CASE NO.
277

SOUTHERN DISTRICT

SAN LORENZO GRANT

RAFAEL SANCHEZ

CLAIMANT

LAND CASE 277 SD 70 pgs.

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 674.

Rafael Sanchez CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"San Lorenzo."

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 first day of March, 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 Rafael Sanchez for the Place named "San Lorenzo," was presented, and ordered to be filed and docketed with No. 674 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 August 31st 1853.

In Case no. 674, Rafael Sanchez for the place named "San Lorenzo", the deposition of William A. Richardson, a witness in behalf of the Claimant, taken before Commissioner Alpheus Felch with document marked No. 1. A. F. annexed thereto, was filed:

(Vide page 5 of this Transcript.)

San Francisco June 7th 1854.

Case no. 674, on Motion, was ordered to be placed at the foot of the 1st class cases on the Trial Docket.

San Francisco July 1st 1854.

In the same Case the deposition of José Abrego, a witness in behalf of the Claimant, taken before Commissioner Peter Sott, was filed;

(Vide page 6 of this Transcript.)

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San Francisco August 17th 1854.

Case no. 674 was submitted on briefs.

San Francisco January 30th 1855.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the Board rejecting the claim;

(Vide page 19 of this Transcript.)

And the following order was made, viz:

(Vide page 19 of this Transcript.)

3 Petition

To the U. S. Land Commission for the ascertaining and settling of Private Land claims in California

The petition of Rafael Sanchez a native and resident of California respectfully showeth unto your Hon. Body that on the 1st day of September 1845 one Jose Abrego made and presented his petition in writing for a tract of land, a description of which could be given hereafter, and known "San Lorenzo" and that such petition was then and there referred to the Prefect for further information

That your petitioner on the 4th of December 1845 bought of said Abrego all the right title and interest, which he the said Abrego might have acquired by the petition above referred to - and presented a new petition on the 14th of Dec. 1845 in his own name for the same tract of land

That the Prefect of the first District, having reported in favor of your petitioner, Governor Pio Pico on the 18th of February 1846 declared your petitioner the proper owner of said land, and ordered a formal grant to be issued

That such grant issued on the 27th of July 1846 and was handed to your petitioner after having been properly recorded in the Archives of California

That such original grant together with the other original documents, as petition, reference, report, map &c &c are in the hands of your petitioner and will be submitted to the inspection of your Hon body -

And your petitioner further saith, that the land above referred to is situated in the present county of Monterey, near the Mission de Soledad, is known by the name of "San Lorenzo" and, bounded on the North by the Rancho grande on the East by the Arroyo de San Juan, on the South by the Mesa grande, and on the West by the Lands of Felciano Soberanez; containing 11 sqr Leagues -

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That your petitioner has been in the quiet and undisputed Ownership of said Land for more than Seven years last past, and is not aware of the Existence of any title paramount or Conflicting with his Own

He therefore claims to be the Owner of said Land and prays, that your Hon. Body will Confirm and validate his claim and title thereto —

Clark Taylor & Beckh
Attys for Sanchez

Filed in office March 1. 1853
Geo. Fisher
Secy

Recorded in Vol 2 of Petitions on pages 55_56

Geo. Fisher
Secy

5 Deposition of Wm. A. Richardson

Office of the Commissioners of Land Claims in California

San Francisco Aug 30. 1853

This day before Commissioner Alpheus Felch came William A. Richardson a witness in behalf of Claimant Rafael Sanchez Case No. 674 and after being duly sworn deposed as follows

Questions by Mr Clark Atty for the Claimant

Question. What are your name age and place of residence?

Answer. My name is William A Richardson, my age fifty Eighte years and I reside in Sausalito Marin County in California I have resided in California thirty years

2d Question. Look on the document now shown to you Marked Exhibit "No. 1 with the initials "A F" and annexed to this deposition, and state what you know in regard to the genuineness of the signatures thereto

Answer. I am acquainted with the hand writing of Pio Pico, Jose Mateo Moreno, Jose Abrego, Manuel Castro & Rafael Sanchez – Their Signatures appearing on this Document are all genuine

I have often seen Each of them write – The Signature "Pico" occuring twice on said Document is the genuine Signature Signature of Pio Pico and that of Moreno is the genuine Signature of Jose Mateo Moreno

Wm. A. Richardson

Mr Navarro appeared for the Sum Agent on behalf of the United States, at the Taking of this Deposition, but declined to ask the Witness any questions

Subscribed and Sworn to before me this thirteenth day of August A.D. 1853

Alpheus Felch
Commissioner

Filed in Office Aug 30. 1853
Geo. Fisher Secy

Recorded in Ev B Vol 3 p 108
Geo. Fisher Secy

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Deposition of Jose. Abrego

United States of America
State of California

San Francisco July 1, 1854

This day personally came before Peter Lotta commissioner for taking Testimony to be used before the Board of U. S. Land Commissioners in said State, Jose Abrego a witness on behalf of Rafael Sanchez the claimant in Case No. 674 on the docket of said Board, and said witness being duly sworn, on oath deposeth as in Spanish which was interpreted into English by the interpreter to said Board as follows, to wit;

The U. S. Associate Law Agent is present

Questions by claimants Counsel

1. Question. What is your name age and residence?

Answer. My name is Jose Abrego my age 41 years I reside in Monterey California

2 Question. Are you acquainted with the Rancho called San Lorenzo in Monterey County if yea, State what you know about the first improvement occupation and cultivation of said Rancho:

Answer. I am acquainted with said Rancho. I myself petitioned for the grant of it in the latter part of 1845, to Gov. Pio Pico, and placed upon it 50 head of cattle, and had a small wood in house built upon it. I afterwards in the same month in which I petitioned declined taking it and relinquished my right to it, to Rafael Sanchez and I sold my Cattle to Louis Sanchez and gave him the house.

3d Question. Do you know the boundaries of said Rancho, if you state them

Answer. My petitions for Eleven Leagues

4th Question. Look at the document marked "Exhibit No 1" A F annexed to the deposition of Wm A Richardson" and filed in this Case, and State whether you know the natural Objects which are described as boundaries in the grant contained in said document?

Answer. I know the Objects so described

know the Natural Objects which are described as boundaries in the grant contained in said Document?

Answer. I know the Objects so described—

5th Question. Does the Diseño contained in said document give a fair representation of said Rancho?

Answer. It does—It is very clear

6th. Question How much Land is Embraced within the boundaries in said grant

Answer. There is less than Eleven Leagues

Map Examined by the U. S. Apocate Land Agents

1st Question—Did you ever see said Sanchez on said Rancho after you abandoned your right to it?

Answer—I did not—He was a regular Officer in the Army and could not be there

2d Question, Did you ever see any cultivation on the Land?

Answer. No it is not suitable for cultivation, it is broken and hilly & sandy

3d Question. Were you ever on the Rancho of Solvanez and do you know the boundaries thereof?

Answer. I have been on the Rancho but do not know the boundaries?

