

**United States Vs. Pacheco**

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**Court :** US Supreme Court

**Decided On :** 1859

**Appeal No. :** 63 U.S. 225

**Appellant :** United States

**Respondent :** Pacheco

**Judgement :**

United States v. Pacheco - 63 U.S. 225 (1859)

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**United States v. Pacheco**

**63 U.S. (22 How.) 225**

*APPEAL FROM THE DISTRICT COURT OF THE UNITED*

*STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA*

## **SYLLABUS**

Where there was a grant of land in California included within certain boundaries laid down on a map, and the grant said it was made for two square leagues, but the map and the evidence clearly show that the intention was to give to the

grantee a rancho of at least two leagues on each side line, the equity of the claim requires that it should be confirmed to that extent, situate within the given outboundary.

It is for the United States to grant the legal title.

The facts of the case are stated in the opinion of the Court.

MR. JUSTICE CATRON delivered the opinion of the Court.

On the 31st of July, 1834, there was granted to Madame Pacheco a rancho of land,

"included between the Arroyo de las Nueces and the Sierra de Golgones, bounded by the said places, and bounded by the ranchos Las Juntas, San Ramon, and Monte Diablo."

This description was accompanied by a diseno, better defining the exterior boundaries than usual. But the grant has the following condition, amongst others:

"The land of which mention is made is two square leagues, a little more or less, as shown by the map which goes with the expediente.

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The magistrate who may give the possession will cause it to be measured in conformity with the ordinance for the purpose of marking out the boundaries, leaving the surplus which may result to the nation for its convenient uses."

The board of commissioners held that this condition must govern as to quantity, and decreed two square leagues.

In the district court, that decree was reversed and the land, as above described and as it is represented on the plan, was decreed to the claimants regardless of any exact quantity. From this decree the United States appealed. The validity of the grant is not disputed; the contest respects quantity only.

The plan presented by the party and referred to in the grant will furnish a guide to the surveyor as respects boundaries within which the survey shall be made. But in ascertaining the quantity intended to be given, we think neither the general description nor the call for "two square leagues," found in the condition of the grant, can be relied on, as they are inconsistent and plainly contradict each other, and the adoption of the one must necessarily reject the other. To find the true quantity intended to be granted we are compelled to rely on other title papers and proofs.

The map shows, when taken in connection with the evidence of witnesses explaining its contents, that the body of land petitioned for and granted was something more than two leagues long and about two leagues wide. To this effect the parol evidence is conclusive, and the map is equally so on its face, however inaccurate it may possibly be found when the objects called for and laid down on the map are sought on the ground. Nothing could be more manifest than that the grant was intended to give to Madame Pacheco a rancho of at least two leagues on each side line, making four leagues in superficies. And as the plan is part of and accompanies the last title paper, we feel bound to give it due weight in reaching the undoubted equity of the claim.

This Court is not dealing with a legal title; none such can exist until there is a survey the land severed from the public domain and the public title transferred by a final grant from the United States into private ownership.

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What precise tract of land is to be surveyed and granted to Pacheco's heirs "according to the principles of equity" must be ascertained in this proceeding to the end that the United States may grant the legal title in satisfaction of the treaty, and a concession by leagues being the rule and one extending to indefinite outboundaries the exception, we hold that it was intended in this case to grant equal to *two leagues square*, situate within the given outboundary -- that is to say, four leagues in one tract, if so much is found in the general description and

diseno.

*The decree of the district court is therefore reversed and the cause remanded to that court to be further proceeded in according to this opinion.*

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