimed as aforesaid is within the jurisdiction of this Honorable Court. And your petitioner further represents, and insists that the said decree of said Commissioners is erroneous, and ought to be reversed, reversed, and set aside, for many errors and imperfections of law and evidence, apparent in said Certified Transcript of said Cause, now on appeal from said Commissioners to this Honorable Court.

And your

Petitioner further represents that the said Claim is invalid, and the said decree erroneous, on the following grounds.

I, And the said attorney denies all and singular each and every allegation in the said petition of the said Claimant to said Commissioners of said date. And he further denies that any grant for said land was ever made as alleged in said petition. And he denies further that the said Claimant has shown any or sufficient evidence of the validity of the said Claim.

II, That the alleged grant of Jose Figueroa, was made in violation of the 4th Article of the Colonization law of Mexico of the 18th of August A.D. 1824, in this; that the land, granted, as alleged by Claimant, was and is within ten leagues of the Sea Coast; and there is no evidence shown by Claimant, that the Supreme General Executive Power of Mexico previously approved of the Colonization of the public lands in Upper California

lying within ten leagues of the Sea Coast. And it is denied that such previous Consent of said Supreme General executive power of Mexico in such case was ever had.

III. That at the date of said alleged grant, the said land claimed as aforesaid was occupied by, and in the possession of the Missions of the Territory of Upper California; and it was held and occupied particularly, by the Mission of San Gabriel; and could not therefore be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico of the 18th day of August A.D. 1824, and the regulations for the Colonization of the Territories of Mexico of the 21st November A.D. 1828.

V. That the said alleged grant of land by Jose Figueroa, to said claimant, of said date, does not contain any sufficient description of the locality, extent, and boundaries of the land claimed, so that it can be identified and surveyed; that the

map therein referred to, as shown by the claimant, does not correspond or agree with the description and boundaries of the land as set forth in said alleged grant. And the said alleged grant is vague, indefinite, and void for uncertainty.

VI. That the measurement and judicial possession of said land alleged to have been made and given by José Perez on the 11th of December 1834, was not made in conformity with the said alleged grant, and the map referred to therein; nor according to the ordinance or law. That the said measurement and possession includes lands not granted in said alleged original concession. That the said alleged act of judicial possession, is not upon the lawful stamped paper: And it is vague and indefinite.

VII. That there is no evidence that the said José Perez, and Abel Stearns had lawful authority to perform said alleged judicial acts of survey and possession of said land. And it is denied that they had lawful authority to perform

said alleged judicial ~~juridical~~ acts.

VIII. That there is no sufficient evidence that the said Claimant performed the Conditions of the said alleged grant. And it is denied that he performed the Conditions of said alleged grant.

IX. That there is no evidence that the said alleged grant was ever approved by the Supreme Government of Mexico. And it is denied that it was ever approved by said Supreme Government.

X. That the said Claimant shows no definitively valid grant, or title, for said land. And it is denied that he has, or ever had, a definitively valid grant or title for said land, claimed by him as aforesaid. And no sufficient proofs having been made by said Claimant of the allegations of his said petition, or in support of his said Claim filed as aforesaid, no decree ought to have been made, or grounded thereon; but the said petition ought to have been dismissed, and said Claim rejected by said Commissioners, upon the grounds aforesaid. And the said Claimant having no

valid right or title, derived from the Spanish, or Mexican Government, to the said land claimed by him, as aforesaid, the lawful right or title in and to the said land, was acquired by, and it now belongs to the said United States, by virtue of the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, dated at the City of Guadalupe Hidalgo, February 2nd A.D 1848.

Wherefore the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain, " and settle the private land claims in " the State of California" approved March 3rd A.D 1851 and the laws and statutes in such case made and provided, prays that the said Bernardo Yorba may be served with a copy of this petition; and that this Honorable Court will review the said decision, or final decree of Confirmation of said Commissioners to ascertain and settle the

private land Claims in the State of California, and decide on the validity of the said Claim of said Bernardo Yorba, for said land Claimed and Confirmed as aforesaid; and that the Same may be decreed invalid, and all such other orders, Judgments, or decrees, as may be just, with Costs and General relief.