4th Question—Was the Rancho of Sanchez in question, ever measured, if nay, how do, you it contains less than 11 Leagues?

Answer. It never was measured, but when I petitioned for it, I rode over it, and Estimated it to contain that quantity—

Subscribed & sworn to before me on this 1st day of July A. D. 1854

Jose Abrego

Pedro Sola Commissioner for taking Testimony &c

Filed in Office July 1. 1854—Geo. Fisher Secy

Recorded in Ev. B Vol 5 p 8. Geo. Fisher Secy

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Grant and Expedte.

Exhibit No 1 a. Ge annex del Depo. of Wm A. Richardson

Pio Pico Gobernador Constitucional del Departamento de California.

Sello

Por Cuanto el Ciudadano Rafael Sanchez ha pretendido para su beneficio personal y el de su familia el terreno sobrante el parage de San Lorenzo en las inmediaciones de la Ex. Mision de la Soledad en el Distrito de Monterey colindante al N. con la Cañada Verde al E. con el Arroyo de San Juan, al S. con la Mesa Grande y al O. con el terreno de Don Feliciano Soberanes como lo demuestra el Diseño que obra en el Expedte. practicadas previamente las diligencias y averiguaciones concernientes usando de las facultades con que me hallo autorizado por el Supremo Gobierno à nombre de la Nacion Mejicana he venido en conceder el Espresado Señor Sanchez el terreno mencionado dandole la propiedad de el por las presentes letras de conformidad con la ley de 18 de Agosto de 1824 y Reglamento Supremo de 21 de Noviembre de 1828. à reserva de la aprovacion de la E. Asamblea Departamtl. y bajo las condiciones sig.tes

1a. podrà cercarlo sin perjuicio de las travesias caminos y servidumbres. Lo disfrutarà libre y Esclusivamte. destinandolo al uso ò cultivo que mas le convengan.

2a Solicitarà del juez respectivo le dè la posesion juridica en virtud de este despacho por el cual se le demarcaran los linderos con las mojoneras correspondtes.

3a. El terreno de que se hace donacion es de Once sitios de ganado Mayor.

El juez que diere la posesion los harà medir conforme à Ordenanza sin perjuicio de tercero quedando el sobrante que resulte à beneficio de la Nacion para los usos convenientes.

En consecuencia mando que teniendose el presente titulo por firme y Valedero se tome Razon de el en el libro que corresponde

MAS

y se entregue al interesado para su resguardo y demas fines.
Dado en la Ciudad de los Angeles en este papel comun por falta de sellado á veinte siete de Julio del año de mil ocho cientos cuarenta y seis.

Pio Pico

Srio. Dn. P.
José Matias Moreno
C. J.

Angeles Octubre 9. de 1845. pase al Sor prefecto de Monterey para q. informe circunstanciadam.te sobre lo contenido en esta instancia y en seguida vuelva á este Gobierno para resolver.

Pico.

José Arrego Cno. Mexicano y vecino de este puerto. Ante V. E. con el debido respeto hace presente que teniendo necesidad de un terreno para el fomento de sus intereses y hallandose Baldio la mayor parte del terreno conocido con el nombre de S. Lorenzo el cual pertenecia á la Mision de la Soledad pide se le conceda un cuarto de legua de ancho desde el Arroyo de S. Juan hasta el Rio de la Soledad y desde el Arroyo de San Lorenzo hasta la Cañada Grande inclusive segn. el diseño adjunto esplica quedando sujeto á que se me de posesion despues de medirse á D.n Ygeliciano Soberanes cuatro ó cinco sitios q. en dho parage tiene concedido segun debe constar en el Archivo del Gobno.

Por tanto á V. E. suplico se digne acceder á mi solicitud en lo q. se entregue gracia jurando lo necesario V. E. por no haber papel sellado va la presente solicitud en este papel.

Monterey setiembre 1o de 1845.

José Arrego.

El derecho que tengo como primer solicitante del terreno que expresa esta instancia los cedo á favor de D. Rafael Sanchez Monterey Dbre 4 de 1845.

José Arrego

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Pref.ª del 2.º Distrito
pase este Espediente à Dn. Rafael Sanchez p.ª que esponga lo que à su derecho convenga.

Monterey Dbre. 1/ de 1845.

Man.l Castro.

Exhibit No. 1 continued

Sr. Prefecto del 2.º Distrito
Constando en este Espediente que el Sr. Dn. José Arrego me ha cedido el sito que le corresponde como 1er. solicitante del terreno nombrado San Lorenzo que pertenecia antes à la Ex-Mision de la Soledad y cumpliendo con el superior decreto de V. S. que antecede; debo manifestar que admitiendo la sesion que

674, Sup

{Here follows Map}

me hace el Sr. Abrego de su espresado ho.
he de merecer de V. S. se digne dar el informe
que crea conveniente à fin de que el superior
Gobierno del Departamento en consideracion
à mis servicios me conceda en propiedad
el terreno mencionado en los mismos terminos
que lo solicita el Sr. Abrego.

Monterey Dcbre. 14 de 1845

Rafael Sanchez

Pref.a del 2.o
Distrito } Excmo Sor Gobor

Impuesto esta prefectura de lo contenido
en este Espediente en el que aparece que
Dn. Rafael Sanchez mediante la cesion
que de su derecho le ha hecho Dn. Josè
Abrego como primer solicitante pretende
un el sitio de ganado Mayor en el parage
de Sn. Lorenzo perteneciente antes à la
Ex. Mision de la Soledad debe informar
à V. E. que aunque es cierto que el mismo
parage de Sn. Lorenzo ha sido concedido
à Dn. Felliciano Soberanes la pref.a cree
que teniendo este una considerable estencion
puede atenderse el presente pedido à la
vez que el suplicante indica que quedara
sugeto à la medicion y posesion que obten
ga el Sor Soberanes de los sitios que le corres
ponden. Por estas razones la pref.a es de opi
nion que el superior Gobno. Departamtl. se
conceda al Sor Sanchez los once sitios que
pretende sin perjuicio de los linderos que
se le demarquen al Sor Soberanes. mes.
V. E. con su acreditado acierto resolvera
lo que estime de justicia.
Es cuanto debo informar à V. E. en cum-
plimto. del superior Decreto fha. 9. de Obre.
ultimo que obra en este Expedte.

Monterey Dbre. 18 de 1845

Manl. Castro

Angeles Febro. 18 de 1846.
Estiendase el Titulo que le asegure la
propiedad del interesado

Pico

Queda tomada razon de este superior

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despacho en el libro respectivo

Moreno.

Filed in Office March 1st 1853.

Geo: Fisher Clerk.

