

2 *Vicente de la Osa et al. vs. The United States.*

SAN FRANCISCO, December 19, 1854.

Case No. 379 was submitted under the rule of 21st March, 1854.

SAN FRANCISCO, March 20, 1855.

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

(Vide page 35 of this transcript.)

And the following order was made, to wit:

(Vide page 37 of this transcript.)

5

*Petition.*

To the honorable the United States commissioners to ascertain and settle land claims in the State of California:

Your petitioners, Vicente de la Osa, for himself and for Aguila, widow, and Francisco, minor son, legal heirs of Roque, deceased, and for Rita, minor daughter and only legal of Francisco, deceased, all residents of the county of Los Angeles, State of California, represent, that there was granted by Pio Pico, as governor of California, and possessed of sufficient power in the premises, by deed of concession in fee simple, bearing date July 13, 1845, the place of the "Encino," to the natives Roman, Francisco and Roque; that judicial possession was given to said grantees July 24, 1845, and that all the conditions of said grant have been by the same fulfilled; that on the 30th day of October, 1849, your petitioner purchased one-third part of said place of the "Encino" of said Roman, and that since said deed of conveyance to your petitioner, the said Francisco and Roque, original grantees, have died, leaving in joint possession of said rancho the parties first above stated; that there are no conflicting or interfering claims. The land has never been surveyed by the United States surveyor general for California.

The land granted as aforesaid is bounded and described as follows: Beginning at the slope of the San Fernando mountain at a landmark there placed, running north 5,000 varas, bearing in the plain to a landmark; thence northwest 5,000 varas in the same plain to a  
6 corner mark; thence in a direction southerly, so as to square the land in the mountain, 5,000 varas to a corner mark; thence easterly over broken ground 5,000 varas to the place of beginning, containing one league of grazing land, lying in the county of Los Angeles.

Your petitioner relies upon the following documentary evidence to support said claim, filed with the secretary of your honorable board:

1st. Copy of original grant, marked "H," accompanied by translation marked I.

2d. Copy of act of juridical possession, marked B, accompanied by translation.

3d. Copy of deed of conveyance to your petitioner, marked C.

*Vicente de la Osa et al. vs. The United States.*

3942

Your petitioners will rely upon such other documentary evidence and parol testimony as may be necessary to support said claim, and he prays for himself, Aguila and Francisco, heirs of said Francisco and Rita, heirs of said Roque, that your superior wisdom and justice will confirm them in their said joint possession and ownership of the ranch of the Encino; and, as in duty bound, &c.

Oct. 8, 1852.

VICENTE DE LA OSA,  
By SCOTT & GRANGER.

Filed in office Oct. 8, 1852.  
(Signed)

GEO. FISHER, Sec'y.

7

*Deposition of S. Reyes.*

LOS ANGELES, Nov. 3d, 1852.

On this day, before Com'r Hiland Hall came Saturnino Reyes, a witness in behalf of the claimants, Vicente de la Osa, petition No. 379, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. law agent (associate) was present.

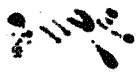
In answer to questions by counsel for the claimant the witness testified as follows:

My name is Saturnino Reyes; my age is about thirty-five years, and I reside at Los Angeles. I am acquainted with the rancho Encino: it is situated about six leagues from this place, in a western direction. I don't know who the original owner of the rancho was. I believe it belonged to the mission of San Fernando, and that they granted it to an Indian by the name of Tiburcio. I know the Indians of the mission by the name of Roman, Francisco and Roque. Francisco and Roque married daughters of Tiburcio, who is dead. Francisco is dead, and Roque left for the mines, and has been absent for four or five years, and it is reported that he is dead. The name of Francisco's wife was Paula; she is also dead. Francisco left a daughter at his decease by the name of Rita. The daughter Rita may be twenty-four years of age at this time. She lives on the rancho Encino. The name of the wife

of Roque is Aguida; she is living on the rancho. Roque has one son living named Francisco; he is about seven years old. The wife or widow has two other children, one of whom, named Andres, is about four or five years old; of another a few weeks old, not supposed to be the child of Roque. The Indian Tiburcio occupied the land about twelve years ago; he lived on it and cultivated the ground, and had forty or fifty head of cattle. Romano, and Francisco and Roque lived on the place with him until his death, and they or their families have lived on the place to the present time. They have cultivated the ground and had some thirty head of cattle.