P. Ord

Attorney of the United States for the Southern district of Calᵃ

No. 89 2

U. S. Dist Court
S Dist of Calif

Bernardo Yorba
vs
The U States

Petition of U States
for Review

Filed August 18th 1855
C. E. Carr
Clk.

89 SD
PAGE 44

P. Ord Dist atty

United States of America, } SS.
Southern District of California.

TO **The President of the United States,**

Bernardo Yorba

89 SD
PAGE 45

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, ~~and each of you~~ in the District Court of the United States, in and for the Southern District of California, on the 13th day of August in the year of our Lord one thousand eight hundred and fifty-5 at the City and County of Los Angeles, in said District, by Pacificus Ord Atty of the U.S. for the Southern Dist. of Calif., in behalf of the United States, praying the said Court to review upon the grounds therein set forth, the decision of final confirmation of the Commrs. to ascertain and settle the private land claims in the State of California of the claim of Bernardo Yorba for a tract of land called Cañon de Santa Ana in the County of Los Angeles State of California, of the extent of three square leagues, which said claim was presented on the 9th day of October AD 1852, and by them confirmed on the 24th day of January AD 1854

and that you, ~~and each of you~~, are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said petition, or ~~that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs~~ the Plaintiff will apply to the Court for the relief demanded therein

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of the said Court, this 14th day of Sept., in the year of our Lord one thousand eight hundred and fifty-5, at Los Angeles aforesaid.

C. E. Parr
Clerk.

By John W. Ross Deputy

Marshal's Cost
Copying summons, $0
Service " 3,00
" Petition 3,00
Mileage 1,85
$7,85

No 89.

United States of America,

Southern District of California,

U. S. District Court.

Bernardo Yorba

vs.

The United States.

SUMMONS.

Filed Sept 14th 1855

Edward Hunter

U.S. Marshal

89 SD

PAGE 46

I served this summons along with the proper copy of the petition upon Augustin Olvera Atty ~~on record~~ for Bernardo Yorba by delivering to him personally a copy of the same

at Los Angeles in the Southern District of California on the 17th day of September A. D. 1855.

Sworn to and subscribed before me, } Edward Hunter
Clerk. } U. S. Marshal.

Bernardo Yorba
and
The United States

In the District Court
of the United States for
the Southern District of
California. No. 89.
Transcript No. 387.

To the Honorable Isaac S. K. Ogier Judge of the District Court of the United States for the Southern District of California.

The answer of Bernardo Yorba a Citizen of the United States, residing in the County of Los Angeles in the State of California, to the petition of review filed in the above entitled cause at the suit of the United States, against him praying that a certain final decree of confirmation entered in his favor by the United States Land Commissioners appointed to ascertain and settle the private land claims in the State of California in a certain claim for a tract of land called "Cañon de Santa Ana" respectfully represents: that this Defendant admits that he did present his petition to the said commissioners for the tract of land described in said petition, and that the said commissioners did enter a final decree of confirmation in his behalf for the said tract of land. And this Defendant further answering saith that he claims the said tract of land called "Cañon de Santa Ana" with the metes an bounds referred to in the transcript from said commissioners relating

to his said claim which Transcript was filed in the Clerks office of your Hon. Court on the day of and is hereunto specially referred and made a part of his answer, that he claims the same in virtue of a grant in fee thereof, made to him as set forth in his petition presented to said commissioners filed in the office of the Secretary of the Board of the said commissioners on the day of as appears on said transcript, on the day of by Pio Figueroa then Governor of California by virtue of authority in him vested by law, that the metes and bounds of said claim are accurately defined in the map and judicial survey and possession thereof both of which appear in said Transcript hereunto specially referred and made a this part of his answer

And this Defendant further answering saith, that he has faithfully discharged all the conditions imposed upon him by said grant. And he further avers that his said claim is valid as appears by the said Transcript and the decree of the said commissioners and as will be med to appear by such further proof as may be taken by order of your Honor and that the final decree of said commissioners is valid according to the laws, usages and customes of Spain and Mexico, as they

existed in California and according Treaty

existed in California and according Treaty of Guadalupe Hidalgo, the laws of Nations, the principles of equity and the decisions of the Supreme Court of the United States as far as they are applicable.

