

IN THE CIRCUIT COURT
FOR THE TENTH JUDICIAL CIRCUIT FOR ALABAMA

ELZIRAH P. FINLEY, et al.,

vs.

JAMES W. BAILEY, et al.,

FILED IN OPEN COURT	
Plaintiff, <i>et al.</i>	CIVIL ACTION NO.
Defendants, <i>et al.</i>	CV-79-500-725 W.C.
	(EQUITY DIVISION)
By <i>[Signature]</i> Judge	
	D. R.

AMENDED FINAL DECREE

This Amended Final Decree is entered in accordance with the opinion of the Supreme Court of Alabama on appeal from the Final Decree entered in this action on May 26, 1982.

This cause came for trial on August 10, 1981 and is submitted to the Court on plaintiff's verified Second Amended Complaint, the Amended Answer and Defense of James W. Bailey, et al., including the Amendment to Answers and Cross Complaint of Defendant Claiming Adverse Possession, the Answer of the Guardian Ad Litem, the Answer of Kornegay Lumber Company, Inc., the Answer of Hammermill Paper Company, the Answer of J. T. McMillan, the Answer of Joe Price Pearson, the Answer and Claim of Wardell Finley, Jr., the Answer and Claim of Finley Wiggins, and the testimony taken in open court.

The Complaint in this action was originally filed on June 20, 1979 by Elzilah P. Finley. The Complaint asserted that plaintiff owned an undivided interest, as tenant-in-common, in certain property located in Shelby County, Alabama, that the timber located on said property had been cut without her knowledge or consent and that the proceeds from the sale of the timber had been deposited with defendant Birmingham Trust National Bank. Plaintiff sought to enjoin defendants from making any disbursement of the

D. L. Cockrell, Register

funds received from the cutting of said timber, to determine plaintiff's interest in said funds and to determine whether the price paid for the timber was a fair and reasonable price and to assess damages based upon such determination against defendants other than Birmingham Trust National Bank. Plaintiff also sought the recovery of the statutory penalty provided by Section 35-14-1, Code of Alabama 1975, and an award of punitive damages. A Temporary Restraining Order was entered by the Court on July 20, 1979, and continued in force pendente lite by Order dated July 30, 1979.

The Court granted the motion of Hammermill Paper Company to dismiss for failure to join indispensable parties and allowed plaintiffs fourteen days to file an amended complaint joining as defendants all persons and parties claiming any interest in the real property in question. On January 18, 1980 the plaintiffs filed their First Amended Complaint which added additional parties defendant.

The parties subsequently executed and filed with the Court a Stipulation of Settlement dated December 31, 1980. The Stipulation of Settlement provided for the payment to the Register of the Court of the sum of \$79,000 plus earned or accrued interest on the funds held by the defendant, Birmingham Trust National Bank. The Stipulation of Settlement enumerated a number of conditions precedent including a requirement that the plaintiffs amend their complaint so as to assert a claim for relief under § 6-6-540, et seq., Code of Alabama 1975, and § 6-6-560, et seq., Code of Alabama 1975, and join as defendants any known or unknown parties or parties under any disabilities claiming any right, title or interest in and to the land and timber made subject to the present suit. The Stipulation of

Settlement filed with the Court was approved by the Court by Order dated January 9, 1981. The funds paid to the Register of the Court pursuant to the Stipulation of Settlement together with all interest accrued thereon will hereinafter be referred to as the "Settlement Fund."

On March 6, 1981, plaintiffs filed their Second Amended Complaint which, in addition to the claims set forth in the Plaintiffs' First Amended Complaint, added a Bill to Quiet Title to the subject property under § 6-6-540, et seq., Code of Alabama 1975 and § 6-6-560, et seq., Code of Alabama 1975.

The property which is subject to this action and the ownership of which must be determined both for purposes of plaintiffs' Bill to Quiet Title and in order to award distributive shares of the funds held by the Register of the Court is located in Shelby County, Alabama, and is described as follows:

The West half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of Section 15, the East half of the East half of the Southeast Quarter of Section 16, and the Northwest Quarter of the Northwest Quarter and the East half of the Southwest Quarter of the Northwest Quarter of Section 22, all in Township 18 South, Range 1 East.

Said property will hereinafter be referred to as the "Subject Property." Any objection to the venue of this action on the grounds that the Subject Property is located in Shelby County, Alabama has been waived.

Following trial on August 10, 1981, the record was kept open so that counsel for plaintiffs and defendants could file with the Court additional exhibits consisting of certified copies of tax assessments and other tax records from the Office of the Tax Assessor of Shelby County, Alabama, and so that plaintiffs could obtain entry of default against defendants who had failed to plead or otherwise answer the Plaintiffs' Second Amended Complaint.