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15 Translation of Grant & Espediente

Pio Pico Constitutional Governor of the Department of both California

Whereas the Citizen Rafael Sanchez has claimed for his personal benefit and that of his family the Suspensolund in the location of San Lorenzo in the immediate neighborhood of the Ex Mission of La Soledad in the Destrict of Monterey, bounding to North on the Canada Chanise, to the East on the Arroyo de San Juan to South on the Mesa chanise, and to West on the Land of Don Felicano Soberanes as shown in the plot attached to the Espediente after having previously taken the necessary action and made the necessary investigations, in Exercise of the powers with which I am authorized by the Supreme Government, in the name of the Mexican Nation I have condescended to grant Saor Sanchez the mentioned Land, declaring it his property by the present letters patent, in conformity with the law of 18th August 1824 and Supreme Regulations of 21st November 1828 under reservation of the approval of the Excellent Departmental Assembly and under the following Conditions

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PAGE 14

1st He may fence it without prejudice to the crops, roads and servitudes; he will enjoy it freely and Exclusively appropriating it to the use or culture that best may suit him

2d. He will solicit of the respective Justice to give him juridical possession in virtue of this document, by whom the boundaries are to be marked with the corresponding Land Marks

3d. The land admitted is Eleven Squarelegues (Sitios de ganado Mayor)

The Justice who shall give the possession will cause them to be measured conformable to Ordinance without prejudice to any third party leaving the Surplus that may result to the benefit of the Nation for convenient purposes

Consequently I order that the present title

deed, being hereby firm and valid, it be entered in the Corresponding book and delivered to the interested party for his Security and other purposes

Given in the City of Los Angeles on this Common paper, for want of Stamped paper, on the 27th of July in the year One thousand Eight hundred forty six

Pio Pico

Jose Matias Moreno, Secretary ad hoc

This document has been Entered in the respective book

Moreno

(In the Margin)

Angeles October 9th 1845

Be it sent to the Prefect of Monterey that he will report circumstantially on the Contents of this instance, and thereafter return it to the government for its resolution

Pico

I hereby cede the right I have as first petitioner of the Land Expressed in this instance in favor of Don Rufael Sanchez

Monterey December 4th 1845

Jose Abrego

Prefecture of the 2d District

Be this Especiente sent to D. Rufael Sanchez that he may represent what his right admits of

Monterey December 7th 1845

Man Castro

Sr Prefect of the 2d District

It being shown in the Especiente that Dn. Jose Abrego, has relinquished to me the right he has as first petitioner of the Land called San Lorenzo which formerly belonged to the Ex mission de los Soledad, and complying with your Ser's Superiendence above. I must show that, admitting the cession made to me by Mr Abrego of his said right, I assure of you that you will be pleased to give the report you may think suitable - So that the Supreme Government of the Department in consideration of my services, may grant me the Ownership of the mentioned land on the same terms as solicited by Mr Abrego

Monterey December 14th 1845. Rufael Sanchez

Government for its resolution

Pico

I hereby cede the righe I have as first peticioner of the Land Expresed in this instance in favor of Don Rafael Sanchez
Monterey December 4th 1845

Jose Abrego

Prefecture of the 2d District
Be this Espediente sent to Dn Rafael Sanchez that he may represent what his righe consists
of. Monterey December 7th 1845

Man Castro

Sr Prefect of the 2d District
It being shown in the Espediente that Don Jose Abrego has relinquished to me the righe he has as first peticioner of the land called San Lorenzo which formerly belonged to the Ex Mission de La Soledad, and complying with your Sr's Superior decree above I desire show that, admitting the cession made to me by Mr Abrego of his said righe - I desire of you that you will be pleased to give the report you may think suitable - so that the Superior Government of the Department in consideration of my services may grant me the Ownership of the mentioned Land On the same terms as solicited by Mr Abrego

Monterey December 14th 1845 - Rafael Sanchez

Prefecture of the 2d District
Excellent Sr Governor
This prefecture being informed of the contents of this Espediente, in which it appears that Dn. Rafael Sanchez by means of the cession made by Don Jose Abrego of his righe as first peticioner claims Eleven square leagues of Land in the Location of S Lorenzo, formerly belonging to the Ex Mission of La Soledad must report to your Excellency, that though it is certain that the same location of San Lorenzo has been granted to Don Feliciano Soberanis, this Prefecture thinks, that the

latter having a considerable extent, the present petitioner can be attended to, at the same time as he indicates that the land will remain subject to the mensuration and proportion of which Mr Solanas may obtain of the titles belonging to him.

By reason hereof the Prefecture is of opinion that the Superior Departmental Government may grant Mr Sanchez the Eleven Sitios he claims without prejudice to the boundaries to be marked out to Mr Solanas - but your Excellency with your well known discretion will resolve what you shall deem to be just

This is all I ought to report to your Excellency in compliance with your Superior decree dated 9th of October last and attached to this Expediente

Monterey December 18th 1846
Manuel Crespo

Angeles February 18th 1846
See the title deed to show the ownership of the interested party be issued

Pico

Filed in Office Oct 11. 1853
Geo. Fisher
Secy

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Opinion

No. 674
Rafael Sanchez
vs
The United States } San Lorenzo 11 Square leagues of Land in Monterey Co

This claim purports to be founded on a grant made by Governor Pio Pico on the 27th day of July 1846. According to the ruling of the Board in other cases, the Mexican authorities in California could not rightfully exercise their function after the raising of the American flag at Monterey on the 7th of that month.
The grant in this case being made subsequent to that period is therefore invalid and the claim founded upon it must be rejected

Filed in Office Jan 30. 1855

Geo. Fisher Secy

Decree

Rafael Sanchez
vs
The United States }

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

Alpheus Felch
R. Aug Thompson
S. B. Farwell } Commissioners

Filed in Office Jan 30. 1855
Geo. Fisher Secy

Order

And it appearing to the satisfaction of the Board that the land hereby adjudicated is situated in the Southern District of California
It is 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 United States District Court

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Clerk for the Southern Judicial District of California and the Other be transmitted to the Attorney General of the United States

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PAGE 20

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 following Twenty — pages, numbered from 1 to 20, 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. 674 on the Docket of the said Board, wherein Rafael Sanchez is — the Claimant against the United States, for the place known by the name of "San Lorenzo." —

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 first — day of July A. D. 1855, and of the Independence of the United States of America the ~~seventy~~ eightieth.

Geo. Fisher

Sec.

U. S. DISTRICT COURT,

Southern District of California.

No. 277. 277

THE UNITED STATES,

vs.

Rafael Gonzalez

v.

San Lorenzo

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TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 674.

Filed, August 1st 1855

C. G. Carr.

Clerk

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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 Board of United States' Land Commissioners by which they rejected the claim, numbered 674 upon their Docket, of Rafael Sanchez to the tract of land known as the Rancho of "San Lorenzo" under a grant made to him by Governor Pio Pico in 1846.

Rafael Sanchez by
Stanly & King
his Attorneys.

San Francisco
May 1855

No 674 No 277.

Rafael Sanchez

United States

for

San Lorenzo

Notice of Appeal on
part of Claimant –

Notice of appeal
upon the part
of Claimant

Filed June 6th 1853
B. C. Pan.
Clk.

Hardy & King
atty for Claim

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Rafael Sanchez
Appellant
vs.
The United States

No. 277.