And Defendant further answering denies all and singular the allegations in plaintiffs petition contained excepting such as are hereinn admitted.

And this Defendant further avers that there exists no cause by reason of any thing alleged in said petition why said final decree should be declared invalid

Wherefore the Defendant prays that your Honor do declare the said final decree of said commissioners, as well as the claim and title of this Defendant to the said land, to be valid, that the petition of the United States be dismissed, and for costs and general relief

Agustin P. Dent
Atty for Appellee

No. 89

United States District Court

Southern District of California

Hernando Yorba Appee

ads

The United States Appellants

Answer of Appellee.

Filed Sept. 19, 1855

J. E. Ham

Clk.

89 SD

PAGE 50

Agustin Olvera

Atty for Appellee

Expediente

Superior Political Chief,

I, Bernardo Yorba, a resident of, and permanently established in the Rancho of Santa Ana, appertaining to the Jurisdiction of the Pueblo of Los Angeles, before you in the manner most suitable to my rights, do appear, and declare: that having been married in first nuptials, in which wedlock I had three children called Raimundo, Ines, and Ramona, on contracting matrimony a second time on account of the death (sense incomplete) for my said three children some stock or cattle, with which of my lawful property, being (sense incomplete) that I actually possess the same; and being of itself a number which requires (two words illegible) of the small extent of land which we occupy four children, I am obliged and under the necessity of requesting from your consideration that you be pleased to grant to me for the benefit of my said three children, the land occupied, the place known by the name of Cañon de Santa Ana; bounding with the Rancho of the same name, with that of Santa Gertrudis, and with the Mission of San Gabriel, if the whole land is pasturage land and very broken or hilly, consisting of seven thousand varas from south to north, and seven thousand two hundred and fifty from east to west, with three small watering places, neither is it the property of any one, nor comprehended within the twenty leagues of the border or ten from the sea coast, which are expressed in the law. For this purpose I duly accompany the map of the same which will give you an exact idea of said tract of land, and also prove all that I have set forth. Therefore, I request and pray that you will design to grant my solicitation, after having procured the necessary information, for

which favour I shall be thankful. Please admit this on common paper, there being none in this town of the proper stamp.

Pueblo of Los Angeles, February 15th. 1834.

Bernardo Lorba.

(On the margin of the foregoing petition)

Pueblo of Los Angeles, 26th. February, 1834. In conformity with the law on the subject, let the Hon. Ayuntamiento of the Pueblo of Los Angeles report whether the petitioner in this instance posses the requisites necessary to his being attended to, whether the tract of land which he solicits is comprehended in the twenty leagues from the border or ten from the sea coast expressed in the law of 18th. August 1824, whether it is irrigable, cultivable without irrigation, or pasturage land, whether it is the property of any private person, corporation, or town, with every thing else which may throw light on the subject. This done, let this expediente be passed to the Priest Minister of the Mission of San Gabriel that he may report what occurs to him. Don José Figueroa, General of Brigade, Superior Political Chief of the Territory of Upper California, so ordered, decreed, and signed, which I attest

José Figueroa.

Pueblo of Los Angeles, March 6th. 1834. In virtue of the preceding decree of the Political Chief of this Territory, the Hon. Ayuntamiento reports, that the citizen Bernardo Lorba is a person known for his orderly conduct, that he has all the requisites provided for conferring upon him the favour which he solicits, that the land which he requests is not comprehended in the twenty leagues from the border nor the ten leagues from the sea-coast expressed in the law of 18th. August 1824, that it is pastureland with three small water-

-ing places on the same, that it is comprehended as vacant land, there being no domestic animals on it, other than a small number of neat cattle and horses, all of common property, bounding with the Ranchos of Santa Ana and Santa Gertrudis, and the Mission of San Gabriel, and this is all that this Ayuntamiento has to report relative to the matter.

José Perez.

Vicente Moraga, Secretary.

Mission of San Gabriel, 19th March 1834.

