

Peninsula Diary Mayo Hayes O'Donnell

May 17, 1950

A Complicated Land Title

A short history of the record of title of the Rancho Aguajito will continue today the story of the land and the old adobe residence of Mr. and Mrs. Mort Henderson which we began in this Diary yesterday. A very small corner of the property on which this old adobe stands in the Dutra Tract sticks out to the south and east into the Rancho.

On March 19, 1868 the United States government finally confirmed to Gregoria Tapia the Rancho Aguajito. His claim to the Rancho was based on a Mexican grant made to him on August 13, 1835, by Jose Figueroa, then Governor of California. All due and proper notification of the proceeding leading up to the confirmation had been duly published in the "Monterey Gazette" in January, 1866 and February, 1866, and in the "American Flag", a newspaper in San Francisco.

During the years that Gregoria was in process of clearing his title he sold his interest in the rancho to Jose Castro on April 2, 1853. Gregoria was then living in Santa Cruz. Jose Castro, twenty-one days later, deeded the rancho to Antonia Emma Morenhout for \$1500 and two days later Antonia Emma Morenhout deeded to Modesta Castro two undivided third parts of the Rancho for \$1000.

NOTE: correct spelling of name above is Emma Antonia Moerenhout. Name below is Jacques Moerenhout.

So far the record is fairly clear. Perhaps all the passing around in the above paragraph is due to several reasons. Jacques A. Morenhout was the French Consul here in Monterey from 1846 to 1850, and again beginning in 1852. He acted as agent for a number of Rancho cases before the land commission. It may be that his daughter was given one third of the rancho to compensate for his services but that is merely a guess by one who was interested enough to look up these facts. And the other two thirds of the Rancho was put in the name of Modesta Castro because she remained here as a citizen after her husband, Jose Castro, returned to Mexico in 1853 and was later military commander of the Lower California frontier.

Now there were more complications. Modesta Castro owns two thirds of it and Antonia Emma Morenhout owns one third, and the clearing of the title is being

done in the name of the original grantee, Gregorio Tapia and so trouble starts.

In 1860 a judgment entered against the property for \$706.50 and interest which Jose Castro owed to Jacob P. Leese. A sheriff's sale is recorded to Leese, but in November 1861, Leese assigned his interest to Estevan Castro, the son of Jose and Modesta.

In the meantime the Morenhout daughter married James E. Crowley, and in September 1860, the husband and wife sell their rights to David Jacks.

The next year, 1861, Modesta for the consideration of \$1 and love and affection, gives her rights to the two thirds to her son. Estevan, and he deeds it in November 25, 1861 to David Jacks and D.R. Ashley, who was Mr. Jacks' lawyer. Now it appears Mr. Jacks owns the property.

Now Estevan must have forgotten he sold it, or something else happened, because in 1865 in San Francisco, he sells the Rancho for \$10 and other good and valuable considerations to M.C. Ireland. Mr. Jacks clears that problem by paying Mr. Ireland \$1000 in November of the same year.

Remember that the two thirds part was sold to D.R. Ashley and Jacks. Now trouble again starts from there. Delos R. Ashley died and his widow, Annie, married Peter Mackie. Annie and Peter must have had financial troubles because she and he sued for money owing, and writs of attachment are given against the Rancho Aguajito. This is in 1879. Annie tries to avoid this by deeding the Rancho to her son, Warren, in 1880, but it did not work, and the Rancho is sold in that year to John Horstmann. Mr. Jacks clears that title by paying Horstmann \$1676.50 in January of 1881.

The Ashley family still thought they had some ownership in the Rancho in spite of the judgment that had been granted, because on the same day that John Horstmann received the money from David Jacks, namely January 5, 1881, Annie Ashley Mackie and her son, Warren, sell an interest to John T. Fogerty, and during the next three months the rest of the Ashley family sell their individual interests and rights to the same John Fogerty. Byron, a son, sells on March 4th; Delos R. on March 21; Annie R., a daughter, married to O'Connell, March 31; Ida A., a daughter, married to Nelson B. Eddy, sells on April 1st. The last four named children each got \$554, while the mother and Warren received \$3320 between them.

The next month, on May 5, 1881, David Jacks paid John Fogerty "certain good and valuable considerations and twenty dollars" for the Rancho.

Surely by now one would think that Mr. Jacks had finally cleared his property, but lo! In November 18, 1881, the same year, poor old Gregorio Tapia, who was still alive in Santa Cruz, had someone draw up a deed to his children, Juana Tapia de Carvajales and Marcos Tapia, and signs his mark (being unable to read or write) giving them the Rancho Aguajito.

On page 17 of the Abstract there is a note by the searcher which states that "in Vol. B. page 95 of Deed of the Records of Monterey County, California, is what appears to be a deed between Gregorio Tapia and Jose Castro, describing either all or some portion or interest in the Aguajito Rancho. The same is written in Spanish language ... no translation has ever been officially had of said document." The Title of Abstract is now owned by Mr. and Mrs. Henderson.

Evidently the act of old Gregorio did not bother anyone, it was probably outlawed because of previous public notices, etc. But to clear some little technicality, David Jacks got a deed from Abel Espinosa for \$10 in 1886 to his interest in Aguajito. In January of 1922 the Salinas Title and Abstract Company certified that there were then no attachments, etc., which affect the title.

(To Be Continued)