During the trial, the parties agreed upon settlement of the claim of defendant Finley Wiggins and on August 10, 1981, a Consent Decree was entered by the Court which rendered judgment in favor of Finley Wiggins in the amount of \$3,000. This judgment was awarded to Finley Wiggins in lieu of and in satisfaction of any and all claims which Finley Wiggins might have against the Settlement Fund and the Subject Property. Birmingham Trust National Bank was dismissed as a defendant by order of the Court on August 17, 1981 upon the payment into court of the sum of \$53,642.31. On August 20, 1981, the Court entered an order realigning Joe Price Pearson as a party plaintiff and on September 16, 1981, the Court entered an order dismissing Everett A. McKnight as a defendant.

After considering the testimony of the witnesses and the arguments of counsel, the Court finds and determines as follows:

1. An order of publication was made on the 12th day of March, 1981 which was duly published in the Alabama Messenger, a newspaper published and having general circulation in Jefferson County, Alabama, once each week for four consecutive weeks, commencing on the 14th day of March, 1981, which was directed to the following defendants:

Willie B. Swain;
 Unknown Heirs, Legatees and Devisees of H. C. Finley, a/k/a Henry C. Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Nathan B. Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Young Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Lucilla Finley Swain, deceased;
 Unknown Heirs, Legatees and Devisees of Octavia Swain Avery, deceased;
 Unknown Heirs, Legatees and Devisees of Etheridge Avery, deceased;
 Unknown Heirs, Legatees and Devisees of Henry Clay Swain, deceased;
 Unknown Heirs, Legatees and Devisees of Robert Swain, deceased;
 Unknown Heirs, Legatees and Devisees of Henry Abbie Finley, deceased;
 Unknown Heirs, Legatees and Devisees of William Nelson Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Maybel Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Dazarene Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Emmitt Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Hazel Finley, deceased;

Unknown Heirs, Legatees and Devisees of Mac Christopher Finley, deceased;
 Unknown Heirs, Legatees and Devisees of David Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Laura Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Carrie Finley, deceased;
 Unknown Heirs, Legatees and Devisees of John Henry Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Isaac Thomas Finley, Sr., deceased;
 Unknown Heirs, Legatees and Devisees of Albert Prince Finley, a/k/a A. P. Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Ella M. Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Rudine Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Laura Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Wardell Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Cedric Finley, deceased;
 Unknown Heirs, Legatees and Devisees of Hattie Finley Bailey, deceased;
 Unknown Heirs, Legatees and Devisees of T. S. Bailey, deceased;
 Unknown Heirs, Legatees and Devisees of Y. L. Bailey, deceased;
 Unknown Heirs, Legatees and Devisees of Lena Bailey, deceased;
 Unknown Heirs, Legatees and Devisees of Ruth Bailey, deceased;
 Unknown Heirs, Legatees and Devisees of Willie Bailey, deceased;

All persons who claim or are reported or reputed to claim some or any right, title or interest in, or lien or encumbrance upon the real property located in Shelby County, Alabama, described as follows: The West half of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 15, the East half of the East half of the Southeast quarter of Section 16, and the Northwest quarter of the Northwest quarter and the East half of the Southwest quarter of the Northwest quarter of Section 22, all in Township 18 South, Range 1 East; and

The real property located in Shelby County, Alabama described as follows: The West half of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 15, the East half of the East half of the Southeast quarter of Section 16, and the Northwest quarter of the Northwest quarter and the East half of the Southwest quarter of the Northwest quarter of Section 22, all in Township 18 South, Range 1 East,

and which required the said defendants to plead, answer or otherwise defend to the Second Amended Complaint in this cause within thirty days from the 11th day of April, 1981. A copy of said Order was posted at the Courthouse of said County in Birmingham, Alabama.

2. An order of publication was made on the 12th day of March, 1981, which was published in the Shelby County Reporter, a newspaper published and of general circulation in Shelby County, Alabama, once a week for four consecutive weeks commencing on the 26th day of March, 1981, which was directed to the defendants designated in paragraph 1 above and

which required the said defendants to plead, answer or otherwise defend to the Second Amended Complaint in this cause within thirty days from the 11th day of April, 1981.

3. Notice as provided by Section 6-6-561, Code of Alabama 1975, was duly published in the Alabama Messenger, a newspaper published and having general circulation in Jefferson County, Alabama, once a week for four consecutive weeks commencing on the 14th day of March, 1981, which required defendants to plead, answer or otherwise defend to the Second Amended Complaint in this cause within thirty days from the 14th day of April, 1981. A copy of such notice was recorded as a lis pendens in the office of the Judge of Probate of Jefferson County, Alabama, on March 9, 1981 and appears of record therein in Real Volume 2033 at Page 80.

