

2412
B. B. CURRY, ET ALS,
COMPLAINANTS,

VS.

THE HEIRS OR DEVISEES OF
JAMES SMITH, DECEASED, ET ALS,
RESPONDENTS.

IN THE LAW AND EQUITY COURT
OF SHELBY COUNTY, ALABAMA
EQUITY CASE NO. 1738



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Shelby Cnty Judge of Probate, AL
04/07/1971 12:00:00 AM FILED/CERT

FINAL DECREE

This cause coming on for Final Decree on the verified Bill of Complaint, Decree Pro Confesso on Publication, Answer of Guardian ad Litem, and upon the other pleadings and proof as noted by the Register, and the court having considered and understood the same, is of the opinion that the Complainants are entitled to the relief prayed for in their Bill of Complaint, it appearing to the satisfaction of the court as follows:

1. That the Complainants, B. B. Curry, Addye Curry Head, Addie Jayne Curry, Hal Curry, Rush O. Curry, Delilah Curry, Miller, Cullen Curry, Sydney Norris, Bernice Norris Little, Herman C. Little and Will Hamner Little, at the time of the filing of the Bill of Complaint in this cause, in their own right, claimed and owned a fee simple title in and to the following described property:

The SW $\frac{1}{4}$ of NE $\frac{1}{4}$, The West Half of SE $\frac{1}{4}$ of NE $\frac{1}{2}$, the East Half of SE $\frac{1}{4}$ of NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 20, Township 24 North, Range 12 East, minerals and mining rights excepted,

free from all liens and encumbrances, except the lien of current ad valorem taxes.

That said Complainants were, at the time of the filing of said Bill of Complaint in this cause, in actual, peaceable, exclusive, adverse possession of all said real property, and that said Complainants and their predecessors in title have been in the continuous, actual, peaceable, possession of all of said property for more than fifty years next prior to the filing of said Bill of Complaint.

That said Complainants are the owners of the real property described more particularly above, in fee simple, as the sole surviving heirs at law and next of kin of Nannie Curry Moore, deceased, said Nannie Curry Moore having been the sole devisee of her deceased husband, George R. Moore, who was the owner of said property in fee simple at the time of his death, the Last Will and Testament of said George R. Moore having been admitted to probate in Chilton County, Alabama, on, to-wit, June 22, 1925, as shown by certified copy of said Last Will and Testament, and of the Order of the Probate Court of Chilton County, Alabama, admitting said Will to probate, and of the Order of Final Settlement of said Estate, recorded in Deed Book 262 at pages 100-104, Office of Judge of Probate of Shelby County, Alabama, said Nannie Curry Moore having died intestate while a resident of Chilton County, Alabama, on, to-wit, March 8, 1944, as shown by certified copy of portions of the Estate file of said Nannie C. Moore recorded in Deed Book 262 at pages 105-107 in said Probate Office, said Nannie Curry Moore having been the owner of said property in fee simple at the time of her death; that said George R. Moore acquired his title to a portion of said property, viz.:

The SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and W $\frac{1}{2}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$,
Section 20, Township 24, Range 12
East,

under and by virtue of a warranty deed from James Smith and wife, Eliza Smith, dated November 3, 1909, and recorded in Deed Book 42 at page 466 in said Probate Office.

That no person or corporation but the Complainants and their predecessors in title have assessed or paid taxes on said property nor any part thereof for the consecutive ten year period next preceding the filing of said Bill of Complaint other than the Respondent, E. P. Allen, who assessed a portion of said property through the year 1964, but who did not pay taxes under his said assessment for the year 1964, said E. P. Allen having neither assessed any part of said property for taxes subsequent to 1964 nor paid any taxes on any part of said property since 1963; further, that taxes on all of said property have been assessed and paid by the Complainants and their predecessors in title for the whole of the consecutive ten year period next preceding the





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Shelby Cnty Judge of Probate, AL
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filing of this Bill of Complaint, and continuously since 1946.