In virtue of the report asked of said Mission with respect to the place known by the name of Cañon de Santa Ana, bounding with the Rancho of Santa Ana, with that of Santa Gertrudis, and with this Mission, I represent that the land solicited by Don Bernardo Gorba, is not nor has been vacant land, but occupied by cattle of the Mission, on which the property exists, from the time when the Gorbas had no neat cattle until this date, according to the unanimous testimony of all the neophytes in charge of the Rancho of Santa Ana, in consequence of the continued running (coridas) of horses a small number of cattle have fled to the hills and other places, as is known to the petitioner himself, who can affirm that when the neophytes of this Mission made their rodeo, the Gorbas separated theirs and the Mission, as has been related, and remained in pacific possession of said tract of land; besides, the citizen Francisco Feliz who was encharged by the deceased Priest Francisco Sanchez previous to his death, for the purpose of examining said tract with the design of establishing a new Rancho in the same tract, with the intention that this person should remain as mayordomo in the same to look after and take

care of the abundant number of neat cattle which roamed in the Rancho of Santa Ana, and with the sole object of preventing in part the great detriment resulting against the Mission by the continued killing of cattle at that place and its neighbourhood; the Rev. Priest Francisco José Sanchez died, and the business remained (sixteen words illegible) rancho of Santa Ana. This is all that I have to report in this matter.

Fr. Thomas Estenega.

Pueblo of Los Angeles, April 7th. 1834.

The Hon. Ayuntamiento of this town, in consideration of the preceding report of the Reverend Father Fr. Thomas Estenega, Minister of the Mission of San Gabriel, in which he contradicts the report made by this body of date 6th. March last, has ordered to be set forth, out of respect to its honour and the integrity with which it has acted in this matter, as follows: That the tract of land requested by the citizen Bernardo Yorba, is on the footing and in the circumstances set forth in the aforesaid report of 6th. March of the present year, and in testimony of the truth it proceeds to explain, that in the year 1824 at the time that the Revd. Priest Fr. José Sanchez was Minister of said Mission, the mayordomo Francisco Feliz undertook, probably by order of said Priest, to determine to the Mission that said tract was not its property (illegible) the injury that by said (illegible) would result to Peralta, and the aforesaid Mayordomo to do this by authority was (illegible) that proves the fact. This (illegible) that (illegible) quie (illegible) necessary (illegible), proves positively that the Rev. Priest was mistaken in the opinion which he had formed with respect to this tract of land, as is shown by his report.

José Perez,

Vicente Moraga, Sec.y.

Monterey, May 10th 1834.

Let this pass to the Alcalde of the Pueblo of Los Angeles, before whom Bernardo Yorba will present a judicial enquiry and process of three proper witnesses to be interrogated respecting the following points: 1st. Whether the petitioner is a Mexican citizen by birth, if he is married, and has any children. If he is of good conduct. 2d. If the land which he requests is the property of any individual, Mission, town, or corporation, if it is irrigable, cultivable without irrigation, or pasturage land, and what is its extent. 3d. If he has stock or cattle to occupy the land, or a possibility of acquiring the same. This procedure having been complied with, let the expediente be returned to pass resolution upon it. Don José Figueroa, General of Brigade, Commandant General, and Superior Political Chief of Upper California, so ordered, decreed, and signed, which I attest.

José Figueroa.

Agustin V. Zamorano, Secretary.

Pueblo of Los Angeles, June 9th 1834.

Having received the present expediente, having taken the declarations mentioned in the decree of 10th of last month; and finished the same, let the original be returned to the Prefecture for consequent measures. José Perez, constitutional Alcalde of the Pueblo of Los Angeles, so determined, ordered, and signed with witnesses actually present, according to law.

José Perez,

Witness, Manuel Anzaga. Witness, Vicente Moraga.

