CASE NO.
209

SOUTHERN DISTRICT

POSA DE LOS OSITAS GRANT

CARLOS C. ESPINOSA

CLAIMANT

LAND CASE 209 SD pgs. 60

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 624

Carlos C. Espinosa CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Posa de los Ositos"

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 fourth day of February *Anno Domini One Thousand Eight Hundred and Fifty-* three, *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 Carlos C. Espinosa, *for the Place named* "Posa de los Ositos," *was presented, and ordered to be filed and docketed with No.* 624, *and is as follows, to wit;*

(Vide page 5 *of this Transcript.)*

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

San Francisco August 24th 1853.

In Case No. 624, Carlos C. Espinosa for the place named "Posa de los Ositos", the deposition of Manuel Castro, a witness in behalf of the Claimant, taken before Commissioner R. Aug. Thompson, with argument marked R. T. annexed thereto, was filed.

(Vide page 5 of this Transcript.)

San Francisco May 2d 1854.

Case No. 624, on motion of the Counsel for the Claimants, was ordered to be placed at the foot of the Calendar of the 1st Class Cases on the Trial Docket.

San Francisco Aug. 4th 1854.

Case No. 624 was Submitted on Briefs and taken under advisement by the Board.

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San Francisco Sept. 26 1854.

In the Same Case Commissioner R. Aug. Thompson delivered the Opinion of the Board rejecting the Claim;

(Vide page 35 of this Transcript.)

and the following order was made, to wit:

(Vide page 37 of this Transcript.)

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Petition

To the U S Board of Land Commissioners for the ascertaining and settling of private Land Claims in California -

The petition of Carlos Cayetano Espinoza respectfully sheweth unto your Hon Board that on the 7th of February 1833 he made and presented his petition in writing to the Governor of California soliciting for himself the grant of a piece of land hereafter described and that said Governor referred his petition to the Alcalde of Monterey

That upon his and the Prefect's report in favor of your petitioner, said Governor by a decree dated the 16th day of April 1839 declared your petitioner the lawful owner of said Land and issued to him a formal grant for the same on the 7th day of May 1839

That your petitioner upon application obtained juridical possession of said Land from the proper Municipal authority of Monterey on the 2d day of December 1843; and is now in possession of the Documents of said juridic possession which he submits herewith to the inspection of your Honorable Board

And your petitioner further saith that all the other Documents referred to, as the Original petition references reports decrees, copies of the Original grant and map are on file among the archives of California now in the possession of the U. S Attorney General for the State of California and that certain copies and translations of the same are herewith submitted and prayed to be made a part of this petition

That the Original grant and map are in the hands of your petitioner and ready to be exhibited in evidence whenever required

That the Land above referred to is situated in the County of Monterey is known by the name of "Paso de los Osetos containing four Spanish leagues more or less

And your petitioner further saith that he has been in the quiet and peaceable possession of said Land from the year 1833 and is now aware of the existence of any title conflicting with or superior to his own -

He therefore claims to be the owner of said land

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And prays that your Hon Board will confirm and perfect his claim and title thereto

Clark Taylor & Beck

Attys. for petitioner

Filed in Office Feby 24-1853

Geo. Fisher Secy

Recorded in Vol 1 Of Petitions On pages 621 622

Geo. Fisher Secy

5-

Case 624
Deposition of
Manuel Castro

Office of the Commissioners of Land Claims
in California
This day before Commissioner Robt A Thompson
came Manuel Castro a witness in behalf of Claim
ant Carlos de Espenosa Case 624 and after being
duly sworn deposed as follows
Present J Clark Atty. for Claimant and Robert
Greenhow Assist Land Agent.
Question by Claimants Atty—
What is your name age and place of residence?
Ans- My name is Manuel Castro, my age is thirty
One years residence Sonoma California
Question by Same- Look at the paper marked and
with the initials R T now shown you and filed
in this case purporting to be a grant from Gov. Alvarado
to Claimant together with the documents of
Juridical possession and state what you know
of them authenticity and the genuineness of the
signatures thereto ~~Answer~~
Answer- I know the hand writing of Juan B
Alvarado, Manuel Jimeno, Pablo de la Guerra
Theodoro Gonzales Jose Maria Gutierres Francisco
Rico, Petronilo Rios having seen them all write
My own signature together with those of the
person above named wherever they occur and
said document or paper are genuine and were
I have no doubt made at the time they purport
to have been executed All the signatures to the
documents of Juridical possession were made
in my presence
Question by Same- State what you know in rela
tion to the occupation cultivation and improvement
Erection of buildings &c On the Rancho called
"Paso de los Osilos" claimed by the claimant? in
this case?
Answer- In 1842 I passed said Rancho and saw
there a house of adobes and covered with tiles-
Corrals for cattle and horses, fences enclosing
cultivated lands- I also saw about seven or
Eight hundred head of cattle, Seventy or Eighty
head of horses and some sheep- Some thirty or
forty indians labores employed in cultivating
the soil herding cattle and there were also
several Mechanics Shops such as black Smith
Shoe Makers and weavers for the manufacture

of Blankets all employed by the claimants on the Ranch. I do not know certainly when the house was built. It was built more than a year before I was there. I also know that Claimant went and settled on the Ranch with his family immediately after he obtained the grant and has continued to reside there ever since Except for a short time when his house was attacked by the Indians, he then retired to the neighborhood of Monterey and returned to the Ranch as soon as the Indians had left
And further this deponent saith

Manuel Cestero

Sworn to and subscribed
before me this 24th day of
August 1853

R Aug Thompson Secy

Filed in Office Aug 24th 1853

Geo. Fisher Secy

7 1.L.D.R

1839

Espediente promovido por Carlos Cayetano Espinosa en pretension del pa rage nombado

Posta de los Ositos

201

8.

2.S.D.R

Monterrey Febr. 12 de 1839 Q. Conformidad con las leyes y reglam.tos de la materia informe los señores alcaldes de esta municipalidad. Alvarado

Excmo Sor. Gov.r

Carlos Balletano Espinosa natural de este Alto Territorio: con el mas devido respecto: ante V. E se presenta y dice que siendo poseedor de Trescientos y Cincuenta Cabezas de Ganado Bacuno, una manada de Cincuenta Leguas y quinze Caballos mansos, y no teniendo un parage o sitio donde poner dhos bienes para su procreacion y aumento ocurro à la siempre bien acreditada justificacion de V. E. afin de q.e se digne concederme el Sitio llamado la subida de la Mesa de la Rosa de los Quitos hasta el Arroyo del pino que dista de la Mision de la Soledad seis Leguas, y como para poderlo obtener se necesita el probeido conviniente para seguirse los tramites correspondientes. P. q. A. V. E. rendidamente suplico se sirva decretar en favor del q. suplica los q. allase de justicia de q. recibirè gracia acompañando A. V. E. delidamente el diseño del mencionado Parage. Juro no ser de malicia y lo necesario &c.

Mont.y 7 de Febrero de 1839.

Carlos Balletano Espinosa.