*Questions by the associate law agent.*

How many cattle do you think the rancho would support, being a square league?



*Vicente de la Osa et al. vs. The United States.*

Answer. The land has but one small watering place, and might support five hundred head.

SATURNINO <sup>his</sup> + REYES.  
<sub>mark.</sub>

Sworn and subscribed before me.

HILAND HALL.

Filed in office Nov. 3, 1853.  
(Signed)

GEO. FISHER, *Sec'y.*

9

*Deposition of Agustin Olvera.*

Los ANGELES, Nov. 3d, 1853.

On this day, before Com'r Hiland Hall came Agustin Olvera, a witness on behalf of the claimants, Vicente de la Osa *et al.*, petition No. 379, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimants the witness testified as follows:

My name is Agustin Olvera; my age is thirty-two years, and I reside in Los Angeles. I am acquainted with the handwriting and signatures of Pio Pico, José M'n Covarrubias, Juan Sepulveda, Luis Jordan, Pedro C. Carrillo and Ignacio del Valle.

A paper is now shown me purporting to be a grant to Roman, Francisco and Roque of a tract of land called Encino, dated 18th of July, 1845, to which is attached a testimonial of judicial possession in July, 1845. Said paper is hereto annexed and marked H. H. No. 1. The names of the said several persons appearing on said paper I believe to be their genuine signatures.

Juan Sepulveda at the time of said judicial possession was second alcalde, and as such had authority to give such possession.

AGUSTIN OLVERA.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Nov. 3d, 1852.  
(Signed)

GEO. FISHER, *Sec'y.*

10

*Deposition of J. J. Warner.*

OFFICE OF COMMISSIONER OF LAND CLAIMS IN CALIFORNIA.

This day, before Com'r Thompson Campbell came J. J. Warner, a witness on behalf of claimants, Vicente, de la Osa *et al.*, No. 379, who, after being duly sworn, testified as follows:

What is your name, age and place of residence?

My name is J. J. Warner; I am forty-five years old, and reside at San Diego.

Look at the paper now shown you and marked "A," and state

Hallandome concluidas las procedentes dilizlueias de la posecion del cucino derele testimonio a los purtes para pu resguardo  
14 Asi : Yo el Juez que subscribe decieté y maude con los de asistencia segundró.

JUAN SEPULVEDA.

Ass' a : LEONARDO COTA.  
Ass' a : BASILIO VALDEZ.

En la fecha se le dio el testimonio riepectur rubrico.

Concuerta con su original que se halla en libro de instrumento publico de este and del que se saco, corrigio y confronte fiel y legalmente en estas cuatro fojas de papel comun por falta de sellado, doy fé, fecha ut supra.

JUAN SEPULVEDA.

Ass' a : LUIS JORDAN.  
Ass' a : PEDRO C. CARRILLO.

ESTADO DEL CALIFORNIA,  
Condado de los Angeles.

Certifico yo Ygnacio del Valle registrador del condado referido que los documentos que anteseden los entrego en esta oficina para su registro agueda natural de la mision de San Fernando, a los deiz de la manafia de hoy 5 de Abril, de 1851, quedan asentados en el libro primero de registros de eserituras de traspados é hipotecas d. desde vuelta de fojas 143 á vuelta de 144 y despues de hecho el asiento respectior se devuelvan a la misma Agruda.

En cuyo testimonio subscribo mo nombre y ponga mi sello oficial en la ciudad de los Angeles y fecha citada.

YGNACIO DEL VALLE.

Filed in office Nov. 3rd, 1852.

GEO. FISHER, Sec'y.

15

B.—Translation of A.

