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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED IN CLERK'S OFFICE

APR 3 1978

JAMES E. VANDEGRIFT, CLERK
UNITED STATES DISTRICT COURT
BY *[Signature]*

R. WAYNE GORDON,
Plaintiff

v.

WILLIAM M. BATES, et al.,
Defendants

CIVIL ACTION NO. 77-G-0345-S



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Shelby Cnty Judge of Probate, AL
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FINAL JUDGMENT

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BOOK

This cause was tried before this Court on March 8, 1978 and on March 22, 1978. The case was submitted for final decree upon the plaintiff's verified complaint, the testimony of Jim Haines and Harris M. Gordon, stipulations of the parties, and documentary evidence. Plaintiff R. Wayne Gordon, a resident citizen of the State of Washington, files this in rem quiet title action as owner in fee simple of the following described lands:

The NE 1/4, the NE 1/4 of the SE 1/4, and the South 1/2 of the NE 1/4 of the NW 1/4 of Section 27; and the NW 1/4 of the SW 1/4 of Section 26, all situated in Township 24, Range 15 East, in Shelby County, Alabama.

The plaintiff filed this suit seeking to quiet title on the above lands and seeking a declaratory judgment of this Court that he, through his predecessors in title, is the sole owner in fee simple of the said lands; that he and his predecessors in title have been in possession of the aforesaid lands for approximately forty-five continuous years prior to filing this lawsuit, without any adverse claim by anyone. Plaintiff named five defendants in this suit: William M. Bates, Louise McNath, Willard McNath, Sidney Benson and Oswald Benson. Plaintiff avers that those defendants were the only persons whom plaintiff knew might claim any interest whatsoever in the above lands. All of the defendants, with the exception of defendant William M. Bates have filed affidavits and confessions of judgment with this Court claiming that they own no interest or claim no interest in the said lands. Previously,

*Gordon Tree Farm
P.O. Box 435
Columbiana, Ala.
35051*



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this Court rendered judgment in favor of the plaintiff and against those said defendants, excluding Defendant Bates.

Plaintiff requests that this Court enter an order quieting title to the aforesaid lands and declaring and decreeing that said lands are owned by him in fee simple. Plaintiff has filed this bill to quiet title, giving appropriate notices in the newspaper in Shelby County, Alabama, and recording the notice of this lawsuit in the lis pendens in the Probate Court of Shelby County, Alabama, all in accordance with the appropriate Alabama quiet title statutes. Defendant Bates claims that he is the owner of the lands and that he is entitled to a judicial redemption of the lands from the plaintiff and his predecessors in title. The Court has appointed a guardian ad litem to represent any unknown parties, minors, and incapacitated parties who might also claim some interest in the land. Trial was held in open court with counsel for all parties being present and with the presence of the guardian ad litem. The following represent the findings of fact and conclusions of law of this Court:

1. At the time of filing of said complaint, no suit was pending to test the plaintiff's title to, interest in, or right to possession of said lands.

2. Said complaint was and is duly verified, and was filed against said lands and against any and all persons, associations or corporations claiming any title to, interest in, lien or encumbrance on said land or any part thereof, and was to establish the right and title to said lands, and to clear up all doubts and disputes concerning same, and said complaint did in all respects comply with the provisions of the law.

3. Plaintiff does not know the present address and whereabouts of any persons, firms or corporations other than the named defendants in this suit who might claim any interest in, title to or lien or encumbrance on the said lands, and plaintiff does not know whether any such persons, firms or corporations are alive and in being at the current time. Plaintiff has exercised reasonable diligence in trying to determine the names, ages, whereabouts and mental capacities of any persons, firms or

corporations who might claim an interest to the said lands, other than the named parties defendant to this cause, but have been unable to find any other such persons, firms or corporations.

4. The plaintiff, R. Wayne Gordon, acquired title to this land through a warranty deed from his mother and father, Ruth Luck Gordon and Harris M. Gordon, on December 28, 1976. Plaintiff's predecessors in title have a good and valid chain of title dating back to approximately 1928, and have recorded the deeds showing title to the said lands in the Probate Court of Shelby County, Alabama.

5. The plaintiff and his predecessors in title have remained in actual occupancy^{and} clear, definite, positive, notorious, continuous, exclusive, and hostile possession of the said lands since approximately 1928, using the said lands during that time for tree farming purposes. During this entire period of time, there has been no claim of any interest in the lands adverse to that of plaintiff and his predecessors in title, and the plaintiff and his predecessors in title have never recognized any adverse claim or right to the land.

6. Plaintiff and his predecessors in title have been in continuous and peaceable possession of the said lands since approximately 1928, and have assessed and paid state ad valorem taxes on the said lands during that time.

7. Since approximately 1928, plaintiff and his predecessors in title have had continuous possession of the land under color of title properly recorded in the Probate Court of Shelby County, Alabama.

8. No defendant has shown any evidence of any acts of possession or ownership which he took with respect to this land at any time prior to the filing of this lawsuit.

9. The guardian ad litem has represented to this Court that he has made diligent efforts to find any persons, firms, or corporations who claim any interest in the said lands, but he has not been able to find anyone, other than Defendant Bates, who claims any interest in the aforesaid lands. The guardian ad litem has denied all of the allegations of the complaint and has

participated fully in the trial of this case.

10. No evidence has been shown to this Court which suggests in any way that any party, either known or unknown, other than plaintiff and his predecessors in title have ever taken any steps or acts showing a claim or ownership of the lands in question from 1928 until the date of the filing of this lawsuit.

11. Under the adverse possession statutes of the State of Alabama and the common law doctrine of prescription and the absolute rule of repose, it is the conclusion of this Court that title in fee simple to the lands made the basis of this suit is vested in plaintiff, R. Wayne Gordon. Title to the said lands is quieted in the name of plaintiff. This Court finds that Defendant Bates, and all other persons, firms, or corporations in the world, have absolutely no interest in the said lands.

12. Any personal property heretofore placed upon the said lands by anyone other than plaintiff or his predecessors in title shall be removed from the said lands within thirty (30) days after the date of this decree, or the title to said personal property shall vest in and reside with plaintiff.

13. The guardian ad litem heretofore appointed by this Court in this cause is awarded a fee of Seven Hundred Twenty (\$720.00) Dollars for his efforts in this case.

14. Each party shall bear his own costs in this action, except that plaintiff shall pay the guardian ad litem's fee above.

15. The Court orders that a certified copy of this Final Judgment shall be recorded in the Office of the Judge of Probate in Shelby County, Alabama.

DONE and ORDERED this 3rd day of April, 1978.

UNITED STATES DISTRICT JUDGE

A TRUE COPY
JAMES E. VANDEGRIFT, Clerk
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: Jane S. Deane
DEPUTY CLERK

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

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JUDGE OF PROBATE

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