To the US Dist Atty for the Southern Dist of California

Sir

Please take notice that the appeal in the above case from the decision of the Commissioners to ascertain and settle private land claims in the State of California will be prosecuted by the above named Appellant;

Stanly & King
for Appellant

Los Angeles Sept. 21st 1855

No: 277

In the U. S. Dis: Co:
Southern Dis: of
California

Rafael Sanchez
vs appellant

The United States

Notice of Appeal
on part of Sanchez

Filed Sept 21st 1855
A. E. Carman
By John W. Hoff
Dep

Docket No. 277

Rafael Sanchez
vs
The United States.

Appeal by Claimant

To the Honorable the Judge of the United States' District Court for the Southern District of California:

The petition of Rafael Sanchez 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 "San Lorenzo" therein described, and situate in the present County of Monterey California, under a grant from Governor Pio Pico to your petitioner dated the 18th February 1846, 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 674 on the Docket of the said Commissioners was rejected by them on the 30 January 1855; 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 in the case

was

was filed in the Office of the Clerk of the Court for that District on the 1st of August 1855, and that under date of the 21st September 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 and 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
for Appellant

La Angeles Sept: 21st 1855 —
~~San Francisco~~
~~1855~~ —

No 277 — U. S. Dist. Ct.
Southern Dist.
Cal.

Rafael Sanchez
vs
The Ranchitos } Appeal.

"San Lorenzo"
Monterey Co. Cal.

Land Cases No. 674 —

Petition for Review

Filed Sept. 22nd 1855
J. E. Carr Clk
By J. N. Roop Dep

Rec'd a copy of the within
petition. Sept. 22. 1855.
P. Ord
Dist Atty.

Stanly & King for Appellants

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

Rafael Sanchez,
vs.
The United States
} No. 277.
(No. of Transcript 674.)

The answer of Pacificus Ord Attorney of the United States for the Southern District of California, for and in behalf of the United States, to the petition for review, or rehearing, of Rafael Sanchez, 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 Rafael Sanchez in said cause, may be affirmed; and the title of said claimant and petitioner decreed to be invalid. And general relief.

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

I have served this Summons on A Thomas Atty for Rafael Sanchez, by delivering to him personaly a true Copy of the same at Los Angeles 27th Dec 1855

Edward Hunter
U S Marshal
for M L Woodman
Deputy

Marshals Ret
Serving Summons & Ex

No 277.
Rafael Sanchez
vs.
The United States.

Answer of Petitioner & Petition for Review

Filed Sept 24th 1855
J. C. Jones
Clerk

Court Docket
No 277 –
Land Commr
No 674.

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

Rafael Sanchez – "San Lorenzo"

This claim was rejected by the Commissioners solely because the Title in form was issued at Los Angeles on the 27 July 1846, being twenty days subsequent to raising the American flag at Monterey.

The following facts appear by the title papers:

1st. That José Abrego petitioned for the land on the 1st September 1845, and that on the 9th October Gov Pico referred the papers to the Prefect at Monterey for a report.

2. That the following transfer was made by endorsement "I hereby cede the right I have as first petitioner of the land expressed in this instance in favor of Dr Rafael Sanchez – Monterey December 4 1845. José Abrego"

3. That on the 7 December 1845 the Prefect referred the papers to Rafael Sanchez in order that he might state his claim.

4. That on the 14 December 1845 Sanchez returned the papers to the Prefect stating that they showed that he had acquired the right of Abrego and denied the Prefect to make such report as he might think proper "so that the "Supreme Government of the Department in "consideration of my services may grant me the "ownership of the mentioned land on the same "terms as solicited by Mr. Abrego"

5th That on the 18 Decemr 1845, the Prefect returned the Expediente to the Governor stating that Sanchez claimed under the transfer from Alvarado, and that the land might be granted.

6. That the Governor made the following decree.
"Angeles February 18th 1846. Let the title "deed to secure the ownership of the interested "party be issued. Pico"

7. That the title in form based upon this decree was issued at Los Angeles by Gov Pico on the 27. July 1846.

The Supreme Court in deciding the claim under grant to Alvarado of the "Mariposas" say—
"There can be no question as to the power of the Governor of California to make the grant—"
"It has conditions attached to it, but they are conditions subsequent"
"For if, at the time the sovereignty of the Country passed to the United States, any interest legal or equitable, remained vested in Alvarado or his assignee, the United States are bound in good faith to uphold and protect it—"
"It is the duty of the Court to protect rights obtained under them [Mexican Laws, usages & customs] which would have been regarded as vested and valid by the Mexican authorities"—
"The omission or inability of the public

authority to perform their duty, cannot upon any sound principle of law or equity, forfeit the property of the individual to the State."

The question to be decided is therefore whether Sanchez had on the 7th July 1846, any interest in the land claimed, either legal or equitable, under the Governor's decree in his favor of the 18th Feby 1846; for if he had, then the United States is bound to protect and uphold the same.

It will be observed that all the initiatory proceedings were regular, in the usual form, and, including the granting decree of the Governor, were long before we took possession of any part of the Country, and if the title in form had been issued at the time the land was granted to Sanchez no question would have arisen as to his rights. No particular form was even adhered to by any Governor in making a grant. Sometimes it was done simply by the words "Concedo" "It is granted" "Let the title be issued". In some others it is more formal, for in the case of "Las Pulgas" it is "— are declared owners in property of the tract known under the name of Las Pulgas — the corresponding patent to be issued & recorded in corresponding book, delivering it to the interested party for his suitable uses". In the "Sirsen" case the Decree declares the petitioner to be the owner of the land, and says "the corresponding patent will be made out". While in this case

it is "Let the title deed to secure the ownership of the interested party be issued" It was the duty of the proper public Officers to carry out the decree of the Governor making the grant by preparing the title in form, a patent, for the Governor's signature; but, their omission, or neglect, to perform that duty, the Supreme Court has decided cannot be allowed to work a forfeiture of the rights of the grantee. The grant or concession was made by the Governor's decree, and thereupon the rights of ownership became vested in the grantee, and the "title deed" was the evidence thereof to be placed in the hands of the interested party, as the original grant by the Governor upon which it was based, was to remain in the archives of the government.

No one will contend that if the former government had continued in power that this decree of the Gov would have been considered by it as meaning nothing & conveying no right to the grantee Sanchez, and, such a supposition is effectually negatived by the fact that on Officers, while they were in the continued and undisturbed exercise of their usual powers & duties, did issue the prescribed title in form to Sanchez based upon this decree.

The same train of reasoning which would enable us to declare that Sanchez acquired no rights

as to declare that Sanchez acquired no rights

by this decree of the Governor because the title in form was not issued to him immediately thereafter, would also divest the Mariposa claimant of all rights under the decree of the Supreme Court in his favor, inasmuch as the Act of 1857 requires a Patent to be issued to carry that decree into effect. The Decree of the Governor in the one case is equivalent to that of the Supreme Court in the other, and under the Mexican government the Governor's decree vested in Sanchez rights both legal & equitable fully equal to those acquired by the Mariposa claimant under the decree of the Supreme Court. ~~[illegible]~~

See Note A.