Pio Pico, ad interim governor of the department of the Californias.

Whereas the natives Roman, Francisco and Roque, the two first of the mission of San Fernando, and the last of that of Santa Barbara, have pretended, for their personal benefit and that of their families, for the right of property in the land which they have for some time occupied in the place of the Encino, by virtue of a grant made by my predecessor, as a decree, stamp on a petition of the parties interested, which they had presented to this government, exhibits: Exercising the powers conferred upon me, I have in the name of the Mexican nation concluded, by a decree of this day, to grant them the right of property to one league of grazing land, and the present serving them for title, they shall observe the following rules:

1st. One league of grazing land in the place of the Encino is conceded to the parties interested.

le à dar  
ose par  
decreté  
pel sel-

EDA.  
TA.  
EZ.

ne con-  
rigia al  
Roman,  
nifestar

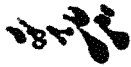
EDA.  
TA.  
EZ.

oficiales  
Maria  
ociendo  
one por  
erecho;

EDA.  
TA.  
EZ.

do o su  
varas al  
un dia-  
se tiró  
se tiró  
ar y se  
orte con  
de Mo-  
ste y se  
l mismo  
arse en  
ieron y  
onde se  
se tiro  
ieron y  
rvienta  
diendo  
ñorio y  
oncluye  
que au-

EDA.  
TA.  
EZ.



*Vicente de la Osa et al. vs. The United States.*

2d. The judge to whose jurisdiction said land belongs shall give the juridical possession, ordering the grant to be measured, and he shall command the respective boundaries to be fixed, causing them to place landmarks, which shall always determine the same.

3d. The grantees may farm the land, of which grant is made them, freely and exclusively, devoting it to the use or advantage which may best suit them.

Given in the city of Los Angeles the 18th of July, 1845.

PIO PICO.

JOSE N. MARIA COVARRUBIAS, *Secretary.*

Account of this superior despatch is taken in the respective book, date as above.

COVARRUBIAS.

Filed in office Oct. 8, 1852.  
(Signed)

GEO. FISHER, *Sec'y.*

*D.—Translation of C.*

16 In the city of Los Angeles, of the department of the Californias, at the 24th day of the month of July, 1845.

Complying with the verbal request which the natives, Roman, Francisco and Roque, have made, that judicial possession be given them of the land which they have for some time occupied in the place of the Encino, granted by the superior departmental government at date of the 18th of the present month, as the despatch which is presented to this court shows:

Ordered, to pass myself and assistant witnesses to the aforesaid tract, and proceed to give the possession indicated, after previous notice to the adjoining land claimants, being governed for that purpose by the respective title. Thus I, Juan Sepulveda, 2d alcalde, decreed, ordered and signed, with the witnesses, according to law. There is no sealed paper.

JUAN SEPULVEDA.

LEONARDO COTA,  
BASILIO VALDEZ.

At date, I gave notice to the adjoining land claimants that they should assemble at their boundaries, and I explained to them the object which had directed me to the point of the Encino, viz: that I went to put in possession the natives, Roman, Francisco and Roque; of this they remained cognizant without manifesting any exception, and it is set down for a proceeding.

JUAN SEPULVEDA.

LEONARDO COTA,  
BASILIO VALDEZ.

17 In continuance, being in the place of the Encino, I appointed two official cord-bearers, who were Guillermo Navarro and José Maria Dominguez, which they accepted under oath, agree-

Guirado y testigos siendo ynstrumentales á Tomas Sanchez, Don David Alejandro y Dn. Antonio Buelan presentes y vecinos que tambien firmaron doy fé Juan Sepulveda-Arruego de los neofitos Roman, Agueda y Rita pr. no saber firmar. Jesus Guirado ynstrumentales Tomas A. Sanchez, Ynstr. Antonio Buelna Ynst. David de Alejandro. Assus Miguel Garciola Ramon Herrera.

