

sideration in the 50% Record Title of George F. Woodward, but, if the persons signing the Private Deeds granting all of their interests in this grant to George F. Woodward, constitute All of the remaining Heirs, then, and in that case, George F. Woodward is the sole owner of this Ranch. This Ranch is bounded and described as follows: Bounded on the North by SANTA BARBRA de BACACHI and Government Lands. On the South by DEMACIAS de BAZURA, and FRACION I, and PASTORIA. On the East by BACABHIA and AGUA ZARCA, and on the West by PASTORIA.

"AGUA ZARCA" George F. Woodward owns an undivided 50% of this ranch according to Record Titles. This Ranch contains five thousand (5,000) acres more or less. The other 50% of this ranch is said to be owned by F. Vildosola with whom Mr. George F. Woodward claims to have a contract to purchase that interest. The Contract was not presented to me. Vildosola is said to have a Spanish Grant to this Land, in his possession. It was not presented and could not be examined by me. This land is bounded and described as follows: On the North by "SANTA BARBRA de BACACHI". On the South by DEMACIAS de BAZURA. On the West by FOTRERO DE LIVIPA. The Transfers of the 50% to George F. Woodward are in proper form.

"BAZURA and TEHUACHI", George F. Woodward holds record title to an undivided 64% of this Grant, and claims while his record Title does not show more than 64% that as a matter of fact, he is the sole owner of these two tract, but does not present Titles to more than the 64%. These two Grants contain fifteen thousand (15,000) acres more or less. George F. Woodward is in possession of the Spanish grant to this land, which was issued to the Sanchez family in 1819. I have examined the original grant together with the different transfers down to George F. Woodward, and find them to be in legal form. This land is bounded and described as follows: The "BAZURA" bounded on the North by DEMACIAS de BAZURA. On the East and South by "DEMACIAS de BAZURA" and on the West by FRACION I and II.

The "TEHUACHI" is bounded and described as follows: On the



North, West and South by DEMACIAS de TEHUACHI, and on the East by FRAGIONS I and II.

"SAN ANTONIO de RANCHITO", known as "SAN JUAN de RANCHITO" also known as JUAN and HACIENDITA. George F. Woodward owns according to Record Title, an undivided  $1/3$  interest in this Ranch which contains fifteen thousand (15,000) acres more or less. The Original Spanish grant to this tract of land is said to have been issued to Bachillero Julian Moreno, and is now in the possession of the Frener heirs, or the Vildosola heirs. The Record Title of George F. Woodward is from U. B. Frener by a will, from persons who claim to be the heirs of Bachillero Julian Moreno. This Will was Probated January 22, 1907. U. B. Frener describes himself in the Will, as the Nephew of Bachillero Julian Moreno. This land is bounded and described as follows: Bounded on the North by the Lands of Transvaal MINING COMPANY. On the East by the Townsite of Cumpas. On the South by BACACHI, and on the West by TRANSVAAL MINING COMPANY.

There are many things that are necessary to clear up the Titles to these lands, and while the interests of George F. Woodward, in the different tracts appear to be clear, and free, of incumbrance, yet, there are many things connected with his Titles to this land, that should be varified. For instance, I do not know whether there are any mortgages or judgment liens, of record, that would affect his Title to these lands. The measurement of these lands is a calculation based upon an ariel measurement from different points, or corners and are given as more or less. This would naturally be a benefit for the reason that a correct survey would show that these different grants and patents contain more land than is given in the different estimates. I therefore suggest that as soon as convenient these lands be surveyed by a Competant Licensed Mexican Land Surveyor, and the adjoining owners of these different Grants, and Patents, be sighted, as provided in the Civil Code of Mexico, and be present when the



lines are run, and certify that the lines are correct. When this is done, Plats and Field Notices showing the exact acreage of these different Grants and Patents should be presented to the Minister of Fomento in the City of Mexico. Together with an Application requesting the Minister of Fomento to appoint a Surveyor to ratify the survey presented. In this connection it would be convenient to have the surveyor who made these surveys, present in the City of Mexico, in order that the Minister of Fomento could appoint the same Surveyor. This would do away with the necessity and expense of a Second survey. The original Surveyor could immediately file a duplicate set of Maps, Plats and Field Notes, confirming the original survey previously presented. When the survey is confirmed by the Surveyor the Minister of Fomento will approve the same, and record the map and field notes as approved in the Great Register at the City of Mexico. Certified copies of the record from the Great Register should be immediately filed and recorded at Moctezuma. When this is done, no question can afterward be raised by the Government or any other person, as to the acreage or boundaries of any of these Grants. It will probably develop upon a final survey that there will be more than twice the acreage shown in this Report, or possibly three times the acreage.

Under the Mexican Civil Code, there is a law known as DERECHO del TANTO, which law prohibits one co-owner of any interest in Real Estate from selling his interest to a stranger without first offering it to his co-owners at the same price, and under the same terms offered by a stranger. I am informed by Mr. George F. Woodward that several of his heirs, co-owners with him, in the different Spanish Grants have sold their interests without giving him, George F. Woodward their co-owner, an opportunity to purchase their interests. These sales were made by Private Deeds. There are in Mexico two kinds of Deeds, Private and Public.

A Public Deed may be for any consideration, and must be made



by, and executed before a Mexican Notary Public.

