

IN THE CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA

9654

WILLIAM ERNEST CARDEN,

X

Plaintiff,

X

vs.

X CIVIL ACTION NO. E-79-73

CERTAIN LAND; ELMER CARDEN and
ELNER MAE GLASS, et al,

X

Defendants.

X

FINAL JUDGMENT



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Shelby Cnty Judge of Probate, AL
06/13/1977 12:00:00 AM FILED/CERT

This cause, coming on to be heard on the various pleadings heretofore filed herein, and on testimony presented ore tenus, exhibits introduced by the parties and depositions taken in this cause, and,

The Court being advised, in the course of hearing on Dec. 7, 1976, that the parties have reached an agreement among themselves, which agreement is dispositive of all the issues raised among the various parties in this proceeding, and in other civil and criminal actions now pending before the Court, and

The Court being fully advised of the terms and conditions of said agreement, and being familiar with the issues and most of the evidence in the case, finds that said disposition agreed upon by the parties is just and equitable, and in the best interest of all the parties. It is, therefore,

Upon consent of parties, CONSIDERED, ORDERED, ADJUDGED and DECREED by the Court as follows:

1. That all claims of defendant-cross plaintiff Elner Mae Glass in this cause, whether for money damages, injunctive relief, title to land, or otherwise, be, and the same hereby are denied and dismissed with prejudice, and it is specifically ordered, adjudged and decreed that the said Elner Mae Glass has no right, title or interest in or to any of the land described in any pleading in this cause.

2. Defendant-cross plaintiff Elmer Carden is vested with the full right, title and interest in and to the following lands situated in Shelby County, Alabama:

The NW 1/4 of SE 1/4 of Section 12, Township 24 North, Range 15 East, less and except 12 acres across the North side of said quarter-quarter section, and also less and except the following described property: Commence at the Southwest corner of the NW 1/4 of SE 1/4 of Section 12, Township 24 North, Range 15 East, and thence run North 2 deg. 15 min. East along the West line of said forty acres 468.0 feet to a point on the North right of way of a public road and the point of beginning of the parcel herein described; thence continue along the North right of way of said road, five lines, viz.--58 deg. 30 min. right 113.0 feet; 4 deg. 00 min. left 399.0 feet; 13 deg. 30 min. left 69.0 feet; 20 deg. 30 min. left 81.0 feet; and 7 deg. 00 min. right 141.0 feet--thence, leaving said road, 117 deg. 00 min. left 490.0 feet to a point on the West line of said forty acres; thence South along the West line of said forty acres 91 deg. 00 min. left 488.7 feet to the point of beginning, said parcel containing 3.39 acres, more or less, according to survey of J. R. McMillen, dated December 11, 1961.

It is, by the Court, further considered, ordered, adjudged and decreed, that the claims of all other parties to this cause, other than the said Elmer Carden, to any right, title and interest in and to the land described in this numbered paragraph be, and they hereby are, denied and dismissed with prejudice, and the title of the said Elmer Carden to said lands so described herein is quieted in the said Elmer Carden against all said other parties, and is quieted in rem.

It is further ordered that this judgment operate as a conveyance to the said Elmer Carden of the land herein described, and that J. W. Carden cause a conveyance to the same effect to be executed by himself and his spouse.

3. That, except for the land described in the last foregoing paragraph hereof, Elmer Carden is divested of any right, title and interest in and to any of the other land which is the subject matter of this cause, and every other claim for relief of any type asserted herein by the said Elmer Carden, whether for title to land, money damages, injunctive relief or otherwise, is hereby denied and dismissed with prejudice.

4. That added plaintiff Handy E. Stinson, be, and he hereby is, vested with the full right, title and interest in and to the following described land situated in Shelby County, Alabama, and all other parties hereto are divested of any right, title or interest in and to the same:

From the SW corner of the NW 1/4 of the SE 1/4, Section 12, Township 24 North, Range 15 East, run Northerly along the West line of said 1/4 1/4 Section 467.43 feet; thence turn right an angle of 54. deg. 00' and run Northeasterly 200.40 feet to point of beginning of land herein described; thence continue Northeasterly on same course 175.77 feet; thence turn left an angle of 10 deg. 08' and run Northeasterly 113.36 feet; thence turn left an angle of 15 deg. 54' and run Northeasterly 188.59 feet; thence turn left an angle of 117 deg. 58' and run Westerly 308.74 feet; thence turn left 90 deg. 00' and run Southerly 350.90 feet to point of beginning. This being a part of the NW 1/4 of the SE 1/4, Section 12, Township 24 North, Range 15 East.