Concueda con su original á que me remito de donde fui fielmente sacado y corregido hoy dia de su otorgamiento en estas dos fojas del papel comun por no usarse del sellado y lo autorizo con testigos de assa en la forma ordinaria de que doy fé.

En testimonio de verdad.

JUAN SEPULVEDA.

Ass'a: RAMON HERRERA.  
Ass'a: JUAN GUIRADO.

21 ESTADO DE CALIFORNIA.

Condado de los Angeles:

Certifico yo Ignacio del Valle, registrado del condado, referido que el documento que antecede lo entrego en esta oficina pr. su registro Bicente de la Osa a los cuatro de la tarde de hoy 4 de Abril, de 1851. Queda aslutada en el libro primero de registros de esenitura de tras-pasos y hypotecas á fajas vuelta de 141, a vuelta de 142, y se devu- elue al mismo la osa.

En cuyo testimonio suscribio me nombre y pongo mi sello oficial en el condado de los en la f'ha citada.

IGNACIO DEL VALLE.

Derechos de registro, ocho pesos.

Filed in office Sept., 1853.

GEO. FISHER, Sec'y.

22

Translation of conveyance, &c.

In the city of Los Angeles, in Upper California, on the 30th day of October, 1849, before me. Juan Sepulveda, second justice of the said city, the instrumental witnesses, to be named below, and the attesting witnesses, with whom I act for want of a notary, which is not to be had according to law, appeared personally the neo-phites, Roman, Agueda, and Rita, whom I attest that I know, and state that for themselves, and in the name of their heirs and successors, and whomsoever of them that should have title, vote, and cause in whatever manner, they released and transfer to Don Bicente de la Osa, and his assigns, the equal right of that by which the rancho del Ensigna belongs to them, as being under many obligations to said Mr. Osa for many benefits at various times ; that this gentleman has supplied them with their necessaries, as they likewise declare that he has nearly apportioned between them, the three grantors, the sum of one hundred dollars, giving it them gratuitously in compensation for what he received of them.

They likewise declare that the rights they assign in virtue of this,

want  
a.  
2.  
dias  
a mi  
in-  
qui-  
sicio  
doy  
es y  
se-  
del  
ner  
Osa,  
omo  
tres  
ios-  
ran  
de  
esta  
iva-  
omo  
los  
mo  
se-  
ivo  
i su  
é o  
son  
ran  
ivo  
en  
r le  
Yu  
ara  
son  
sus  
un-  
va,  
en  
osa  
lo  
sus

and to D. Vicente de la Osa they have not sold, alienated, or pledged, and that it is free of any bill, benifice, entail, bond, or any other encumbrance whatever, be it not personal, temporal, especial, general, tacit or expressed, and as such they cede it of his entire and spontaneous will, making reference to the benefits for which they are under obligation to said Mr. La Osa, as above declared.

They likewise declare that the right which they transfer to the grantee, Don Bicente de la Osa, shall be certain, sure, and effectual; and they engage that nobody shall disturb him, nor see him, or his ownership, possession, fruition, and enjoyment, and if he  
23 should be disturbed, sued, or there appear any encumbrance, as soon as the grantors, their heirs and successors, be required conformable to law, they shall stand forth in his defence, and follow it up at their expense, in all instances and tribunals, till obtaining a judgment in his favor, and leaving Mr. Osa, and his heirs and successors, in his free use, quiet, and peaceable possession; and if not able to attain this, they shall give him some other valuable equivalent, either in sitio, building, rent, or comodity; and for the confirmation and validity of all the stipulations in the present deed, the grantors bind their persons, goods which they have or may have, and therewith submit themselves to the forum and jurisdiction of the judges, who of their affairs may and ought to take cognisance conformable to law, so that they may compel and restrict them by all the rigor of law and executive means to its fulfilment.

They renounce all the laws in their favor and defence, together with the formal disabilities at law, and they will admit it as it were a sentence pronounced in authority of a verdict confessed, and without any other resource.