A Private Deed may be made for any number of acres, or for any interest in land, no matter how great the acreage in a Private Deed may be, it may not exceed the sum of five hundred (500) pesos as consideration. When Public Deeds are made by a co-owner to a stranger. The Notary Public must immediately cite the other co-owners and give them notice that one of the co-owners has sold to a stranger, and that the other co-owners have, eight days after legal service upon them of this notice, within which to purchase the interest of their co-owners who desire to sell.

The Notary Public will also notify the co-owners when Private Deeds for interests in land are presented for registration in like manner. Mr. George F. Woodward claims that the Private Deeds of his co-owners in several of these Grants have been made to strangers and have not been place of record, consequently, he has yet had no notice served, upon him, to exercise his right to purchase these interests transferred by Private Deeds to strangers. It is very important that suits should be instituted as soon as possible against every person holding a Private Deed to an interest in either of these Grants purchased from co-owners, of George F. Woodward requiring the purchasers of such deeds to present their Private Deeds to the Court, in order that George F. Woodward be permitted to exercise his right of purchase under the law above stated.

I would have preferred to have visited Moctezuma, the County Seat of the District of Moctezuma, and examined carefully the Record of Titles to these different Tracts of Land, and also to have visited Guaymas, and to have examined the Records in the General Land Office, there, before writing this Opinion. I desire to state however, that while the above titles with a few exceptions would not satisfy an American Lawyer, on Titles to land in the United States, Yet, they do satisfy me as being sufficient to pass upon Titles in Mexico, and while the Titles do not come up in every



way to everything that I would desire. Yet, taking the different Titles, as a whole, they are in better shape than a great majority of Land Titles, in the State of Sonora. And, if my suggestions of having the land surveyed and confirmed and having the Private Deeds brought into Court, are carried out within a reasonable time, I can see no reason why the Titles to George F. Woodward should not be made absolutely perfect.

Of course, I have in expressing my opinion on these titles taken into consideration two other conditions which exist. First: Your contract with George F. Woodward binds him absolutely to transfer and vest Legal Title in the SLAUGHTER LAND AND CATTLE COMPANY two hundred and fifty thousand (250,000) acres of land. The COMPANY could purchase any shortage of acreage, from adjoining lands, to make up the two hundred and fifty thousand (250,000) acres, though they should pay two (\$2.00) per acre for it, and could Recover the price so paid, from George F. Woodward. In drawing the contract, it occurred to me that it would not be well to have George F. Woodward put in escrow his stock in the SLAUGHTER LAND AND CATTLE COMPANY, as a guarantee that he would fulfill his contract and vest in the SLAUGHTER LAND AND CATTLE COMPANY clear of all incumbrances two hundred and fifty (250,000) thousand acres of land. For two reasons First: This might release him from any other personal responsibility, and Second the SLAUGHTER LAND AND CATTLE COMPANY, would not permit a transfer of George F. Woodward's stock on the books of the Company until he had fully complied and vested titles to the two hundred and fifty thousand (250,000) acres in the SLAUGHTER LAND AND CATTLE COMPANY.

Respectfully submitted,

*D. A. Richardson*



( C O P Y )

I.

On the memorandum on the \$27,187.50 notes, the memorandum, " For payment under contract of even date," is nothing more than a statement of the transaction, which gives rise to the instrument. Under Section No. 4148 of the Revised Statutes of Arizona, this would not affect the negotiability of the notes. They are still negotiable.

II.

There is nothing in the words, " For payment under contract of even date," that would give notice of an infirmity in the instrument or defect in the title to the person or persons to whom they were negotiated, that would make even a suspicion of bad faith in the taking of them. Even if the person or persons taking these notes had actual knowledge of the existing contract, it would be necessary to show that the purchasing of the notes was made under circumstances that would amount to bad faith. See Section 4201 of the Revised Statutes of Arizona.

III.

As to what circumstances are sufficient to put a purchaser of negotiable paper on inquiry, see note of McPherrin vs. Tittle, 44 L. R. A., " N. S." 395. Also see note of Klots Throwing Company vs. Manufacturers Commercial Company, 30 L.R.A. " N. S." 40.

IV.

The contract made with Woodward contains this clause, " That for and in consideration of the payment of the said sum of \$108,750.00, lawful money of the United States of America to the party of the first part, ( Woodward ) paid in the manner and form and on the dates hereinabove set forth, the said George F. Woodward, the party of the first part, does agree hereby as follows, to-wit;



(1)

" Immediately, as soon as the said SLAUGHTER LAND and CATTLE COMPANY, party of the second part, is protocolized in the State of Sonora, Republic of Mexico, to transfer each, every and all of his interests in the lands above described," -- then follow the different things that Woodward agreed to do.

It seems as if the above made it a condition precedent that the money be paid to Woodward in the manner and form and on the dates agreed upon, before he would be obligated to convey anything, assuming of course, that he had all the things that he agreed to convey.

It appears that the last note was due on January 9, 1914. The Slaughter Land and Cattle Company was protocolized early in January, 1914. Although protocolized, the Slaughter land and Cattle Company would have no right to demand a conveyance under the contract until all of the money agreed to be paid had been paid.

V.

The above four presuppose that Woodward was able and ready and willing at all times to carry out his part of the contract. If he was not able, and the burden of proof would be upon the Slaughter Land and Cattle Company, or had put himself in the position where it would become impossible for him to carry out the contract; as between the original parties to the notes only, there would be a defence if suit was brought by Woodward on the notes, or it would have been possible if that would have resulted in the Slaughter Land and Cattle Company recovering what had already been paid out, to rescind the contract with Woodward.