From the SW corner of the NW 1/4 of the SE 1/4 of Section 12, Township 24 North, Range 15 East run Northerly along the West line of said 1/4 1/4 Section 951.93 feet; thence turn right an angle of 90 deg. 00' and run Easterly 73.42 feet to point of beginning of land herein described; thence continue Easterly 73.42 feet; thence turn left an angle of 90 deg. 00' and run Northerly 333.00 feet more or less to the South shore of Lay Lake; thence run Southwesterly along said shore line 80.00 feet more or less to the West boundary of said land herein described; thence run Southerly and parallel with the West line of said 1/4 1/4 Section 299.00 feet more or less to the point of beginning. Being a part of the NW 1/4 of the SE 1/4, Section 12, Township 24 North, Range 15 East.

5. That added plaintiff Paul T. Stinson, be, and he hereby is, vested with the full right, title and interest in and to the following described land situated in Shelby County, Alabama, and all other parties hereto are divested of any right, title or interest in and to the same:

From the SW corner of NW 1/4 of the SE 1/4 of Section 12, Township 24 North, Range 15 East, run Northerly along West line of said 1/4 1/4 Section 467.43 feet to a point on the North side of a Shelby County Paved Road, this being a point of beginning of land herein described; thence continue Northerly on same course 469.50 feet; thence turn right an angle of 90 deg. 00' and run Easterly 146.84 feet; thence turn right an angle of 90 deg. 00' and run Southerly 361.90 feet; thence turn right an angle of 54 deg. 00' and run Southwesterly 181.86 feet to point of beginning. Being a part of the NW 1/4 of the SE 1/4, Section 12, Township 24 North, Range 15 East.



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From the SW corner of the NW 1/4 of the SE 1/4, Section 12, Township 24 North, Range 15 East run northerly along the west line of said 1/4 1/4 Section 951.93 feet to point of beginning of land herein described; thence continue Northerly on same course 273.00 feet, more or less, to the South shore line of Lay Lake, thence run Northeasterly along said shore line 80.00 feet more or less to the East boundary line of said land herein described; thence run Southerly and parallel to the West line of said 1/4 1/4 Section 299.00 feet, more or less; thence turn right an angle of 90 deg. 00' and run Westerly 73.42 feet to point of beginnin. Being a part of the NW 1/4 of the SE 1/4, Section 12, Township 24 North, Range 15 East.

6. That added plaintiff Russell R. Carden, be, and he hereby is, vested with the full right, title and interest in and to the following described land situated in Shelby County, Alabama, and all other parties hereto are divested of any right, title or interest in and to the same:

From the NW corner of Section 11, Township 24 North, Range 15 East, run East along the north boundary line of said Section 11 a distance of 3816.0 feet to the point of beginning of herein described parcel of land; thence turn 101 deg. 38' right and run 364.7 feet; thence turn 101 deg. 38' left and run 737.5 feet; thence turn 68 deg. 33' left and run 383.8 feet; thence turn 111 deg. 27' left and run 804.2 feet to the point of beginning of herein described parcel of land containing 6.32 acres.

7. That added plaintiffs J. W. Carden and wife, Leverne Carden, be, and they hereby are, vested with the full right, title and interest in and to the following described land situated in Shelby County, Alabama, and all other parties hereto are divested of any right, title or interest in and to the same:

Commence at the northwest corner of Section 11, T 24 N, R 15 E and run east along the north boundary of said section a distance of 3816.05 feet to the northwest corner of the Roger Carden property; thence turn an angle of 101° 38' to the right and run a distance of 364.70 feet to the southwest corner of said property; thence turn an angle of 38° 16' to the left and run a distance of 503.81 feet to the point of beginning on the southeast 40 foot right of way line of Shelby County Highway #71; thence turn an angle of 46° 44' to the left and run a distance of 270.00 feet to a point; thence turn an angle of 104° 00' to the right and run a distance of 479.50 feet to a point; thence turn an angle of 59° 05' to the right and run a distance of 305.34 feet to a point on the southeast 40 foot right of way line of said Shelby County Highway #71; thence turn an angle of 120° 55' to the right and run a distance of 570 feet to the point of beginning.

Said parcel of land is located in the NE 1/4 of Section 11, T 24 N, R 15 E and contains 3.6 acres, more or less, subject to road easements.

8. That the full fee simple right, title and interest in and to the following land situated in Shelby County, Alabama, be, and the same hereby is, vested in William Ernest Carden, subject to the exceptions hereinafter stated:

The North half of the NE 1/4 of Section 11, Township 24 North, Range 15 East.

The SW 1/4 of the NW 1/4 of Section 13, Township 24 North, Range 15 East.

Ten acre square in the SE corner of the SW 1/4 of NE 1/4 of Section 14, Township 24 North, Range 15 East.