In testimony whereof, they thus declared, and the three grantors prayed that on their request D. Jesus Guirado might sign, and bring instrumental witnesses, Tomas A. Sanchez, Dr. David de Alejandro, and D. Antonio Buelna, who were present, and are residents, and they also put their names.

I attest it.

JUAN SEPULVEDA.

On request of the neophytes, Roman, Agueda, and Rita, who do not know how to sign.

JESUS GUIRADO.

24 Instrumental witnesses:  
TOMAS A. SANCHEZ.  
ANTONIO BUELNA.  
DAVID DE ALEJANDRO.

Attesting witnesses:  
M'G'L GARRIOLA.  
RAMON HERRERA.

Concurrent with its original, to which I made reference, from which it was faithfully drawn and corrected on the day of its being signed, consisting of these two folios of common paper, and having



*Vicente de la Osa et al. vs. The United States.*

testimonio me quito y aparto de todo el derecho y de todas las acciones que en dicha terreno me corresponden Y por la presente escritura las transfiero al S'or Vicente de la Osa con todos los usos, costumbres y regalías con que vos los he poseído hasta hoy. Y para  
26 la firmeza y valedacion por no saber escribir pongo mi puño al pio de esta la señal de la cruz en esta ciudad y en la fecha arriba citada. Roque no vale; Roman no vale.

ROQUE \* ROMAN.

ESTADO DE CALIFORNIA,  
*Condado de los Angeles:*

Certifico, Yo, Ygnacio del Valle, registrador del condado, referido que comparecio ante mi personalmente Roman, yndigena de la Misión de San Fernando á quien conosco y es el mismo que otorgo lo antecedente escritura y dize, que de su libre y espontanea voluntad y por convenir asi a su enteres hizo la venta que espresa el documento que antecede el cual es otorgado por el y que la señal de cruz que hoy al calse de su nombre es de su propio puño.

En cuyo testimonio suscribe mi nombre y pongo mi sello oficial en la ciudad de los Angeles á 5 de Abril de 1851. Emenando. Roman val.  
YGNACIO DEL VALLE.

ESTADO DE CALIFORNIA,  
*Condado de los Angeles:*

Certifico, Yo, Ygnacio del Valle, registrador del condado referido, que el documento que antecede lo entregó en esta oficina para su registro Vicente de la Osa a las diez de la mañana de hoy cinco de Abril del año de mil ocho cientos cincuenta y uno. Queda asentado en el libro primero de escrituras de traspasos é hipotecas á fajas vuelta de 142 a vuelta de 143 y se devuelve al mismo la Osa.

En cuyo testimonio, suscribe mi nombre y pongo mi sello oficial en la ciudad de los Angeles en la f'ha citada. Derecho de registro, seis pesos.  
YGNACIO DEL VALLE.

Filed in office Sept. 1st, 1853.

GEO. FISHER, *Sec'y.*

27 *Translation of Exhibit A, T. C., annexed to the deposition of J. J. Warner.*

At the city of Los Angeles, county of same name, State of California, on this fifth day of April, one thousand eight hundred and fifty-one, I, Roman, native of the mission of San Fernando, in the State and county aforesaid, for and in consideration of the sum of one hundred and ten dollars, which I have received to my entire satisfaction from Vicente de la Osa, the receipt whereof I hereby acknowledge, have sold, granted, and conveyed all my right to the tract of land I now possess in the Rancho del Encino, which said tract of land was granted to me by the government of the depart-



ment by a title issued jointly with Francisco and Roque; and I do hereby grant, sell, and convey unto the said Vicente de la Osa, his heirs, executors, administrators, and assigns, my said right to the said tract called "del Encino" from henceforth and forever, to have and to hold in the like manner as until now I do; likewise there includes in the sale the right that I have to the piece of land which we used to sow in the said place del Encino, which right is to a half of the said sown land; and I hereby declare that I have not mortgaged nor sold to any other person my said right, but that the same is free from all encumbrances, hereby assuring the vendee that nobody shall disturb him in or bring any suit regarding his possession and demand, and that in case anybody shall so disturb him or bring a suit, I will come forth in his defence until leaving him in quiet and pacific possession. I do covenant at the same time that neither for myself nor for any other I will say anything contrary to this sale, which I wish to be real and good.