On the same day, month, and year, being

present the citizen José Sefarino Reyes, resident of this

present the citizen Jose Seferino Reyes, resident of this place, who under oath which he made in the usual form of law by God our Lord and the sign of the cross, under which obligation he promised to speak the truth in what he knew or should be interrogated, and having been interrogated regarding the points contained in the preceding decree which was read to him entire, he declared: That he knows the Citizen Bernardo Yorba, that he is a native of this Territory, married in second nuptials, and that he has six children, 3 sons and daughters, that his conduct is without fault, and that he is by common fame an honest man, that the tract of land named (como) is vacant, that it is the property of nobody, is irrigable and watered by the river called of Santa Ana, that the extension of the tract is three or four leagues in length, and one and a half in breadth, a little more or less; that he has sufficient to stock the same both in cattle and horses, - that what he declares is the truth under the oath which he has given, and which he confirmed and ratified after this declaration being read to him, expressing that he is thirty years of age, married, and a native of this town, and he did not sign as he cannot write, and I signed with my witnesses actually present according to law.

Jose Perez.

Witness, Manuel Anzaga. Witness, Vicente Moraga.

On the same date, being present Don Juan Perez, from which person I took oath which he made in the form prescribed by law, by God our Lord and the sign of the cross, under which obligation he promised to speak the truth in what he knew and should be interrogated, and being interrogated on the points indicated in the decree

of the Political Chief of date 10th. of last month, he replied; that Don Bernardino Yorba is a man of good fame and conduct, and is in good circumstances, that he is married at Santa Ana of which place he is a native, that he has three sons and three daughters, that the tract named the Canon does not belong to any person, and the crops on the same are sown by said Yorba which (illegible) by irrigation which he makes from the river of Santa Ana, this tract (illegible) may have four leagues in length and one in breadth; that he has a large number of cattle and horses, as in Santa Ana nobody has more stock than Bernardo Yorba; and he declares that what he has said is the truth under the oath which he has taken, and which he confirmed and ratified after this declaration being read to him. He declared that he is 35 years of age, married, and a native of this town, he did not sign as he cannot write, and I signed with the witnesses actually present with whom I act according to law.

José Perez,

Witness, Manuel Anzago. Witness, Vicente Moraga.

On the same day, month, and year, being present in this court under my charge, Don Seferino Ruiz in person, I administered to him the oath which he gave in due form, by God our Lord and the sign of the cross, by which he promised to speak the truth in what he knew and should be asked, and being interrogated respecting the contents of the decree which has occasioned these proceedings, he declared; that he knows Don Bernardo Yorba, native of Santa Ana, a person of known orderly conduct, and that the standing which makes him worthy of a grant is his good circumstances, he is married in second

nuptials and has sons and daughters, that the land which he solicits is not private property, of which he sows by means of irrigation by water which he takes from the River of Santa Ana, its extension is four or more leagues, and one and a half in width; said individual has great abundance of stock, as well cattle as horses; that this is the truth under the oath which he confirms and ratifies after this declaration being read to him, declaring that he is 31 years of age, married, and a native of Santa Ana, and he signed this with me and the witnesses actually present, according to law.

José Perez.

Witness, Manuel Anzaga. Witness, Vicente Moraga.

The present judicial enquiry and process being concluded, let it be remitted to the cognizance of the Superior Political Chief, as ordered in his decree of 10th of last month, for subsequent action. I, José Perez, constitutional alcalde of this Pueblo of Los Angeles, have so disposed, ordered, and signed with the witnesses actually present, according to law.

José Perez.

Manuel Anzaga Vicente Moraga.

These proceedings are written on common paper, there being no stamped paper of the class required, nor of any other class, in this town.

José Perez.

Seal third. Two rials.

Licenced provisionally by the collectorship of the Maritime Customhouse of the Port of Monterey, for the years one thousand eight hundred and thirty four, and one thousand eight hundred and thirty five.

Figueroa. Rafael Gonzales.

Monterey, July 30th 1834.

In view of the petition with which this expediente commences, the report of the municipal authority of the Pueblo de Los Angeles, and of the Priest Minister of the Mission of San Gabriel, the declarations of the witnesses, with every thing else which was accorded and was necessary to have in view; in conformity with the requirements of the laws and regulations of the matter, the citizen Bernardo Yorba is declared owner in fee of the tract named the Cañon of Santa Ana, bounding with the Mission of San Gabriel, the Ranchos of Santa Ana and Santa Gertrudis, under the conditions which are stipulated. Let this expediente be directed to the most excellent Deputation for its due approbation. I, Don José Figueroa, General of Brigade of the army, Commandant General, Inspector, and Superior Political Chief of the Territory of Upper California, have so ordered, decreed, and signed, which I attest.