E. S.

Impuesto de la Solicitud del C.no Carlos Espinosa esponemos que teniendo los requisitos que previene la Ley y todas las demas circunstancias que se requieren para obtener en propiedad algun terreno Baldio, especialmente por estar distante de la Mision de la Soledad seis leguas à cuya mision pertenecia y hasta la presente no lo tiene poseido ponemos à la deliberacion de V. E. la proposicion siguiente.

Se puede conceder al suplicante el terreno que pretende por tener los requisitos necesarios.

2.S.D.R

Monterrey Febrero 12 de 1839.

Simeon Castro.

Feliz. Man.l Soledad

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Monterey 12 de Marzo de 1839.
Informe el Sor Prefecto del primer Distrito sobre el contenido en esta instancia
Alvarado.

Pueblo de San Juan de Castro. Marzo 20 de 1839

Visto el pareser de los Sres: Alcaldes de Monterey y teniendo en consideracion que el terreno que solicita el interesado esta Baldio; informo que puede concederse sin obstaculo alguno.
Josè Castro.

E.G.D.R Monterey Abril 16 de 1839.
Vista la peticion con que da principio este espediente el informe del señor prefecto el de el Alcalde de este pueblo con todo lo demas que se tubo presente y ver con arreglo de conformidad con lo dispuesto por las leyes y reglamtos de la materia con especialidad la de 18 de Agosto de 1824 y el de 21 de Noviembre de 1828 se declara al Cno Carlos Ballestam Espinosa dueño en propiedad del paraje nombrado Dubica de la mesa de la poza de los Ositos colindante con la Sierra Grande con el Rio grande, con el Arroyo del pino y la mesa de la poza indicada todo en estencion de 4 sitios de ganado mayor; libese el correspondiente despacho al interesado, tomese razon en el Libro respectivo y reserve se el Espediente para la debida aprovacion de la Excma Junta Departamental.
El señor Dn Juan B. Alvarado Gobernador del Departamento de las Calfornias lo mandò decreto y firmò de que doy fee.
Alvarado

624-1

E.S.D.R

Here follows Map

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Office of the Surveyor General of the United States for 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 Custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California do hereby certify that the Seven preceeding and hereunto annexed pages of tracing paper numbered from One to seven inclusive and each of which is verified by my initials (S. D. K) exhibit true and accurate copies of certain papers on file and forming part of the said Archives in this Office.

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And also that the word between "de and ortios in the tenth line from the bottom of the fifth page has in the Original been altered in the manner represented in the Copy.

Seal

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 Cal. the 15th January 1853.

Saml. D. King
Survr. Genl. Cal

Filed in Office Febry 24th 1853.
Geo: Fisher Secy.

11

1839

Expediente

B

Record of Proceedings at the instance of Carlos Cayetano Espinosa Soliciting the Location called de los Ositos. 201

Excellent Sir Governor

Carlos Cayetano Espinosa a native of this Upper "Sonora with the utmost respect presents himself before your and says. "That being possessor of three hundred and fifty heads of cattle a flock of fifty mares and fifteen tame horses and not having a location or sitio and where to place such stock for its production and increase. I apply to your Excellency well known justice for the purpose that you will be pleased to grant me the Sitio called "La Sulidera de la Mesa de la Posa de los Ositos" to the Arroyo del perro" which is six leagues distant from the Mission de la Soledad and as to be enabled to obtain it, the suitable proceedings are required to to follow the corresponding procedure. I humbly pray your Excellency to be pleased to decree in favor of the petitioner what may be founded in Justice. Whereby I shall receive favor accompanying to you in due form the plan of the mentioned land. I swear there is no malice herein and what else is necessary &c. Monterey 7th February 1839

Carlos Cayetano Espinosa

(In the margin)

Monterey February 12th 1839.

Conformable to the Laws and Regulations on the subject, the Alcalde of this Municipality will report

Alvarado

Excellent Sir

"The solicitation of the citizen Carlos Cayetano Espinosa having been referred to us we represent that possessed of the necessary qualifications provided by Law and all the other circumstances requisite to obtain any vacant land in ownership being present especially that of being six leagues distant from the Mission de la Soledad, to which Mission it belongs and as it has not poped it up to the present time, we submit to your Excellency's determination the following proposition

The petitioner can be granted the land he solicits as being possessor of the necessary qualifications

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Monterey February 12th 1839

Simeon Leasho

Felicano Solranes

Monterey 12th of March 1839

The Prefect of the 1st District will report on the contents of this instance Alvarado

Pueblo of San Juan de Leasho March 20th 1839

Having seen the Opinion of the Alcalde of Monterey and taking in consideration that the land the interested party solicits is vacant I report, that it can be granted without any obstacle

Jose Castro

Monterey April 16th 1839

In view of the petition with which this Expediente commences, the report of the Prefect and that of the Alcalde of this Pueblo, with whatever else to bear in mind and was to the purpose in conforming with the requirements of law and regulations on the matter especially that of the 18th of August 1824 and 21st November 1828 the Citizen Lucas Carrillo Esperza is hereby declared Owner of in his own right of the location called "Subida de la Mesa de la Posa de los Ositos" bordering on the Sierra Gaucia on the Rio Grande, on the Arroyo del Perie and la Mesa de la Posa already mentioned, the whole in extent four leagues (sitios de ganado mayor) let the corresponding document be issued to the interested party entered in the respective Book and be the Expediente issued for the due approbation of the Excellent Departmental Assembly —

Don Juan Bautista Alvarado

Governor of the Department of both Californias so ordered decreed and signed it of which I bear testimony

Alvarado

Filed in Office Sept. 22d 1853

Geo. Fisher

Dello Tercero Un peso.
Habilitado provisionalmt. por la Aduana Maritima 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.
Michel Rovena Pablo de la Guerra

Sellado

Excmo Sor Comt. Gral
Estevan de la Torre y Carlos Espinosa hacen presente à V. E. que siendo ambos Dueños de los Terrenos conocidos con los nombres de Arroyo Seco y la Posa en los dos Terrenos se han unido por mutuo convenio para seguridad de los robos que haya, y haverlo fabricado unos Establos y metido cuatrocientos Reses Dos cientos Borregas y ochenta Yeguas que han permanecido mas de un año, hemos tenido la desgracia que los indios nos quemaron las casas aunque este daño esta repuesto pero tambien nos llebaron en lo absoluto toda la Caballada; la que no pudiendo reponer en pronto pr estar las Aguas encima, y ver tan indispensable hemos habido todos los vienes que nos quedan al Rancho de D. Salvador Espinosa Por lo que suplicamos à V. E se dig. ne darnos Años mas en proroga pa volverlo à fomentar evitando de este modo que se avenunciado el ya citado Terreno en lo que recibiremos gracia.
Jurando lo necesario.

Monterey Octbre 26 de 1844.
Atendidas las razones q. se ponen los suplicantes concedo su pedido
Michel.a

Monterey 24 de Octubre de 1844

Excmo Sor.

Estevan de la Torre.