The Land Commissioners certainly took a strange view of the subject when they decided that the claimant had no rights under the grant made to him by the Governor in February 1846, because the title in form was issued at Los Angeles twenty days after the raising of the American flag at Monterey, although at that time so far from any Capitulation or surrender of the Country having been made to the United States, the Mexican authorities were then exercising their usual jurisdiction & powers at the Seat of government.

If the acts of the legally constituted authorities of the Mexican government at Los Angeles

were void at the time this title in fee was issued ~~because~~ because we held hostile possession of two distant points in the territory, then the acts of the government at Washington during the time the English held possession, ~~during~~ in the war of 1812, of Castine, Eastport & Detroit, are equally invalid.

But the commissioners in their decision go much further than this for they not only hold the title in fee to be invalid & a mere nullity, but they, by making the claim depend entirely thereon, have lost sight of the grant itself which is fully proved to have been made six months before our flag was unfurled at Monterey; although the Court has decided that the change of flag did not affect in the least the validity of any prior official acts, but only operated upon & rendered void the subsequent official acts of the Officers of the former government, which might be "inconsistent with the rights of the United States, or its public policy".

See Note B.

We therefore contended on the part of the claimant that the Decree of the 18th Feby 1846, was, in truth a grant of the land, and gave Sanchez such vested rights to the land under the Mexican laws usages & customs, as the Courts of the United States are now bound to uphold & protect, by confirming his claim.

Note A. It has been always held by the Supreme Court that when a patent issues, it relates back to the inception of the title & therefore a Grant

[illegible] the person who has first appropriated

when a patent issues, it relates back to the inception of the title & therefore a Court of equity, the person who has first appropriated the land has the best title, unless his equity is impaired by the circumstances of the case. In this case the title in fee is under the Spanish law is the same as a patent under our laws, and hence by the uniform decisions of the Supreme Court the title resulting therefrom goes back to the time the land was granted by the Spanish decree of grant.

Note B.

As before stated, at the date of this title in fee the Mexican authorities were at the established Capital of the Country, exercising all their usual powers, & we were in possession of only so much of the territory as was within the range of our Cannon, holding hostile possession of ~~of~~ a few points only — In relation to the rights of granting lands the Supreme Court in the case of Pollard & al vs Kibbe 14 Peters 358 say — "It has often been decided in this Court that the government which is in possession of a Country may make grants. In the case of the State of Rhode Island vs the State of Connecticut 12 Peters 748 the Court say — "When a territory is acquired by Conquest, or even by Conquest, the rights of the inhabitants to property are respected & sacred. Grants of land by a government de facto, of parts of a disputed territory in its possession, are valid against the State which had the right 8 Wheat 509 — 12 W. 535 — 6 Peters 712 — 8 Peters 445 — 9 Peters 139 — 10 Peters 330 - 718.

Los Angeles Sep: 24/55

Stanly & King for Claimant

No: 277

In the United States Dist. Court for the Southern District of Cal:

Rafael Sanchez

v

The United States

Brief of Counsel for Appellant

Filed Sept. 24th 1855
C. A. Carlton
By J. O. Kofs Dep

Shurtz & King for Appellant

No. 277.

Rafael Sanchez
vs
San Lorenzo

Submit & Brief

Rafael Sanches.
The United States. } No 277.

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Deposition of Leodoro Gonzales, a witness on the part of the United States, taken before me Charles E Carr, ~~Clerk~~ U.S. Commissioner for the Southern District of California, at the City of Los Angeles, Dec 7th 1855, to be used in evidence on the trial of said cause Present P. Ord U.S. Atty. J Thomas for Claimant and app— G. Goodman was sworn as Interpreter Leodoro Gonzales being duly sworn, deposes and says

Ques— What is your name age and place of residence and occupation—

Ans— my name is Leodoro Gonzales, my age 52 years, I reside in Monterey I am a Ranchero

Ques. ~~How long have you known~~ do you know the Rancho of San Lorenzo, if there ever was such a Rancho established in Monterey County claimed by Rafael Sanchez

ans. I know but too Rancho in Monterey County by the name of San Lorenzo— one former belonged to the mission of San Antonio, and was afterwards granted to Francisco Rico, who sold it to D. Randall who now claims it; the other belonged to the mission of La Soledad, afterwards granted to Feliciano Soberanes who now claims it—

Ques. How long have you lived in Monterey County.

Ans— I have lived in Monterey County since the year 1825, up to the present time.

Ques— Have you a Rancho in Monterey County, and if so, in what part of the County is it located, how long have you lived on it.

Ans. I own a Rancho in Monterey County. It is near the mission of La Soledad in the plain on the north side of the River Monterey.— I have lived there since the year 1857, up to this time. My Rancho is called the Punta del Monte del Pinion.

Ques— Who is the owner or occupant of the Rancho next above you on the River.

Ans. ~~Stephen~~ The Heirs of Esteban Munras.

Ques— And who is the owner of the Rancho next above the Munras Rancho on the same side of the River.

Ans. Feliciano Soberanes. The Rancho is called San Lorenzo.

Ques— Do you know the Ranchos that have been founded in Monterey County previous to 1848.

Ans. I know all the Ranchos that have been founded in Monterey County since I came to California though I do not remember the particular dates.

your House.
Ans — The Main Road from Monterey to San Antonio passes near my house and by this Ranch the Salinas River is between the Road and my House.
Ques. Is there any other high road which would lead to this land, between the two San Lorenzos
Ans. — There is another road. It is the Main Road from San Francisco to the Southern Country, and passes by this place
Ques — Is this Road within right of your house or Ranch.
Ans. It is.
Ques — Do you know where Rafael Sanchez has lived for the last ten or twelve years, and if yea where?
Ans — He has been living in Monterey since the year 1843, and is still living there,
Ques — Where does Jose Abrego live,
Ans — In Monterey —
Ques — How long has he lived there,
Ans — About 18 years more or less —
Ques — Did he ever live anywhere else since you have known him.
Ans. — He has always lived in Monterey — he went once to Mexico and returned again —

Cross Examined by Claimant's Atty —

Ques. Do you know Jose Abrego of Monterey County, if so how long have you known him.

Ans. I have known him for the last twenty years more or less.

Ques. Do you or not know whether said Jose Abrego ever founded Rancho in Monterey County called San ~~Lorenzo~~ Lorenzo.

Ans. I have heard it said ~~know~~ that Jose Abrego asked for a piece of land between the two San Lorenzos. I dont know that he ever founded it, but I know that Jose Abrego transferred the land to Rafael Sanchez.

Ques. Do you know whether Rafael Sanchez ever built a house and placed cattle upon the land between the two Ranchos of San Lorenzo.

Ans. I do not know.

