CASE NO.

49

SOUTHERN DISTRICT

CORRAL DE CUATE GRANT

MARIA ANTONIA DE LA
GUERRA Y LATAILLADE

CLAIMANT

LAND CASE 49 SD PAGES 70

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 189

Maria Antonia de la Guerra y Bataillade — CLAIMANTS

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Corral de Cuáte."

/

49 SD
PAGE 2

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* twenty-sixth *day of* April, *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 Maria Antonia de la Guerra y Lataillade *for the Place named* "Corral de Cuate" *was presented, and ordered to be filed and docketed with No.* 189 *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;

San Francisco December 31st 1852

In Case no. 189 Maria Antonia de la Guerra y Lataillade, for the place named "Corral de Cuate" the deposition of José Maria Covarrubias, a witness in behalf of the claimant; taken before Commissioner Pelham Hall with document marked J. J. No. 1. annexed thereto was filed.

(Vide page 4 of this Transcript)

San Francisco Aug. 15th 1853.

Case no. 189 Maria Antonia de la Guerra y Lataillade for the place named "Corral de Cuate", called; submitted on briefs and taken under advisement.

San Francisco Nov. 22nd 1853.

In the same case Commissioner Alpheus Felch delivered the opinion of the Board confirming the claim.

(vide page 34 of this Transcript)

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To the Honorable Commissioners to Settle Private Land Claims in California

Petition

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The Petitioner Maria Antonia de la Guerra y Lataillade respectfully shows

That on the 21st day of April 1845 Augustin Donila applied for the tract of land called "Corral de Cuarto" and that said petition being approved by the subordinate authorities Pio Pico Governor of California by virtue of authority in him vested on the 14th day of November AD 1845 granted to the said Augustin Donila the aforesaid tract of land situated in the present County of Santa Barbara containing three square leagues of land with the boundaries described in the title papers and accompanying Map; that on the 9th day of June AD 1846 the said title was approved in the Departmental Assembly annulling the 2d and 3d conditions in the title all of which is shown in the Expediente a certified copy of which is submitted herewith marked "A" and a translation marked "B" The petitioner also submits herewith a copy of the title marked "C" with a translation marked "D"

The petitioner also shows that on the 24th day of August AD 1847 the same Augustin Donila sold and conveyed to the petitioner the aforesaid tract of land a copy of which deed of conveyance is submitted herewith marked "E" with a translation marked "F"

That the said tract of land has not been surveyed by the Surveyor General of the United States but that its boundaries are fully described in the title papers and are well known

That the said Donila and the petitioner have been since the month of November AD 1845 and the petitioner now is in the quiet peaceful and undisputed possession of the said tract of land and that she knows of no conflicting claim

That she relies for confirmation of title upon the original papers copies of which are submitted herewith upon the Records in the Archives now under the

charge of the Surveyor General and upon such other and further proofs as she may be advised are necessary Wherefore she prays the Commissioners to confirm to her the said tract of land

By her Attys
Hallock Peachy & Billings

Filed in Office April 20th 1852
Geo Fisher
Secy

San Francisco Decr 31 1852

Deposition of José M Cavarrubias

On this day before Lewis Heiland Hall came José Maria Cavarrubias a witness on behalf of the Claimant Maria Antonia de la Guerra y Lataillade petition No 189 and was duly sworn his evidence being given in Spanish and interpreted by the Secretary

The U. S. Associate Law Agent was present

In answer to inquiries by counsel for the Claimant the witness testified as follows

My name is José Maria Cavarrubias My age is 44 years I reside in Santa Barbara and have lived in California 18 years

I am acquainted with the signatures of Pio Pico, Antonio Carrillo Augustin Davila, Jose Linares Augustin Yansens, Luis Carrillo, Maria Antonia de la Guerra di la Lataillade Juvne J Sparks & Jose Lugo – Their signatures to the papers before me Marked H H No 1 are genuine My own signature to these papers are genuine, the land described in these papers was occupied by Donila the grantee very soon after the grant; since 1847 it has been occupied by Mrs Lataillade with a house cattle & horses Donila planted a Vineyard on it.

Jose Mª Cavarrubias

Sworn & subscribed before me
Heiland Hall
Com.

Filed in Office Decr 31. 1852
Geo Fisher
Secy

(1845.)

"A"

Espediente promovido por Dn.
Agustin Davila en pretencion del
terreno nombrado
Corral del Cuate

479.

Angeles Julio 5 de 1845.

Pase á la Comision de Misiones para que informe si el terreno que se pretende, puede ser concedido sin perjuicio del arrendamiento que debe hacerse de la Mision de Sta. Ynez

Pico.

Exmo. Gor.

Agustin Davila y Juan Camarillo vecinos de Sta. Barbara ante la justificacion de V. E. y como mejor proceda espongemos; que teniendo un numero bastante considerable de ganado mayor y caballar, careciendo de un terreno para el fomento de ellos, y al efecto emos indagado que se halla uno enteramente baldio en la Jurisdicion de Sta. Ynes, con el nombre del Corral del Cuate con solamente el obstaculo de un Corral, mas por eral emos convenido con el R.º P. de la espresada Mision que por dho. Corral satisfaseremos el valor de trescientos pesos en efectivo, y el poco ganado alzado q.e en dho. terreno se haya podrá disponer el R.º P. cuando lo hallare conveniente como se vera en el documento q.e por el R.º P. obtengo é igualmente acompaño á esta nuestra solicitud

El terreno que se solicita es hasta tres sitios poco mas ó menos de Ganado Mayor como se demarca en el

adjunto diseño que acompañamos.

Por tanto A. V. E. suplicamos se digne concedernos la propiedad de dho. terreno, con las protestas de estilo.

Sirviendose admitir la presente solicitud en papel comun por no hacer del sellado que corresponde.

Sta. Barbara 21 de Abril de 1845.

Agustin Davila
Juan Carrillo

El terreno q. solicita en esta instancia no es de necesidad á la Mision ni tampoco se perjudica el arrendatario debiendo advertir q. el Sor. Dr. Juan Carrillo á retirado su instancia y solo el Sor. Davila pagara el corral que se allo en el terreno si el Gobierno tubiere abien concederlo.

Sta. Inez Julio 28 de 1845.

Andres Pico. Juan Manso.

Angeles Noviembre 14 de 1845.

Vista la solicitud con que dá principio este espediente, el informe de la Comision de Misiones, con lo demas que se tuvo presente y ver convino; de conformidad con la ley de 18 de Agosto de 1824, y reglamento de 21 de Noviembre de 1828. Declaro á Dn. Agustin Davila dueño en propiedad de tres sientos de ganado mayor en el terreno conocido con el nombre de Cañada del Cnato inmediato á la Mision de Sta. Ines; en consecuencia estiendosele el correspondiente titulo bajo las condiciones de titulo, y ademas con las siguientes.

1a No perjudicará en manera alguna

el ganado mayor y sus procreos, que en el terreno concedido tiene y tenga la Mision de Sta. Ynés, cuyos arrendatarios tendrán el derecho de tomar de aquel ganado cuando bien los parezca sin impedimento alguno por parte del agraciado. 2ª La Mision de Sta. Ynes ó sus arrendatarios, tendrán derecho para tener y mantener en el mismo terreno concedido el ganado caballar bronco y manso y sus procreos, así como los bueyes que se reconozcan ser de las pertenencia de dicha Mision. 3ª La presente concesion está sujeta á los linderos de los terrenos de Dn. Joaquin Carrillo y Dn. José Mª Covarrubias de Dn. Octaviano Gutierrez, Dn. Julian Foxon, del Colegio Episcopal y de los indigenas Antonio y Marcelino, y por tanto el agraciado los respetará siempre conforme consten en las posesiones judiciales que obtengan los espresados individuos y Seminario Episcopal. 4ª Cuando sea requirido por el Gobierno Departamental pagará el agraciado, en indemnizacion del Corral que la Mision de Sta. Ynes tiene en el terreno que se le concede, la cantidad de cien pesos, á alguno de los acreedores á la espresada Mision. 5ª El terreno de que se le hace donacion es puramente de la estencion de tres sitios de ganado mayor. El Juez respectivo lo posesionará en virtud del titulo, señalará los linderos empezando las mediciones desde los de Dn. Julian Foxon, y si resulta algun sobrante de tierra quedará en beneficio de la Nacion para los usos que le convenga. Archívese el espediente y remítase esta concesion á la aprobacion de la E. Asamblea.

