

4956

RAY E. LOPER LUMBER COMPANY,
INC., a corporation,

Complainant,

VS.

All of Section 31, Township 18
South, Range 2 East, except the
NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section
31 and also except the minerals
and mining rights therein,
situated in Shelby County, Ala-
bama; R. E. LOWERY, and his
heirs or devisees, if deceased;
and all other persons, associa-
tions or corporations who un-
known to complainant claim or
are reputed to claim said lands
or any part thereof or any in-
terest therein or any lien or
encumbrance thereon,

Respondents.

IN THE CIRCUIT COURT OF

SHELBY COUNTY, ALABAMA

IN EQUITY

CASE NO. 4493

FINAL DECREE

This cause coming on to be heard was submitted for final decree upon complainant's verified bill of complaint, the decree pro confesso rendered herein, the answer of the guardian ad litem, the testimony of Ray E. Loper, L. C. Abbott and J. Robert Fleenor, taken orally before the commissioner duly appointed by the Register, and the pleadings and proof, all as noted in the note of submission signed by the solicitor for complainant and the guardian ad litem and filed by the Register, and the same being considered and understood by the Court, the Court considering only such proof and testimony as is relevant, material, competent and legal, finds the facts, states its conclusions and renders its decree as follows:

FINDINGS OF FACT

(1) The complainant, at the time of filing its verified bill of complaint in this cause, claimed in its own

right to own an absolute fee simple title to, and was in the actual, peaceable possession of, the lands described in the bill of complaint as follows:

All of Section 31, Township 18 South, Range 2 East, except the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 31 and except the minerals and mining rights therein, Shelby County, Alabama.

(2) At the time of filing of said bill of complaint no suit was pending to test the complainant's title to, interest in, or the right to possession of said lands.

(3) Said bill of complaint was and is duly verified, and was filed against said lands and against any and all persons, associations or corporations, claiming or reputed to claim any title to, interest in, lien or encumbrance on said lands or any part thereof, and was to establish the right and title to said lands, and to clear up all doubts and disputes concerning the same, and said bill of complaint did in all respects comply with the provisions of the law.

(4) The complainant does not know the present address and whereabouts of the respondent, R. E. Lowery, and complainant does not know whether the said R. E. Lowery is alive. The complainant has exercised reasonable diligence in trying to determine the present address and whereabouts of the said R. E. Lowery, and whether the said R. E. Lowery is deceased, and if deceased, the names, ages and addresses of his heirs or devisees and has been unable to do so.

(5) The complainant, after exercising reasonable diligence, was unable to ascertain and does not know the names, ages or whereabouts or mental capacities of any parties

respondent to this cause, or whether any such parties are living or dead.

(6) The complainant and those through whom it claims have held color of title to and have been in the actual and peaceable possession of said lands for ten years immediately preceding the filing of the bill of complaint in this cause, and no other person, association or corporation has had any possession of said lands or any part thereof during such period.

(7) The complainant and those through whom it claims have assessed said lands for ad valorem taxes for each of the ten years next preceding the filing of the bill of complaint in this cause, and have paid taxes becoming due thereon during each of such years, and no other person, association or corporation has assessed said lands or any part thereof or any interest therein or paid any taxes thereon during such years.

(8) Notice of the pendency of the bill of complaint filed in this cause was drawn and signed by the Register of this Court, and said Register had such notice published once a week for four consecutive weeks in the Shelby County Reporter, a newspaper published and having general circulation in Shelby County, Alabama, as prescribed by a rule of this Court or order made in this cause.

(9) A copy of said notice, certified by the Register as being correct, was recorded as a lis pendens in the Office of the Judge of Probate of Shelby County, Alabama.

(10) More than sixty days have elapsed since the first publication of said notice and the filing of a certi-

fied copy of said notice in the Probate Office of Shelby County, Alabama.

(11) No person, association or corporation has intervened in this cause.

(12) The guardian ad litem heretofore appointed to represent all the respondents to this cause who are under the age of twenty-one years, incompetent, unknown or in the military service of the United States of America, accepted his appointment as guardian ad litem and filed an answer denying the averments of the bill of complaint and demanding strict proof thereof, and said guardian ad litem was present at the taking of the testimony and proof in this cause and fully and adequately represented the interests of all minors, incompetents, unknown parties and parties in the military service of the United States of America, and no other respondent to this cause filed a demurrer, plea or answer to the bill of complaint within the time allowed by law, and a decree pro confesso was taken against such parties.

(13) Each of the averments of fact in the bill of complaint is true.

CONCLUSIONS OF LAW

(1) This cause was properly brought as an in rem action against said lands.

(2) This cause was also properly brought against R. E. Lowery, and his heirs or devisees, if deceased, and

all other persons, associations or corporations claiming or reputed to claim any title to, interest in or lien or encumbrance on said lands or any part thereof.

(3) All persons, associations or corporations who claim or are reputed to claim any title to, interest in or lien or encumbrance on said lands or any part thereof are properly before this Court and their claim of title to, interest in, or lien or encumbrance on said lands or any part thereof will be finally and conclusively determined by this decree.

DECREE

IT IS, THEREFORE, upon consideration of this Court, ORDERED, ADJUDGED and DECREED by this Court as follows:

(1) The complainant is entitled to the relief prayed for in its bill of complaint, and the fee simple title claimed by complainant in said lands has been duly proven.

(2) The complainant is the owner of said lands and has an absolute fee simple title thereto, free of all liens or encumbrances except the lien for non-delinquent ad valorem taxes, and its said title thereto is hereby established, and all doubts and disputes concerning the same are hereby cleared up.

(3) None of the respondents in this cause has any right, title, interest, lien or encumbrance on said lands or any part thereof.

(4) A certified copy of this decree be recorded in the Office of the Judge of Probate of Shelby County, Ala-

bama, and be indexed in the name of Ray E. Loper Lumber Company, Inc. on both the direct and indirect index of record thereof.

(5) The guardian ad litem in this cause is awarded the amount of \$ 25⁰⁰ as payment for his services as such guardian ad litem, the same to be taxed as a part of the costs herein.

(6) The complainant shall pay the costs of this proceeding, for which let execution issue.

Done this 25 day of July, 1961.

G. L. Hargrave

Circuit Judge of
Shelby County, Alabama
In Equity Sitting

Register's Certificate

STATE OF ALABAMA) IN THE CIRCUIT COURT OF SHELBY COUNTY,
SHELBY COUNTY:...) ALABAMA, IN EQUITY.

I, L. G. Fulton, Register of the Circuit Court of Shelby County, Alabama, hereby certify that the attached and foregoing is a true copy of the original Decree granted by said Court in the above stated cause, as the same appears of record and on file in my office.

Witness my hand and Seal, this 25th day of July, 1961.

L. G. Fulton
Register, Circuit Court, In Equity

STATE OF ALABAMA
SHELBY COUNTY

I, Conrad M. Fowler, Judge of Probate here, certify that the within deed was filed in this office for record the 5 day of August at Shelby o'clock P. M. and recorded in deed Record 216 page 656 and examined L. G. Fulton and the Mortgage Tax of \$ 4.50 and the Deed Tax of \$ 4.50 has been paid.

Fee \$ 4.50

Conrad M. Fowler
Judge of Probate

BOOK 216 PAGE 602