Ques. If any Rancho had been established there by Abrego or Sanchez ~~would you not~~ between the years 1846 & 1848, or thereafter, would you not have been likely to have known it.

Ans. I would have been likely to have heard about it, if such had been the case.

Ques. About ~~how~~ what is the distance from your Ranch to this land between the two San Lorenzos

Ans. It is about 25 or 26 miles.

Ques. What high road leads to that Ranch, and does it pass by

Ques. Are there not many persons living ~~the~~ nearer to the Rancho of San Lorenzo than yourself
Ans. ~~There are~~ ~~is no other Ranch nearer to San Lorenzo~~ There are ~~three~~ four places nearer to San Lorenzo than mine — La Posa — San Vicente, and the other La Soledad and Los Cochos.
Ques. When were these Ranchos founded
Ans. I gave the possession of the Ranchos La Posa San Vicente, and Rincon de los Cochos — I was Judge at the time, I think it was in 1845.
Ques. Were all these Ranchos inhabited since their foundation.
Ans. Yes.
Ques. Are they now inhabited by the same persons who founded them.
Ans. They are —
Ques. Would they not be more able to know all about the settlements and improvements of this Rancho than you would.
Ans. I think they ought to the fact whether it was settled or not. They knowing the land, I do not.
Ques. Are not the two San Lorenzo Ranchos inhabited.
Ans. — One is inhabited — the other belonging to Randell I can not say.
Ques. Does the owner occupy the inhabited one
Ans. — Yes — Feliciano Soberanes.

Teodoro Gonzalez

Sworn & subscribed before me this 7th Dec 1854.

P. Hall
U S Comr

No 277.

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

Rafael Sanchez
appt.

vs.

The United States.
appee.

Deposition of Teodoro Gonzales, a witness on the part of the United States.

Filed Dec 7th 1855.

J. E. Carr
Clk.

Rafael Sanchez, appellant } No. 277.
vs. } (Transcript No. 674)
The United States, appee. } On appeal from the Dist. Court U.S. for Southern Dist. of Calia.

Deposition of Feliciano Soberanes, a Witness on the part of the United States, taken by Counsel of Atty for appellant and appellee, before C. E. Carr, U.S. Commissioner at Los Angeles, California, January 2nd 1856, to be used in evidence on the trial of above entitled cause ~~at~~ P. Ord, U.S. Atty, for ~~Appellant~~ appellee, and Alonzo Thomas, Atty for Appellant.

Direct Examination by P. Ord, U.S. Dist. Atty.

Ques: 1. What is your name, age, occupation and place of residence?

Ans: My name is Feliciano Soberanes, age sixty six, Laborer and Ranchero, residence Mission of La Soledad, Monterey California.

Ques: 2. How long have you lived in Calia?

Ans: Since my birth.

Ques: 3. How long have you lived in Monterey County?

Ans: ~~Since my birth~~ All my life.

Ques: 4. Do you own any Ranches in the said County of Monterey; and if yea, state their names, locality, and the length of time you have occupied them.

Ans: I ~~have~~ own the Ranchos of San Lorenzo & the Soledad. The Rancho of San Lorenzo is situated about five leagues distant to the East of the Mission of Soledad, bounded by the River of Monterey on one

on another by the Arroyo of San Lorenzo - on another by the side towards the Soledad by the Arroyo del Chalones. The extent of the Rancho is of the extent of about five leagues on the said River. I have occupied the said Rancho since the year 1840. The other Rancho is La Soledad. It is located at the Mission of Soledad. I have occupied it since the year 1840. It is of the extent of about two leagues.

Ques: 5. Have you lived in person upon the Rancho of San Lorenzo, If so how long?

Ans: I lived with my family, or a part of them three years on the San Lorenzo Rancho from 1840 to 1843 ~~I~~ have been ~~on the~~ said Rancho from ~~the time of its~~ first ~~occupation in 1840.~~ The year 1843 to the present time about once a month, looking after my stock and interests there. Since 1843, I made my principal residence at the Soledad.

Ques: 6 Do you know of any other Ranchos in Monterey County, Calo called San Lorenzo, and if you, state ~~who~~ where they are located, & who owns or claims to own them?

Ans: The only Rancho by that name known to me, other than my Rancho, is the one formerly belonging to Francisco Rico. It is situated in the Mountains

to the East of the Rancho of Marinoitto Soberanes, called San Bernardo, ~~It is~~ and it is about twelve leagues towards the East from my house on ~~the~~ my Rancho of San Lorenzo, to the house of Rios on ~~sa~~ his said Rancho.

~~Ques~~ Ques: 7. Are you well acquainted with the Ranchos in said Monterey County, which were founded previous to 7. July 1846?

Ans: Yes, I am well acquainted with them.

Ques: 8. Do you or not Know of the fundation of any Rancho or Ranchos ~~by~~ in said County ~~by the name of~~ called San Lorenzo, by one Jose Abrego? And if you State all you Know about it? ~~upon the subject~~ Ans: I know of no rancho by that name in Monterey County founded by Jose Abrego.

Ques: 9. Do you Know of any Rancho in Monterey County ~~by the name of~~ or elsewhere in California, called San Lorenzo, other than the two you have before mentioned, having been founded ~~or~~ or occupied in any manner, by any person or persons. And if you State all you Know upon the subject.

Ans: The only other Rancho that I Know of in California by the name of San Lorenzo is situated in the Contra Costa, on the Bay of San Francisco. It belongs to & is occupied by

Carlos Castro.

Ques 10. Do you know Jose Abrego of Monterey County Cal? If you have long have you known him.

Ans: I do know him, and have known him as a resident of Monterey since about the year 1834. to the present time.

Ques: 11. Do you ~~know anything about the said Abrego~~ or not know whether the said Abrego ever built a ~~house~~ small wooden house upon a tract of land adjacent to your Rancho of San Lorenzo, in said Monterey County. And if you, state generally, what you know ~~about the~~ upon the subject.

Ans: ~~I know nothing about~~ I do not know that the said Abrego ever built such a house adjacent to my said Rancho of San Lorenzo.

Ques: 12 Do you or not know that the said Abrego ever put any cattle upon any land adjacent or nearto your said Rancho of San Lorenzo. If you when, and how many.

Ans: ~~I do~~ I did not know of his putting cattle at any time near his said Rancho; nor did he ever hear of its being done by said Abrego.

Ques: 13. Do you know the Rancho or tract of

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land claimed in this case by Rafael Sanchez, as delineated in the Map ~~to~~ appearing in the Transcript from the land Commissioners, and now shown you, and if you, state whether or not the said Rancho or tract of land was ever occupied by a house & cattle & by whom & when.

Ans: I do not know that Sanchez has a Rancho or tract of land such as is delineated in the Map now shown me. I know the ~~which~~ land which is represented in the Map. A ~~gre~~ large part of the land in said Map, about one league is a part of my Rancho of San Lorenzo. My part of the said Rancho, is bounded on the River of ~~Mo~~ Monterey, & extends back eastwardly to the Pinal, which appears marked in said Map.

