

7419  
MILDRED L. RUTHERFORD,  
COMPLAINANT

VS.

The SE diagonal 1/2 of the  
SE 1/4 of the SW 1/4 of Section  
16, Township 19, Range 2 West,  
all lying and being in Shelby  
County, Alabama; SYLVESTER STEELE  
and his heirs, devisees, or assigns,  
if deceased; FRANK P. SORRELL and  
his heirs, devisees or assigns,  
if deceased; MAMIE B. ALLEN and  
her heirs, devisees or assigns,  
if deceased; T. W. JOHNSON, JR.,  
and his heirs, devisees or assigns,  
if deceased; ISAAC F. JOHNSON and  
his heirs, devisees or assigns, if  
deceased; EDNA NARO and her heirs,  
devisees or assigns, if deceased,

RESPONDENTS

) IN THE CIRCUIT COURT  
)  
) OF SHELBY COUNTY,  
)  
) ALABAMA,  
)  
) IN EQUITY

CASE NO. 4660

FINAL DECREE

This cause was submitted for final decree on the original verified bill of complaint and testimony of Sam H. Kelly, Albert C. Gilbert, Mildred L. Rutherford and Wanda R. Gama, and upon answer of the guardian ad litem, and upon decrees pro confesso against some of the respondents herein named,

And all of the following matters appearing to the satisfaction of the court, the court makes the following as findings of fact, among other things:

1. That Mildred L. Rutherford, at the time of the filing of her bill of complaint in this cause, claimed in her own right the fee simple title to and was in actual peaceable possession of the surface rights in and to the following real property:

The SE diagonal 1/2 of the  
SE 1/4 of the SW 1/4 of  
Section 16, Township 19,  
Range 2 West, all lying and  
being in Shelby County, Alabama.

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

3. That complainant's said bill of complaint was and is duly verified, and was filed against said lands and against any and all persons claiming any title to, interest in, lien or encumbrance on said land or any part thereof, with respect to the surface rights only, and was to establish the right or title to the surface rights to such lands or interest, and to clear up all doubts or disputes concerning the same, and that said bill of complaint in all respects complied with the provisions of Title 7, Section 1117, Code of Alabama (1940) (Recomp. 1958).

4. That the Alabama Power Company has a line permit across the above described real property which is recorded in Deed Book 142, Page 495, in the Office of the Judge of Probate of Shelby County, Alabama.

5. That service of process was had in strict compliance with the provisions of Title 7, Section 118 of the Code of Alabama (1940), (Recomp 1958), and the Court finds as a fact that complainants exercised diligence to ascertain all of the facts in regard to the names of proper parties respondent.

6. That notice of the pendency of said bill of complaint was drawn and signed by the register of this Court, and said register did have such notice published once a week for four consecutive weeks in the Shelby County Reporter, a newspaper having general circulation and published in Shelby County, Alabama, as prescribed by an order made in this cause.

7. That 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, said notice being in strict accord and compliance with Title 7, Section 1121, Code of Alabama, (1940), (Recomp. 1958).

8. That it has been more than 60 days since the first publication of said notice and the filing of a certified copy of said notice in the Office of the Judge of Probate of Shelby County, Alabama.



9. That no person has intervened in this cause except that L. W. Scholl, Esq., appointed by the Court herein as guardian ad litem for interests of infant, lunatic and unknown parties in the proceeding has appeared herein, denied the allegations of the complaint, demanded strict proof thereof, and examined the entire file in this proceeding, including the testimony on behalf of the complainant.

10. That all of the allegations of fact contained in the bill of complaint are true; that there was proper service of process on all of the respondents named in the bill of complaint.

11. That the respondents named in the bill of complaint contained all names known to complainant after the exercise of due diligence, and that all of the respondents were represented in this proceeding by guardian ad litem except those that had suffered decrees pro confesso to be taken against them after proper service of process was obtained and had.

12. That the complainant complied with all of the provisions of Title 7, Article 2, of the Code of Alabama (1940), (Recomp. 1958), relative to this proceeding in rem to establish title to land.

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that the complainant is entitled to the relief prayed for in her bill of complaint, and that the fee simple title to surface rights claimed by the complainant in and to the above described lands except line permit to the Alabama Power Company recorded in Deed Book 142 at page 495, in the Office of the Judge of Probate of Shelby County, Alabama, has been duly proved, and that the complainant is the owner of said lands and has a fee simple title to the surface rights thereof, free of all liens and encumbrances

except line permit to the Alabama Power Company recorded in Deed Book 142, at page 495, Office of the Judge of Probate of Shelby County, Alabama, and that her title thereto be and is hereby adjudicated and established, and that all doubts and disputes concerning same be, and the same hereby are, resolved in favor of complainant.

And it is further ORDERED, ADJUDGED and DECREED by the Court that a certified copy of this decree be recorded in the Office of the Judge of Probate of Shelby County, Alabama, and that it be indexed in the names of the complainants herein, in both the direct index and the indirect index of the records thereof.

It is further ORDERED, ADJUDGED and DECREED by the Court that L. W. Scholl, Esq., be and he hereby is, awarded a fee of fifty Dollars (\$50.00) for his services as guardian ad litem in this proceeding, to be taxed as a part of the costs herein, to be paid by the Register of this Court to him on payment of such costs.