That the Complainants and their predecessors in title have been in the actual, peaceable, exclusive, notorious, continuous, open, hostile, undisturbed, adverse possession of all said property during all of the twenty or more consecutive years next preceding the filing of said Bill of Complaint, and that the Complainants hold, and they and their predecessors in title have held, color of title to a portion of said property for more than the consecutive twenty year period next preceding the filing of said Bill of Complaint, the said Complainants and their predecessors in title having occupied and possessed all of said property as one parcel or holding during all of said period; that no person or corporation other than said Complainants, possessed, at the time of the filing of the Bill of Complaint in this cause, or during the consecutive twenty year period next preceding the filing of said Bill of Complaint, or during any part of said consecutive twenty year period, said real property or any part thereof.

2. That at the time of the filing of said Bill of Complaint in this cause, no suit was pending to test the Complainants' interest in, title to, or possession of, said property, or the Complainants' right to the possession of such lands.

3. That said Bill of Complaint was, and is, duly verified, and was filed in the Law and Equity Court of Shelby County, Alabama, a Court duly established by law to have concurrent jurisdiction with the Circuit Court of Shelby County, Alabama, in Equity, in and for all equity causes in and for Shelby County, Alabama, the County in which such lands more particularly described above and in said Bill of Complaint lie, and that said Bill of Complaint was filed against said lands and any and all persons claiming or reputed to claim any title to, interest in, lien or encumbrance on said lands, or any part thereof, to establish the right or title to the Complainants to such lands, or their interest therein, and to clear up all doubts or disputes concerning the same, and that said Bill of Complaint did in all respects

comply with the provisions of Code of Alabama 1940, as last amended and recompiled, Title 7, Section 1116, et seq..

4. That the Complainants have exercised due and reasonable diligence to locate the whereabouts of all parties and Respondents who claim or who are reputed to claim the said real property, or any part thereof, or any title to, interest in, or lien or encumbrance on the said real property, or any part thereof, and that the interests of all parties owning or claiming such real property, or any part thereof, or any title to, or interest in, or lien or encumbrance on the said real property, or any part thereof, are before this Court, said parties all being brought before the Court in strict accordance and compliance with the provisions of Code of Alabama 1940, as last amended and recompiled, Title 7, Section 1116, et seq..

5. That all Respondents to this cause were each served with notice and process in this cause as required by Equity Rules and by the procedures and provisions set forth in Code of Alabama 1940, as last amended and recompiled, Title 7, Section 1116, et seq..

6. That Notice of the pendency of the said Bill of Complaint was drawn and signed by the Register of this Court, and that said Register did have said Notice published once a week for four consecutive weeks, to-wit, November 19 and 26, and December 3 and 10, 1970, in the Shelby County Reporter, a newspaper having general circulation and published in the County of Shelby, Alabama, and authorized by law to receive and publish legal advertisements, where the said real property described in the Bill of Complaint lies, and said Register also did post a copy of said Notice certified by said Register as being correct at the front door of the Courthouse of Shelby County, Alabama, immediately after drawing and signing the same, and did file a copy of said Notice certified by said Register as being correct, in the Office of the Judge of Probate of Shelby County, Alabama, immediately after drawing and signing the same, and did have said filed copy of said Notice recorded in a lis pendens in Lis Pendens Record 4 at pages 612-615 in said Office of the Judge of Probate of Shelby County, Alabama,



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Shelby Cnty Judge of Probate, AL
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said Notice being in strict accord and compliance with Code of Alabama 1940, Title 7, Section 1121, as amended, and published and recorded in strict accord and compliance with Code of Alabama 1940, Title 7, Sections 119 and 1120; that said Notice, was addressed to all Respondents to this cause, and set out the addresses of all Respondents to this cause whose addresses were known according to affidavits filed in this cause; that said Notice was also addressed to unknown parties and to parties whose whereabouts are not known, and parties who conceal themselves so that process cannot be served on them, and to the real property described above in the Bill of Complaint, and to all persons or corporations claiming any title to, interest in, or lien or encumbrance on said property, or any part thereof, and all other persons; that said Notice directed said Respondents to plead, answer, or demur to the Bill of Complaint before January 19, 1971, or suffer decrees pro confesso be taken against those not answering; that said Notice set out the date of the filing of the Bill of Complaint, to-wit, November 13, 1970, and the fact that it was filed against the land, or the interest therein, in controversy; that said Notice also contained an accurate description of the land, or interest therein, which is the subject matter of the suit, and stated by what title the Complainants claim said lands, or their interest therein which is sought to be established, and from whom and how such interest or titles so claimed were obtained.

