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H. R. EVANS AND

IVY S. EVANS,

COMPLAINANTS

VS.

A. W. NIX , ETHEL W. NIX,

AND IRON AND STEEL CREDIT UNION,

A CORPORATION,

RESPONDENTS

IN THE CIRCUIT COURT

OF

SHELBY COUNTY, ALABAMA

IN EQUITY, CASE NO. 4542

FINAL DECREE

This cause coming on for final decree on the Bill of Complaint as amended, Answer of Respondents, A. W. Nix and Ethel W. Nix as amended, Answer of Respondent, Iron and Steel Credit Union, and <sup>the</sup> testimony of witnesses taken ore tenus in open

Court, as noted by the Register, and upon the other exhibits, pleadings and proof, as noted by the Register, and the Court having considered and understood the same, makes the following findings of fact, viz.:

1. That the Complainants are the owners of all of the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 33, Township 19, Range 1 East except a parcel lying within said quarter-quarter section containing approximately five acres which is owned by the Respondents; that the North line of the Respondents's said parcel is the North line of said quarter-quarter section and the West line of the Respondents's said parcel lies within or partly within the 80 foot right of way of the new paved highway running in a Northerly--Southerly direction across said quarter-quarter section; that the South boundary line of the Respondents's said parcel which joins a portion of the boundary line of the Complainants's said property, is in dispute between the Complainants and the Respondents, and also, that the East boundary line of the Respondents's said parcel, which joins a portion of the boundary line of the Complainants's said property, is in dispute between the Complainants and the Respondents.

2. That the title to the Complainants's said property and to the Respondents said parcel comes from a common grantor, Mr. Coley Moore, who owned the entire quarter-quarter section in 1927 when he conveyed the Respondents's said parcel to the State of Alabama for a school, the title to said parcel subsequently passing from the State of Alabama through mesne conveyances to the Respondents; that the title to said quarter-quarter section, less and except said parcel conveyed to the State of Alabama in 1927, subsequently passed through mesne conveyances from said Coley Moore to the Complainants; that the corners and boundary lines of said parcel conveyed by said Coley Moore in 1927 to the State of Alabama were definitely fixed, established, and determined, and were actually set and stepped off and their location agreed upon

in 1927 at the time of said conveyance by said Coley Moore, by the Trustees of the State of Alabama's school, by a Mr. Gardner who then owned the forty acre tract lying just North of and adjoining the said NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 33, Township 19, Range 1 East, and by all persons concerned; that the boundary lines of said parcel conveyed in 1927 to the State of Alabama for a school were at that time fixed and established as follows: The North boundary line was the North boundary line of said quarter-quarter section and lay to the North of a dirt road which then ran, and which now is still located in the same place as it was then, in an Easterly-Westerly direction across said quarter-quarter section; the West boundary was another dirt road which ran in a Northerly-Southerly direction across said quarter-quarter section and which now lies within or partly within the 80 foot right of way of the now <sup>existing</sup> paved highway; the South boundary line lay parallel with the North boundary line and at a distance of 510 feet South of said North boundary line; the East boundary line lay just East of a spring of water which was situated on said parcel conveyed to the State of Alabama.

3. That the true and correct boundary lines between said property of the Complainants and said parcel of the Respondents and which are in dispute in this cause are described or designated as follows, viz.:

Begin at the Northeast corner of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 19, Range 1 East and run thence West along the North line of said quarter-quarter section 676.0 feet to the point of beginning of said true and correct boundary lines; thence run <sup>South</sup> 3 deg. 00 min. East 513.0 feet to a point; thence run South 87 deg. 00 min. West 455.0 feet to the point of ending of said true and correct boundary lines, according to survey of H. F. Headley, Alabama Registered Land Surveyor No. 1115, dated December 15, 1960,

and that said true and correct boundary lines are located as said Coley Moore, and the other persons concerned, intended them to be located in 1927 and as specified above when said parcel of the Respondents was conveyed to the State of Alabama.

4. That the Respondents have constructed and are maintaining a fence or fences which are situated upon the said property of the Complainants, thereby fencing off a portion of the Complainants's said property from the use and enjoyment of said Complainants.

5. That heretofore, on, to-wit, March 12, 1964, the Respondent A. W. Nix negligently or intentionally caused, set, or maintained a fire which spread upon a portion of the Complainants's said property as designated above, which said fire burned over and destroyed, or seriously injured and damaged, several acres of the Complainants's grass pasture; that said Respondent, A. W. Nix prior to the filing of the Bill of Complaint in this cause admitted to the Complainants his liability for said damages caused by said fire and offered to pay for the same in money for all of the damages after the true and correct boundary lines between the said property of the Complainants and the said parcel



of the Respondents might be established; that the amount of such damage caused by said Respondent, A. W. Nix, to the Complainants was and is, in the judgment and opinion of the Court, the sum of \$500.00.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court as follows:

A. That the true and correct boundary lines between said property of the Complainants and said parcel of the Respondents and which are in dispute in this cause are described or designated as follows, viz.:

Begin at the Northeast corner of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 19, Range 1 East and run thence West along the North line of said quarter-quarter section 676.0 feet to the point of beginning of said true and correct boundary lines; thence run South 3 deg. 00 min. East 510.0 feet to a point; thence run South 87 deg. 00 min. West 455.0 feet to the point of ending of said true and correct boundary lines, according to survey of H. F. Headley, Alabama Registered Land Surveyor No. 1115, dated December 15, 1960.

B. That the Respondents are allowed a period of forty days in which to remove the fence or fences which they are maintaining upon the property of the Complainants as designated above, and that the title to said fence or fences shall vest in the Complainants--and may be torn down, destroyed, or otherwise disposed of by the Complainants--if not removed by said Respondents within said forty day period.

C. That the Complainants have and recover of the Respondent, A. W. Nix, the sum of \$500.00 as damages in this cause.

D. That the Respondents are ordered and directed to hereafter refrain from interfering in any manner whatever with the said property of the Complainants, as described and designated above, or with the use and enjoyment thereof by the Complainants.

E. That a certified copy of this decree be recorded by the Register in the Office of the Judge of Probate, Shelby County, Alabama, and that it be indexed in the names of the Complainants and the Respondents to this cause on both the direct and indirect indexes.

F. That costs in this cause be, and the same are hereby, taxes against the Respondents, A. W. Nix and Ethel<sup>W.</sup>/Nix, for which let execution issue.

Done and ordered this 22nd day of July, 1965.

S/ A. L. Hardegree  
Judge

STATE OF ALABAMA

SHELBY COUNTY

I, L. G. Fulton, Register of the Circuit Court of Shelby County, Alabama, do hereby certify that the above and foregoing is a true and correct copy of the original final decree entered and rendered by the Court in the above styled cause on the 22<sup>nd</sup> day of July, 1965, which said original decree is on file and enrolled in my office.

Witness my hand and seal, this 29<sup>th</sup> day of ~~July~~ <sup>November</sup>, 1965.

L. G. Fulton  
Register of the Circuit court of  
Shelby County, Alabama

By Dan O'Leary  
Deputy Register

STATE OF ALABAMA  
I CERTIFY THAT THE ABOVE  
WAS FILED  
12/1/65  
RECORDED  
& INDEXED  
PD. [unclear]

Corey [unclear]  
JUDGE OF PROBATE