4. Notice as provided in Section 6-6-564, Code of Alabama 1975, was duly published in the Shelby County Reporter, a newspaper published and having general circulation in Shelby County, Alabama, once a week for four consecutive weeks commencing on the 26th day of March, 1981, which required defendants to plead, answer or otherwise defend to the Second Amended Complaint in this cause within thirty days from the 14th day of April, 1981. A copy of said notice was recorded as a lis pendens in the office of the Judge of Probate of Shelby County, Alabama, on April 17, 1981 and appears of record therein in Lis Pendens Book 6 at Page 249.

5. More than 30 days have elapsed since the last publication date described above and since the filing of said notices in the offices of the Judge of Probate of Shelby and Jefferson Counties.

6. The guardian ad litem, heretofore appointed to represent such of the defendants who are now under the age of 19 years or incompetent,

has accepted the appointment and has filed an answer denying the averments of the Second Amended Complaint and demanding strict proof of the same and said guardian ad litem was present at the hearing of this cause and did represent the interest of all minors and incompetents.

7. On August 21, 1981, the Register, on application of plaintiffs, entered default against the following defendants:

Marie Finley

Mary Scott

Unknown Heirs, Legatees and Devisees of H. C. Finley, a/k/a Henry C. Finley, deceased;

Unknown Heirs, Legatees and Devisees of Nathan B. Finley, deceased;

Unknown Heirs, Legatees and Devisees of Young Finley, deceased;

Unknown Heirs, Legatees and Devisees of Lucilla Finley Swain, deceased;

Unknown Heirs, Legatees and Devisees of Octavia Swain Avery, deceased;

Unknown Heirs, Legatees and Devisees of Etheridge Avery, deceased;

Unknown Heirs, Legatees and Devisees of Henry Clay Swain, deceased;

Unknown Heirs, Legatees and Devisees of Robert Swain, deceased;

Unknown Heirs, Legatees and Devisees of Henry Abbie Finley, deceased;

Unknown Heirs, Legatees and Devisees of William Nelson Finley, deceased;

Unknown Heirs, Legatees and Devisees of Maybel Finley, deceased;

Unknown Heirs, Legatees and Devisees of Dazarene Finley, deceased;

Unknown Heirs, Legatees and Devisees of Emmitt Finley, deceased;

Unknown Heirs, Legatees and Devisees of Hazel Finley, deceased;

Unknown Heirs, Legatees and Devisees of Mac Christopher Finley, deceased;

Unknown Heirs, Legatees and Devisees of David Finley, deceased;

Unknown Heirs, Legatees and Devisees of Laura Finley, deceased;

Unknown Heirs, Legatees and Devisees of Carrie Finley, deceased;

Unknown Heirs, Legatees and Devisees of John Henry Finley, deceased;

Unknown Heirs, Legatees and Devisees of Isaac Thomas Finley, Sr., deceased;

Unknown Heirs, Legatees and Devisees of Albert Prince Finley, a/k/a A. P. Finley, deceased;

Unknown Heirs, Legatees and Devisees of Ella M. Finley, deceased;

Unknown Heirs, Legatees and Devisees of Rudine Finley, deceased;

Unknown Heirs, Legatees and Devisees of Laura Finley, deceased;

Unknown Heirs, Legatees and Devisees of Wardell Finley, deceased;

Unknown Heirs, Legatees and Devisees of Cedric Finley, deceased;

Unknown Heirs, Legatees and Devisees of Hattie Finley Bailey, deceased;

Unknown Heirs, Legatees and Devisees of T. S. Bailey, deceased;

Unknown Heirs, Legatees and Devisees of Y. L. Bailey, deceased;

Unknown Heirs, Legatees and Devisees of Lena Bailey, deceased;

Unknown Heirs, Legatees and Devisees of Ruth Bailey, deceased;

Unknown Heirs, Legatees and Devisees of Willie Bailey, deceased;

All persons who claim or are reported, or reputed to claim some or any right, title or interest in, or lien or encumbrance upon the real property located in Shelby County, Alabama, described as follows: The West half of the

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Southeast quarter and the Southeast quarter of the Southwest quarter of Section 15, the East half of the East half of the Southeast quarter of Section 16, and the Northwest quarter of the Northwest quarter and the East half of the Southwest quarter of the Northwest quarter of Section 22, all in Township 18 South, Range 1 East; and
The real property located in Shelby County, Alabama described as follows: The West half of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 15, the East half of the East half of the Southeast quarter of Section 16, and the Northwest quarter of the Northwest quarter and the East half of the Southwest quarter of the Northwest quarter of Section 22, all in Township 18 South, Range 1 East,

8. All persons claiming or reputed to claim any title to, interest in, or lien or encumbrance on the Subject Property, or the Settlement Fund or any part thereof, are before the Court and their interests therein, if any, will be finally and conclusively determined by this Decree.

