

NORMAN D. FLESS and T. M. BURGIN,

COMPLAINANTS

VS.

ELDER FRAZIER, G. D. B. ISBELL, and his heirs or devisees, if deceased; J. E. YEAGER, and his heirs or devisees, if deceased; ALICE H. YEAGER, and her heirs or devisees, if deceased; HELIA YEAGER, and her heirs or devisees, if deceased; YOUNG JACKSON, and his heirs or devisees, if deceased; ELLA JACKSON, and her heirs or devisees, if deceased; LEROY NENSON, and his heirs or devisees, if deceased; ESTHER NENSON, and her heirs or devisees, if deceased; H. T. JONES, and his heirs or devisees, if deceased.

In rem against the following real estate situated in Shelby County, Alabama, to-wit: SURFACE RIGHTS:

The S $\frac{1}{2}$  of NW $\frac{1}{4}$  of NW $\frac{1}{4}$ ; the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ ; the N $\frac{1}{2}$  of SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 15, Township 18, Range 1 E $\frac{1}{2}$ st.

FEE SIMPLE:

The South 660.20 feet of the East 200 feet of the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ ; and the North 671.2 feet of the East 200 feet of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 16, Township 18 South, Range 1 East.

and all other persons, associations, or corporations who inknown to the complainants 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. 566

FINAL DECREE

This cause coming on to be heard was submitted for a final decree upon complainants' verified bill of complaint, the decree pro confesso rendered herein, the answer of the guardian ad litem, the testimony of Curtis Lynn, J. W. Watson, Norman D. Fless, T. M. Burgin, W. W. Rabren, Ross B. Mullins and Earl J. Standifer, taken orally before the commissioner duly appointed by the

Register, and the pleadings and proof, and as noted in the note of submission signed by the solicitor for complainants 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 provisions of law.

(2) The complainants, at the time of the filing of their verified bill of complaint, claimed in their own rights to own an absolute fee simple title to the South 660.20 feet of the East 200 feet of the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  and the North 671.2 feet of the East 200 feet of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 16, Township 18 South, Range 1 East and the surface rights to the S $\frac{1}{2}$  of NE $\frac{1}{4}$  of NE $\frac{1}{4}$ ; the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 15, Township 18 South, Range 1 East, and was in the actual peaceable possession of said lands.

(3) The interest and ownership of complainants in said lands, and each part thereof, separately and severally, was acquired by complainants by warranty deed from J. M. Watson and wife Beulah Watson, dated October 27, 1958 and recorded in Deed Book 196 at Page 415; James A. Johnson and wife Irene Johnson by deed dated February 4, 1961 and recorded in Deed Book 213 at pages 654, 658 and 662; William D. Hughes and wife Lorene Hughes by deed dated February 4, 1961, and recorded in Deed Book 213 at page 659; and deeds from Norman D. Pless and wife Elizabeth E. Pless to T. M. Burgin, dated September 21, 1961 and recorded in Deed Book 219 at page 6 and by deed dated April 4, 1963, recorded in Deed Book 225 at page 41; James A. Johnson and wife Irene Johnson by deed dated March 9, 1962 and recorded in Deed Book 224 at page 862; and William A. Belcher and wife Nell Vandergrift Belcher, individually, and



and Nell Vandergrift Belcher as Trustee, dated February 6, 1961 and recorded in Deed Book 214 at page 34, and also from the same grantors by deed dated September 29, 1961 and recorded in Deed Book 217 at page 533 all in the Probate Office of Shelby County, Alabama, conveying to complainants all of said lands.

(4) The complainants do not know the present addresses and whereabouts of the respondents G. D. B. Isbell, J. E. Yeager, Alice H. Yeager, Ella Yeager, Young Jackson, Ella Jackson, Leroy Newcom, Esther Newcom and H. T. Jones, and complainants do not know whether the said respondents are alive, or under any legal disability. The complainants have exercised reasonable diligence in trying to determine the present address and whereabouts of the said respondents, and whether the said respondents are deceased, and if deceased, the names, ages, addresses and any legal disability of their heirs or devisees, and have been unable to do so.

(5) The complainants, 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 Elder Frazier.

(6) At the time of filing of said bill of complaint, no suit was pending to test the complainants' 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

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with, and as provided by law.

(9) The complainants and those through whom they claim have held color of title to and have been in the actual and peaceable possession of said lands for twenty years immediately proceeding 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 complainants and those through who they claim have assessed said lands for ad valorem taxes for each of the <sup>ten</sup> twenty years next preceeding 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 of any interest therein or paid any taxes thereon during such years, except Elder Frazier.

(11) That on the filing of said bill of complaint, Oliver P. Eoad, a practicing attorney of the 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 interest 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 <sup>Elder Frazier,</sup> G. D. B. Isbell, J. E. Yeager, Alice H. Yeager, Helia Yeager, Young Jackson, Ella Jackson, Leroy Newson, Esther Newson and H. T. Jones, and their 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 complainants are entitled to the relief prayed for in their bill of complaint and the title claimed by the complainants in said lands has been duly proven.

(2) The complainants are the owners of the surfaces rights to the S $\frac{1}{2}$  of the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ ; NE $\frac{1}{4}$  of NW $\frac{1}{4}$ ; the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 15, Township 18 South, Range 1 East and fee simple title to the South 660.20 feet of the East 200 feet of the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  and the North 671.2 feet of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 16, Township 18 South, Range 1 East, situated in Shelby County, Alabama, 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 have 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 Norman D. Fless and T. H. Burgin, and in the names of the respondents, Elder Frazier, G. D. B. Isbell, J. E. Yeager, Alice H. Yeager, Hollis Yeager, Young Jackson, Ella Jackson, Leroy Newton, Esther Newton and H. T. Jones, 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 \$25.00 as payment for his services as such guardian ad litem, the same to be taxed as a part of the costs herein.

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

Done this the 14 day of October, 1964.

Harry Ellis  
Judge, Shelby County Law and Equity Court  
of Shelby County, Alabama

FILED IN OFFICE. This 14 day of  
Oct 1964  
R. D. Zulton  
Ex-Officio Register of Shelby County,  
Law and Equity Court

CERTIFICATE

STATE OF ALABAMA,  
SHELBY COUNTY.

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED ON 12/14/64  
RECORDED & \$.....INTG. TAX  
& \$.....DEED TAX HAS BEEN  
PD. ON THIS INSTRUMENT.

Conrad M. Fowler  
JUDGE OF PROBATE

The undersigned Ex-Officio Register of the Shelby County Law and Equity Court of Shelby County, Alabama, does hereby certify that the foregoing is a true and copy of the original decree granted by said Court in the therein stated cause, as the same appears of record and on file in my office.

Witness my hand and Seal, this 14th day of October, 1964.

R. D. Zulton  
Ex-Officio Register, Shelby County Law  
and Equity Court