

3165

LEWIS B. WALKER, and wife
IMOGENE T. WALKER,

Plaintiffs,

vs.

Lot in SE $\frac{1}{4}$ of NW $\frac{1}{4}$ and in SW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 1, Township 22 South, Range 1 West described as follows: Begin where West line of Columbiana-Shelby road crosses North line of SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and run SE along road 75 feet to point of beginning; thence Westerly direction 405 feet to East boundary of L & N Railroad; thence Southerly along Railroad right of way 140 feet; thence Easterly 439 feet to Columbiana-Shelby Road; thence NW along road to point of beginning, Shelby County, Alabama; The heirs or devisees of Mrs. W. A. Parker, deceased; the heirs or devisees of Mrs. Sue C. Bird, deceased; Perry Bird, who is suspected to be of unsound mind, and his heirs or devisees, if deceased; Imogene Bird and her heirs or devisees, if deceased; the heirs or devisees of Gerald Bird, deceased; Sue Williams Deily and her heirs or devisees, if deceased; O. Richard Williams and his heirs or devisees, if deceased; Betty Williams Brandes and her heirs or devisees, if deceased; Hazel Bird O'Brian and her heirs or devisees, if deceased; Rebecca Bird and her heirs or devisees, if deceased; the heirs or devisees of Mrs. J. R. Hill, deceased; Bye Hill Lister and her heirs or devisees, if deceased; J. R. Hill and his heirs or devisees, if deceased; Irma Hill Lynam and her heirs or devisees, if deceased; the heirs or devisees of Givhan Hill, deceased; the heirs or devisees of Mrs. Rachel E. Milner, deceased; the heirs or devisees of T. Wilson Milner, deceased; the heirs or devisees of Bessie Milner, deceased; the heirs or devisees of Joe W. Milner, deceased; the heirs or devisees of Robert H. Milner, deceased; the heirs or devisees of E. Clifton Milner, deceased; the heirs or devisees of Marie Milner Boddie, deceased; Ida Lee Cowling and her heirs or devisees, if deceased; the heirs or devisees of Dr. E. C. Parker, deceased; T. W. Milner, Jr., Rachael M. Weatherford, Nancy M. Lundy, Mary Joe M. Keel, Walter D. Milner, Hulda M. Carver, Sarah B. Buffington, Nathan V. Boddie, Olivia W. Milner, R. H. Milner, Jr., John K. Milner, III, Olivia M. Burnett, Mildred A. Muths, E. Clifton Milner, Jr., Phyllis M. Hines, Mildred M. Smith, and such persons and the heirs or devisees of such persons, if deceased, who unknown to the plaintiffs claim or are reputed to claim any title to or interest in, or lien or encumbrance on said lands or any part thereof, and all claimants, persons, associations, or corporations who unknown to the plaintiffs claim or are reputed to claim an interest in or to the above described property or any part thereof;

Defendants.

IN THE CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA

CIVIL ACTION NO. E-74-73



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Shelby Cnty Judge of Probate, AL
01/21/1974 12:00:00 AM FILED/CERT

FILED IN OFFICE, This the 16th day
of January 197 4
Rylee Lansford

Register Circuit Court of
Shelby County, Alabama

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Shelby Cnty Judge of Probate, AL
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FINAL DECREE

1. R. Hill, Irma Hill Lyness, Ida Lee Cowling, and whether the said persons are
This cause coming on to be heard was submitted for final decree upon
alive, and, if deceased, the names, ages and whereabouts of their respective heirs or
the plaintiffs' verified complaint, the default judgment rendered herein, the
devises, and has been unable to do so.
answer of the guardian ad litem, the testimony under oath of Sadie Pate