Pio Pico.

Here follows a Map.

Sta. Ynes Abr. 20 de 1845.

Mi estimado D. Agustin.

Quedo impuesto de su carta de 19 del pasado en la que me hace presente que el Sr. Gobernador desea el que junto con la instancia vaya el informe para evitar pasos; pues supuesto este deseo de S. E. digo; que con la condicion q. V. pone de no impedir esté en el terreno que solicita el ganado alzado de la Mision, y tampoco pondra embaraso para sacarlo cuando convenga: soy de parecer se le puede conceder pues pagado el Corral no se sigue perjuicio á la Mision no teniendo otra cosa en el sitio.

Su Capp.n y Serv.r
Fr. José J. Jimeno

Note

[The original letter of which the above & the writing on the next page is a copy is directed as follows.

S. D. K.]

Al S. D. Agustin Davila
Sta. Ynes.

Nicolas A. Den Alcalde 1.º del Partido de Sta. Barbara

Certifico que los Ciudadanos Agustin Davila y Juan Camarillo tienen con que poder cubrir el terreno que solicitan que dicho terreno se bayó á la bos Valdio con algunos bienes alzados y á pedim.to de los interesados les doy la presente en Santa Barb.a á 25

de Abril de 1845.

Nicolas A. Dew.

Pio Pico, Vocal decano de la Asamblea Departamental y Gobernador provisional de las California por ministerio Constitucional

Por cuanto Dn. Agustin Davila ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre del Corral del Cuate; practicadas previamente las averiguaciones concernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas á nombre de la Nacion Mejicana, he venido por decreto en este dia en concederle el espresado terreno, declarandole la propiedad de el por las presentes letras de conformidad con la ley de 21 de Noviembre de 1828, á reserva de la aprobacion de la Esma. Asamblea Departamental y bajo las condiciones siguientes.

1a Podrá cercarlo sin perjudicar las travesias y servidumbres; lo destinara al uso y cultivo que mas le acomode; pero dentro de un año fabricará casa en el, estará habitada, y lo ocupará con un numero correspondiente de bienes semovientes.

2a no perjudicará en manera alguna el ganado mayor alzado, y sus procreos que en el terreno conocido tiene y tenga la Mision del Sta. Ynes, cuyos arrendatarios tendran esclusivo derecho de tomar y cuidar aquel ganado como bien les parezca sin impedimento

alguno por parte del agraciado

3ª La Mision de Sta Ynés ó sus arrendatarios tendrán derecho para tener y pastear en el mismo terreno concedido, el ganado caballar bronco y manso y sus productos así como los bueyes que se reconozcan ser de la pertenencia de dicha mision.

4ª La presente concesion está y estará sujeta á los linderos de los terrenos de Don Joaquin Carrillo y Don José Mª Covarrubias, de D. Octaviano Gutierrez, Don Julian Foxon, del Colegio Episcopal y de los indigenas Antonio y Marcelino; y por tanto el agraciado respetará siempre dichos linderos conforme consten en las posesiones judiciales que obtengan los espresados individuos y Colegio Episcopal.

5ª Cuando sea requirido por el Gobierno Departamental, pagará el agraciado indemnizacion del Corral que la Mision de Sta Inez tiene en el terreno que se le concede, la cantidad de cien pesos, á alguno de los acreedores de la espresada Mision.

6ª El terreno de que se le hace donacion es puramente de la estension de tres sitios del ganado mayor El Juez respectivo lo posesionará en virtud de este despacho, lo hará medir conforme á ordenanza empesando desde los linderos de Don Julian Foxon, y si resulta algun sobrante de tierra quedará en beneficio de la Nacion para los usos que le convenga.

7ª Si contraviniere á estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniendose el presente titulo por firme y valedero se tome razon de él en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de los Angeles á catorce de Noviembre de mil ochocientos cuarenta y cinco.

Queda tomada razon de este titulo en el libro á que corresponde.

Angeles Mayo 8 de 1846.

Dada cuenta en Sesion de hoy con este expediente á la Exma. Asamblea Departamental, se mandó pasar á la Comision de terrenos baldios.

Pio Pico.

Preste

Agustin Olvera

D.S.

Señor.

La Comision de terrenos baldios á examinado el presente espediente promovido por el Ciudadano Agustin Davila relativo al parage nombrado Corral de Cuate q. le fue concedido por el superior Gobierno Departamental con fha. 14 de Sbre. ultimo La Comision advierte q. al agraciado se le sujeta en la condicion 3a. de tal modo q. no podra disfrutar este terreno libre y esclusivamente, pues se ve en la condicion citada q. la Mision ó arrendatario de la de Sta. Ynes pueden establecer alli toda clase de vienes semovientes, y hasta quien cuide de ellos segun la

condicion 2ª, en este concepto la Comision consecuente á lo q. V. E. aprobó en sesion de 18 del pasado en q. ya no se consideró otra Mision arrendada sino con el caracter de finca particular por lo q. se suprimió la condicion q. sujetaba á aquel agraciado á no impedir el uso de tierras de siembra cuando aquellos las necesitare, es de opinion esta Comision q. con arreglo á aquel acuerdo se suprima la condicion 3ª del titulo á q. se refiere en razon de concederle ya la Mision de Sta. Ynes una finca particular; y no con el derecho q. le daba á estas esenciones, cuando se consideraron comunicadas y por la misma razon no deve tener efecto la condicion 2ª aunque fue convenio del agraciado con el P. Ministro de aquella Mision segun aparece en este Espediente. En vista de lo espuesto la Comision pone á la mejor deliberacion de V. E. la proposicion siguiente.

Se aprueva la concesion hecha al Ciudadano Agustin Davila del parage conocido Corral del Cuate jurisdiccion de Sta Barbara, quedando suprimidas las condiciones 2ª y 3ª del titulo espedido á su favor con fha 14 de Noviembre del año p.º p.do y en conformidad con la ley de 18 de Agosto 1824, y artº 5 del Reglamento de 21 de Obre. de 1828, en estencion de tres sitios de ganado mayor.

Sala de Com.s en la Ciudad de los Angeles Junio 9. 1846.

Office of the Surveyor General of the United States of California.

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 or Department of Upper California, do hereby certify that the fifteen preceding and hereunto annexed pages of tracing paper numbered from one to fifteen inclusive and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents on file forming part of the said archives in this Office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of Office) at the City of San Francisco, California this fourth day of February 1852

S. D. K.

Saml. D. King
Sur. Genl. Cal.

Filed in Office April 20th 1852
Geo: Fisher
Secy.

