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ELIZABETH P. FINLEY, et al

CIRCUIT COURT, TENTH JUDICIAL

PLAINTIFFS

CIRCUIT OF ALABAMA

VS.

EQUITY DIVISION

JAMES W. BAILEY, et al

DEFENDANTS

CASE NO. CV 79 503-725 JCB

FINAL DECREE

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 given in Open Court.

The Complaint in this action was originally filed on June 20, 1979 by Elizabeth 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 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 effect 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 an interest in the real property in question. On January 18, the

D. L. Coakrell, Register
225 [redacted] House
Birmingham, AL 35263-00 [redacted]

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Plaintiffs filed their First Amended Complaint which added additional parties Defendant.

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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 to a claim for relief under Section 6-6-540, et seq., Code of Alabama 1975, and Section 6-6-560, et seq., Code of Alabama 1975, and join as Defendants all 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 Plaintiff's First Amended Complaint, added a Bill to Quiet Title to the subject property under Section 6-6-540, et seq., Code of Alabama 1975 and Section 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 Plaintiff's 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."

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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 Issac 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 duly 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

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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 a 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;

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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,

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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 Finely, 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. Finely, 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 Finely, 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.

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

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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 DOLLARS (\$79,000.00) 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

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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 DOLLARS (\$79,000.00) 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, Dazarene Finley, Emmitt Finley, and Hazel Finley. Maybel Finley, Dazarene Finley, Emmitt Finley and Hazel Finley are now deceased and died intestate without issue.

16. Isacc Thomas Finley, Sr. died intestate leaving four surviving children, Isacc 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 seven surviving children, Henry Clay Finley, Helen J. Coleman Finley McCoy, Wardell Finley, Jr., Wardell Leo Finley, Christina Finley, Cassandra Finley and Cedric Finley. Cedric Finley is now deceased and died intestate without issue.

19. Hattie Finley Bailey died intestate leaving nine surviving 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.

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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. The Court finds that neither Laura J. Pearson nor her heirs ever claimed this land, nor assessed said property in her name nor her heirs and the Defendants held out to the world it was their land. The Court finds that Laura J. Pearson intended to convey this land to the Defendants but inadvertently and not according to intention it was left out of the conveyance.

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

2. In 1929 Albert Prince Finley executed a mortgage to J. 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. It is contended by Plaintiffs that 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, but the only proof of the foregoing matter in this paragraph 23 was by hearsay and is not considered by this Court.

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. It is contended by Plaintiffs 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 said purchase inured to the benefit of the heirs at law of James L. Finley and that title to the interest previously owned by James L. Finley is now held by the heirs of Albert Prince Finley in trust for the heirs of James L. Finley. However, any alleged equitable redemption, if it existed, came too late, since more than one year had elapsed from the time of execution of Sheriff's deed.

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. Prior to 1920, Nathan B. Finley sold and transferred a 1/12 or 8/96 undivided interest in and to the Subject Property to H. A. Finley.

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. Richard Daniel Finley, Samuel Curtis Finley and Sylvester David Finley each own, as tenants-in-common, an

undivided 2/9 interest in and to the property described in paragraph 7.

30. Upon the death of William Nelson Finley, his interest in and to the Subject Property passed to his children, Moses Percel Finley, Laurence 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, Laurence Finley, William Nelson Finley and Charles Finley. Moses Percel Finley, Laurence Finley, William Nelson Finley, and Charles Finley each own, as tenants-in-common, an undivided 1/9 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 1/9 interest in and to the Subject Property.

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, Helen J. Coleman Finley McCoy, Wardell Finley, Jr., Wardell Leo 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,

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Helen J. Coleman Finley McCoy, Wardell Finley, Jr., Wardell Leo Finley, Christina Finley and Cassandra Finley. At the time of his death, Albert Prince Finley owned the interest in the Subject Property which he acquired as one of the heirs at law of his brother, Henry Clay Finley, and held legal title to the interest in the Subject Property previously owned by his brother, James L. Finley, which he had acquired from the heirs of I. C. Justice. The interest in and to the Subject Property which A. P. Finley acquired from the heirs of I. C. Justice and which was previously owned by James L. Finley is now held by Ulysses Grant Finley, Hattie Finley Owens, Carolyn Finley Green, James Laxton Finley, Sr., Henry Lewis Finley, George Albert Finley, Eloise Duff, Henry Clay Finley, Helen J. Coleman Finley McCoy, Wardell Finley, Jr., Wardell Leo Finley, Christina Finley and Cassandra Finley, in trust for the heirs of James L. 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 7/72 interest in and to the Subject Property. Henry Clay Finley, Helen J. Coleman Finley McCoy, Wardell Finley, Jr., Wardell Leo Finley, Christina Finley and Cassandra Finley each own, as tenants-in-common, an undivided 12/432 interest in and to the Subject Property.

3. 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 5/54 interest in and to the Subject Property. JoAnn Bailey and Albert Lindsey each own an undivided 1/54 interest in and to the Subject Property.

35. Each person owning an interest in and to the Subject Property has the same proportionate interest in and to the Settlement Fund.

It is, therefore, CONSIDERED, ORDERED, ADJUDGED and DECREED by the Court as follows:

ONE: 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 interest therein are finally and conclusively determined by this Decree.