2. The plaintiffs do not know the names, present address, and whereabouts
Benson, Imogene T. Walker, Conrad M. Fowler, Jr., Thomas A. Snowden, and Fay
of the heirs or devisees of Mrs. W. A. Parker, Mrs. Sue C. Bird, and Mrs. F. Quick, heard in open court this date, January 16, 1974, at 1:30 P.M., and
Mrs. J. R. Hill, Givens Hill, Mrs. Rachel E. Milner, T. Wilson Milner, Sadie
the pleadings and proof as shown by file in said cause, the Court, considering
Milner, Joe W. Milner, Robert M. Milner, E. Clifton Milner, Marie Milner, and
only such proof and testimony as is relevant, material, competent and legal, finds
and Dr. E. C. Parker. Plaintiffs have exercised reasonable diligence trying to
the facts, states its conclusions, and renders its decree as follows:
determine such matters and have been unable to do so.

3. The plaintiffs, after FINDINGS OF FACT reasonable diligence, have been unable
to ascertain and do not know the names, ages or whereabouts, or mental capacities,

1. The plaintiffs, at the time of filing their verified complaint in
of any parties defendant to this cause as set out hereinabove in paragraphs
this cause, claimed in their own right to own an absolute fee simple title to,
and 5, or whether any such parties are living or dead,
and were in the actual, peaceable possession of, the lands described in the

2. The plaintiffs, after exercising reasonable diligence, have been able
complaint as follows:

to ascertain and do not know the names, ages or whereabouts, of the following parties
Lot in SE $\frac{1}{4}$ of NW $\frac{1}{4}$ and in SW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 1, Township 22 South,
Range 1 West described as follows: Begin where West line of, Nancy M. Landry,
Columbiana-Shelby road crosses North line of SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and run
SE along road 75 feet to point of beginning; thence Westerly, direction 405 feet to East boundary of L & N Railroad; thence
Southerly along Railroad right of way 140 feet; thence Easterly
439 feet to Columbiana-Shelby Road; thence NW along road to point
of beginning, Shelby County, Alabama.

3. At the time of filing of said complaint, no suit was pending to test
the plaintiffs' title to, interest in, or right to possession of said lands,
Said 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 complaint
did in all respects comply with the provisions of the law.

4. The plaintiffs do not know the present address and whereabouts of
defendants, Perry Bird, Imogene Bird, Sue Williams Deily, O. Richard Williams,
Betty Williams Brandes, Hazel Bird O'Brian, Rebecca Bird, Bye Hill Lister,
J. R. Hill, Irma Hill Lyness, Ida Lee Cowling, and plaintiffs do not know
whether the said persons are alive. The plaintiffs have exercised reasonable
diligence in trying to determine the present address and whereabouts of the
said Perry Bird, Imogene Bird, Sue Williams Deily, O. Richard Williams,
Betty Williams Brandes, Hazel Bird O'Brian, Rebecca Bird, Bye Hill Lister,



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J. R. Hill, Irma Hill Lynam, Ida Lee Cowling, and whether the said persons are alive, and, if deceased, the names, ages and addresses of their respective heirs or devisees, and has been unable to do so.

5. The plaintiffs do not know the names, present address, and whereabouts of the heirs or devisees of Mrs. W. A. Parker, Mrs. Sue C. Bird, Gerald Bird, Mrs. J. R. Hill, Givhan Hill, Mrs. Rachel E. Milner, T. Wilson Milner, Bessie Milner, Joe W. Milner, Robert H. Milner, E. Clifton Milner, Marie Milner Boddie, and Dr. E. C. Parker. Plaintiffs have exercised reasonable diligence trying to determine such matters and have been unable to do so.

6. The plaintiffs, after exercising reasonable diligence, have been unable to ascertain and do not know the names, ages or whereabouts, or mental capacities, of any parties defendant to this cause as set out hereinabove in paragraphs 4 and 5, or whether any such parties are living or dead.