B = B"

Translation of Expediente

Angeles July 5 1845
Let this be passed to the Committee on Missions to Report whether the land petitioned for can be granted without prejudice to the leasing which is to be made of said Mission of Santa Inez
Signed Pico

Most Excellent Sir

We Augustin Davila and Juan Leamarillo residents of Santa Barbara before the justification of your Excellency and as we best may represent that having a considerable number of large cattle and horses being in want of a place for their improvement we have examined a place with that object, which place is entirely vacant in the jurisdiction of Santa Inez named "el Corral del Leuate, the only obstacle being a Corral but we have agreed with the Reverend Father of the said Mission to pay for said Corral the amount of three hundred dollars in goods and as for the few wild cattle which on said lands are found, the Rev Father may dispose of them when he may find it convenient as will be seen by the document we have obtained from the Rev Father and also transmit with this our petition. The land solicited is as much as three square leagues a little more or less as shown by the annexed map which we transmit
Therefore we pray your Excellency to have the goodness to grant us the ownership of the said land we make the usual protestations
And be pleased to admit this present petition on common paper there being none of the corresponding stamp
Santa Barbara April 21. 1845
(Signed) Augustin Davila
(Signed) Juan Leamarillo

The land asked for in this petition is not necessary for the Mission neither will the lessees be prejudiced by it. It should be observed that Don Juan Leamarillo has withdrawn his petition and Señor Davila alone will pay for the corral which is on the land if the —

government should think proper to grant it
Santa Inez July 28 1845
(Signed) Andres Pico
(Signed) Juan Manso

Angeles November 14th 1845
Having seen the petition with which this Espediente commences the Report of the Committee on Missions with all other things which were represented and deemed proper to be seen in conformity with the law of August 18th 1824 and the regulation of November 21 1828 I declare Don Augustin Davila owner in fee of three square leagues in the land known by the name of Leañada del Leñate near the Mission of Santa Inez: in consequence let the corresponding title be issued with the usual conditions and in addition with the following
1st. He shall not in any manner prejudice the large cattle and their increase which the Mission of Santa Inez may have in the land now granted the lessees of which (Mission) will have the right to take of these cattle whenever they may see fit without any hindrance on the part of the grantee. 2nd The Mission of Santa Inez or its lessees will have the right to keep and maintain on the same land granted the horses both wild and tame and their increase and also the oxen which may be recognized as the property of said Mission: Third the present grant is subject to the boundaries of the lands of Don Joaquin Carillo & Don Jose Maria Covarrubias Don Octaviano Gutierrez, Don Julian Foxon of the Episcopal College and of the Indians Antonio and Marcelino and consequently the grantee will always respect them as they appear in the respective judicial possession which the aforesaid persons and the Episcopal Seminary may have: 4th When required by the Departmental Government the grantee shall pay as an indemnity for the Corral which the Mission of Santa Inez has on the land granted the sum of One hundred dollars to any of the Creditors of the said Mission 5th the land of which donation is made him is of the extent of three square leagues only, The

him is of the extent of three square leagues only, the

17

proper Magistrate will put him in possession in virtue of the title and mark out the boundaries commencing the measurements at the boundary of Dn. Julian Faxon and if there resulte any surplus of land it shall remain for the benefit of the Nation for the ammiment uses Let the Espediente be filed and submit this Concession for the Approval of the Most Excellent Asembly

(Signed) Pio Pico

Santa Inez April 20 1845

To Don Agustin D'avila
Santa Inez

My Esteemed Don Agustin

I have examined your favor of the 19th inst in which you represent to me that his Excellency the Governor desires that with your Petition the report should be sent in order to save trouble, and this being his Excellency wish I say that with the conditions you propose that the wild cattle of the Mission may remain on the land and also that there shall be no hindrance to withdraw them it when it may be convenient I am of opinion that it may be granted as the corral being paid for no prejudice will accrue to the Mission it having nothing else on the land

(Signed) Jose I Simmo

Nicolas A Den 1st Alcalde of the Partido of Santa Barbara

I Certify that Citizen Agustin Davila and Juan Camarillo have property with which to stock the land they petition for that said land is at this time vacant except a few wild cattle and at the petition of the persons interested I give this present in Santa Barbara on the 23rd of April 1845

(Signed) Nicolas A Den

[For translation of Title see Exhibit "D."]

Angeles May 8th 1846

This Espediente having been reported to the Most Excellent Departmental Asembly in sessions of this day it was ordered to be passed to the Committee on Vacant land

(Signed) Pio Pico

Signed Agustin Olvera

Deputy Secretary

18

Sir

The Committee on Vacant lands has examined the present Expediente formed by Citizen Agustin Davila relative to the place named Corral de Guate which was granted to him by the Superior Departmental Government on the 16th of November ult. The Committee observes that the grantee is so limited by the 3rd Condition that he cannot enjoy this land freely and Exclusively for it is seen by the aforementioned Conditions that the Mission or Lepers of Santa Inez can establish there any kind of self moving property and even a person to take care of it as in Condition 2 In this view and in consequence of that which your Excy approved on the 18th ult in which another Mission based was considered only in the character of a private establishment for which reason the condition that the grantee should permit the use of the planting grounds which at (of the Mission) may need them was suppressed, this Committee is of opinion that in conformity with that decision the 3rd Condition of the title opposed to should be suppressed, because the Mission of Santa Inez is now considered as a private establishment and as not having the right to their privilege as when they were considered common and for the same reason the 2nd Condition ought not to have any effect although it was by agreement between the Father Minister of that Mission and the grantee as appears by the Expediente In view of the forgoing the Committee reports for the deliberation of your Excy the following proposition Viz

They Approve the grant made to Citizen Agustin Davila of the place known as Corral del Guate in the jurisdiction of Santa Barbara the Conditions 2nd & 3rd being suppressed in the title opposed in his favor dated Nov 4 of last year and in conformity with the law of August 18th 1824 and Article 5 of the Regulation of November 21 1828 in extent three square leagues

Hall of Committees in the City of Los Angeles June 9th 1846

(Signed) J Argüello

Filed in office April 20th 1852 — E G

Geo Fisher — R P

Secy

19

"C"
Document
H. H.
No. 1.

Sello Primero Ocho Pesos.

Habilitado provisionalmente por la Aduana Marítima del puerto de Monterey en el Departamento de las Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Michelorena. Pablo de la Guerra

ADA Marita De Mons [Place of the Eagle]

Pio Pico, Vocal decano de la Asamblea Departamental y Gobernador provisional de las Californias por ministerio Constitucional.

Por cuanto Dn. Agustin Davila ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Corral del Quate; practicadas previamente las averiguaciones concernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas, á nombre de la Nacion Mexicana, he venido por decreto de este dia en concederle el espresado terreno, declarandole la propiedad de él por las presentes letras de conformidad con la ley de 18 de Agosto de 1824, y reglamento de 21 de Noviembre de 1828, á reserva de la aprobacion de la Escma. Asamblea Departamental y bajo las condiciones siguientes.

1ª Podrá cercarlo sin perjudicar las travesias y servidumbres; lo destinará á los y cultivo que mas le acomode; pero

dentro de un año fabricará casa en él estará habitada y lo ocupará con un numero correspondiente de bienes semovientes

2ª No perjudicará en manera alguna el ganado mayor alzado y sus productos que en el terreno concedido tiene y tenga la Mision de Santa Ynes, cuyos arrendatarios tendran esclusivo derecho de tomar y cuidar aquel ganado como bien les parezca sin impedimento alguno por parte del agraciado.

3ª La Mision de Santa Ynes, ó sus arrendatarios tendrán derecho para tener y pastear en el mismo terreno concedido, el ganado caballar bronco y manso y sus productos, asi como los bueyes que se reconozcan ser de la pertenencia de dicha Mision.

4ª La presente concesion está y estará sujeta á los linderos de los terrenos de Dn. Joaquin Carrillo y Dn. José Maria Covarrubias, de Dn. Octaviano Gutierrez, Dn. Juliano Pozon, del Colegio Episcopal y de los indigenas Antonio y Marcelino, y por tanto el agraciado respetará siempre dichos linderos conforme conste en las posesiones judiciales que obtengan los espresados individuos y Colegio Episcopal.