Carlos Espinosa

Filed in Office March 9. 1854

Geo: Fisher Secy.

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Copy

Stamp Third One Dollar

Provisionally provided by the Marine Custom house of the Port of Monterey in the Department of California for the years 1844 & 1845

Michelorena — Pablo de la Guerra

Marine Cus. house of Monterey

Most Excellent Commdg Genl.

Esteban de la Torre & Nicolas Espinosa represent to Yo. Ex. that they being both Owners of the Ranchs of Canada known by the names of Arroyo Seco (Raven) & La Posa (The Paddle) which two ranchs were joined by a mutual agreement for security from the Existing robbery having built thereon a fence in all horses and put thereon four hundred head of Cattle two hundred sheep and Eighty mares which have remained there for upwards of a year We have had the misfortune that the Indians burnt up our horses; and although this loss has been restored still they have carried away from us absolutely the whole stock, which it being impossible for us to restore with speed as the rainy season is coming on & it is so indispensable We have brought all the stock that remained to the Ranchs of Don Salvador Espinosa

Therefore we pray Y. Ex. will be pleased to grant us the propogation of (apparently turn in the original) terms longer; that we may be able to improve it again - Thus according the above mentioned land being announced - Whereby we shall receive a favor - We swear its required

Monterey Oct 24th 1844

Mt. Excellent Sir

(Signed) Esteban de la Torre

(The following order is written on the margin of the above petition)

Monterey Oct. 26th. 1844

In Consideration of the reasons stated by the Petitioners I hereby grant their prayer

(Signed) Michelorena

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I George Fisher Secretary to the Board of U. S. Land Commissioners for ascertaining do hereby certify that the foregoing is a true and correct translation of a Spanish document of the purport as herein set forth filed in Case No. 624 on the Docket of said Board now in this Office San Francisco California this 11th day of August A. D. 1854

Geo. Fisher Secy.

Filed in Office Aug. 11 - 1854

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Testimonio del Expediente

Original del Rancho nombrado "Posa" de los Ositos constante de Cuatro sitio de Ganado Mayor propio del C. Carlos Espinosa vecino del pueblo de San

Juan

Año de 1843.

Sello Cuarto Dos Reales: Habilitado provisionalmente por la Aduana maritima del puerto de Monterey, en el Departamento de las California para el año de mil ocho cientos cuarenta y tres.
Michel Covena Manuel Castañares

Seal

Sor Juez de Paz de 1a instancia.
Carlos C. Espinosa Ciudadano Mejicano vecino de esta comprehencion ante la justificacion de V como mas haya lugar en dro digo: que habiendo adquirido con concesion propia del Gobierno Departamental del parage nombrado Posas de los Ositos he de merecer de V. se sirva darme posecion juridica conforme esta prevenido en el Articulo seg do y tercero del titulo de dicho terreno que debidamte acompaño Portanto à V. suplico se digne acceder à mi peticion de que recibirè gracia y justicia juro Vc.
Monterey Junio 7 de 1843.
por el solicitante.
Manuel Castro.

Juan B. Alvarado Gobernador interino del Departamento de las Californias.

Seal

Porcuanto el Co Carlos Caletano Espinosa ha pretendido para su beneficio personal y el de su familia el parage nombrado Quibida de la Mesa de la poza de los Ositos colindante con la sierra Grande con el Rio Grande con el Arroyo del pino y la Mesa de la poza indicada: practicadas previamente las diligencias y averiguaciones consernientes segn lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas à nombre de la Nacion mejicana he venido en conferirle el mencionado terreno declarandole la propiedad de el por las presentes letras y sugetandose à la aprovacion ò desaprobacion de la Excma Junta Departamental y à las condiciones siguientes.
1a Podra cercarlo sin perjudicar las travecias caminos y servidumbres: lo disfutarà libre y esclusivamente destinandolo al uso o cultivo

quemas le acomode; pero dentro de un año fabricara casa y estara habitada;
2ª Solicitarà del juez respectivo que le dè posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondrà à mas de las mojoneras algunos arboles frutales ò silvestres de alguna utilidad.
3ª El terreno de que se hace donacion es de cuatro sitios de Ganado mayor como se indica en el diseño que corre agregado en el Espediente El juez que diere la posecion lo harà medir conforme à Ordenanzas quedando el sobrante que resulte à la Nacion para los usos convinientes
4ª Si contraviniere à estas condiciones perderà su derecho al terreno y serà denunciable por otro.

En consecuencia mando que teniendose por forme y valedero se tome razon de el en el Libro à que corresponde, y se entregue al interesado para su resguardo y demas fines.
Dado en Monterey à siete de Mayo de mil ochocientos treinta y nueve.

Juan B. Alvarado

Manl. Jimeno Srio del Despacho

Sello Cuarto Dos Reales: Habilitado provicional mente por la Aduana maritima del puerto de Monterey, en el Departamento de las California para el año de mil ochocientos cuarenta y tres

Michel Torena Manuel Castañares

Seal

Here follows

Map

El

Que subscribe secretario del Gobno. del Departamto. de las Californias. Certifica: Que el diseño que corresponde se demuestra à la Vuelta, es igual al Original que existe en la Seria de mi Cargo. Monterrey treinta de Junio de mil ochocientos cuarenta y tres

Manuel Jimeno.

Queda tomada razon de este titulo en el Libro correspondiente à foja 9. buelta.

Manl. Jimeno

El señor Gobernador ha dispuesto se tome razon de este despacho en la Prefectura del primer Distrito.

Jimeno

Sello Tercero Un pesos.

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey, en el Departamento de las Californias. Para el año de mil ocho cientos cuarenta y tres.

Michel Torena Pablo de la Guerra.

(Sello) Monterrey 1º de Dbre. de 1843.

por presentado y admitido procedase por mi el presente juez de Paz y de primera instancia à la medicion, señalamiento de linderos y posecion judicial q. solicita el interesado en esta instancia señalandose p.a ejecutarlo el dia 2. de Dbre del presente año por no haber habido lugar antes. p.a lo q. se citaron con boleta de comparendo à los colindantes. Asi yo el juez de Paz Constitucional lo decretò, mandè y firmè con los de asistencia

Teodoro Gonzalez.

De asis.a De asis.a

José M.a Gutierrez # Franco. Rice.