7. The plaintiffs, after exercising reasonable diligence, have been able to ascertain and do know the names, ages or whereabouts, of the following parties defendant to this cause: T. W. Milner, Jr., Rachael M. Weatherford, Nancy M. Landy, Mary Joe M. Keel, Walter D. Milner, Hulda M. Carver, Sarah B. Buffington, Nathan V. Boddie, Olivia W. Milner, R. H. Milner, Jr., John K. Milner, III, Olivia M. Burnett, Mildred A. Muths, E. Clifton Milner, Jr., Phyllis M. Hines and Mildred M. Smith, and all of the aforementioned are over the age of twenty-one years.

8. The plaintiffs and those through whom they claim have held color of title to and have been in the actual and peaceable possession of said land for ten years immediately preceding the filing of the 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.

CONCLUSIONS OF LAW

9. The plaintiffs and those through whom they claim have assessed said lands for ad valorem taxes for each of the ten years next preceding the filing of the 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.

10. Notice of pendency of the 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



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by a rule of this Court or order made in this cause.

if ~~delivered~~ 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, Alabama. if deceased; the heirs or devisees of Mrs. J. R. Hill, deceased; 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. More than thirty days have elapsed since perfection of service upon said non-resident defendants, separately and severally as set out hereinabove in paragraph 7, by Registered Mail, as provided by law and in under the orders of the Court. deceased; the heirs or devisees of Robert J. Hill, deceased; 13. No person, association, or corporation has intervened in this cause, or 14. The guardian ad litem heretofore appointed to represent all the or defendants in this cause who are under the age of twenty-one years, incompetent, unknown or in the military service of the United States of America, accepted his appointment as guardian ad litem and filed an answer denying the averments of the complaint and demanding strict proof thereof, and said guardian ad litem was present at the taking of the necessary testimony and proof in open court in this cause and fully and adequately represented the interests of all minors, incompetents, unknown parties and parties in the military service of the United States of America, and no other defendant to this cause filed a pleading or answer to the complaint within the time allowed by law, and a default judgment was taken against such parties, in or to the above described property or any part thereof.

15. Each of the averments of fact in the complaint is true.

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,

CONCLUSIONS OF LAW

1. This cause was properly brought as an in rem action against said lands, or lien or encumbrance on said lands or any part thereof will be finally and

2. This cause was also properly brought against the heirs or devisees conclusively determined by this decree.

of Mrs. W. A. Parker, deceased; the heirs or devisees of Mrs. Sue C. Bird,

deceased; Perry Bird, who is suspected to be of unsound mind, and his heirs

or devisees, if deceased; Imogene Bird and her heirs or devisees, if deceased;

the heirs or devisees of Gerald Bird, deceased; Sue Williams Deily and her

heirs or devisees, if deceased; O. Richard Williams and his heirs or devisees,

and the fee simple title claimed by plaintiffs in said lands has been duly proven.

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3. The plaintiffs are the owners of said lands and have an absolute fee simple title thereto, free of all liens or encumbrances except the lien for

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and delinquent ad valorem taxes and assessments, if any, created by instruments
if deceased, Betty Williams Brandes and her heirs or devisees, if deceased;
Hazel Bird O'Brian and her heirs or devisees, if deceased; Rebecca Bird and her
heirs or devisees, if deceased; the heirs or devisees of Mrs. J. R. Hill,
deceased; Bye Hill Lister and her heirs or devisees, if deceased; J. R. Hill and
his heirs or devisees, if deceased; Irma Hill Lynam and her heirs or devisees,
if deceased; the heirs or devisees of Givhan Hill, deceased; the heirs or
devisees of Mrs. Rachel E. Milner, deceased; the heirs or devisees of T. Wilson
Milner, deceased; the heirs or devisees of Bessie Milner, deceased; the heirs
or devisees of Joe W. Milner, deceased; the heirs or devisees of Robert H.
Milner, deceased; the heirs or devisees of E. Clifton Milner, deceased; the heirs
or devisees of Marie Milner Boddie, deceased; Ida Lee Cowling and her heirs or
devisees, if deceased; the heirs or devisees of Dr. E. C. Parker, deceased;
T. W. Milner, Jr., Rachael M. Weatherford, Nancy M. Lundy, Mary Joe M. Keel,
Walter D. Milner, Hulda M. Carver, Sarah B. Buffington, Nathan V. Boddie,
Olivia W. Milner, R. H. Milner, Jr., John K. Milner, III, Olivia M. Burnett,
Mildred A. Muths, E. Clifton Milner, Jr., Phyllis M. Hines, Mildred M. Smith, and
such persons and the heirs or devisees of such persons, if deceased, who unknown
to the plaintiffs claim or are reputed to claim any title to or interest in, or
lien or encumbrance on said lands or any part thereof, and all claimants, persons,
associations, or corporations who unknown to the plaintiffs claim or are reputed
to claim an interest in or to the above described property 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
correctly copy of the final decree entered in the above and foregoing suit.
conclusively determined by this decree.

