

Sketch File ⁵⁵ ~~114~~

de la Garza et al.
1851

Thos. W. Smith Jones
S. Sempson Esq
Bollinger Wm M. Harce
to the Assembly

Bexar Co.
Bexar Co.

Copy for
the Court

Republic of Texas
County of Bexar

To the Sheriff of Harrisburg County Greeting:

You are hereby commanded that you notify the Hon John D. Borden Commissioner of the General Land Office of the Republic of Texas that he desist, be restrained and enjoined from causing to be issued to the parties any patent or title for land not returned to him for lands contained in the annexed Bill of Injunction filed in the District Court for the County of Bexar and granted by an order to Jose de la Garza and others and against John W. Smith, John S. Simpson, Ephraim Bollinger, William McBraven, John Neill, William Richardson, and the County Surveyor of the County of Bexar as expressed in the said Bill of Injunction and order of the Court granted thereon a copy of which is hereto annexed - Herein fail not but of this Writ and your proceedings thereon make due return to our next District Court to be holden in and for the County of Bexar on the third Monday after the fourth Monday in March next, 1839,

In Witness whereof I Manuel Perez Clerk of the District Court in & for said County, have hereunto set my hand & the seal of the County Court having no seal yet provided for the District Court this 14th day of November 1838. Issued same day

Manuel Perez
Clerk District Court

I certify the foregoing to be a true copy of the Original by me City of Houston December 6th 1838

John Fitzgerald D. Sheriff

L.S.
Clerk

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Republic of Texas }
County of Bexar } 4th Judicial District

To the Honorable James W. Robinson

Judge of the fourth Judicial District The Bill of Complaint
of Jose de la Garza, Jesu Bautu, Juana Tavin.
Ignacio Leal, Emanuel Moharas husband of Lepita
Moharras formerly Leal respectfully represents to your
Honor that a long time ago to wit in the year day of
the Spanish dominion over this portion over the world

it appeared meet to that Government to grant to Joaquin
Leal then resident here a Certain tract of land situated
on the San Antonio River commencing where the Arroyo
Seco enters the Rio San Antonio thence with said Arroyo
to its head thence by a straight line to the Arroyo Cal-
-averas thence with said Arroyo Calaveras to the
River thence by and with said River to the place of
beginning. That in the time of the revolution commonly
known as the struggle of Bernardo Gutierrez for
Mexican Independence said Joaquin Leal was
found upon the side of freedom That after the
disastrous battles of the Medina said Leal fled to the
United States was overtaken together with his three sons
on the River Trinity where two of them were judicially
murdered by the Spaniards for their attachments to
free principles that he the said Leal was brought
back as a prisoner to this portion of the country and died
from Grief and hardship shortly before he reached
here that afterwards all the goods and property of the
said Joaquin were confiscated and among other things
the Land herein before set forth that Subsequently moved
by compassion for the miseries of the said Leal Donna
Ana Maria Arocha and in consideration of her
destitute condition General Arredondo issued an order
that said property should be restored which was accord-
-ingly done but in as much as such order was

in general terms and the original grant of the Govern-
-ment of Spain had been lost or destroyed during the
revolution whereby the limits metes and bounds of
said grant could not be ascertained the said
Dona Ana Maria Arcoha widow of said Joaquin
Seal was advised to petition the Government of the
then province of Coahuila and Texas for a grant of
the said land wherein its limits metes and bounds
might be specified and set forth which she accordingly
did during the administration of Governor Viesca and
obtained the same in due and proper form the date of
said grant cannot now be collected but it was signed
by Juan Antonio Padilla as Secretary of State - By
said grant the land within the said limits was
granted to the said widow provided the same did not
exceed eleven leagues - That afterwards the said widow
died leaving her sole heirs and representatives Leon-
-solation Seal the wife of Yon Orator Jose de la
Gargua Yon Oratrix Juana Tarime, Antonio Seal
Jose Seal & Ignacio Seal That yr Orator Jesus
Cantu became the purchaser of the interest or a
part thereof of one of the said heirs which acts of sale
he here prays leave at some future day together with
such other additional exhibits as may be necessary
to file - That yr Orator Emanuel Mohanas Mar-
-ried Sepita Seal granddaughter of said Joaquin Seal
and his wife as aforesaid - That yr Orator Jose de
la Gargua bought the interest of Emanuel Seal grand
son of said Joaquin and his wife as aforesaid and
that thus the interests of the ~~interest~~ said lands
so granted as aforesaid to said Joaquin Seal and
afterwards to his wife and from her descending to
the heirs as aforesaid became vested in Yon Orators
and they here pray to be allowed at any future time
to file such other and further exhibits as may be
necessary to support this their Bill - Yr Orators would
further represent that trusting in the kindness and