En la fha presente el C. Carlos Espinosa se le notifico el auto q. antecede y enterado dijo lo oyo y q. se da por citado firmando conmigo y los de asistencia

Teodoro Gonzalez

De asis.a Por. Carlos Espinosa
Franco. Rice: Manuel Castro.
José M.a Gutierrez. De asis.a

En la misma fha se libraron las boletas que se man
da en el auto antecedente y para constancia
lo Rubrico por auto con los de asst.a.
De assist.a As.or
Josè M.a Gutierrez Franco. Rios.
Rancho de la Posa de los Ositos.
Dbre. 2 de 1843. Presente el Colindante Dn.
Petronilo Rios nombrè por medidores à Polinario
Gomez y à Andres Duares p.a las mediciones,
señalamiento de Linderos y posecion del C. Carlos
Espinosa quienes previa la aceptacion y juram
ento procederan al desempeño de su encargo.
Asi yo el juez de Paz Constitucional lo mandè
y formè con los de Asistencia.
Teodoro Gonzales
De Ass.a De Ass.a
Josè M.a Gutierrez Franco. Rice
En la misma fecha presentes los C. C. Andres
Duares y Polinario Gomez se les notifico el auto
de su nombramiento y entenchidos dijeron
lo Oyen y aceptan dha comision jurando p.r
Dios nro Sor y la señal de la Cruz desempeñar
la fiel y legalmente à su saber y entender
y no firmaron p.r no saber haciendolo yo con los
de assistencia.
Teodoro Gonzales.
De ass.a De ass.a
Franco. Rios Josè M.a Gutierrez
Incontinenti yo el espresado Juez mande
traer el Cordel con q.e se habian de medir las
tierras y los espresados medidores lo tomaron
y ante mi con vara de media Mejicana midieron
un Cordel de cincuenta varas p.a hacer la medida
y lo firmo con los de asistencia de q.e doy fee.
Teodoro Gonzales
De ass.a De ass.a
Franco Rice Josè M.a Gutierrez
Sello Cuarto Dos Reales: Habilitado provisional=
mt.e por la Aduana Maritima del puerto de Mont
rey en el Departamento de las Californias p.a
el año de mil ocho cientos cuarenta y tres.
Michel Torena Manuel Castañares
Pablo de la Guerra.

Se al En el mismo parage dia mes y año siendo las nueve de la mañana yo el presente juez de Paz mandè à los medidores nombrados se dispusiesen p.a la medicion de tierras q.e se le habia de hacer al C. Carlos Espinosa y puestos en el pino (linderos de Petronito Rios) Oeste à Norueste midieron hasta la subida de la Meza de San Vicente seiscientos veinte cordeles de à cincuenta varas de largo; y desde el Rio p.a el Sur hasta el pie de la Sierra doscientos dies cordeles de a cincuenta varas de Ancho En cuyas mediciones mandè se formaran las mojoneras correspondientes q.e señalen los linderos q.e le pertenesen. El terreno medido corresponde à cuatro sitios de ganado mayor y lo formaron conmigo los colindantes y por el interesado D. Manuel Castro y los testigos de asistencia.

Se

Teodoro Gonzales
P.o C. C.
Man.l Castro
Petronilo Rios.

De ass.a
Franco. Rios #

De ass.a
Josè M.a Gutierrez

En el Rancho nombado Posuno de los Ositos juresdiccion de la Soledad El dia 2 de Dbre. de 1843 yo Juez de paz y de primera instancia y su juris-diccion, despues de practicadas las medidas del mencionado Rancho p.a lo que resulta Quatro sitios de ganado Mayor y presente el Colindante Petronilo Rios siendo este conforme con lo demas de auto mande q.e entrase en posesion del nominado Rancho el C. Castro Espinosa bajo la medida citada y formalisada acostumbrada en este Caso lo que verificò inmediatamente arrancando yervas y haciendo demostraciones como dueno del Terreno de q.e se a dado por dicha posesion Bulla validacion la autoriso formando el colindante y interesado de asistencia.

Teodoro Gonzales
P. C. C. Manuel Castro

De ass.a
Josè M.a Gutierrez

ass.a
Petronilo Rios. #

Franco. Rios

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Monterrey Dbr. 2 de 1843.
Tomese razon en el libro de posesiones y de buelva se este espediente Original p.a los fines q.e mas convengan. Asi y el juez de Paz y de primera instancia C. Teodoro Gonzalez lo decretò mandò y formò con los de asistencia.
De ass.a Teodoro Gonzales. De ass.r
Josè M.a Gutierrez Francl. Rios.
En la misma fha se tomo razon de esta posecion à fojas 21 del Libro respectivo y se le devolbio este Esped.te al C. Carlos Espinosa y p.a su constancia lo formò y rubricò.
De ass.a Gonzales De ass.a
Francs Rios # Josè M.a Gutierrez

Filed in Office Feby 24th 1853

Geo: Fisher Secy.

24

35—

Translation of grant of Juridical possession

Translation

Original certified Record of Proceedings relative to the Ranche Called Posas de los Osilos Consisting of four Spanish leagues the property of the Citizen Carlos Espenosa resident in the Pueblo of San Juan

A.D. 1843

Fourth Stamp — Two Shillings

Validated provisionally by the Maritime Custom House in the Port of Monterey in the Department of the California on the year One thousand Eight hundred and forty three

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PAGE 24

Mechetorena — Manuel Castañares

To the Justice of the Peace and of the first instance I Carlos de Espenosa Mexican Citizen resident of this Desticrt as best may be consistent with law Sitate before your Honor — That having acquired a proper part from the Departmental Government of the place Called. Posas de los Osilos, I am to be indebted to your for being pleased to give me Juridical possession, conformable to the provision in the second and third Article of the decree of grant to said land which I duly accompany

Wherefore I pray you to be pleased to decide to my petition, whereby I shall receive favor and Justice — I swear the — for Petitioner

Monterey June 7th 1843 — Manuel Castro

(Stamp)

Juan B Alvarado Governor ad interim of the Department of both California

Whereas the Citizen Carlos de Castro Espenosa has claimed for his personal benefit and that of his family the place Called "Sobrecama de la Mesa de la Posa de los Osilos" bordering on the Sierra Grande on the Arroyo del Pino and the Sierra Mesa de la Posa, having previously taken the necessary action and made the necessary investigations according to the provisions of laws and regulations in Exercise of the power vested in me in the name of the Mexican Nation I have condescended to bestow said land on him declaring it his property by the present letters patent subject to the approbation or rejection of the Excellent Departmental Assembly and to the following Conditions

1st He may fence it without prejudice to the Crossways roads and Servitudes; he will enjoy it freely

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and Exclusively appropriating it to the use or that he may suit him, but when a year has to build a house to be inhabited

2d He will solicit of the respective Magistrate to give him judicial possession in virtue of this document; by whom the boundaries are to be marked out, On the Extremities of which besides the land marks, he is to put some fruit trees or wild Ones of some less fruit

3d The land of which mention is made, consists of four square leagues (Sitios de ganados Mayor) as is indicated in the plat attached to the expediente The Judge who shall give the possession will cause it to be measured Conformable to Ordinance leaving the Surplus that may result to the Nation for Convenient purposes

4th. If he should violate these Conditions he will lose his right to the Land and may be dispossessed by some Other party.

Consequently I order that this being held firm and valid, it be entered in the proper Book and delivered to the interested party for his security and other purposes

Given in Monterey On the 6th of May Eighteen hundred and thirty nine

Juan B Alvarado

This title has been Entered in the Corresponding book in folio 6 Ven

Manuel Jimeno

His Excellency the Governor has Ordered this document to be recorded in the Prefecture of the first District

Jimeno

(Plat)

The undersigned Secretary to the Government of the Department of both California, certifies, that the Annexed plat Exhibited On the reverse page is like the Original deposited in the Secretary's Office under my Charge

Monterey 30th June 1843

Manuel Jimeno

27

Three Stamps One Dollar

Valedated provisionally by the Maritime Custom House of the Port of Monterey in the Department of both California for the year One thousand and Eight hundred and forty three.