9. All of the conditions precedent to the effectiveness of the Stipulation of Settlement have been fulfilled and discharged, including the following:

(a) The plaintiffs in this cause have amended their Complaint so as to include a claim for relief under Section 6-6-540 and/or Section 6-6-560, Code of Alabama 1975 as last amended, and have made party defendants to this suit all known or unknown parties, or parties under any disabilities claiming any right, title or interest in and to the Subject Property and the timber cut therefrom and the Settlement Fund;

(b) This Court, through proper process has secured and obtained in personam or personal jurisdiction by personal service or publication against all known and unknown parties, or any parties or persons under any disabilities claiming any right, title or interest in and to the Subject Property and the timber cut therefrom and the Settlement Fund;

(c) The agreed settlement of SEVENTY NINE THOUSAND (\$79,000.00) DOLLARS plus accrued interest on funds held by The Birmingham Trust National Bank has not been contested by any known or unknown persons claiming any interest in and to the Subject Property and the timber cut therefrom or the Settlement Fund, or contested by any minor or incompetent or persons under any disability or their representative, and this Final Decree shall be dispositive of all issues and claimants in this cause;

(d) This Final Decree shall be final and dispositive of all issues and parties and shall be res judicata as to all parties known or unknown or claiming any right, title or interest in and to the Subject Property and the timber cut therefrom and the Settlement Fund, and res judicata as to all known parties and unknown parties, minors and incompetents made party defendants to said cause;

(e) This Court has found and determined that the agreed settlement of SEVENTY NINE THOUSAND (\$79,000.00) DOLLARS is just, reasonable and equitable; and

(f) All court costs incurred in the trial of this cause shall be paid from the Settlement Fund and shall not be assessed against any of the parties to this cause.

10. Henry Clay Finley acquired title to the Subject Property by four conveyances during the period from 1885 through 1904. Henry Clay Finley died intestate in 1905 survived by fourteen children, Nathan B. Finley, Young Finley, Lucilla Finley, Henry Abbie Finley, William Nelson Finley, Mac Christopher Finley, Dovey Finley, Laura Finley, Carrie Finley, John Henry Finley, Isaac Thomas Finley, Sr., James L. Finley, Albert Prince

Finley, and Hattie Finley Bailey. All of the children of Henry Clay Finley are now deceased and died intestate. Nathan B. Finley, Mac Christopher Finley, Dovey Finley, Laura Finley, Carrie Finley and John Henry Finley died without issue. All of the other children of Henry Clay Finley died leaving issue surviving.

11. Marie Finley and Mary Scott, who were joined as defendants on the basis that they were descendants of Henry Clay Finley, have failed to plead, answer or otherwise defend as to the Plaintiffs' Second Amended Complaint and default has been entered against them by the Register.

12. Young Finley died intestate leaving one surviving child, Leroy Finley.

13. Lucilla Finley died intestate leaving two surviving children, Octavia Swain and Henry Clay Swain, both of whom are now deceased. Octavia Swain died intestate leaving two surviving children, Wathaw Avery, Sr. and Etheridge Avery. Henry Clay Swain died intestate leaving two surviving children, Willie B. Swain and Robert Swain. Robert Swain is now deceased. The unknown heirs, legatees and devisees of Robert Swain have failed to plead, answer or otherwise defend to the Second Amended Complaint in this action and default has been entered against them by the Register.

14. Henry Abbie Finley died intestate leaving three surviving children, Richard Daniel Finley, Samuel Curtis Finley and Sylvester David Finley.

15. William Nelson Finley died intestate leaving eight surviving children, Moses Percel Finley, Lawrence Finley, William Nelson Finley, Jr., Charles Finley, Maybel Finley, Dazargene Finley, Emmitt Finley, and Hazel

Finley. Maybel Finley, Dazarene Finley, Emmitt Finley and Hazel Finley are now deceased and died intestate without issue.

16. Isaac Thomas Finley, Sr. died intestate leaving four surviving children, Isaac Thomas Finley, Jr., Marvin Stewart Finley, Yvonne Finley Forbes, and Carole Finley Perry.

17. James L. Finley died intestate leaving four surviving children, Clay Pearson Finley, Sr., Elzilah Finley Drake, Elvirah Finley and James M. Finley.