5ª Cuando sea requirido por el Gobierno Departamental, pagará el agraciado en indemnizacion del Corral que la Mision de Santa Ynes tiene en el terreno que se le concede, la cantidad de cien pesos, á alguno de los acreedores á la espresada Mision.

6ª El terreno de que se hace donacion es precisamente de la estencion de tres estios de ganado mayor. El Jnez

Chgo Chace

respectivo lo posesionará en virtud de este despacho, lo hará medir conforme á ordenanza empesando desde los linderos de Dn. Julian Foxon y si resulta algun sobrante de tierra quedará en beneficio de la Nacion para los usos le convenga.

7a Si contrariere á estas condiciones perderá su derecho al terreno, y será denunciable por otro.

En consecuencia mando que teniendose el presente titulo por firme y valedero se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de los Angeles á catorce de Noviembre de mil ochocientos cuarenta y cinco.

Pio Pico.

Jose Mª Covarrubias
Srio.

Queda tomada razon de este titulo en el libro respectivo.

Angeles fecha ut supra
Covarrubias

El Esmo. Sor. Gobernador dispone se tome razon de este despacho en la Sub-Prefectura de Sta. Barbara.

Covarrubias.

En cumplimto. de la Superior disposicion que antecede, queda tomada razon de este titulo en el Libro respectivo de esta Sub-Prefa.

Sta. Barbara Nbre. veinticinco de mil ochocientos cuarenta y cinco.

Anasto. Carrillo.

Blank for the Map

El que suscribe Secretario del Gobierno de las Californias.

Certifico: que la presente Copia es fielmente sacada del diseño original que obra en el espediente promovido por Don Agustin Davila en pretencion del terreno nombrado Corral del Cuate.

Angeles Noviembre 14 de 1845.

Jose Mª Covarrubias

Agustin Davila y Cesario Lataillade han convenido en el siguiente, que por no haber Juez en este momento, se comprometen á verificar la escritura en Sta. Barbara cuando alguno de ellos lo pida.

Davila entrega desde hoy á Lataillade el rancho de su propiedad, conocido con el nombre de (Corral del Cuate) con una casita y una viña y todas las pertenencias del rancho, escepto los bienes muientes

Lataillade se comprometo á pagar á Dn. Agustin Davila en pago del rancho la suma de novecientos pesos, en la forma siguiente.

Lataillade cubrirá por Davila unas cuentas pendientes con varios sujetos que ascienden á poco mas ó menos á cuatro cientos pesos. Dos cientos ochenta pesos en aguardiente, tabaco, jabon á los precios que cuestan á Lataillade hasta ponerlos en manos de Davila dos cientos pesos en plata efectiva que entregará Lataillade dentro de tres meses contados desde esta fecha. Los dos cientos ochenta pesos referidos en efectos se entiende los entregará Lataillade, despues de la cosecha de este año.

Y para constancia lo firman los

partes y testigos, declarando Davila q. esta venta es su voluntad y q. está pronto á verificar la escritura renuncia tambien á todas las leyes que puedan favorecerle para una retractacion, pues el valor de nueve cientos pesos es el justo y el que mas han ofrecido.

Sta. Ynes, Agosto 13 de 1841

Agustin Davila.

Testigo
Agustin Fauseris. Jose

Ha recivido
Casa de C. Julio . . $
Jabon . . . 2. 0
Papel 1/2 resma . 4. 0
Plata en la mano . 30. 0
s/oblig.n 63. 0

"E"

En el Puerto de Sta. Barbara, á los veinte y cuatro dias del mes de Agosto de mil ochocientos cuarenta y siete, ante mi, Luis Carillo, Juez segundo de este partido, con ejercicio del de primero por ausencia del propietario, y por ante los testigos de mi asistencia con quienes actuo por receptoria á falta de escribano publico, á mas los instrumentales que al fin se denominarán compareció el Ciudadano Agustin Davila á quien doy fé conozco, y dijo = Que por si y a nombre de sus herederos y sucesores y de quien de ellos hubiere titulo, voz causa ha en alguna manera, vende y da en venta real y enajenacion perpetua por juro de heredad para siempre jamas, á la Señora Dona Maria Antonia de la Guerra de Latailleda á quien doi fé conozco presente y aceptante;

y á los suyos el Rancho que tiene de su propiedad conocido con el nombre de "Corral del Cuate" jurisdicion de Santa Ynes que colinda por el Norte con el Rancho de Julian Foxon, por el Sur con el de Don Joaquin Carrillo y Don José Maria Covarrubias, por el Este con el del indio Marcelino y Colegio Episcopal, y por el Oeste con los terrenos de Octaviano Gutierrez, el cual terreno contiene tres sitios de ganado mayor de todo lo que hace entrega en debida forma á Doña Maria Antonia de la Guerra de Lataillade con una cacita de piedra parada, una aña y cercas para siembras escepturando solo los bienes semovientes en cuyo Rancho tiene derecho por habersele concedido el Gobierno Departamental con fecha de catorce de Noviembre de mil ochocientos cuarenta y cinco, por cuyo titulo le corresponde su posesion y propiedad, el cual declara y asegura no tenerlo vendido enagenado ni empeñado ni del todo ni parte y que está libre de tributo, memoria Capellania, vinculo, fianza, y de otro gravamen real, perpetuo, temporal, especial jeneral, tacito y espreso y como tal se lo vende, quedando á entregarlo en la forma y disposicion que particularmente han convenido en la cantidad de "nueve cientos pesos" los que declara el vendedor tener parte recibido por convenio celebrado con la compradora y el resto á plazo de tres meses, y por lo tanto renuncia la escepcion que pudiera oponerse por no contar del presente la lei 7 titulo 10 parte 5ª formaliza á favor de la compradora la mas firme y eficaz carta de pago que á su seguridad conduzca, y asi mismo declara el vendedor que ha hecho esta venta por no poder ocuparlo por falta de recursos

y hallarse por lo mismo en caso de de=
nuncio: y asimismo declara que los mere
cientos pesos que le han dado los ha recivido
y recibira de la Señora Doña Maria
Antonia de la Guerra de Tatillade como
por vía de indemnizacion voluntaria y ni
halló quien mas le diera por el espresado
paraje; y si mas vale ó valer pueda de
exceso en poca ó mucha suma hace á
favor de la compradora, sus herederos y sucesores
gracia y donacion pura mera, perfecta
irrevocable en sanidad con insinuacion y
demas firmezas legales y renuncia la lei 2ª
titulo 10 libro 10 para recopilacion que trata
de los contratos de ventas, trueque y de
otro en que hai lesion en mas ó menos de
la mitad de su justo precio y los cuatro
años que prefija para pedirse recicion
ó enplemento á su justo valor, los que
da pasados como si efectivamente estuvieran
y desde hoi en adelante para siempre se
desapodera, desiste, quita y aparta á sus
herederos y sucedores del dominio, pro=
piedad, posecion, que le competa al
enunciado terreno, le cede, renuncia, y
traspasa con las acciones reales y per=
sonales, utiles y mistas, directas y efectivas
en la compradora y en quien la suya re=
=presente para que lo posee cambie enajene
se y disponga de el á su eleccion como de
cosa suya adquirida como legitimo y justo
titulo: le confiere poder irrevocable
con libre franca y jeneral administracion
y la constituye procuradora actora en su
propia causa, para que de su autoridad
ó judicialmente entre y se apodere del
enunciado rancho "Corral del Cuate" y
de él tome y aprehenda la real tenencia
y posecion que por derecho le compete, y para