fidelity of the late Juan Martin Terramendi
and being exceedingly poor they at his advice
sent by him to the seat of Government at Monclova
the grant herein before spoken of as having been
given by the Mexican Government of Coahuila
and Texas to the aforesaid widow of Joaquin
Seal viz Donna Ana Maria Arcecha and with it also
the grant of Arredondo when that they intrusted
it to Governor Terramendi with the view of having
the Government fees due thereon remitted which he
promised to have done in consideration of their
long residence on the Land as frontiers men and
their poverty. That Governor Terramendi died of
the Cholera in Monclova and that since that time
they have never been able from various causes but
principally from those of war and Revolution to
re gain the possession of the said Grant but that
the same still remains in Monclova as yr. Orators
are informed and verily believe - Yr. Orators
would further state that on the 21st of October 1833
Consolacion Seal the wife of yr. Orator Jose de la
Gargya made her petition in writing to a certain
Emanuel Remenes then acting as Commissions
for the possession of Lands in this Municipality
requesting him in her own name and that of the other
heirs to order the Surveyor of the Municipality to
survey for them the Land herein above described
as having been the first granted to their ancestor
by the Spanish Government then by Arredondo
and then again by the Mexican Government
which petition with its approval by the signature of
the said Remenes is now to the Court here shown
marked as Exhibit A. Yr. Petitioners would
further state that afterwards to wit the Surveyor of this
Municipality one Byrd Lockhart did in conformity
with said order survey the said Land and make a

A Plat And field notes of the same which yr
Petitioners beg leave to file with this their Bill as an
Exhibit thereto marked B. which exhibits A &
B. together with all other exhibits that may now
or hereafter be filed Yr Petitioners pray may be
taken and considered as a part of this Bill -
Your Orators would further represent that the said
Joaquin Leal heretofore spoken of in this Bill and
those claiming by through or under him have lived
upon said Land as their own property and right
ever since the days of the Governor Domingo Cabells
a period of more than half a century and that
they and your Petitioners never heard of a contrary
claim for the same but deemed themselves safe
and secure in their long enjoyed and ancient possession
That Yr Orator de la Garza has lived upon his portion
of the same for more than twenty years and in fine
that their possession and that of those through
whom they claim is more ancient and of longer
duration than that required by the Laws of most free
Governments to give a final and prescriptive right
to property But now it is may it please you know
that these old and time honored possessions these
possessions fortified and confirmed by a triple
grant emanating from every shape of the shifting
Governments to which this unfortunate country
before the ordination of this Glorious Republic
which may God prosper was subjected are disre-
garded and the rights of Yr Orators trodden under
foot For inasmuch as certain individuals to wit
John W. Smith, John Neill, John S. Simpson, Ephraim
Ballinger William Richardson & Dr William McCraven
whom Yr Petitioners pray may be made Defendants
to this Bill choosing to consider said Land so as afore-
said belonging to Yr Petitioners as vacant and as belonging
to the Republic have entered the same upon the Books
of the Surveyor of this county and requested him to survey
a 4
County 18565