José Figueroa

Agustin V. Zamorano, Secretary.

Monterey, July 30th 1834.

In sesion of this day, the E. Diputation resolved by common consent that this expediente pass to the Committee of Colonization and Vacant lands.

Figueroa. José Mª Maldonado, Secretary.

Most Excellent Sir,

The Committee of Colonization and Vacant lands, having acquired full knowledge of this expediente which was ordered to be formed, and of the possession which the citizen Bernardo Yorba has had of the tract named Cañon de Santa Ana, and not finding any objections that (illegible) being in every thing conformable with the law of 18th

August 1824, and article 5th of the Regulations of

August 1824, and article 5th of the Regulations of 21st November 1828, presents to the deliberation of this Most excellent Diputation, the following proposition: "The grant of the tract called Cañon de Santa Anna, made to the citizen Bernardo Gorba, is approved". Monterey, July 31st 1834

José I. Ortega. Carlos Antº Carrillo.

José R. Estudillo.

Monterey, February 31st 1834.

Having informed the E. Diputation in sesion of this day of the preceding opinion, it approves of and (illegible) that the grant made to the citizen Bernardo Gorba of the tract Canon de Santa Ana, be approved, and consequently the expediente is returned to the Superior Political Chief for his (illegible).

Monterey, July 31st 1834.

José Figueroa. José Maria Maldonado.

Seal third. Two rials.

Licensed provisionally by the Collectorship of the Maritime Customhouse of Monterey, for the years one thousand eight hundred and thirty four, and one thousand eight hundred and thirty five.

Figueroa. Rafael Gonzales.

Monterey, 1st August 1834. In view of the result of the deliberation of the Most excellent Territorial Diputation of 31st July last for the confirmation of the tract of land of the Cañon de Santa Ana solicited by the citizen Bernardo Gorba, let the respective title be issued, let the same be recorded in the proper book, and let it be delivered to the party concerned for his security and other objects. I, Don José Figueroa, General of Brigade, Commandant General, Inspector, and Superior Political Chief of the Territory of Upper California, so ordered,

decreed, and signed, I attest,

José Figueroa. Agustin V. Zamorano, Sec.y.

Jose Figueroa, General of Brigade of the Mexican Republic, Commandant General, Inspector, and Superior Political Chief of Upper California.

Whereas the citizen Bernardo Yorba, a Mexican by birth, has solicited for his personal benefit and that of his family, the tract of land known by the name of Cañon de Santa Ana, bounding with the Mission of San Gabriel, and the Ranchos of Santa Ana y Santa Gertrudis; the necessary proceedings having been previously taken, and the corresponding investigations made as required by the laws and regulations of the matter, in exercise of the powers conferred upon me, in the name of the Mexican Nation, and in conformity with the resolution of the Most Excellent Territorial Diputation of date 31st. July approving of the grant of said tract of the Cañon de Santa Ana, made by decree of 30th. of the same month to the citizen Bernardo Yorba, in the name of the Mexican Nation I have granted to him the same in fee by these presents, subject to the following conditions:

1st. That he shall submit himself to those which may be established by the regulation to be formed for the distribution of vacant lands, and that in the meantime neither the grantee nor his heirs shall have power to divide or alienate what is adjudicated to them, impose on it any quitrent or annuity, entail, reversion or security, mortgage, nor other encumbrance, even though for pious purposes, nor convey the same to mortmain.

2d. He may enclose it without detriment to the

cross ways, roads, and servitudes; he shall enjoy

crop ways, roads, and servitudes; he shall enjoy enjoy it freely and exclusively, applying it to the use or cultivation which may most suit him, but within one year he shall build a house and it shall be inhabited.