que no permita tomarla pidere le copia
autorizada por la presente escritura con lo
cual sin otro acto de aprehension ha de
ser visto haberla tomado aprehendido y
transferidosele y en el interino se constituye
su inquilino tenedor, precario, poseedor en
legal forma y se obliga á que dicho rancho
será cierto seguro y efectivo á la compradora
y nadie la inquietará ni movera pleito
sobre su propiedad, posesion, goce, disfrute
ni contra él aparecerá gravamen alguno
y si se le inquietáse, moviere ó apareciere
luego que el otorgante ó sus herederos y
sucesores sean requeridos conforme á derecho
saldrán á su defensa y seguirán a sus
expensas en toda instancia y tribunales
hasta ejecutoriarles y dejar á la compradora
y á los suyos libre uso, quieta y pacifica
posesion, y no pudiendo conseguirlo le dará
otro igual en valor del sitio venta y
comodidad, y en su defecto le restituirá
la cantidad que ha desembolsado, las
mejores utiles precisas y voluntarias que
á la sazon tenga de mayor valor y
estimacion que con el tiempo adquiera
de todas las costas, gastos, y menoscabos
que se le siguieren ó erogaren, por todo lo
cual se les ha de poder ejecutar en virtud
de esta escritura y juramento del que
la, ó de quienes la representen; en quien
difiere su importe y lo relevo de otra
prueba y á la observancia de todo lo
referido obliga el otorgante su persona
bienes habidos y por haber, renuncia las
leyes en su favor en defensa y con la
jeneral del derecho en forma, y confiere
amplio poder á los señores jueces que de
este negocio deban conocer conforme á
derecho para que lo apremien á su cumpli=

miento como sentencia definitiva de Juez competente pasada en autoridad de cosa juzgada y consentida que por tal la reviba y la firmó conmigo y dos de mi asistencia siendo los instrumentales los ciudadanos Juan Camarillo Diego Fernandez = Franco Carrillo presentes y vecinos de este pmto. Hecho en papel comun por no haber del sellado que corresponde

Ante mi = Luis Carrillo.

Agustin Davila.

Maria Antª de la Guerra de Latailade

asta.

Isaac J. Sparks.

asta.

Jose Luzo.

Certifico: que en este lugar no se halla papel sellado de ninguna clase.

Stª Barbª Agto. 24 de 1847.

Luis Carrillo.

Filed in Office Decr. 31. 1852.

Geo: Fisher
Secy.

28 "D"

Translation of Title

Stamp First Eight Dollars

Provisionally authorized by the Maritime Custom House of the Port of Monterey in the department of California for the years one thousand eight hundred and forty four and one thousand eight hundred and forty five

Maritime Custom House of Monterey

Signed) Micheltorano (Signed) Pablo de la Guerra

Pio Pico Señor Vocal of the Departmental Assembly and ex officio provisional Governor of the California

Whereas Don Agustin Davilo has for his own personal benefit and that of his family petitioned for the land known by the name "Corral del Ucate" the proper examinations having been previously made as required by laws and regulations on the matter using the faculties which are conferred on me in the name of the Mexican Nation I have by decree of this day granted him the aforesaid land declaring to him the ownership of it by these presents in conformity with the law of August 18th 1824 and Regulation of November 21st 1828 subject to the approval of the Most Excellent Departmental Assembly and under the following conditions

1st He may enclose it without prejudice to the cross roads roads and servitudes and make such use & cultivation of it as he may think proper but within one year he shall build a house on it which shall be inhabited and occupy it with a corresponding quantity of self moving property

2nd He shall not in any manner injure the wild cattle or it increase which the Mission of Santa Inez has or may have on the land granted the lessees of which (Mission) shall have the exclusive right of taking and caring for that cattle as they may think best without any hindrance from the grantee

3d The Mission of Santa Inez or its lessees shall have the right to keep and pasture on the same land granted their horses

whether wild or tame & their increase as well as the Oxen which are recognized as belonging to said Mission

4 The present grant is and shall be subject to the boundaries of the lands of Don Joaquin Carrillo Don Jose Maria Covarrubias Don Octaviano Gutierrez Don Julian Foxon those of the Colegio Episcopal, and of the Indians Antonio and Marcelino and therefore the grantee shall respect said boundaries as shown by the juridical possession which said persons and Episcopal College may respectively have

5 When required by the Departmental Government to do so the grantee shall pay by way of indemnity for the Corral which the Mission of Santa Inez has on the land granted the sum of one hundred dollars to any of the Creditors of said Mission

6 The land granted in donation is in extent only three "Sitios de ganado Mayor" (three square leagues) the proper Magistrate shall give him possession in conformity with the Ordinance commencing from the boundary with Don Julian Foxon and if there should be any surplus of land it shall remain for the benefit of the Nation & for its convenient uses

7 If he shall contravene these conditions he shall lose his right to the land and it may be denounced by another person

In consequence order that this title being held as firm and valid note be made of it in the proper book and it be delivered to the party interested for his security and other purposes

Given in the City of Los Angeles this fourteenth of November one thousand Eight hundred and forty five (signed) Pio Pico

(signed) Jose Maria Covarrubias, Secretary

Note has been made of this title in the proper Book, Angeles date as above

(signed) Covarrubias His Excellency the Governor directs that Note be made of this order in the Sub Prefecture of Santa Barbara (signed) Covarrubias In compliance with the forgoing superior Order note has been made of this title in the proper Book in this sub Prefecture Santa Barbara November 25 1845

(signed) Anastasio Carrillo

Filed in Office April 10 1852 Geo Fisher Sec'y

30 "F."

Translation of transfer Deed

In the Port of Santa Barbara on the 24th day of the Month of August one thousand Eight hundred and forty seven before me Luis Carrillo second Magistrate of this Partido acting as first in the absence of the regular Judge and before the witnesses of my Assistance with whom I act in virtue of my office for want of a Notary Public besides the witnesses to the instrument who at the end will be named appeared Citizen Agustin Davila whom I certify I know and said; that for himself and in the name of his heirs and successors and whoever of them might have title claim or right in any manner he sells and grants in real sale and perpetual alienation with the right of inheritance forever to Doña Maria Antonia de la Guerra de Lataillade whom I certify I know present and accepting and to her the Ranch which he owns in fee known by the name of "Corral de Cuati" in the jurisdiction of Santa Inez and which is bounded on the North by the Rancho of Julian Foxen on the south by that of Don Joaquin Carrillo & that of Don José Maria Covarrubias East by that of the Indian Marcelino and the Episcopal College and on the West by the lands of Octaviano Gutierrez: said land contains three "sitios de ganado Mayor" (three square leagues) of all which he makes delivery in due form to Dona Maria Antonia de la Guerra de Lataillade and with them a log house a vinyard and fences for crops excepting only the sequoring property: his right to which rancho is by grant from the Departmental Government dated November fourteenth one thousand eight hundred and forty five by which title it belongs to him in possession and fee, and he declares and assures that it has not been sold alienated or pledged either entire or in part and that it is free from any tribute, religious or charitable tax, entail pledge or other incumbrance whether real, perpetual, temporal, special, general tacit or expressed and as such he sells it leaving it to her