In testimony whereof, I hereby yield and relinquish all my right and interests to and in the said tract of land, with all the right of uses, prescription, and privilege wherewith I have heretofore possessed it; and for the validity whereof, and as I cannot write, I put at the foot hereof a cross mark, at this city, the day and year first above written. Roque not valid. Roman is valid.

ROQUE + ROMAN.  
his  
mark.

STATE OF CALIFORNIA,  
County of Los Angeles:

I, Ygnacio del Valle, recorder of the same county, do hereby certify that before me personally appeared Ramon, native of the mission of San Fernando, whom I know, and is the same person who executed the foregoing deed, and he stated that of his free and own accord, and as it thus suited his interests, he had made the sale mentioned in said deed which is executed by him, and that the cross mark opposite his name is of his own hand.

In testimony whereof, I signed my name and affixed my official seal, at the city of Los Angeles, the 5th day of April, 1851.

YGNACIO DEL VALLE.

STATE OF CALIFORNIA,  
County of Los Angeles.

I, Ygnacio del Valle, recorder of the county aforesaid, hereby certify that the foregoing document was filed in this office, to be recorded, by Vicente de la Osa, at 10 o'clock a. m. of this 5th day of April, 1841. It is recorded in liber first of deeds of conveyances and mortgages, at pages 142 and 143, and the same is returned to said Osa.

In testimony whereof, I signed my name and affixed my official seal, at office, at the city of Los Angeles, on said day and year.

YGNACIO DEL VALLE.

s acci-  
escri-  
stum-  
para  
puño  
fecha

AN.

ferido  
la Mi-  
go lo  
untad  
docu-  
cruz

ial en  
Ro-  
LE.

erido,  
an su  
ico de  
ntado  
fajas

oficial  
istro,  
LE.

c'y.

tion of

Cali-  
d and  
n the  
um of  
e sut-  
y ac-  
o the  
1 said  
part-

Vicente de la Osa et al. vs. The United States.

of judicial possession given under said grant, which are on file in this case.

Thus done and signed in open court this 8th day of February, A.D. 1858.

ISAAC S. K. OGIER,  
U. S. Dist. Judge for the S. Dist. of Cal'a.

Filed this 8th February, A. D. 1858.

C. SIMS, Clerk,  
Per J. H. COLEMAN, Deputy.

49 Order of appeal to Supreme Court.

In the United States district court, southern district of California.—  
Regular December term, A. D. 1857.

MARCH 15th, A. D. 1858.

Present: Hon'l Isaac S. K. Ogier, judge.

VICENTE DE LA OSA et al., appellees, }  
  ads.                                 } No. 392, "El Encino."  
THE UNITED STATES, appellant.     }

On motion of E. J. C. Kewen, acting U. S. dist. att'y, it is ordered that an appeal be allowed the United States in the above cause.

50

51 United States district court, south'n dist., Cal'a.

CLERK'S OFFICE, MONTEREY.

I, John O. Wheeler, clerk of the United States district court for the south'n dist. of Cal'a, do hereby certify the foregoing fifty pages, numbered from 1 to 50, both inclusive, to contain a full, true, and correct copy of the record of the proceedings, and of the decision of the said court, 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. 392 upon the docket of said court, wherein Vicente de la Osa et al. is the claimant, against the United States, for the place known by the name of "El Encino."

In testimony whereof, I hereunto set my hand and affix the seal [SEAL.] of said court, at Monterey, this the 30th day of June, A. D. 1863.

JOHN O. WHEELER,  
Clerk U. S. Dist. Ct., S. Dist., Cal'a.

Ⓢ

SUP

LN 1

Writ of er  
Citation a  
Record in  
Record in  
Copy of be  
Copy of n  
Judgment  
Notice of  
Clerk's ce  
Final judg  
Clerk's ce  
Assignmen