The NW 1/4 of the SE 1/4, except ten acre square in the SW corner of Section 14, Township 24 North, Range 15 East.

(A) The exceptions to said title in William Ernest Carden are that property described in Paragraph 6 of this judgment as being the property of Russell R. Carden; that property described in Paragraph 7 of this judgment as being the property of J. W. Carden and Leverne Carden; that property conveyed to Alabama Power Company by William Ernest Carden as described in Deed Book 237, Page 32, Shelby County Probate Office; and except easements granted by William Ernest Carden to Alabama Power Company, and excepting existing public road rights of way heretofore granted by the said William Ernest Carden.

Subject to the exceptions stated herein, the said William Ernest Carden is declared to be the owner in fee simple of the land described in this paragraph of this judgment, and the title thereto is quieted in the said William Ernest Carden against all parties to this action, and in rem. This judgment shall operate as a conveyance, but Elmer Carden and Elner Mae Glass shall cause appropriate quit claim deeds to be executed by themselves and by their spouses, conveying all their right, title and interest in and to all of the property described in this paragraph, without the exceptions herein stated, to the said William Ernest Carden.

9. This judgment constitutes a final disposition of the various claims asserted by the adverse parties hereto, each against the other, and no party shall have or take anything from any other party, except

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as expressly provided herein. All other claims of any party against the other arising from any of the issues placed in litigation in this or the other actions between these and other parties being disposed of and dismissed concurrently herewith, are otherwise denied and dismissed with prejudice. There are no other presently existing actions or causes of action between any of the parties hereto which are not hereby put to rest, and each party is released from any claim, right or cause of action that any other party hereto might have heretofore had against such party.

10. If he has not heretofore received the same, Elmer Carden shall receive the following personal property as being his personal property:

- (A) Any furniture remaining in what the plaintiffs have referred to as "Pete's house", and defendant, Elmer Carden has referred to as his own house.
- (B) The two horse wagon located in the loft of the barn and the sorghum pan located in the loft, as well as any remaining grist mill parts. Plaintiffs will place the wagon, the sorghum pan and the grist mill parts adjacent to the house referred to in (A) above, and defendant, Elmer Carden, will pick those items/^{up}within ten days.
- (C) A mule mowing machine, which will be placed by the plaintiffs at the house referred to above.
- (D) Defendant, Elmer Carden, states that there remain on the property some tools of his, although these are not specified and plaintiffs cannot identify any remaining tools. If these exist, they are in a stack or pile of metal at the edge of the Gulf property, and defendant, Elmer Carden, will remove these himself.

11. Each party will deliver to the party determined by this judgment to have title to any real estate described herein, any documents in their possession constituting chain of title to such real estate.

12. Several other civil matters have been disposed of as a part of this settlement, by separate orders entered in those respective cases. These dispositions include the case of Bill Carden vs. Ernest Carden, et al, Circuit Court, No. L-198-74, in which a judgment for \$300.00 and costs of court was rendered in favor of the plaintiff. The Court is advised by counsel for

Ernest Carden that the judgment and costs have been paid in that cause. In cases Numbered L-197-74, E 302-74 and L-43-73, with each case involving some of the parties to this cause, said cases were dismissed with prejudice on consent of parties, and each party was taxed with his own costs. The Court reaffirms such disposition.

13. The charges in several criminal cases pending in the Circuit Court of Shelby County, Alabama, were dismissed as a part of the settlement of this cause, said action being taken with the consent of the complaining parties in each case and with the consent of the District Attorney, with costs taxed against the State of Alabama. These cases and the defendants therein are as follows:

State vs. Russell Roger Carden,
Cases Numbered 12235 and 12237;

State vs. Ernest Carden,
Cases Numbered 12234 and 12238;

State vs. J. W. Carden,
Cases Numbered 12233 and 12239.



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The Court reaffirms the disposition of these cases as a part of this settlement.

14. Each party hereto shall be responsible for the payment of the fee of his attorney of record.

15. Costs of court are taxed to the respective parties. Costs of plaintiffs and cross-defendants are taxed against William Ernest Carden, and costs of defendants-cross plaintiffs are taxed to Elmer Carden and Elner Mae Carden, for all of which let execution issue.

DONE and ORDERED this the 20th day of December, 1976.

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

1977 JUN 13 AM 10:33

Thomas A. Snowdon, Jr.
JUDGE OF PROBATE

Re. 10.50
In 1.00
\$ 11.50

James H. Sharbutt
JAMES H. SHARBUTT, CIRCUIT JUDGE

FILED IN OFFICE, This the 20th day
of Dec 1976

Certified a true and complete copy.

Kyle Sanford
Register of Circuit Court

Kyle Sanford
Register Circuit Court of
Shelby County, Alabama