18. Albert Prince Finley died intestate leaving ten surviving children, Ulysses Grant Finley, Carolyn Finley Green, Ella M. Finley, Rudine Finley, Hattie Finley Owens, Wardell Finley, James Laxton Finley, Sr., Henry Lewis Finley, George Albert Finley, and Laura Finley. Rudine Finley and Laura Finley are now deceased and died intestate without issue. Ella M. Finley is now deceased and died intestate leaving one surviving child, Eloise Duff. Wardell Finley is now deceased and died intestate leaving six surviving children, Henry Clay Finley, Wardell Finley, Jr., Wardwell Leo Finley, Christina Finley, Cassandra Finley and Cedric Finley. Cedric Finley is now deceased and died intestate without issue. Helen J. Coleman Finley McCoy is found not to be an heir of Wardell Finley or of Henry Clay Finley.

19. Hattie Finley died intestate leaving nine surviving children, T. S. Bailey, Y. L. Bailey, Lena Bailey, J. D. Bailey, and Geneva Bailey Watts. T. S. Bailey, Y. L. Bailey and Lena Bailey are now deceased and died intestate without issue. Ruth Bailey is now deceased and died intestate leaving two surviving children, JoAnn Bailey and Albert Lindsey.

20. In 1920, Laura J. Pearson acquired a one-sixth interest in and to the Subject Property by conveyance from Henry Abbie Finley, a/k/a/ H.

A. Finley. While there is an error in a portion of the legal description contained in the conveyance from H. A. Finley to Laura J. Pearson, the Court finds that it was the intention of the parties to convey to Laura J. Pearson a one-sixth interest in and to the Subject Property. In 1926, Laura J. Pearson and her husband J. J. Pearson reconveyed to H. A. Finley and his wife a one-sixth interest in and to one hundred and twenty acres of the Subject Property leaving Laura J. Pearson as the record holder of title to a one-sixth undivided interest in one hundred acres of real property described as follows:

The Northwest Quarter of the Northwest Quarter of Section 22, the East half of the Southwest Quarter of the Northwest Quarter of Section 22, and the Northwest Quarter of the Southeast Quarter of Section 15, all in Township 18 South, Range 1 East.

Prior to the conveyance from H. A. Finley to Laura J. Pearson in 1920, H. A. Finley had acquired the interest of Nathan B. Finley, as an heir at law of H. C. Finley, in and to the Subject Property.

21. Laura J. Pearson died intestate leaving two surviving children, Joe Price Pearson and Elzilah P. Finley.

22. In 1929 Albert Prince Finley executed a mortgage to I. C. Justice and H. R. Justice of his interest in the Subject Property which he acquired as an heir at law of H. C. Finley. The mortgage was given to secure an indebtedness of \$149.94 evidenced by a number of promissory notes. In October, 1929, following default in payment of said notes by A. P. Finley, the interest of A. P. Finley in and to the Subject Property was sold at a foreclosure sale and said interest was conveyed to I. C. Justice, as the purchaser at said sale for the sum of \$75.00.

23. In November, 1929, I. C. Justice and H. R. Justice filed suit against James L. Finley in the Circuit Court of Shelby County, Alabama.

The complaint sought to recover against James L. Finley on nine promissory notes made by Albert Prince Finley, the payment of which had been endorsed and guaranteed by James L. Finley. A default judgment was entered against James L. Finley in the amount of \$247.50 as an endorser and guarantor of payment of the nine promissory notes made by Albert Prince Finley. In August, 1932, pursuant to an execution issued from the Circuit Court of Shelby County, Alabama, the interest of James L. Finley in and to the Subject Property was levied upon and sold to I. C. Justice for the sum of \$266.15, to satisfy the judgment entered against James L. Finley as a guarantor of the debt of Albert Prince Finley.

24. In February, 1944, Albert Prince Finley repurchased from the heirs of I. C. Justice for the sum of \$200.00 the interests in and to the Subject Property previously owned by Albert Prince Finley and James L. Finley.

25. Plaintiff heirs of James L. Finley assert that the repurchase by Albert Prince Finley from I. C. Justice in 1944 of the interests in and to the Subject Property previously held by Albert Prince Finley and James L. Finley effected an equitable redemption of the interest in said property previously owned by James L. Finley and that said purchase inured to the benefit of the heirs at law of James L. Finley. However, the claim asserted by the heirs of James L. Finley was not asserted within a reasonable time and is barred by laches.