Ques. 14 Did any person or persons ever occupy in any ~~any~~ manner any of the land as delineated in said Map, other than yourself. ~~to~~

Ans: No person or persons have ever occupied any of the said land in any manner, except myself, and some Squatters who have within a year or two past, established themselves in the Mountains.

Ques. 15. Cross examined by ~~Cross~~ Counsel for appellant

Ques: Where did you live in the year 1845.

Ans. In the Soledad, which is about five leagues from my San Lorenzo Rancho.

Ques: 16. Were you about and riding over the land ~~in~~ as shown in the Map about the 1st of September 1845, till ~~about~~ about the 1st of January 1846?

Ans. No I was not within riding over the land at these times, but my sons were.

Ques: 17. Howlong before the 1st Sept. 1845, were you on said land?

Ans: I cant recollect.

Ques: 18. Might not some person have built a house, and put cattle upon the said land, between the 1st of September 1845 & the 1st of January 1846, without your knowledge?

Ans: ~~No~~ I think not, because there was always some persons moving about the land who would have seen them. It might have been done without my seeing it; but my children ~~yes~~ would have seen it.

Filiuno Sabedra

Sworn to and subscribed before me this 2d day of January A.D. 1856.

J. E. Carr
U. S. Comr.

No 277.

U S Dist. Court
S Dist of California

Rafael Sanchez
appt

vs

The U. States
appee

Deposition of Feliciano Soberanes

Filed Jany 29. 1856
C. E. Carr
Clk

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The United States
vs
Rafael Sanchez

No. 277 For "San Luis Rey"

1. Page 3 to 4 Inc. Petition before Commissioners.
Filed March 1st 1853

2. Page 5. " Deposition of William A Richardson proving Signature to title.
Filed August 30 1853

3. Page 6 to 7 " Deposition of Joseph Abrego as to boundaries, occupation and character of land
Filed July 1st 1853

4. Pages 9 to 13 " Expediente, grant & Map, in Spanish, with report of prefect in favor of grant
Filed March 1st 1853

5. Pages 13 to 19 " Translations of Expediente & grant, and Report of Prefect in favor of grant, also evidence of the transfer of title of Joseph Abrego to Sanchez & relinquishment of right under his petition

6. Page 19. " Opinion of Commissioner Thompson rejecting the claim. Filed in Office Jany 30th 1858

" 19 " Decree of Commissioners rejecting the afsd. claim.

No. 277

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United States

vs.

Rafael Sanchez

Filed Jany 14th 1856.

C. E. Lan
Clk.

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

Los Angeles, ... **December Term, 1855.**

Rafael Sanchez

..... APPELLEE, VS. UNITED STATES, APPELLANT.	No. 277. (No. 674. of Transcript.) On Appeal from the United States Land Commission.

On motion of P. ORD, Attorney of the United States for the Southern District of California, it is hereby

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 said United States in the above entitled cause, rendered on or about the 6th day of March A. D. 1856.

P. Ord

No 277

U.S. Dist Court
South Dist of California

Rafael Sanchez
appellee
vs
The United States
Appellants

Notice of Appeal &c

Filed March 7th 1856
C. E. Carr Clk
By A. McMorgan Depy.

No. 277

The United States Appellee
ads
Rafael Sanchez Appellant } "San Lorenzo"

United States District Court for the Southern District of California

This cause coming on to be heard at a Regular Term of this Court, upon an appeal from the decision of the Commissioners for ascertaining and settling private land claims in the State of California under the act of Congress approved on the 3d of March 1851, upon the Transcript of the decision & the proceedings and papers and evidence upon which said decision was founded and such further evidence as has been taken in this court, and it appearing that said Transcript has been filed according to law and counsel for the respective parties having been heard, It is ordered and adjudged and decreed that the said decision of the said Commissioners be reversed, and that the claim of the said Rafael Sanchez Appellant herein to the land described in the grant in this case is a good and valid claim, subject however to the grants that may have been made to an Sobrano to the extent of ~~[illegible]~~ four or five square leagues within the place called San Lorenzo; and the claim of the said Sanchez is hereby confirmed to the extent of eleven square leagues provided that the said quantity be contained within the limits called for in the said grant, less the right of the aforesaid Sobrano to the four or five leagues aforesaid, but if there be less than the said named quantity of eleven leagues, then, the claim of the said Appelle to the said less quantity.

Ogden
N S Dist Judge

No. 277

U S Dist Court
South Dist of Cal

Rafael Sanchez
appellant

vs

The United States
appellee

Decree

Recorded April 1857
page 93

Filed March 1st 1856

C. E. Carr
Clk

by O Morgan
Deputy

California Land Claims
Attorney General's Office
4 October, 1855

Sir;

In the case of the claim of Rafael Sanchez case no six hundred and seventy four (674) of the Commissioner's docket, confirmed by the District Court, appeal will not be prosecuted by the United States.

Respectfully
Cushing

P. Ord Esq
U.S. Attny

vv 277

Rafael Sanchez

674

Filed
Feb'y 24th 1857
C Sims Clk
J D Coleman
Dep

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PAGE 55A

Rec'd Nov 4 1836

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

December Term 1856.

Rafael Sanchez
Appellee
vs
The United States
Appellants.

No 277.

Now on this day came the parties aforesaid by their respective Attorneys -

Whereupon P. Ord, U.S. Dist. Attorney and Attorney for Appellants, and files a letter of the Attorney General of the United States, and a stipulation between the parties in pursuance of said letter, showing that it is not the intention of the United States Government to prosecute the appeal heretofore taken in said Cause, and moves the Court to vacate the order heretofore made allowing an appeal to the Supreme Court in this Cause, and that the appellee be allowed to proceed under the judgment of this Court.

Which motion being heard and fully understood by the Court

It is therefore ordered that the order of appeal heretofore granted in this Cause be, and the same is hereby vacated, and the appellee have leave to proceed under the decree of this Court heretofore rendered in his favor, as a final decree.

Isaac S. K. Ogier
U.S. Dist. Judge.

United States America
State of California } S.
Southn Dist California

I, C. Sims Clerk of the United States District Court for the Southern District of California, hereby certify the foregoing to be a full true and correct copy of the original as the same appears of record in my Office.

In testimony whereof I hereto set my hand and affix the Seal of said Court this 23d May 1857

(L.S.)

C Sims Clk
Wm H. Coleman
Depy

U.S. Surveyor General's Office
San Francisco. Cal.

I John C. Hays, U.S. Surveyor General for the State of California, do hereby Certify the above and foregoing to be a true Copy of a Document on file in this Office.

In testimony whereof I have hereunto signed my name and affixed the Seal of the said Office this 28th day of May 1857

John C. Hays
U.S. Sur. Genl Cal.

United States, Dist Ct
Southern Dist Cal.

Ct No 277 – Land Case 674.

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Rafael Sanchez
to
San Lorenzo.