It is further ORDERED, ADJUDGED and DECREED by the Court that the complainant herein pay the costs of this proceeding, for which let execution issue.

DONE and ORDERED this 5th day of March, 1968.

FILED IN OFFICE

MAR 6 1968

s/ A. L. Hardegree

CIRCUIT JUDGE, In Equity Sitting

*L. W. Scholl*  
REGISTER  
SHELBY CO. CIRCUIT COURT  
IN EQUITY

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CERTIFICATE

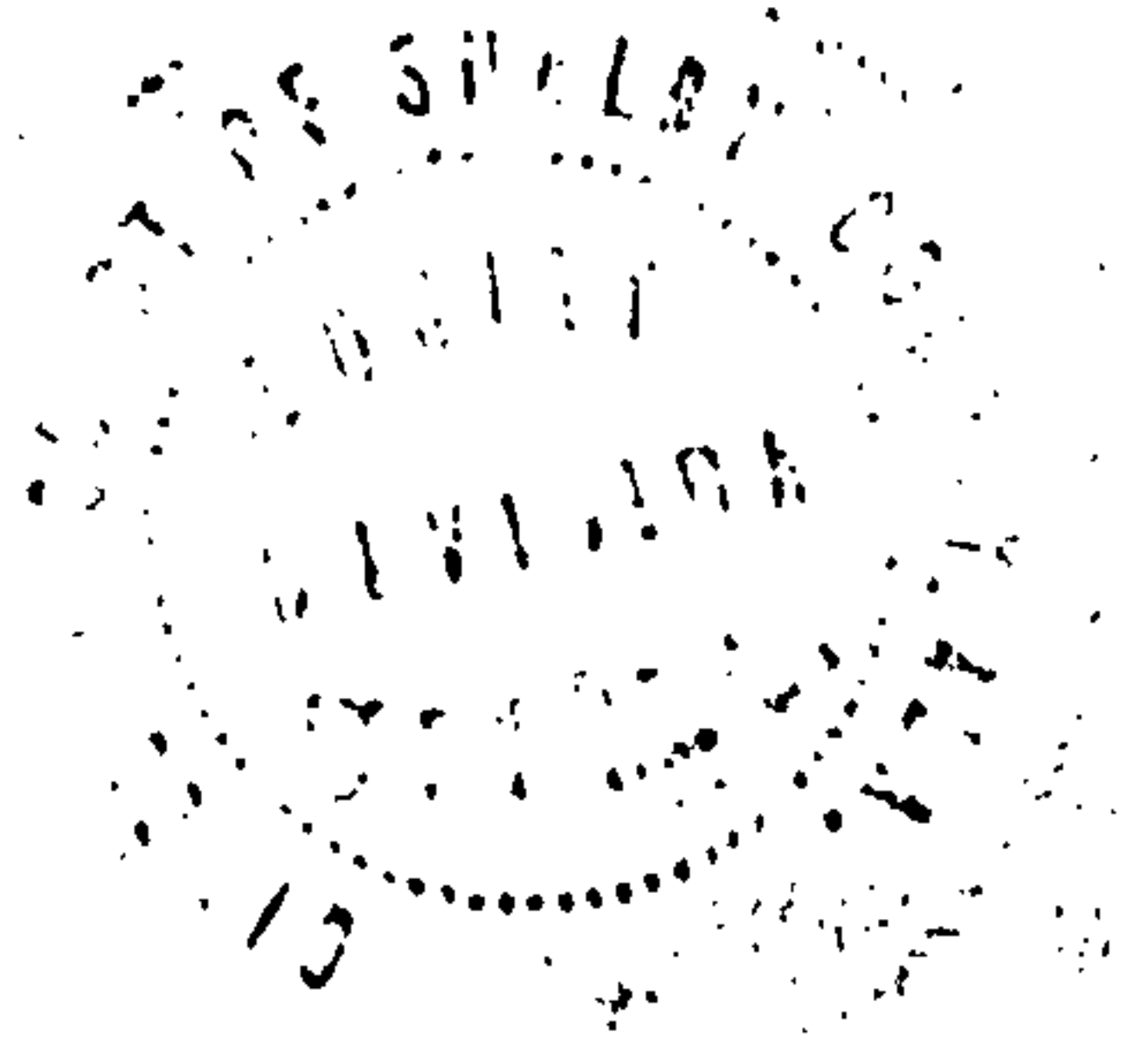
STATE OF ALABAMA,  
SHELBY COUNTY.

I, L. G. Fulton, Register of the Circuit Court of Shelby County, Alabama, hereby certify that the attached and foregoing is a true and correct copy of the FINAL DECREE in the case of MILDRED L. RUTHERFORD, Complainant, vs. Certain lands as described in the Bill of Complaint and Sylvester Steele, et al, Respondents, being docket No. 4660 in said court. The original remains of record and on file in said cause.

Witness my hand this 6th day of March, 1968.



Register



STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED  
1968 MAR 13 AM 9:27  
U.C.C. FILE NUMBER 02  
REC. BY: & PAGE AS SHOWN ABOVE  
Clerk of Court  
JUDGE OF SUPERIOR

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