26. Upon the death of Henry Clay Finley in 1905, title to the Subject Property passed by intestate succession to his children Nathan B. Finley, Young Finley, Lucilla Finley, Henry Abbie Finley, William Nelson Finley, Mac Christopher Finley, Dovey Finley, Laura Finley, Carrie Finley,

John Henry Finley, Isaac Thomas Finley, Sr., James L. Finley, Albert P. Finley, and Hattie Finley Bailey. Upon the death of Mac Christopher Finley, Dovey Finley, Laura Finley, Carrie Finley, and John Henry Finley, the interest of Mac Christopher Finley, Dovey Finley, Laura Finley, Carrie Finley and John Henry Finley in and to the Subject Property passed by intestate succession to their surviving brothers and sisters, Young Finley, Lucilla Finley, Henry Abbie Finley, William Nelson Finley, Isaac Thomas Finley, Sr., James L. Finley, Albert Prince Finley, and Hattie Finley Bailey, who thereupon owned all of the Subject Property as tenants-in-common.

27. Upon the death of Young Finley, Leroy Finley inherited his father's interest in and to the Subject Property and now owns, as tenant-in-common, an undivided $1/9$ interest in and to the Subject Property.

28. Upon the death of Lucilla Finley, her interest in and to the Subject Property passed to her children, Octavia Swain and Henry Clay Swain. Upon the death of Octavia Swain, her interest in and to the Subject Property passed to her children, Wathaw Avery, Sr. and Etheridge Avery, each of whom owns, as tenants-in-common, a $1/36$ undivided interest in and to the Subject Property. Upon the death of Henry Clay Swain, his interest in and to the Subject Property passed to his children, Willie B. Swain and Robert Swain. Upon the death of Robert Swain, his interest in and to the Subject Property passed to his brother, Willie B. Swain. Willie B. Swain owns, as tenant-in-common, an undivided $1/18$ interest in and to the Subject Property.

29. Upon the death of Henry Abbie Finley, his interest in and to the Subject Property passed to his children, Richard Daniel Finley, Samuel Curtis Finley and Sylvester David Finley. Henry Abbie Finley acquired by

inheritance from his father, Henry Clay Finley, as tenant-in-common, an undivided 1/9 interest in and to the Subject Property. In addition, Henry Abbie Finley acquired a 1/9 undivided interest in and to the Subject property from his brother, Nathan B. Finley. Henry Abbie Finley conveyed to Laura J. Pearson a 1/6 undivided interest as tenant-in-common, in and to the property described in paragraph 20. Richard Daniel Finley, Samuel Curtis Finley and Sylvester David Finley each own, as tenants-in-common, an undivided 1/54 interest in and to the property described in paragraph 20 and an undivided 2/27 interest in and to the following described property:

The Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 15, and the East half of the East half of the Southeast quarter of Section 16, all in Township 18 South, Range 1 East, Shelby County, Alabama.

30. Upon the death of William Nelson Finley, his interest in and to the Subject Property passed to his children, Moses Percel Finley, Lawrence Finley, William Nelson Finley, Jr., Charles Finley, Maybel Finley, Dazarene Finley, Emmitt Finley and Hazel Finley. Upon the death of Maybel Finley, Dazarene Finley, Emmitt Finley and Hazel Finley, their interest in the Subject Property passed to their brothers, Moses Percel Finley, Lawrence Finley, William Nelson Finley and Charles Finley. Moses Percel Finley, Lawrence Finley, William Nelson Finley and Charles Finley each own, as tenants-in-common, an undivided 1/36 interest in and to the Subject Property.

31. Upon the death of Isaac Thomas Finley, Sr., his interest in and to the Subject Property passed to his children, Isaac Thomas Finley, Jr., Marvin Stewart Finley, Yvonne Finley Forbes and Carole Finley Perry, each of whom now own, as tenants-in-common, an undivided 1/36 interest in and to the Subject Property.

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32. Upon the death of Albert Prince Finley, his interest in and to the Subject Property passed to his children, Ulysses Grant Finley, Carolyn Finley Green, Ella M. Finley, Rudine Finley, Hattie Finley Owens, Wardell Finley, James Laxton Finley, Sr., Henry Lewis Finley, George Albert Finley, and Laura Finley. Upon the death of Rudine Finley and Laura Finley, their interest in and to the Subject Property passed to their brothers and sisters, Ella M. Finley, Ulysses Grant Finley, Carolyn Finley Green, Hattie Finley Owens, Wardell Finley, James Laxton Finley, Sr., Henry Lewis Finley, and George Albert Finley. Upon the death of Ella M. Finley, her interest in and to the Subject Property passed to her daughter, Eloise Duff. Upon the death of Wardell Finley, his interest in and to the Subject property passed to his children, Henry Clay Finley, Wardell Finley, Christina Finley, Cassandra Finley and Cedric Finley. Upon the death of Cedric Finley, his interest in and to the Subject Property passed to his brothers and sisters, Henry Clay Finley, Wardell Finley, Jr., Wardell Leo Finley, Christina Finley and Cassandra Finley. Ulysses Grant Finley, Hattie Finley Owens, Carolyn Finley Green, James Laxton Finley, Sr., Henry Lewis Finley, George Albert Finley and Eloise Duff each own, as tenants-in-common, an undivided 1/36 interest in and to the Subject Property. Henry Clay Finley, Wardell Finley, Jr., Wardell Leo Finley, Christina Finley and Cassandra Finley each own, as tenants-in-common, an undivided 1/180 interest in and to the Subject Property.