7. That on the filing of said Bill of Complaint, Hon. Wade H. Morton, Jr., a practicing Attorney of the Columbiana, Alabama, Bar was duly appointed as a guardian ad litem by the Register of this Court to represent and defend the interest of the Respondents who may be infants, persons of unsound mind, persons in the Armed Forces of the United States, and persons under any legal disability, and unknown parties to this cause, in strict accord and compliance with Code of Alabama 1940, Title 7, Section 1117 (1), and that said guardian ad litem did accept said appointment and did file an answer on behalf of those whom he

represented denying each and every allegation of the Bill of Complaint and demanding strict proof thereof.

8. That more than sixty days have expired from the first publication of the said Notice and from the filing of the said certified copy of said Notice in the Probate Court of Shelby County, Alabama, and that all Respondents to this cause have answered or have suffered decrees pro confesso to be taken against them and that at least one day has elapsed since the rendition of said decrees pro confesso; that no demurrers have been filed against the said Bill of Complaint, and that no person or corporation has intervened in this said cause.

9. That the allegations of fact contained in said verified Bill of Complaint are true, and that any title of the Respondents in and to the subject property, if any they ever had, has been defeated by adverse possession or by repose.

IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court that the Complainants are entitled to the relief prayed for in ~~the~~ Bill of Complaint in this cause, and that the fee simple title claimed by the Complainants in the above described lands has been duly proven.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court that the Complainants, B. B. Curry, Addye Curry Head, Addie Jayne Curry, Hal Curry, Rush O. Curry, Delilah Curry Miller, Cullen Curry, Sydney Norris, Bernice Norris Little, Herman C. Little and Will Hamner Little are the owners of the lands and real property described above more particularly in Paragraph No. 1 and have a fee simple title thereto, free from all liens and encumbrances except for lien for current ad valorem taxes, and that their title thereto be, and hereby is, established and confirmed, and that all doubts and disputes concerning the same be and are hereby declared to be cleared up, and that the absolute title in fee simple in and to said lands and real property be, and the same is hereby forever quieted in rem in said B. B. Curry, Addye Curry Head, Addie Jayne Curry, Hal Curry, Rush O. Curry, Delilah Curry Miller, Cullen Curry, Sydney Norris,

BOOK 267 PAGE 41



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Shelby Cnty Judge of Probate, AL
04/07/1971 12:00:00 AM FILED/CERT



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Shelby Cnty Judge of Probate, AL
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Bernice Norris Little, Herman C. Little and Will Hamner Little, their successors and assigns forever, free from all other title, liens, interest, or encumbrances, and that the Respondents to this cause are hereby declared to have no title to, interest in, claim to, or lien or encumbrance on said property, or any part thereof, and each and all of said Respondents are forever enjoined from claiming any interest whatsoever in and to said lands and real property, not acquired hereafter.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court that a copy of this decree certified by the Register as being correct 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 Respondents to this cause, and also in the name of the Complainants, on both the direct index and the indirect index, and that the recording fee therefor be taxed as part of the costs in this cause.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court that the costs in this proceedings, including a fee of \$ 100.00 to be paid to the guardian ad litem for his services in this cause, which sum is considered by the Court to be a reasonable fee for said guardian ad litem for said services, be and the same are hereby taxed against said Complainants, for which let execution issue.

DONE AND ORDERED this 24th day of February, 1971.

s/Loren J. Bullock

Judge of the Law and Equity Court of
Shelby County, Alabama

STATE OF ALABAMA

SHELBY COUNTY

I, Kyle Lansford, Register of the Law and Equity Court of Shelby County, Alabama, do hereby certify that the foregoing is a true and correct copy of the original decree entered and

rendered by the Judge of the Law and Equity Court of Shelby County, Alabama, in the above styled cause, which said decree is on file and enrolled in my office.

Witness my hand and seal this the 24 day of February, 1971

Kerle Lawford

Register of the Law and Equity Court of
Shelby County, Alabama



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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

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REC. EX. & PAGE AS SHOWN ABOVE

Conrad M. Butler
NOTARY OF PROBATE