

D. A. THOMAS,

Complainant

VS.

J. EUGENE GREATHOUSE, M. L. EDEN, and  
his heirs or devisees, if deceased.

In rem against the following real estate  
situated in Shelby County, Alabama, to-  
wits: See Skipler

NE 1/4 of NW 1/4 of NE 1/4, Section 12, Township  
21 South, Range 3 East

and all other persons, associations, or  
corporations who unknown to the com-  
plainant claim or are reputed to claim  
any title to, interest in, or lien or  
encumbrance upon the same, or any part  
thereof.

Respondents

IN THE SHELBY COUNTY LAW AND  
EQUITY COURT OF SHELBY COUNTY,  
ALABAMA.

IN EQUITY

CASE NO. 471

#### FINAL DECREE

This cause coming on to be heard was submitted for a 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 D. A. Thomas, Ross B. Mullins, L. C. Abbott, and W. W. Fabren, 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) 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 pro-

visions of the law.

(2) The complainant, at the time of filing <sup>14.3</sup> its verified bill of complaint in this cause, claimed in his 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:

NE¼ of NW¼ of NE¼, Section 12, Township 21 South, Range 5 West, situated in Shelby County, Alabama. That no one else is in actual possession of any part of said lands.

(3) The interest and ownership of complainant in said lands, and each part thereof, separately and severally, was acquired by complainant by warranty deed from Ella Mae Thomas, Dorothy Thomas Morrow and husband Hugh Morrow, Jr., Gardner Morrow Schneider and husband Matthew Peter Schneider, Jr., Mary Stokes and husband H. W. Stokes, dated November 18, 1963, and filed for record in Deed Book 228 at page 204, in the Office of Judge of Probate of Shelby County, Alabama.

(4) The complainant does not know the present address and whereabouts of the respondent, M. L. Bunn, and complainant does not know whether the said respondent is alive, or under any legal disability. The complainant has exercised reasonable diligence in trying to determine the present address and whereabouts of the said respondent, and whether the said respondent is deceased, and if deceased, the names, ages, addresses and any legal disability 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, legal disability and addresses of any parties respondent to this cause, or whether any such parties are living or dead, except J. Eugene Greathouse.

(6) 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, or any part thereof.

(7) 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, and that such notice was in all respects sufficient and in compliance with, and as provided by law.

(8) A copy of the notice of the pendency of the bill of complaint in this cause, certified by the Register as being correct, was duly filed in the Office of Judge of Probate of Shelby County, Alabama, in the Lis Pendens Record, and that such notice was in all respects sufficient and in compliance with, and as provided by law.

(9) The complainant and those through whom he 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.

(10) The complainant and those through whom he 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.

(11) That on the filing of said bill of complaint, Oliver P. Head, a practicing attorney of <sup>the</sup> Columbiana, Alabama Bar, was duly appointed as guardian ad litem by the Register of this Court, to protect, represent and defend the interests of all unknown parties who are minors, persons of unsound mind, or persons under any legal disability, or in the military service of the United States of America.

(12) More than sixty days have elapsed since the first publication of said notice and the filing of a certified copy of said notice in the Probate Office of Shelby County, Alabama.

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

(14) The guardian ad litem heretofore appointed to protect, represent and defend the interests of all unknown represents to this cause who are under the age of 21 years, persons of unsound mind, persons under any legal

disability, or persons in the military services 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 protected, represented and defended the interests of all unknown parties who are minors, persons of unsound mind, or persons under any legal disability, or 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.

(15) That this cause is now at issue, and that all of the allegations of the bill of complaint are 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 J. Eugene Greathouse; M. L. Bunn, 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 upon 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 his 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 following:

(a) Lien in favor of the State of Alabama and Shelby County, which secures non-delinquent ad valorem taxes assessed against said lands.

(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 shall be recorded by the Register in the Office of the Judge of Probate of Shelby County, Alabama, and shall be indexed in the name of D. A. Thomas, and in the names of the respondents, J. Eugene Greathouse and M. L. Bunn, on both the direct index and the indirect index, and that the recording fee be taxed as a part of the costs in this cause.

(5) The guardian ad litem in this cause is awarded the sum of \$ 10.00 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 13 day of February, 1964.

STATE OF ALABAMA, SHELBY CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED IN MY OFFICE  
ON FEBRUARY 13, 1964  
RECORDED & INDEXED  
& \$1.00 TAX HAS BEEN  
PD. ON THIS INSTRUMENT.

*Conrad M. Deane*  
JUDGE OF PROBATE

*Henry Ellis*  
Judge, Shelby County Law and Equity Court  
of Shelby County, Alabama

FILED IN OFFICE, This 13 day of  
Feb 1964  
*J. G. Fulton*  
Ex-Officio Register of Shelby County,  
Law and Equity Court

#### REGISTER'S CERTIFICATE

STATE OF ALABAMA,  
SHELBY COUNTY.

I, J. G. Fulton, Ex-Officio Register, Shelby County Law and Equity Court, In Equity, hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of Shelby County Law and Equity Court, In Equity in the above or therein stated cause, which said decree is on file and enrolled in my office.

Witness my hand and seal, this the 14th day of February, 1964.



*J. G. Fulton*  
Ex-Officio Register, Shelby County Law  
and Equity Court