33. Upon the death of Hattie Finley Bailey, her interest in and to the Subject Property passed to her children, T. S. Bailey, Y. L. Bailey, Lena Bailey, James William Bailey, Ruth Bailey, Leon Bailey, Willie Bailey, J. D.

Bailey, and Geneva Bailey Watts. Upon the death of T. S. Bailey, Y. L. Bailey and Lena Bailey, their interest in and to the Subject Property passed to their brothers and sisters, James William Bailey, Ruth Bailey, Leon Bailey, Willie Bailey, J. D. Bailey, and Geneva Bailey Watts. Upon the death of Ruth Bailey, her interest in and to the Subject Property passed to her children, JoAnn Bailey and Albert Lindsey. J. D. Bailey, James William Bailey, Leon Bailey, Willie Bailey, and Geneva Bailey Watts, each own, as tenants-in-common, an undivided 1/54 interest in and to the Subject Property. JoAnn Bailey and Albert Lindsey each own an undivided 1/108 interest in and to the Subject Property.

34. Upon the death of Laura J. Pearson, her children, Elzilah P. Finley and Joe Price Pearson each acquired and now own a 1/12 undivided interest, as tenants-in-common, in and to the real property, located in Shelby County, Alabama, described as follows:

The Northwest Quarter of the Northwest Quarter of Section 22, the East half of the Southwest Quarter of the Northwest Quarter of Section 22, and the Northwest Quarter of the Southeast Quarter of Section 15, all in Township 18 South, Range 1 East.

35. Each person owning an interest in and to the Subject Property has the same proportionate interest in and to the Settlement Fund. With respect to the interests of Elzilah P. Finley, Joe Price Pearson and the heirs at law of Henry Abbie Finley in the Settlement Fund, such interests shall be apportioned according to the number of acres contained in the portion of the Subject Property in which such parties have an interest.

36. Plaintiffs have met all of the requirements set forth in § 6-6-54 et seq., Code of Alabama 1975 and § 6-6-560 et seq., Code of Alabama 1975 and are entitled to a Decree fixing and determining the ownership of the Subject Property and quieting title thereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That all persons claiming or reputed to claim any title or interest in or lien or encumbrance on, the Subject Property and the Settlement Fund are before the Court and their interests therein are finally and conclusively determined by this Decree.

2. That plaintiffs, Elzilah P. Finley and Joe Price Pearson are each the owners, in fee simple, of a 1/12 undivided interest, as tenants-in-common, in and to the real property located in Shelby County, Alabama, described as follows:

The Northwest Quarter of the Northwest Quarter of Section 22, the East half of the Southwest Quarter of the Northwest Quarter of Section 22, and the Northwest Quarter of the Southeast Quarter of Section 15, all in Township 18 South, Range 1 East.

3. That the persons listed below are the owners, in fee simple, and as tenants-in-common, of the fractional interests set opposite their respective names below in and to the real property located in Shelby County, Alabama, described as follows:

The West half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of Section 15, the East half of the East half of the Southeast Quarter of Section 16, and the Northwest Quarter of the Northwest Quarter and the East half of the Southwest Quarter of the Northwest Quarter of Section 22, all in Township 18 South, Range 1 East.

Leroy Finley	1/9
Wathaw Avery, Sr.	1/36
Etheridge Avery	1/36
Willie B. Swain	1/18
Moses Percel Finley	1/36
Lawrence Finley	1/36
William Nelson Finley, Jr.	1/36
Charles Finley	1/36

Isaac Thomas Finley, Jr.	1/36
Marvin Stewart Finley	1/36
Yvonne Finley Forbes	1/36
Carole Finley Perry	1/36
Ulysses Grant Finley	1/36
Hattie Finley Owens	1/36
Carolyn Finley Green	1/36
James Laxton Finley, Sr.	1/36
Henry Louis Finley	1/36
George Albert Finley	1/36
Eloise Duff	1/36
Henry Clay Finley	1/180
Wardell Finley, Jr.	1/180
Wardell Leo Finley	1/180
Christina Finley	1/180
Cassandra Finley	1/180
J. D. Bailey	1/54
James William Bailey	1/54
Leon Bailey	1/54
Willie Bailey	1/54
Geneva Bailey Watts	1/54
JoAnn Bailey	1/108
Albert Lindsey	1/108