delivered in the form and manner which they have particularly agreed upon for the sum of Nine hundred dollars part of which he the Vendor declares he has received by an agreement entered into with the purchaser and the rest in three months and therefore renounces the exception which might otherwise be taken from its not being counted in presence law 7 title 10 part 5th and executes in favor of the purchaser the most firm and effective receipt which can conduce to her security, and the Vendor likewise declares that he has made this sale because for want of means he was not able to occupy it and was thence liable to be denounced and he also agents that he has received and will receive the nine hundred dollars from Doña Maria Antonia de la Guerra de Lataillade by way of indemnification voluntarily made and that he found no person who would give more for the said place and if it is or may be worth more of the excess be it large or small he makes in favour of the purchaser her heirs and successors gift and donation pure simple, perpetual and irrevocable in good faith with judicial intervention and other legal forms and renounces law 2 title 10 Book 10 of the "recopilacion" which treats of contracts of sale exchange and others in which there is lesion in more or less than half the just value of the property and considers as past the four years specified in it in which to claim restitution of the property or what was wanting of its full value and from this time forth forever he for himself his heirs and successors gives up the possession, desists and retires from the dominion ownership and possession which pertain to him in the aforementioned land and renounces, renounces and transfers it with the actions real and personal, useful, mixed, direct and effective to the purchaser and whoever may represent her that she may possess it, exchange alienate use and

and dispose of it at her will as of her own property adquired by just and legal title and he confers on her irrevocable power with free full and general administration and constitutes her his attorney in fact that either of her own authority or judicially she may enter upon and take possession of the said Rancho of "Corral del Venado" and take and hold the real tenure and possession which legally belongs to her and that it may not be necessary for her to take it he the Vendor prays that an authorized copy of this writing be given to her by which without any other act it may be seen to have been taken seized and transferred to her and in the mean time he constitutes himself her tenant and temporary possessor of it in legal form and binds himself that said Rancho shall be certain sure and effective to the purchaser and that no one shall disturb her or bring suit against her ownership possession enjoyment or benefit nor shall any incumbrance appear against the land and if she should be disturbed, or suit brought or incumbrance appear immediately that the Vendor or his heirs and successors shall be required in conformity with law they shall come forward in her defense and pursue it at their own expense in all Courts and tribunals until they obtain judgment in her favor and leave her the purchaser and heirs the free use quiet and peaceable possession: and if he shall not be able to accomplish this he will give her another equal to the place in value, rent, and convenience and in default of such he will restore her the sum she has expended with all improvements useful necessary and voluntary which at that time there may be (on the Rancho) with the increased value which in time it may have acquired and all the costs expenses and damages which may accrue or be caused to her all of which may be executed in virtue of this writing and the oath of him or them who may represent her to whom he

leaves it to fix the Value and he relieves her of other proof
And to the observance of all the foregoing the Vendor
binds his person his property in present possession
or which he may hereafter attain, and he renounces
the laws in his favour and against and the legal
exceptions in form and confers ample power on the
Magistrate who by law ought to take cognizance of this
Matter to compel him to comply with it as a
definite sentence of a competent Judge passed in
authority of res judicata and consented to for as
such he receives it And he signed with me and
the assisting witnesses, the witnesses to the instru-
-ment being Citizens Juan Camarillo, Diego Fernandez
Francisco Carrillo present and residents of this place
Executed on Common paper for want of that of the
corresponding stamp

Assisting witnesses (signed) Luis Carrillo
sgd) Isaac J Sparks (signed) Agustin Davila
sgd) Jose Lugo (signed) Mn Ant.o de la Guerra de Lataillade

I Certify that in this place there is no stamped paper
of any kind

Santa Barbara August 24th 1847
(signed) Luis Carrillo

Filed in office April 20th
1852
Geo Fisher
Secy

34

Opinion

Maria Antonia de la Guerra y Lataillade vs The United States } For the place called "Corral de Ganado" containing three square leagues

The Petitioner claims title from Agustin Davila who petitioned for the land in April 1845 and obtained a grant from Governor Pio Pico dated November 14th 1845 a traced copy of the Expediente and the original grant duly proved are given in evidence, A conveyance of the land by Davila to the present claimant duly proved is presented bearing date the 24th day of August 1847

The deposition of Jose Maria Lavandrica proves that the signatures to the documents above mentioned are genuine and that said Davila went into the occupancy of the land granted very soon after the grant and that he planted a vineyard on it In the Deed of sale by Davila to the present claimant a log house a vineyard and fences for crops on the land are enumerated as a part of the property transferred It is also proved that since 1847 the present claimant has occupied the place with a house cattle and horses the grant contains no conditions against alienation The grant contains a condition or rather reservation of the right of the Mission of Santa Inez to certain restrictive uses of the land for their cattle It seems from the documents in the case that the Mission made no claim to a right to the land but reported that the establishment would not be prejudiced by the grant the reservation for occupancy by the cattle of the Mission attracted the attention of the Departmental Assembly when acting on the case and the Committee on Vacant lands made a report denying all right to such a reservation and recommending an approval

of the grant with the suppression of all the conditions in favor of the Mission this report was made near the close of the existence of the Departmental Assembly and no further action on the subject in that body appears Another case is referred to in the report of the Committee when such conditions were expressly repudiated by the Assembly

There does not seem to me an examination of all the papers to have been any objection arising from any rights or interest of the Mission to making this grant in the usual terms of concession under the law and regulations and it is therefore doubtful whether such reservation could with any propriety or force be introduced into the grant But however the question of power may be I can regard the privilege therein reserved in the light only of a restrictive privilege of temporary occupancy which it was contemplated by the parties would before long cease altogether The occasion of it has long since passed away the establishment of the Mission itself has ceased to exist and the claimant cannot now be prejudiced by the restriction without manifest injustice

The lands granted are defined by metes and bounds and in such terms that they can be so described in the decree that the surveyor will find no difficulty in understanding the calls and running the lines

The claim is confirmed

Filed in Office No 22
1863

Geo Fisher
Secy

36
Decree

Maria Antonia de la Guerra y Lataillade
vs
The United States

In this case on hearing the proofs and allegations it is adjudged by the Commission that the said claim of the Petitioner is valid and it is therefore hereby decreed that the same be confirmed. The land of which confirmation is hereby made is that known by the name of "Corral del Ganado" being the same now occupied by said Claimant and bounded as follows to wit, On the North side by the south line of the land known as the land of Julian Foxon and the land of the Indian Antonio - on the east by the west line of said Antonio's land that of the Indian Marcellino and that known as the Episcopal College on the West by the east line of the land of Octaviano Gutierrez and on the South by a line drawn parallel with the said line of Julian Foxon above mentioned and at such a distance from it as to comprize within the boundaries above described three square leagues of land, excepting and reserving therefrom any and all portion of the lands of the Ranchos of Joaquin Carrillo and José Maria Covarrubias or either of them which may be found to lie within the boundaries above described and the exterior primises hereby confirmed to said Claimant are subject to the said boundaries of said adjoining lands as the same have been heretofore determined and located by judicial measurement or as the same shall hereafter be located under the Confirmation of this Commission and in default of either then as the same were known and recognized to be bounded in the year 1845 Reference for more particular description of the lands hereby confirmed to be had to the grant

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of said land by Governor Pio Pico November 14th 1845 to Augustus Davila and to the Map of the same Contained in the Expediente a copy of which together with said Original grant is on file in this case

Alpheus Felch
Thompson Campbell } Commissioners
R Aug Thompson

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 Seven pages, numbered from 1 to 37, 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. 189 on the Docket of the said Board, wherein Maria Antonia de la Guerra y Castillalle is Claimant against the United States, for the place known by the name of "Corral de Cuate"

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

Geo: Fisher.

Sec'y

49

U. S. DISTRICT COURT,

Southern District of California.

No. 49. Docket

THE UNITED STATES,

49

vs.

Maria Antonia de la Guerra y Lataillade "Corral de Cuate"

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 189.

Filed, August 30th 1854

W. H. Carter

Clerk

49

49.

Office of the Attorney General of the United States,

Washington, 30th November 1854.