Mariano Micheltorena — Pablo de la Guerra

(Stamp) Monterey 1st. December 1843

It be solicited and admitted - I the the present Justice of the Peace and of the first instance can going to proceed to the measurement, marking of boundaries and proceed possession solicited by the interested party in this instance setting aside the 2d day of December this year for its execution not having been commenced before, in which, and the bordering Land Owners are to be summoned to appear.

Thus did I the Constitutional Justice of the peace decree order and sign together with the attesting Witnesses

Theodoro Gonzales

Ass. Jose Ma Gutierrez — Franco. Rico

On the same day Carlos Espinosa was notified of the foregoing decree and having heard an order standing opposite he said he is aware of it and that he admits service signing with me and the attesting Witnesses

Theodoro Gonzales

Ass. Franco. Rico. — Jose Ma Gutierrez

For Carlos Espinosa — Manuel Castro

Under the same date the summons ordered in the foregoing decree was served and to witness it I subscribe my flourish together with the signature of the attesting Witnesses

(a flourish)

Ass Jose Ma Gutierrez — Franco Rico

Rancho de la Posa de los Osos December. 2d 1843

The bordering Land Owner Don Petronilo Rios being present I appointed for measurers Solencio Gomez and Amaro Sequera for the mensuration marking of boundaries and possession to Carlos Espinosa who after previous acceptance and oath are to proceed to the discharge of their office

Thus did I the Constitutional Justice of the peace decree and sign together with the assistants

Theodoro Gonzales

28

Ass Jose Ma Gutierres Feco Rico

On the same day the Citizen Andres Guerrero and Polinario Gomez being present, they were notified of the decree of their appointment, and having had an understanding thereof they said that they were aware of it, and that they accepted said Cammis in swearing by God our Lord and the sign of the cross to discharge it faithfully and to the best of their knowledge and understanding. They did not sign as they could not write, but I did together with the assisting witnesses

Theodora Gonzales

Ass. Feco. Reco Jose Ma Gutierres

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PAGE 27

Thereupon I the said Justice ordered the lene where with the ground had to be measured to be brought in and the said measurers took it and began measuring with a rope of Mexican varas measure, measured off a line of fifty varas, whereuith to make the measurement, and I sign with the assisting witnesses Mysely assisting

Theodora Gonzales

Feco. Reco. Jose Ma Gutierres

(Stamp) In the same place on the same day of the same month and year it being nine o'clock in the morning I the present Justice of the peace ordered the appointed measurers to set about the measurement of the land to be made by them to the Citizen Carlos Espinosa and being placed at el Pino (boundaries of Pehonelo Reos) South West to North West, they measured off up to ascent of la mesa de San Vicente six thousand and twenty lines of fifty varas in length, and from the Rio towards the South as far as the foot of the Sierra two hundred and ten lines of fifty varas in width; in which measurement I ordered to be established the corresponding land marks to designate the boundaries belonging thereto —

The land measured consists to four square leagues and together with me, the ~~boundaries~~ bordering land owners and for the interested party Don Manuel Castro and the assisting witnesses signed

Manuel Castro Theodora Gonzales

Pehonelo Reos. As. Feco. Reco. Jose Ma Gutierres

On the Rancho called Posas de los Ostos jurisdiction of La Soledad the 2d day of December 1843 I as Justice of the peace and of the first instance and its Jurisdiction after having finished the mensuration of said Rancho whereby it proves to contain four square leagues and the bordering Land Owner Petronino Rios being present the being in conformity with the other jedecial proceedings I ordered that the Citizen Carlos Espinosa should enter into possession of said Rancho under the ofrs and mensuration and in such cases customary formalities; which he immediately carried into effect by pulling up grass and making demonstrations as Owner of the land of which jeudecial possession has been given him; the verdadly of which I certify. The bordering Land Owner and the interested party signing together with the assisting Witnesses

Theodoro Gonzales
Ass. Jose de Gutierres — Tiburcio Rico
Fr. L. Ex. Manuel Castro — Petronino Rios

Monterey December 2d 1843
Let it be Entered in the Book of possessions and return this Expediente in Original to the interested party for such purposes as best may suit him
This date I the Justice of the peace and the first instance
Theodoro Gonzales
decree Order and sign together with the assisting Witnesses
Theodoro Gonzales
Jose Ma Gutierres
Teo. Rico
On the same day this possession was Entered on fol 21 in the respective book — and this Expediente was returned to the Citizen Carlos Espinosa and to attest it I signed it put my flourish —
Gonzales (Flourish)
Ass. Teo. Rico
Jose Ma Gutierres

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Filed in Office July 27th 1854
Geo. Fisher Secy

311

Carlos Espinosa

31

Carlos Espinosa

En 2 de Dbre de 1843 se dio posecion judicia del terreno conocido con el nombre de la Posa de los Ositos en limites del pino hasta la Mesa de S. Vicente constante de cuatro sitios de Ganado mayor cuyos linderos señalaron con iniciales en el Deseño del Terreno que corre agregado al Espediente de posecion que se entrego Original.

A certified Copy of the Record from the Archives of Monterey

Gonzales

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Translation

On the second of December Eighteen Hundred and forty three judicial possession was given of the Land known by the name of La Posa de los Ositos within the boundaries from El pino as far as the mesa de S. Vicente containing four Square leagues whose boundaries are indicated by initials in the Map of the Land which is attached to the Original of possession which has been delivered to the party.

Gonzalez.

Office of County Recorder.
Monterey County
State of California

I, James H. Gleason County Recorder of the County and State before written and as such having in my Office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California by virtue of the power vested in me by law. Do hereby Certify that the writing on this Sheet in the Spanish language exhibits a true Copy of a page of writing in a Stitched pamphlet entitled and bearing in the Corner 1835. Libro de posesiones de 1835 y sigue 1839 y del año 1840 y sigue en el año 1842" the same being now on file and forming a part of the Records in this Office.

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(Seal) In testimony whereof I have hereunto signed my name Officially and caused my seal of Office to be affixed at the City of Monterey this thirty first day of October 1853

Jas: H Gleason

County Recorder

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Filed in Office 26th 1853

Geo: Fisher Secy

(Translation)

(Translation)

Carlos Espenosa

Certified copy from Archives of Monterey

On the second of December Eighteen hundred and forty three juridical possession of the Land known by the name of "La Posa de las Ostros" within the boundaries from "El Pino" as far as the Mesa de S "Vicente" containing four square leagues whose boundaries are indicated by initials in the Map of the Land which is attached to the original Espediente of possession which has been delivered to the party

Gonzales

Office of County Recorder
Monterey County State of California.