3d. He shall solicit from the proper judge that he give him judicial possession in virtue of this patent, by which the boundaries shall be marked out, in the limits of which, besides the landmarks (or monuments) he shall plant some fruit trees or forest trees of some utility.

4th. The tract of land mentioned consists of three sitios de ganado mayor (square leagues) as explained in the map attached to the expediente. The judge who may give possession shall cause it to be measured agreeably to the ordinance for the marking of boundaries, the surplus (or sobrante) which may result, to remain to the nation for the purposes which may be expedient.

5th. If he should violate these conditions, he shall lose his right to the land, and it shall be fit to be denounced by another person.

Wherefore, I order that holding this title as firm and valid, it be recorded in the proper book, and delivered to the party concerned for his security and other objects.

Given at Monterey, the 1st of August 1834.

José Figueroa. Agustín V. Zamorano, Sec.

No. 89.

U.S. District Court
Southern District
of California

Bernardo Yorba
Appellee
vs
The United States
Appellant

Translation of Expediente

Filed in open Court
October 5th A.D. 1855
A. E. Carr Clk
By Ino. W. Robson

The United States
Appellant
vs
Bernardo Grijalva
Appellee

Index of Transcript in case No. 89. Cañon de Santa Anita

99.

The United States
Appellants

vs

Bernardo Torba
Appellee

Index of Transcript.

Filed Oct 5th 1855
O E Carr Clk
By W. Rife Dep

Bernardo Yorba
Appellee
vs
The United States
Appellant

District Court of the United States Southern District of California
No 89.
Cañon de Santa Ana.

89 SD
PAGE 67

On the trial of this cause in open court it is hereby admitted by ~~Agustin Olvera and~~ Myron Norton Attorney for the appellee that the lands claimed and described in this case are situated in the County of Los Angeles and Southern District of the State of California and within the jurisdiction of this court, and that the Transcript from the Land Commissioners was received by the United States Attorney General at the time as alleged in petition for review, and further that the Transcript was filed in the Clerks office of this court, and the notice of the intention of the United States to prosecute the appeal in this case was also filed in said Clerks office as alleged in said petition for review.

Myron Norton
Atty for appellee

5

U S Dist Court

Bernardo Gorba
Appellee

189.1 ads

The United States
Appellant

Stipulation

Filed Octr. 8th 1855
C. E. Carr clerk
By Wm. M. Roy Dep

The United States, appellants
vs
Bernardo Yorba appellee

U. S. Dist Court for the Southern District of California
No. 89

This cause coming on to be heard at a special term of this Court, on an appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California, under an act of Congress passed on the 3d of March 1851 and on a transcript of the proceedings and decision, and the papers and evidence upon which said decision was founded, and it appearing to the Court that the said transcript has been duly filed according to law, and Counsel for both parties having been heard, it is ordered adjudged and decreed that said decision be and the same is hereby affirmed and it is further ordered adjudged and decreed that the claim of the appellee to the land described in the grant and map filed in this Case is a good and valid claim and the same is hereby confirmed ~~according to the following metes~~ following to the extent and within the boundaries, to wit beginning on the bank of the River Santa Ana near the mouth of the Canada de los Alisos, and running South West with the course of said River and bounding thereon fifteen thousand varas, thence North 9° West five thousand five hundred varas, thence East 16° North fourteen thousand varas, thence South 40° East five thousand two hundred varas, to the place of beginning

Isaac S. K. Ogier
his Dist Judge for
the Southern Dist of Cal

No. 89.

U. S. District Court.
South Dist of Cal.

Bernardo Yorba
Appellee

— vs. —

The United States.
Applt.

Cañon de Santanita.

Decree of Confirmation.

Filed Oct 9th 1855

J. E. Carr
Clk.

Recorded on Page 178

In the United States District Court
for the Southern District of California,
Special Term Sept 1853.
Los Angeles,

Bernardo Yorba, appt.
vs.
The United States, appt.
} No. 89.
(Transcript No. 387)

On motion of P. Ord Attorney of the United States for the Southern District of California, it is Ordered by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the United States, in the above entitled cause, rendered on or about the 9th day of October A D 1853

P. Ord
Atty Dist Atty.

No. 89.