Maria Antonia de la Guerra y Lataillade
vs.
The United States.
} 189.

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 18th 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 49. 1

U. S. District Court

Southern District

The United States

vs

Mr. Antd. de la Guerra y Bataillade

Appeal Notice

Filed Jany 10th 1855.

C. E. Carr
clk.

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

Maria Antonia de la Guerra y Lataillade
ads.
The United States

No. 49 (Transcript No. 189)

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 20th day of April A.D. 1852, Maria Antonia de la Guerra y Lataillade presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called Coral de Cuate in the County of Santa Barbara in the words and figures following, viz,

"The Petitioner Maria Antonia de la Guerra y
"Lataillade respectfully shows"

"That on the 21st day of April
"1845 Augustin Donila applied for the tract
"of land called "Coral de Cuarte" and that said
"petition being approved by the subordinate
"authorities Pio Pico Governor of California by
"virtue of authority in him vested on the 14th
"day of November A.D. 1845 granted to the said
"Augustin Donila the aforesaid tract of land
"situated in the present County of Santa Barbara
"containing three square leagues of land with
"the boundaries described in the title papers
"and accompanying map; that on the 9th
"day of June A.D. 1846 the said title was approved
"in the Departmental Assembly annulling
"the 2nd and 3rd conditions in the title all
"of which is shown in the Espediente a certi-
"fied copy of which is submitted herewith
"marked "A" and a translation marked "B"
"The petitioner also submits herewith a copy of
"the title marked "C" with a translation mar-
"ked "D"

"The petitioner also shows that on the 24th day
"day of August A.D. 1847 the same Augustin
"Donila sold and conveyed to the petitioner

"the aforesaid tract of land a copy of which "deed of conveyance is submitted herewith "marked "E" with a translation marked "F". "That the said tract of land has not been sur-"-veyed by the Surveyor General of the United "States but that its boundaries are fully descri-"-bed in the title papers and are well known. "That the said Donila and the petitioner have "been since the month of November A.D. 1845 "and the petitioner now is in the quiet peaceful "and undisputed possession of the said tract "of land and that she knows of no conflicting "claim"

"That she relies for confirmation of title upon "the original papers copies of which are sub-"-mitted herewith upon the Records in the "Archives now under the charge of the Survey-"-or General and upon such other and further "proofs as she may be advised are necessary "Wherefore she prays the Commissioners to "confirm to her the said tract of land".

Your petitioner further represents that thereafter, to wit, on or about the 22d day of November A.D. 1853, the said Commissioners confirmed, by final decree, the said claim of the said Ma-"-ria Antonia de la Guerra y Lataillade in the words and figures following, to wit.

"In this case on hearing the proofs and "allegations it is adjudged by the Commission "that the said claim of the Petitioner is valid "and it is therefore hereby decreed that the same "be confirmed The land of which confirmation "is hereby made is that known by the name of "Corral del Cuate" being the same now occu-"-pied by said Claimant and bounded as "follows to wit, On the North side by the South "line of the land known as the land of Julian "Forcon and the land of the Indian Antonio-on "the east by the west line of said Antonio's land "that of the Indian Marcillino and that known "as the Episcopal College on the west by the "east line of the land of Octaviano Gutierrez "and on the south by a line drawn parallel "with the said line of Julian Farcon above "mentioned and at such a distance from it "as to comprize within the boundaries above "described three square leagues of land, ex-"-cepting and reserving therefrom any and all "portion of the lands of the Ranchos of Joaquin "Carillo and Jose Maria Covarrubias or either "of them which may be found to lie within "the boundaries above described and the exte-"-rior premises hereby confirmed to said clai-"-mant are subject to the said boundaries of-

"said adjoining lands as the same have been "heretofore determined and located by juridi-"cal measurement or as the same shall hereafter "be located under the confirmation of this Com-"mission and in default of either then as the "same were known and recognized to be boun-"ded in the year 1845 Reference for more "particular description of the lands hereby "confirmed to be had to the grant of said "land by Governor Pio Pico November 14th "1845 to Agustus Dairla and to the map of "the same contained in the expediente a "copy of which together with said original "grant is on file in this case."

"Alphens Felch"
"Thompson Campbell" } Commissioners.
"R. Aug. Thompson"

That thereafter, to wit, on the 30th day of August A.D. 1854 a duly certified transcript of the 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 for the Southern District of California and marked No. 49 (Transcript 189), reference to which it is prayed may be had and made a part of this petition.

That on the 18th 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. 189) 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 the said Clerk of said District Court for the Southern District of California, that the appeal, in said cause of Maria Antonia de la Guerra Lataillade, vs. the United States, from the decision of the 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

reviewed, revised, and set aside for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now in 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 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 said alleged grant of Governor Pio Pico 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 the 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 Santa Inez, with valuable improvements and personal property 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 Pio Pico, of the date of 14th November 1845, is vague, and indefinite in its description of the locality, and boundaries of the said land, claimed as aforesaid. And it is void for uncertainty.

VI. That the said claimant fails to show the approval of said grant by the Departmental Assembly, of the date of the 9th of June 1846, as alleged in her said petition.

VII. That the said claimant fails to show a definitive grant for said land.

VIII. That the said claimant fails to show that, Augustin Davila, the alleged original grantee of said land, ever asked for or received the juridical possession of the said land. And she also fails to show that the said land was ever juridically segregated from the public domain of Mexico.

IX. That if the said Augustin Davila or the said claimant, ever personally occupied said land, which is denied; they did so unlawfully.

X. That there is no evidence that the said Augustin Davila built a house upon the said land and occupied it within one year from the date of said alleged grant; and that he put upon the said land the corresponding quantity of movables; as required by the first condition of the said alleged grant. And it is denied that said Davila ever performed the said first condition of said alleged grant.

XI. That the alleged sale of said land to said claimant on the 24th of August 1847, was made expressly by said Davila in consequence of his not having the means to occupy the said land and comply with

the conditions of said alleged grant, and to avoid its denouncement, or loss. And the said alleged sale was therefore illegal & void.

XII. That there is no sufficient evidence that the said alleged grantee or claimant ever lived upon, occupied, and cultivated said land. And it is denied that the said alleged grantee, or claimant ever lived upon, improved, and occupied the said land.

And no sufficient proof having been made by said claimant of the allegations of her said petition, or in support of her 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 her, 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 Maria Antonia de la Guerra y Lataillade 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 Maria Antonio de la Guerra y Lataillade, for said land claimed and confirmed as aforesaid; and that the same may be decreed invalid. And all such other orders, judgements, or decrees, as may be just. With costs, and general relief.

P. Ord

Attorney of the United States for the Southern District of California.

No 49 2

U. S. Dist Court
S. Dist of Calif

Mr A. de la Guerra
& Lattaillade
ads
The United States

Petition of U States
for Review

Filed Aug 13 1855
J. E. Carr
Clk.

P. W. Dist Atty

The United States
Appellant
vs
Maria Ulemos de la
Guiena y Satrillade.