WITNESS MY HAND AND SEAL OF OFFICE this the 15 day of January, 1974.

DECREE

IT IS, THEREFORE, upon consideration of this Court,
ORDERED, CONSIDERED, ADJUDGED and DECREED by this Court as follows:

1. The plaintiffs are entitled to the relief prayed for in their complaint,
and the fee simple title claimed by plaintiffs in said lands has been duly proven.
2. The plaintiffs are the owners of said lands and have an absolute fee
simple title thereto, free of all liens or encumbrances except the lien for



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non delinquent ad valorem taxes and easements, if any, created by instruments

recorded in Deed Book 165 at Page 129, Deed Book 232 at Page 97, Deed Book

232 at Page 149, and Deed Book 146 at Page 38, respectively, in the Office of the

Judge of Probate of Shelby County, Alabama, and except the mortgage recorded

in Mortgage Book 331, Page 370, in said Probate records, and their said title

thereto is hereby established, and all doubts and disputes concerning the same

are hereby cleared up; thence Westerly

None of the defendants in this cause have any right, title, interest,

lien or encumbrance on said land or any part thereof.

A certified copy of this decree be recorded in the Office of the Judge

of Probate of Shelby County, Alabama, and be indexed in the name of Lewis B.

Walker and Imogene T. Walker, both on the direct and indirect index of record

thereof, if deceased; the heirs or devisees

The guardian ad litem in this cause is awarded the amount of \$ 50.00

as payment for his services as such guardian ad litem, the same to be taxed as

a part of the costs herein or devisees,

The plaintiffs shall pay the costs of this proceedings, for which let

of J. B. Hill, deceased; Eye Hill, sister

and execution issue, if deceased;

devisees, if deceased; the heirs or devisees

devisees of Mrs. Rachel E. Milner, deceased;

heirs or devisees of T. Wilson Milner

heirs or devisees of Beattie

heirs or devisees of Marie

I, the undersigned, Kyle Lansford, 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 final decree entered in the above and foregoing suit.

WITNESS MY HAND AND SEAL OF OFFICE this the 16th day of January, 1974.

Clifford B. Saffington, Patricia V. Reddie,

Clifford W. Milner, R. H. Milner, Jr., John

Clifford, III, Olivia M. Burnett, Mildred

Clifford, R. Clifton Milner, Jr., Phyllis

Clifford, Mildred M. Smith, and such persons

heirs or devisees of such persons

known to the plaintiffs

claim or are reputed to claim any title

to or interest in, or lien or encumbrance

James H. Sharbutt
Circuit Judge of Shelby County, Alabama

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
JAN 21 AM 3:30
U.C.C. FILE NUMBER
BK. & PAGE AS SHOWN ABOVE
Correct by [Signature]
JUDGE OF PROBATE

Kyle Lansford
Register

Kyle Lansford
16th day
January 1974
Register Circuit Court of
Shelby County, Alabama