I James H Gleason County Recorder of the County and State before written and as such having in my Office and in my Charge and Custody a portion of the Archives of the Former Spanish and Mexican Territory or Departement of Upper California by virtue of the power vested in me by law do hereby certify that the writing on this Sheet in the Spanish Language Exhibits a true Copy of a page of writing in ~~this Book~~ a Stitched pamphlet entitled and bearing on its Cover 1835 Libro de posesiones y Segue 1837 y del Año 1840 y Segue en el año de 1842 the Same being now on file and forming a part of the records of this Office

In testimony whereof I have hereunto signed my name officially and caused my Seal of Office to be affixed at the City of Monterey this thirty first day of October 1853

James H Gleason
County Recorder
Monterey County

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A. Certified
copy of the
Record from
the Archives
of
Monterey

55 — No. 624 Carlos Cayetano Espinosa vs The United States } Posa de los Ositos

Opinion

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The Original papers filed and proven in this case in the support of the claim of the petitioner consist of the grant to the claimant made by Governor Alvarado on the 6th of May 1839 and a testimonial of an act of judicial possession of the land described in the grant executed by Theodore Gonzales Justice of the Peace and of the first instance of the juridiction of Monterey on the 2 day of December 1843
The genuineness of these documents and a full compliance with the conditions of the grant are established by the testimony
The only question of difficulty presented in the case is in fixing the location and identity of the land granted. It is described in the grant as the place called "Sobranda de las Mesas de la Posa de los Ositos" bounded by the Sierra Grande the Rio Grande, the Arroyo de Pino and the Saint Mesa de la Posa —
The third article or condition of the grant declares it to consist of four square leagues as indicated on the map attached to the Espediente and contains the usual reservation of the sobrante or surplus to the Nation for its convenient uses.
The map contained in the Espediente, a traced copy of which is filed in the case has all the objects called for in the grant as boundaries plainly laid down and represents the land nearly in the form of a parallelogram extending from East to West from the Arroyo de Pino to the Mesa de la Posa de los Ositos and from the North to South from the Rio Grande to the Sierra Grande, the distance between the the two first mentioned points being about double that between the two last no scale of distances is given — The justice in making the preliminary measurement commenced at El Pino and measured to the ascent of the Mesa making the distance six hundred and twenty cords of fifty varas each or 31000 varas. He then commenced at the river and measured to the foot of the Sierra making the distance two hundred and ten cords of fifty varas or 10.500 varas —
If the land was laid off in an exact parallelogram

according to the measurements it would contain thirteen square leagues and adopting the figure representation on the map with the distances as given in the act of Surrendered possession, the quantity would not be less than twelve square leagues - This it will at once be perceived is three times the quantity granted in the title and greatly exceeds that which the Governor was authorized to grant to one individual under any circumstances - The officer giving the possession had no power to grant or to increase or diminish the quantity called for by the grant of the Governor his duty was simply a ministerial one, and was confined to the act of measuring & marking the boundaries of the particular tract within the limits described in the grant - This he has entirely failed to do in the present case and the only new fact established by his measurement is that the exterior bounds of the land contain three times the quantity granted -

We can derive no aid whatever from his action in the premises in determining on which portion of the tract the four leagues are to be located nor is this deficiency supplied by any other testimony we might enter a decree for three several tracts of four leagues each all lying within the exterior lines of the grant and all embracing entirely different portions of the land - In this uncertain state of the testimony it is impossible for us to enter a decree for any particular four leagues of land which could be located or identified with any certainty or precision

The claim therefore although apparently in other respects meritorious, must for this cause be rejected

Filed in Office Sept. 27 1854

Geo. Fisher Secy

37 No. 624 Carlos Guylano Espinosa
vs
The United States
Posa de los Ositos

Decree

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the petitioner is not valid. It is therefore decreed that his application for a confirmation thereof be denied

Alpheus Felch
R. Aug. Thompson
S. B. Ingersoll
Commissioners

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Filed in office Sept. 27. 1854

Geo. Asha Secy

And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the Southern District of California it is hereby Ordered that two transcripts of the proceedings and of the decision in this case and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary one of which transcripts shall be filed with the Clerk of the United States District Court for the Southern Judicial District of California and the other be transmitted to the Attorney General of the United States.

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. 624 on the Docket of the said Board, wherein Carlos C. Espinosa is the Claimant against the United States, for the place known by the name of "Rosa de los Ositos."

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 eighth day of February A. D. 1858, and of the Independence of the United States of America the seventy-ninth.

Geo. Fisher
Sec.

U. S. DISTRICT COURT,

Southern District of California.

No. 209. Docket

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THE UNITED STATES,

vs.

Carlos C. Espinosa.

"Posa de los Ositos"

209.

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 624.

Filed, March 6th 1855.

C. E. Carr.
Clk.

209 F

No. 624

Case No. 624

On appeal from the Board of U. S. Land Commissioners

Carlos C. Espinoza
appt

vs

The United States
appee

Claim for "Rea de los Ovitos"

Sir!

Please take notice that the claimant in the above case will prosecute the appeal therein.

San Francisco
May 9th 1855

Yours respectfully
Clarke Taylor & Beckh.
Attys for claimant.

To the Clerk of the U. S.
District Court for the Southern
District of California.

No 209

U. S. District Court
for the Southern District
of California.

Carlos C. Espinosa
appt
vs
The United States.
appee

Claim for "Posa de los
Ositos"
Filed May 22d 1888. J. E. Carr
Clk.

Notice of Appeal

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Clarke Taylor & Booth
Attys. for claimant.

Office of the Attorney General of the United States,

Washington, 7th April 1855.

Carlos C. Espinosa
vs.
The United States. } 624.

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 10th day of February 1855, 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. 209.

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

The United States
vs
Carlos C. Espinoza.

Notice of Appeal
in Case No. 624.

Filed July 2d 1855.
C. E. Lane.
Clerk
By A. W. Clark
Deputy.

To the Clerk of the United States Court for the Southern District of California.

Notice is hereby given that under the provisions of law, an appeal will be prosecuted by the claimant from the decision made by the United States' Board of Land Commissioners, by which the claim upon their Docket designated as No 624 to a tract of land (containing four square leagues) called "Poza de los Ositos" granted by the proper Mexican authorities in April 1839 to Carlos Espinosa, was rejected

Stanly & King
Attorneys for claimants

San Francisco
May 1855.

No 209.

No 624

Carlos Espanosa

vs

United States

For the Place

Poza de los Ceitos

Notice of appeal

upon part of

Claimant

Filed June 6th 1860.

B. B. Farr,

Clk.

Hardy & Kung

Attys for Claimt

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Docket No. 209

Carlos Cayetano Espinoza
vs
The United States. } Appeal.

To the Honble The Judge of the United States' District Court for the Southern District of California.

The petition of Carlos Cayetano Espinoza a citizen of California, respectfully represents:

That under the provisions of the Act of Congress of the 3 of March 1851, he presented a petition to the Commissioners appointed under said act to examine claims to land in California praying for the confirmation of his claim to the tract of land called "Posa de los Ositos," situate in the present County of Monterey California, under a grant from Governor Alvarado to your petitioner dated 6th of May 1839, and accompanied it by evidence of his title, and to which for more particular description he begs leave to refer.