4. That Richard Daniel Finley, Samuel Curtis Finley and Sylvester David Finley are each the owners, in fee simple, of a 1/54 undivided interest, as tenants-in-common, in and to the real estate located in Shelby County, Alabama, described as follows:

The Northwest Quarter of the Northwest Quarter of Section 22, the East half of the Southwest quarter of the Northwest Quarter of Section 22, and the Northwest Quarter of the Southeast Quarter of Section 15, all in Township 18 South, Range 1 East,

and are each the owners, in fee simple, of a 2/27 undivided interest, as tenants-in-common, in and to the real estate located in Shelby County, Alabama, described as follows:

The Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 15, and the East half of the East half of the Southeast quarter of Section 16, all in Township 18 South, Range 1 East, Shelby County, Alabama.

5. That Clay Pearson Finley, Sr., Elzilah Finley Drake, Elvirah Finley and James M. Finley have no interest in the Subject Property or the Settlement Fund.

6. That the Register shall pay from the Settlement Fund costs incurred in this cause and all attorney fees and expenses hereinafter provided in this Decree and shall distribute the remaining portion of the Settlement Fund to the parties listed below who shall each receive an amount equal to the percentage set opposite such party's name of the amount remaining in the Settlement Fund. All amounts payable to parties represented by John L. Cole shall be paid to John L. Cole for distribution to such parties. All amounts payable to the remaining parties shall be paid directly to such parties by the Register.

Leroy Finley	11.1111%
Wathaw Avery, Sr.	2.7778
Etheridge Avery	2.7778
Willie B. Swain	5.5555
Richard Daniel Finley	4.8821
Samuel Curtis Finley	4.8821
Sylvester David Finley	4.8821
Moses Perceal Finley	2.7778
Lawrence Finley	2.7778
William Nelson Finley, Jr.	2.7778
Charles Finley	2.7778
Isaac Thomas Finley, Jr.	2.7778
Marvin Stewart Finley	2.7778
Yvonne Finley Forbes	2.7778
Carole Finley Perry	2.7778
Ulysses Grant Finley	2.7778
Hattie Finley Owens	2.7778
Carolyn Finley Green	2.7778
James Laxton Finley, Sr.	2.7778
Henry Louis Finley	2.7778
George Albert Finley	2.7778
Eloise Duff	2.7777
Henry Clay Finley	.5556

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Wardell Finley, Jr.	.5556
Wardell Leo Finley	.5556
Christina Finley	.5556
Cassandra Finley	.5556
J. D. Bailey	1.8518
James William Bailey	1.8518
Leon Bailey	1.8518
Willie Bailey	1.8518
Geneva Bailey Watts	1.8518
JoAnn Bailey	.9259
Albert Lindsey	.9259
Elzilah Pearson Finley	3.7879
Joe Price Pearson	3.7879

7. Kornegay Paper Company, Inc. and Hammermill Paper Company are hereby dismissed with prejudice.

8. Johnston, Barton, Proctor, Swedlaw and Naff is hereby awarded attorneys' fees and expenses in the amount of \$5,000.00, which shall be paid by the Register from the Settlement Fund.

9. John Lair, as guardian ad litem, is hereby awarded attorneys fees and expenses in the amount of \$750.00, which shall be paid by the Register from the Settlement Fund.

10. John L. Cole, attorney for defendants, James W. Bailey, et al., is hereby awarded expenses in the amount of \$679.25 as reimbursement for the cost of research and obtaining copies of tax records introduced in evidence, which shall be paid by the Register from the Settlement Fund.

11. The Register shall, within thirty days from the entry of this Final Decree, file the same or a certified transcript thereof for record in the Office of the Judge of Probate of Shelby County, Alabama, and the cost of filing said Decree shall be part of the costs of this action. The Probate Judge shall record said Decree in the same book and manner in which deeds are recorded and shall index the names of all defendants to this action in the

direct index and the names of all persons whose names are listed in paragraph 6 above in the reverse index.

DONE and ORDERED this 29th day of February, 1984.



WILLIAM C. BARBER,
CIRCUIT JUDGE

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The State of Alabama
JEFFERSON COUNTY

CIRCUIT COURT,
TENTH JUDICIAL CIRCUIT OF ALABAMA
IN EQUITY

I, the undersigned, as Register of the Circuit Court, Tenth Judicial Circuit of Alabama, do hereby certify that the foregoing contains a full, true and correct copy of the instrument herewith set out as appears of record in said Court.

Witness my hand and seal of said Court, this the 17th day of April, 1984.
[Signature], Register.
By [Signature] Deputy Register.

REGISTER-73

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

1984 APR 18 AM 10:36

[Signature]
JUDGE OF PROBATE

Rec 34.50
Jud 1.00
35.50