U. S. District Court
Southn. District of Cal.

The United States Appelts.

vs.

Bernardo Yorba appellee

Order of appeal to the Supreme Court on Mis. of Pbnc. atty. of U.S.

Filed October 18th 1855.

J. E. Carr clk
By Jno. Russ Dep.

California Land Claims.

Attorney General's Office

16 September 1854.

Sir:

In the case of the claim of Bernardo Sorba, confirmed to the claimant by the Commissioners, case no. three hundred and eighty-seven, (387), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Cushing

Pacificus Ord Esq.

U. S. Attorney

Los Angeles.

89

nardo Gorba

387

Oct 21. 1836

In the District Court of the
United States within and for the
Southern District of California

Wm Jas Sloan Judge

December Term 1856

The United States
Appellants

vs

Docket No 89

Bernardo Yorba
Appellee

Transcript from the Board of Land Commissioners

In pursuance of a letter from the Attorney General of the United States herewith received, giving Notice that in the above cause the appeal in the Supreme Court will not be prosecuted by the United States, It is hereby stipulated and agreed by and between the parties that the order granting an appeal to the Supreme Court heretofore made in this cause be vacated, and that the decree of the Court heretofore rendered in this cause may by order of the Court be made final

P. Ord
Dist Atty.

Myron Norton
Atty for appellee

U. S. Dist. Court
South. Dist. Calif.

No 89

The United States
appellant
vs
Bernardo Yorba
appellee

Filed July 23d 1857
C Sinnet
Clk

Stipulation
to vacate order of
appeal to Supreme Court

The United States appellants
vs
Bernardo Loba. appellee

The claim in this case is founded upon a grant from Figueroa to the present claimant Bernardo Loba dated August the 1st 1834. The original grant the act of judicial possession a map of the land have ~~as~~ copy of the expedientes found in the Office of the Surveyor General among the archives of the Mexican Government, constitute the documentary evidence in this case.

The genuineness and authenticity of all these documents is fully proven.

The parol evidence shews a compliance with all the conditions of the grant and the only objection urged is, that the map and the act of judicial possession do not correspond in all particulars.

The land Commission in their opinion confirming this claim ~~say in relation to this objection that it is the only property in this case that can be raised to the claim~~

"The only possible question which could possibly arise in the case is in relation to one of the lines of the survey as described in the act of judicial possession, the survey in this instance contrary to the almost universal practice in California appears to have been made with the aid of a compass. and the first line commencing in the west and evidently to run with it and bound upon it calls for the course N. 16° South, which appears from the map to be the general direction of the line at that point, but a continuation of the line in

its whole extent in that direction would leave the line far to the south, this discrepancy however is corrected by the evidence of the surveyor himself taken in the case which establishes the River as one of the boundaries - as well as by the grant which refers to the map for a part of the description of the land; and in which the line is delineated as the boundary line in that hill"

~~This according to the well established legal doctrine, The claim must be confirmed in accordance with map & the extent called for.~~ In a case of this sort the courts and department yield to the natural object, by the line which evidently was intended as the boundary on the side upon which it rests -

A decree will be entered affirming the decisions of the commissions, and confirming the claim -

In the District Court of the
United States within and for the
Southern District of California

Thos Jones U.S. Dist Judge December Term 1851

The United States
Appellant

vs

Bernardo Yorba
Appellee

Docket No 89

Transcript from the Board of Land Commissioners &c

The Attorney General of the United States having given Notice that the appeal to the Supreme Court from the decision of this Court in the above entitled Cause will shortly be prosecuted by the United States, And a stipulation having been entered into by the United States District Attorney and the Attorney for the Claimant that the order granting an appeal to the Supreme Court heretofore made in this Cause be vacated. And that the decree of this Court heretofore rendered in this Cause may by Order of the Court be made final. it is,

Ordered, adjudged and decreed, That the order granting an appeal to the Supreme Court heretofore made in this Cause be and the same is hereby vacated. And that the Claimant have leave to proceed under the decree of this Court heretofore entered in this Cause as under a final decree

Thos S. Hyde
U. S. Dist Judge

No. 89