That his said claim being designated as No 624 in the Docket of the said Commissioners was rejected by them on the 27th of September 1854; that the said land is situate within the limits of the Southern Judicial District of California; that a transcript of the proceedings and decision of the Commissioners

was

was filed in the Office of the Clerk of the Court for that District on the fifth of March 1855 — and that under the date of the 22nd May 1855 a Notice was filed with the said Clerk that your petitioner appealed from such decision.

Your petitioner prays for a rehearing of the Case upon this appeal; that the said decision of the Commissioner may be reversed & annulled; and that the Court will make such decree and order, as may be necessary and proper to recognize confirm and declare valid his title and claim to the premises mentioned and referred to in his said petition and evidence of claim.

And your petitioner will ever pray &c

Stanly & King
Attorneys for Petr.

Los Angeles
~~San Francisco~~ Sept. 21st 1855
~~1855~~

No 209 In the U. S. District Court: Southern District of California

Carlos C. Espinosa vs The United States } Appeal.

"Posa de los Ositos"
Monterey County

Land Commr No 624

Petition of Claimant for Review —

Copy of the within petition rec'd Sept. 22nd 1855
P. Ord
Dist Atty

Filed Sept 22nd 1855 —
C. E. Carroll
By J. W. Rose Dep

In the District Court of the United States for the Southern District of California.
Hon Isaac S. K. Ogier Judge.

Carlos Cayetano Espinoza vs. The United States. } No. 209. (Transcript No. 624)

The answer of Pacificus Ord, Attorney of the United States for the Southern District of California, for and on behalf of the United States, to the petition for review, or rehearing, of Carlos Cayetano Espinoza, of the decision of the Board of United States Land Commissioners in said cause, - says:

That he denies all and singular each and every allegation in said petition contained. And the respondent for further answer denies, generally, the validity of the alleged title of said claimant and petitioner; and prays that the decision of the said Commissioners rejecting said claim or title of said Carlos Cayetano Espinoza, in said cause, may be affirmed; and the title of said claimant and petitioner decreed to be invalid. And general relief.

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

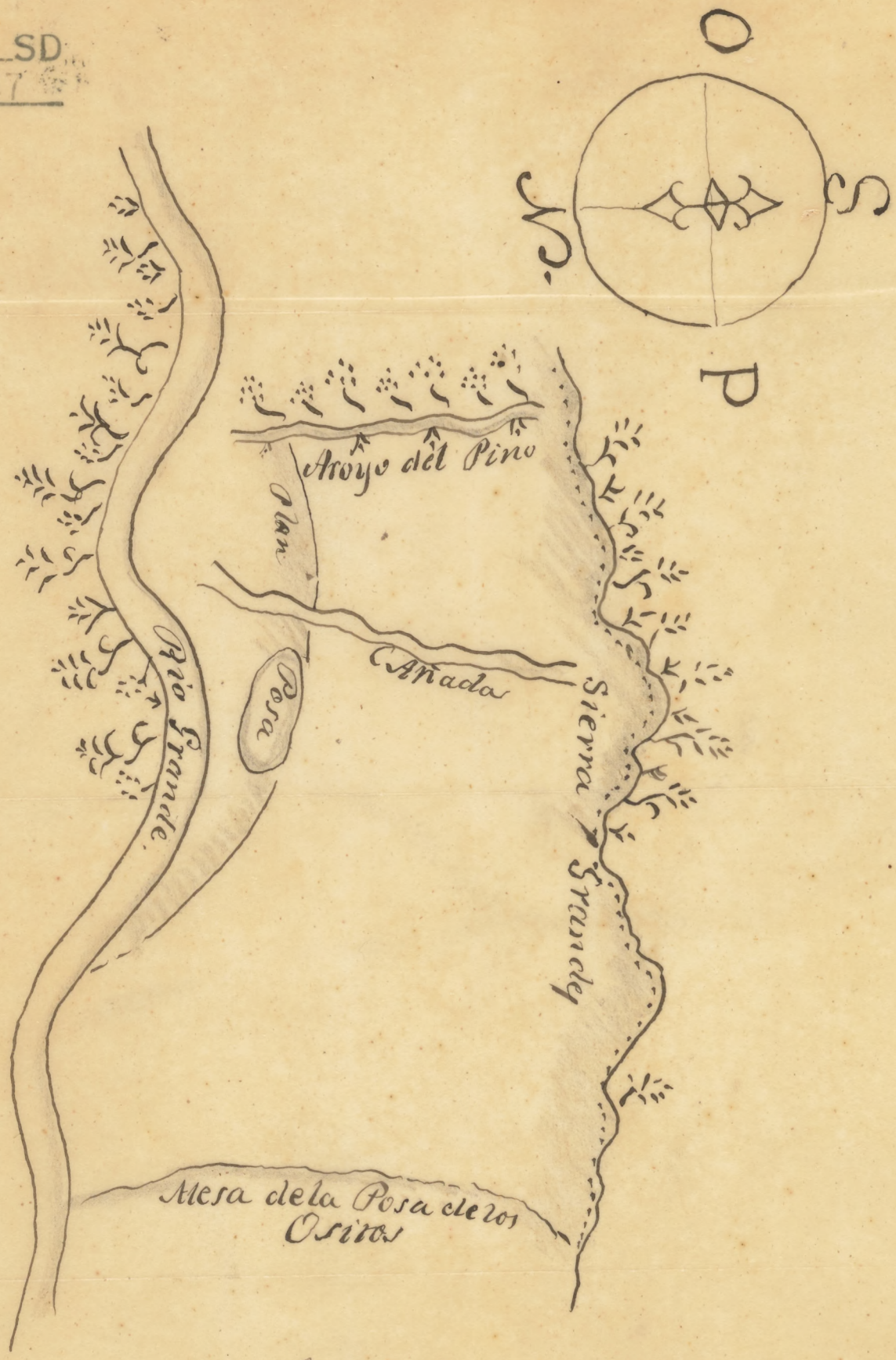
No. 209.

Carlos Cayetano Espinoza
vs.
The United States.

Answer of U. States to petition for review.

Filed Sept 24th 1855.
J. E. Carr
Clk.

P. McDiarmitt Atty for US.



Copy of Map forming part of

Expediente promovido por Carlos Cayetano Espinosa en pretencion del pa-rage nombrado Poza de los Ositos —

(Exp. no 201.)

No 209 — 209 SD
PAGE 48

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

Carlos C. Espinoza
" } Pet: for Review by claimant
The United States

In this case the Commissioners acknowledge "that the genuineness of these documents and a full compliance with the conditions of the grant are established by the testimony"

The claim is declared by them to be meritorious, but rejected because it would seem from the proceedings connected with the juridical possession that the officer measured more land than was asked for & within the natural boundaries specified in the grant

The case comes clearly within the principles laid down by the Supreme Court in the Mariposas claim, and is much stronger for the claimant.