The appellee denies title by a deed executed by one Augustin Surla under date 24th day of August 1847. The grantor in this deed obtained a grant from Governor Pio Pico dated November 14th 1845. A true copy of the instrument and the original grant are in evidence. Their genuineness is proved by the witness Maria Caramubias, and he also proves that the grantee went into possession of the land very soon after the grant and planted a vineyard on it. In the deed of 1847 from the grantee to appellee, a log house, vineyard and fences upon the land are enumerated as part of the property ~~conveyed~~ transferred. Finally it is proved that appellee from 1847 the date of his deed has continued to occupy the premises. To rebut this testimony which goes to prove substantial compliance on the part of the grantee with the conditions of the Grant, the British attorney called on attention to the deed of transfer from the grantee

to ~~appellee~~ appellee under date of 24 Aug 1847 in which there is a recital to the effect, that he (the grantee) had made the sale he came for want of means, he was not able to occupy it & may thence liable ~~and therefore~~ liable to be denounced. The inference the Court is asked to draw from this recital is, that the grantee had not ~~been~~ performed any conditions of the Grant. And it is in proof, that he went into possession ~~and~~ ~~had~~ & very soon after the grant had issued, and had planted a vineyard on the land, & this very deed also recites an ~~&~~ announce a log house and fences as among the improvements on the land. It is a principle of law, that when an act is done, to which a good or a fraudulent motive may with equal reason be imputed, a fraud is not to be presumed, the good rather than the fraudulent motive will be ~~imputed~~ presumed. Now in this case, it may be inferred that in the conveyance made, the object was to relieve his land from denouncement to which he may have supposed it was liable under the Mex law; but when it is in proof that previous to such sale

he

had gone into possession, planted a vineyard, built a house and erected fences is it not reasonable to suppose, that the grantee conceived of his inability to continue such occupancy of the land which owned instead against a process which might be enforced with greater stringency by a new government to which he was a stranger than it was the habit of the old Govt. to do, determined to relinquish ~~his rights~~ by receiving from the purchaser those hundred dollars the consideration of the deed? the court deny this a fair interpretation of that ~~deed~~ instrument. By receiving this instrument. By this construing this recital in the deed, we reconcile it to the positive testimony given as to the previous possession and occupancy of the land. By other recitals in this deed it is evident that the grantee considered himself entitled to the land and that nothing up to the date had deprived him of his interest in it. The court therefore think the evidence in this case, establishes a substantial compliance by the grantee with the conditions of the deed, the denouncements having been made by during the

Mexican

Mexican rule, an interest remained in the grantee at the date of the Treaty of Guadalupe Hidalgo which by his subsequent conveyance passed to the appellee.

The Grant conveys three square leagues in the land known by the name of "Cañada del Cuati" near the Mission of Santa Inez and is subject to a reservation of a right in favor of the Mission of Santa Inez to use the land ~~in~~ as a pasturage for their cattle. The departmental assembly when acting on the grant through a committee recommended an approval of the Grant, leaving out all the condition of it which related to the right of the Mission, but nothing more was done, the departmental assembly ceasing to exist shortly after that time. The Court considers the reservation in this case, ~~to~~ in the light only of a privilege of temporary occupancy contemplated by the parties the day to come. The Mission ceased to exist, and with it the occasion for the reservation, and to fix the privilege reserved in favor of the Mission forever on the land, would be unjust to grantee and adverse from the policy of our law.

It becomes affirming the decision of the Commissioners in favor of the validity of the claim will be entered.

No. 49

The U S
vs
M A. de la Guerra
y Lataillade
Concl de Cuer

Decree

Filed Septr. 1855

O. E. Daniels
By D. W. Rathbone
Clk

No 49.

In the United States District Court for the Southern District of California.

The United States
appellant
vs.
Maria Antonia de la Guerra de Dataillade
Appellee.

} Answer of appellee

Maria Antonia de la Guerra de Dataillade, appellee, appears by her attorneys, and for answer to the petition of the United States filed herein, says:

That her title to the land called "Corral de Cuate", as set forth and described in her petition to the United States Board of Commissioners, and in the documentary and other evidence in this case, is a good and valid title; and she prays this Honorable Court to affirm the decision of the Board of Commissioners and to decree her title to be valid.

Hallett Beaty & Billings
Attys for appellee.

Los Angeles Sept 22d 1858.

No 279 3

The United States, Appellant

vs.

M. A. de la Guerra & Petronilla de

Appellee

Answer of appellee

Filed Sept 24th 1855

J. E. Carr Clk

By Thos W. Roy Dep

In the U States District Court for the Southern District of California,
Special Term Sept 1855
Los Angeles.

Maria Ant.a de la Guerra Sattillade
ads
The United States.
Appe.
Appt.

No. 49.
(Transcript No. 189)

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 to 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 26.th day of September A.D. 1855.

P. Ord
Ass.t Dist Atty.

No 49. 5

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

The United States apltts

vs

Maria A. de la Guerra Va-
-lleja de = Appellee

Order of Appeal to the Supreme
Court on Motion of Ord.
U.S. atty: —

Filed October 18th 1855.

J. E. Carr Clerk,
By J. W. Robinson

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

Hon. Isaac S. K. Ogier, Judge.

December Term 1856

The United States
Appellants
vs
M. A. de la Guerra y Estillach
Appellees

Docket No 49

Transcript from the Board of Land Commissioners No. 189.

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 not be prosecuted by the United States. And a Stipulation having been entered into by the United States District Attorney, and the Attorneys of 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 Claimants have leave to

Spread under the decree of this Court heretofore
rendered in this cause as under a final decree

Saml. B. McOgie
U. S. Dist. Judge

U. S. Dist. Court
South'n Dist. Cal.
No. 49

The United States
Appellants
vs
Mariano Malarin et al
Appellees

Order
vacating Appeal

Filed Feb 5th 1857
J. Ord
Clk

California Land Claims.

Attorney General's Office

11 September 1856.

Sir:

In the case of the claim of Maria Antonia de la Guerra y Lataillade, confirmed to the claimant by the Commissioners, Case no. one hundred and eighty-nine (189) 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. Atty for the

Southern Dist. of California.

49

ria Antonia de la Guerra
Latillada

189

d Oct 21 1836

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

Hon Isaac S. K. Ogier Judge

December Term 1856

The United States
Appellant

vs

M. A. de la Guerra y Lataillade
Appellee

Docket No 49

Transcript from the Board of Land Commissioners No 189

In pursuance of a letter from the Attorney General of the United States, herewith annexed, giving Notice that in the above cause the Appeal to 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 the above 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. Wm Dixwell

Hallack Pack & Billings
Attys of Appellee

U. S. Dist Court
South Dist Calif.

No. 49

The United States
Appellant

vs

Mariano de la Guerra Lataillade
appellee

Stipulation
to execute order of
Appeal to Supreme Court

Filed this 5 February
1857 A Sims Clk
J. D. H. Coleman
Dep

The United States
Appellant
vs
Maria Antonio de la
Guerra y Lataillade
Appellee

} United Court U.S. for the Southern Dist. of Cal.

This cause coming on to be heard at a stated Term of said Court on appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California under act of Congress approved 3 March 1851 on the Transcript of the proceedings and decision and of the papers and evidence on 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 the respective parties have been heard, It is ordered, adjudged and decreed that said decision be in all things affirmed, and it is further ordered, adjudged & decreed that the claim of the said appellant is a valid one, and the same is hereby confirmed to and to a tract of land known by the name of "Canada del Cuati" to the extent & being the same now occupied by appellant and bounded on the North by the South line of the land known as the land of Julian

~~Folio~~ Flores and the land of the Indian Antonio - on the East by the West line of said Antonio's land, that of the Indian Mencellano, and that known as the Episcopal College, on the West by the East line of the land of ~~the~~ Octaviano Gutierrez, and on the South by a line parallel with the said line of said Indian Jacinto, at such distance from it as to comprise within above described boundaries three square leagues of land, excepting and reserving therefrom any, and all portions of the land of the Rancho of Joquin Carillo & José Maria Covarrubias or either of them which may be found to lie within above described boundaries and the premises hereby conveyed are subject to the said boundaries of said adjoining lands as the same have been heretofore measured and located by judicial measurement. Reference for more particular description of said lands to be had to the grant & such copies of records and of title in ~~the Archives of the~~ Records in this case