Decree vacating appeal
the Atty Gen having
given notice that it
would not be prosecuted

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

Hon Isaac S.K. Ogier
Judge

Rafael Sanchez
Appellant
and
United States Appellee

Doc No. 277
Trans No. 674

San Lorenzo

The Attorney General of the United States having given notice that the appeal to the Supreme Court of the United States from the decision of this Court will not be prosecuted by the United States, it having been satisfactorily made to appear by motion of the United States District Attorney of the Southern District of California, and request of Attorneys for Appellant, that it is the wish of the parties in the above cause that the order of this Court granting an order of appeal to the Supreme Court heretofore made in this cause be vacated, and that the decree of this Court heretofore rendered herein may by order

of this Court be made
final It is ordered that
the order of this Court, made
granting an appeal in this
cause to the Supreme Court
be and the same is hereby
~~made~~ vacated, and that
the claimant have leave
to proceed under the decree
of this Court heretofore rendered
in his favor in the above
entitled cause as a final
decree

No. 277

Rafael Sanchez
Appellant
vs
United States
Appellee

San Lorenzo

Order vacating
order of appeal

In the United States Dist. Court for the Southern Dist. of Cal.

Hon. Isaac S. K. Ogur
Judge

Rafael Sanchez
Appellant
vs
United States Appellee

No. 277
Trans. No. 674

Rancho San Lorenzo

The United States District Attorney for the Southern District of California, having filed a Motion to dismiss the appeal heretofore taken to the Supreme Court of the United States in the above entitled cause, accompanied by the letter of the United States Attorney General notifying the said Dist Atty - that it is not his intention to prosecute the said appeal, the undersigned attorneys of appellant hereby stipulate and notify this Hon. Court that the Appellant is content with the decree heretofore rendered by this Honorable Court. Wherefore he hereby solicits that upon the aforesaid Motion of the said Dist. Attorney there be an order entered of record in this Hon.

Court vacating the order of appeal heretofore rendered to the Supreme Court of the United States and that the decree of this Court heretofore rendered in favor of Appellant be made final

Stanley & King
Atts for Ct.

No 277

Rafael Sanchez
Appellant
vs
United States
Appellee

San Lorenzo

Application of claimant for an order vacating order of appeal

Filed in C

Rafael Sanchez. appellant.
vs
The United States. appellees.

The claimant in this case has filed in support of his grant ~~xxx~~ a copy of the expediente of the proceedings had upon the application of One Jose Arrigo to Governor Pico, for the premises, claimed, in the year 1845; from that expediente the following facts are shown.

That on the 1st September 1845. Arrego petitioned the Governor Pico, for a grant ~~of the tract~~ of eleven leagues of the tract of land known as San Lorenzo, setting forth the exterior boundaries, ~~subjecting himself to the law~~ subjecting his boundaries to be limited by the land which was to be measured to One Feliciano Soberanes, & the extent of four or five square leagues within the place called San Lorenzo. On the 9th of October 1845. the Governor by a marginal decree referred the petition to the prefect of Monterey to make the usual inquiries and to report upon the petition —

On the 4th December 1845. Arrego by an endorsement upon ~~the~~ his petition to the Governor, ceded any interest he might have acquired

in the land by his application to Rafael Sanchez the present claimant; the Prefect refused the petitioner to Sanchez for a statement of his claim. Since on the 14 Dec same year Sanchez represented to the Prefect that Abrego had ceded to him all his rights to the premises as first petitioner & asks the Prefect to refer to the Governor in order that he Sanchez might apply for and obtain a grant of the land.

On the 18th December 1846. The Prefect made his report to the Governor setting forth that the place of San Joaquin had been already granted to one Feliciano Soberanes, but that he had a considerable extent, and that he therefore thinks the petition of Sanchez should be attended to subjecting him to the boundaries of Soberanes.—

On the 18 July 1846. Pico made the following order; let the title of which issue to the interested party—

On the 27th July 1846. Pico issued the formal title to Sanchez.

The claim was rejected by the Commission upon the ground that the title was issued after the ac

cupation of California by the American forces. and that it was therefore void. If the validity of this claim rested entirely upon the final grant issued by Governor Pico on the 27th July 1846. the decision of the Commissioners would in my opinion be undoubtedly correct. but I do not think this is the case., the Commissioners in their opinion seem to have had no attention to the ~~papers~~ documents which make up the expedients in this case. as found among the archives of the former Government and to which I have before referred, from these documents we find that all the usual proceedings had upon an application to the Governor of California under the Mexican rule. were had in this case. prior to the change of Sovereignty, and that among those proceedings is a decree of the Governor. ordering the final title to issue to the claimant. it is true this decree contains no direct words of grant: but certainly it was the obvious intention of the Governor to concede the land asked for. The final ~~title~~ grant was undoubtedly necessary to a complete legal title, but the act of Congress under ~~which these cases are brought before this court~~ ~~provides as a rule of decision, the laws of nations the treaty of Hidalgo, the laws & usages of Mexico~~

which the Land Commission and this Court has jurisdiction in these cases provides, that the Commission, the District Court and Supreme Court in deciding upon the validity of the claims brought before them under the act, shall be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws usages and customs of the nation from which the claim is derived, the principles of equity, and the decisions of the Supreme Court as far as they are applicable. — If there by any of these rules of decision ~~a claim~~ the claimant has either a legal or an equitable right to the land claimed his claim must be confirmed — has the claimant in this case any such legal or equitable title to the land claimed.

He has by the evidence in the record shown an incipient title under the Mexican Government. ~~and according to the~~ ~~law~~ he took all the necessary steps to procure the grant of the land and the Government by his decree ordered the title to issue to him for the land petitioned for, ~~the war with the United States~~ soon after the war with the United States broke out, the claimant was at Monterey and the Government at Los Angeles many 500 miles distant communication was not easy or frequent. and it

may be fairly
it to be inferred that in the turmoil
of public affairs the extent of private
individuals, (especially those who were
at a distance from the ~~Government~~ seat of ~~Capital~~
~~of the~~ Seat of Government and ~~not~~
~~able to~~ like the claimant in this case
engaged in the public military service
of the Country, and therefore unable
to ~~call~~ attract the attention of the Government
to their private affairs) were neglected
There is nothing in the history of this
claim that can in the least make
us doubt, that if the ~~Government~~ sovereignty of the
Country had not changed; that the
decree of concession by the Government
would not have been respected, and
the final title have issued, indeed
though we can not look upon it as the
evidence of the grant; yet we see that
only a few days after the capture
of Monterey and before the Government
had ceased time to hear of it and certainly
before he could have determined in his
own mind that the sovereignty would
ultimately be changed and the Country
lost to Mexico, he did issue the title.
~~this is strong evidence presumptive evidence~~
~~that in favor of this claim~~
I think the claimant as fairly
proven an inchoate and equitable
title to the premises under the Mexican
Government, and such ~~a title~~ as ought

the as that Government would have respected and perfected, and such a title therefore as this Government ought in good conscience to protect and perfect.

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Amos Mitchell