TWO: That the following persons are each the owners in fee simple of the three (3) tracts of land heretofore mentioned in paragraph 7 in the divided percentages hereinafter described:

	<u>HEIRS</u>	<u>OWNERSHIP</u>	<u>PERCENTAGE</u>
(A)	Leroy Finley	1/9	11.1111
(B)	Wathaw Avery, Sr.	1/36	5.5555
	Etheridge Avery	1/36	2.7777
	Willie B. Swain	1/18	2.7777
(C)	Moses Percel Finley	1/36	2.7778
	Lawrence Finley	1/36	2.7778
	William Nelson Finley	1/36	2.7778
	Charles Finley	1/36	2.7778
(D)	Ulysses Grant Finley	2/72	2.7778
	Hattie Finley Owens	2/72	2.7778
	Carolyn Finley Green	2/72	2.7778
	James Laxton Finley, Sr.	2/72	2.7778
	Henry Louis Finley	2/72	2.7778
	George Albert Finley	2/72	2.7778
	Eloise Duff	2.72	2.7778
	Henry Clay Finley	2/432	.4630
	Helen J. Coleman Finley McCoy	2/432	.4630
	Wardell Finley, Jr.	2/432	.4630
	Wardell Leo Finley	2/432	.4630
	Christina Finley	2/432	.4630
	Cassandra Finley	2/432	.4630
(E)	J. D. Bailey	1/54	1.8518
	James William Bailey	1/54	1.8518
	Leon Bailey	1/54	1.8518
	Willie Bailey	1/54	1.8518
	Geneva Bailey Watts	1/54	1.8518
	JoAnn Bailey	1/108	.9259
	Albert Lindsey	1/108	.9259
(F)	Isaac Thomas Finley	1/36	2.7778
	Marvin Stewart Finley	1/36	2.7778
	Yvonne Finley Forbes	1/36	2.7778
	Carole Finley Perr	1/36	2.7778

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<u>HEIRS</u>	<u>OWNERSHIP</u>	<u>PERCENTAGE</u>
(G) Richard Daniel Finley	2/27	7.4074
Samuel Curtis Finley	2/27	7.4074
Sylvester David Finley	2/27	7.4074

THREE: 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 pay over to John L. Cole as counsel of record for all Defendants the remaining portion of the Settlement Fund for distribution according to the specifications of this decree, as follows:

<u>HEIRS</u>	<u>PERCENTAGE</u>
(A) Leroy Finley	11.1111
(B) Wathaw Avery, Sr.	5.5555
Etheridge Avery	2.7777
Willie B. Swain	2.7777
(C) Moses Percel Finley	2.7778
Lawrence Finley	2.7778
William Nelson Finley	2.7778
Charles Finley	2.7778
(D) 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	2.7778
Henry Clay Finley	.4630
Henry J. Coleman Finley McCoy	.4630
Wardell Finley, Jr.	.4630
Wardell Leo Finley	.4630
Christina Finley	.4630
Cassandra Finley	.4630
(E) J. D. Bailey	1.8518
James William Bailey	1.8518
Leon Bailey	1.8518
Willie Bailey	1.8518
Concva Bailey Watts	1.8518
JoAnn Bailey	.9259
Albert Lindsey	.9259
(F) Isaac Thomas Finley	2.7778
Marvin Stewart Finley	2.7778
Yvonne Finley Forbes	2.7778
Carole Finley Perr	2.7778
(G) Richard Daniel Finley	7.4074
Samuel Curtis Finley	7.4074
Sylvester David Finley	7.4074

FOUR: Kornegay Paper Company, Inc. and Hammermill Paper Company,

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are hereby dismissed, with prejudice.


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

SIX: John Lair, as Guardian Ad Litem, is hereby awarded attorney's fees and expenses in the amount of SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$750.00), which shall be paid by the Register from the Settlement Fund.

SEVEN: John L. Cole, attorney for Defendants, James W. Bailey, et al, is hereby awarded expenses in the amount of SIX HUNDRED SEVENTY NINE AND 25/100 DOLLARS (\$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.

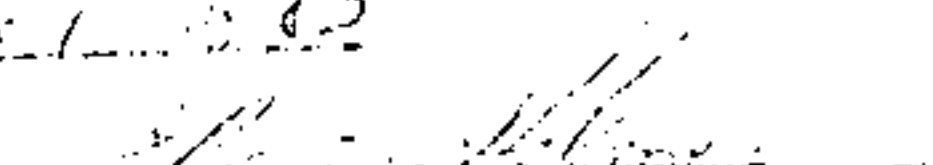
EIGHT: The Register shall, within thirty days from the entry of this Final Decree, file the same or a certified transcript thereof for record in the Office of the Judge of Probate of Shelby County, Alabama, and the cost of filing said Decree shall be part of the costs of this action. The Probate Judge 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 THREE above in the reverse index.

DONE and ORDERED this 26th day of May, 1982.


CIRCUIT JUDGE

Copies of this Order mailed pursuant to
Rule 77(d) of the Federal Rules of Civil
Procedure this day

Date: 5/26/82


Register

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BOOK 354 PAGE 861

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

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Register.

By

Deputy Register.

REGISTER-75

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT IS CORRECT

1984 APR 18 AM 10:28

Shirley L. Smith, Jr.
CLERK OF THE COURT

Rec 27.00
Ind 1.00
28.00