the same for them under certain claims which they purport
to hold for vacant land within this Republic - Your
Petitioners would further represent that said Surveyor
viz Robert C. Trimble has permitted such entries and
designations to be made in his books and has caused
the same to be surveyed for the said parties Your
Petitioners pray that said Trimble may be made
a Defendant to this Bill Your Petitioners would
further represent that said John Neill not content
with the aggression upon your Petitioners' privileges
and the violation of their properties by designating as
Public and claiming as public that which through
a long course of years has been the private property
of your Petitioners not content with this outrage he has
gone further and has forcibly taken possession of now
holds and is enjoying a portion of said property
has forcibly and against the will of your Petitioners
cultivated the same and is now cultivating the same -
In tender considerations of the premises and in as
much as your Petitioners are entirely remediless at
Law and that these acts and doings of the Defen-
-dants are against Equity and good Conscience your
Petitioners pray that an Injunction may issue and
be granted by your Honorable Court commanding the
said Defendants John C. Smith & the other Defendants
herein enumerated before to desist from all further
proceedings on their part in designating locating
or claiming as part of the public domain subject to
entry any part or parcel of the Lands herein before
described as belonging to these Complainants and
that the County Surveyor be enjoined from surveying
the same or approving or delivering up the field notes
of the same or to any part thereof or parcel or from
sending the same to the Commissioner General of
the Land Office at Houston and that said Commissioner
of the General Land Office whom your Petitioners pray may
be made a Defendant to this Bill be enjoined from
issuing a patent for the same Land to any one claiming
adversary to your Petitioners - In fine that the Injunction
against said Defendants command them to stay all

Further proceedings in the proceedings in the premises
until the establishment of peace between Mexico and
this Republic and until seasonable time thereafter
shall elapse to allow your Petitioners to obtain their
titles from the archives of Mexico to the land sought
to be put in suit by the Defendants and produce
them to this Honorable Court upon the production of
which Yr Petitioners pray a perpetual Injunction
agst. all or any further proceedings relative to the
location's entries or surveys and as agst. the Defendant
Neill Yr Petitioners would further pray that in as much
as he has put himself corporally upon the land and is
enjoying the benefits of the same and yr Petitioners cannot
remove him therefrom by any process at Law by reason
of the premises herein before set forth that he be com-
manded in said Injunction to remove therefrom and
that he enter not thereupon again that he abstain
and desist from this time and entirely from cutting
down trees, grass, swaths or from trampling the said
grass or pastures or destroying the same by turning
his cattle thereon or in any other manner whatsoever
and that said Injunction have the like time and
continuance as the more general one prayed for
against the other Defendants Your Petitioners
pray all necessary process in the case that the
persons named in the petition be made Defendants
in the suit - Yr Petitioners pray all manner of
other and further relief that to equity of their cause
and the Rules of your Honorable Court may allow
Yr Petitioners pray Judgment &c. And they as
in Duty bound will ever pray
Wm Henry Daingerfield
Solicitor for Compts

Republic of Texas
County of Bexar 3

Personally appeared before the Honorable
Jas. W. Robinson District Judge in and for the
Republic aforesaid Jose de la Garza one of
the Complainants in the foregoing Bill and made
oath in due form of Law that the facts stated
therein so far as they are stated of his own knowledge
are true and so far as they are stated upon
information from any other person he believes
them to be true.

Appeared and sworn to in open Court 23rd
October 1838 James W. Robinson
District Judge

Republic of Texas
County of Bexar 3 To the Clerk of the District
Court of said County you will
issue the process prayed for by the petitioners
in the foregoing petition on their giving bond
& security in the sum of three thousand dollars
upon the foregoing conditions being complied
with the prayer of the petitioners is granted -
Oct. 25, 1838 - James W. Robinson
District Judge

Jose de la Garza
et al

^{vs}
John W. Smith John S.
Simpson Ephraim Bollinger
Wm McKee John Neill
County Surveyor of Beaufort
Comm General Land Office

Bill of Injunction

A true copy
filed 23rd October 1858
J. W. Smith
Clerk District Court

[Signature]

Entered

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Beaufort 14569