In this case the petition, grant and map all agree in the calls for the Rio Grande and the Arroyo del Pino, which runs into the Rio Grande as two of the boundaries, the other and opposite sides being the Sierra and the Mesa. The claim would certainly have been confirmed by the Commissioners if juridical possession had not been shown by the papers presented: Any error which the officer who gave that possession may have made in measuring the grant cannot

certainly be allowed to destroy the effect of the grant itself. If the possession was not given in conformity to the grant, then the act of the officer making the error is voidable and the case stands upon the granted rights unaffected by the error.

Allowing that the natural boundaries called for certain three lines the specific area asked for, the sobrante being reserved, we have the right under the Mariposa decision to take our quantity any where within those limits not interfering with any other and clearly located foreign grant.

But the Court has only to act upon the title, and in so doing may decide as to the area: but the location of that area is to be made by the Surveyor General

Stanly & King
for Appellant

No. 209 In the District Court of the United States, for the Southern District of Cal.

Carlos Covarrubias
vs
The United States

Brief of Counsel for Appellant —

Filed Sept. 24th 1855
W. C. Carr Clk
By J. M. Hughes Dep.

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Stanly & King for Appellant

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

Carlos J. Espinosa. appt. vs. The United States. appe. } No. 209. (Transcript No. 624)

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 26th day of September A D 1855.

P. Ord
U S Dist Atty

No 209.

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

Carlos A. Espinosa. apltt.

vs.

The United States appellee

Order of Appeal to the Supreme
Court on motion of Ord.
U.S. atty.

Filed October 18th 1855
A. E. Cancleh
By J. W. Punsch

California Land Claims.

Attorney General's Office

15 September 1856.

Sir:

In the case of the claim of Carlos C. Espinosa, confirmed to the claimant by the Commissioners, Case no. Six hundred and twenty-four (624), 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.

vv 209

Carlos. C. Espinosa

624

Filed 24th February 1857

C Sinis clk

J. H. Coleman

Dep

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Rec'd Oct 21 1856

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Office of the Surveyor General of the United States,
FOR CALIFORNIA.

I, J. W. MANDEVILLE, United States Surveyor General, for the State of California, do hereby certify that the Rancho "Posa de las Esetos",

confirmed to C. E. Espinosa

has been surveyed by this office, and that the survey and plat was approved by the U. S. Surveyor General, on the Fourth day of October 1855 ~~186~~ ; that I have caused to be published, once a week, for four weeks successively, in two newspapers, to wit: the "Santa Barbara Gazette" published in the County of Santa Barbara, State of California, being the newspaper published nearest to where the said Rancho is located, the first publication being on the twenty seventh day of September 1860, and the last, on the Eighth day of October 1860; also, in the "Los Angeles Star", a newspaper published in the City and County of Los Angeles, State aforesaid, the first publication being on the twenty ninth day of September 1860, and the last on the twentieth day of October 1860, a notice that the said land had been surveyed, and a plat made thereof, and the survey and plat approved by me. And I do further certify, that the said survey and plat were retained in my office during all of said four weeks, and until the expiration thereof, subject to inspection; and I further certify, that no order for the return thereof to the U. S. District Court, has been served upon me.

L. S.

In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of office to be affixed, at the City of San Francisco, this Twenty Second day of January 1861.

J. W. Mandeville
U. S. Surveyor General for California.

U. S. Sur. Genls. Office.
San Francisco
Aug 25. 1863.

I hereby certify this to be a full true and correct copy of the original as appears on file in this office.

J. W. Mandeville
U. S. Surveyor General.

No. 209

U. S. Dist Court

South^n Dist Cal^a

Carlos C. Espinosa

vs

The United States

Certif^d of Surv^r Genl final of Survey

Filed Sept. 9. 1863

John R Wheeler

Clk

boundaries mentioned in the map. The grant in its body expresses the quantity intended to be granted to be four square leagues (sitios de ganado mayor) — A decree will be therefore entered in favor of the claimant or appellant to that quantity within the limits called for by the grant.

Carlos C. Espinosa
Appellant
vs
The United States
Appellees

} District Court U. S. for the Southern Dist. of California

This cause coming on to be heard at a stated Term of said Court on an appeal from the final decision of the Commissioners to ascertain & settle ~~the~~ private land claims in the State of California, upon the transcript of the decision & proceedings and of the hearing and evidence on which said decision was founded, and it appearing that said transcript has been duly filed according to law, and a copy for the respondents having been served, whereupon it is ordered & adjudged, and decreed, that the decision of the said Commissioners be in all things reversed and ~~affirmed~~ annulled, and it is further ordered adjudged and decreed that the claim

of the said Carlos C Espinosa is
good and valid claim under the
the Range be, The same is hereby confirmed to the extent
of four sitios de ganado, the quantity
set forth in the original grant, only
where it is found in the Record and
within the limits therein mentioned,
the said land to be surveyed in conformity
to law and in one entire tract

Carlos C Espinosa
vs
Alexander
decree

Carlos C. Espinosa
209 SD Appellant
PAGE 58 vs
The United States
Appellees.

On 6th May 1839 a grant was issued by Governor Juan B. Alvarado to the appellant in accordance with the Colonization laws of Mexico and subsequently judicial possession of the land was delivered ~~by the Commissioner the Sec. 1843~~ to him. The authenticity and genuineness of these documents is established by the evidence. The Parol testimony ~~establishes~~ ascertains that in 1842 there were upon the Ranch an adobe house covered with tiles, corrals for cattle and horses, fences enclosing cultivated lands, and seven or eight hundred head of cattle, seventy or eight head of horses, and some sheep. There were some thirty or forty Indians employed as laborers in cultivating the soil, herding cattle. There were also several mechanic shops, such as Blacksmith, Shoe makers, and weavers for the manufacture of Blankets, all employed by the grantee on the Ranch. The grantee settled on the Ranch with his family immediately after he obtained his grant and has continued to reside there ever since

except

except for a short time, when his house was attacked by the Indians, he then retired to the neighborhood of Monterey, and returned to the Ranch as soon as the Indians had left. These facts ~~[illegible]~~ establish a substantial and almost literal compliance with the conditions of the grant and create a strong claim in favor of the Justice and Equity of this claim. It was rejected by the Commissioners on the ground that although the grant called only for four square leagues in extent, the survey of the lands within the limits called for by the grant extended to almost three times the quantity in the grant, and it being impracticable to ascertain on what portion of the tract the four square leagues are to be located, it was impossible to make a decree for any particular portion of four leagues which could be identified with precision. The decision of the Supreme Court in the Freeman case fortunately ~~[illegible]~~ relieves this tribunal from all difficulty, and enables us to respond to the strong justice of this meritorious claim. The natural & local boundaries are well defined and called for in the grant, and the map which is in evidence responds to the boundaries

United States vs. Carlos C. Espinosa

No. 209.
"Pozo de los Osillos"

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No. 209

United States

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