

F. D. FRYE and NINA A. FRYE,
PLAINTIFFS
VS.
SHERMAN HOLLAND,
DEFENDANT

IN THE CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
Case No. CV-85-037(E)

FINAL JUDGMENT

This cause coming on to be heard was submitted for Final Judgment upon the plaintiffs's Complaint, the defendant's Answer, plaintiffs's Amendment to Complaint, and defendant's Answer to Amendment to Complaint, and upon testimony heard ore tenus in open court, with documents introduced into evidence in connection with said testimony, and the Court having considered and understood the same, is of the opinion that the plaintiffs are entitled to the relief prayed for in their Complaint, as amended, without any payment due by the plaintiffs to the defendant, the Court finding from the evidence as follows:

1. That the plaintiffs, F. D. Frye and wife, Nina A. Frye, as joint tenants with right of survivorship, are, and were at the time of the filing of their Complaint in this cause, in the peaceable possession of the following described real estate, situated in Shelby County, Alabama, viz:

Lots 4, 5, and 6, Block 9, according to the J. H. Dunstan Map of the Town of Calera, Shelby County, Alabama, subject to easements and rights of way of record.

2. That plaintiffs own and hold the record title to said real estate through a series of mesne conveyances extending back for a period of more than twenty years, and that any claim which the defendant has in and to said property was by virtue of certain alleged tax deeds from the State Land Commissioner of Alabama which were not introduced into evidence, the first of which was based upon an alleged tax sale by the Probate Judge of Shelby County, Alabama, which took place on July 12, 1924, for non-payment of 1923 taxes, the second based upon an alleged tax sale by the Probate Judge of Shelby County, Alabama, which took place on June 17, 1929, for non-payment of 1928 taxes.

That taxes on the real estate in question, as described above in paragraph No. 1, were regularly assessed and paid by O'Neal Lime Works Co., Inc., for the year 1923, and that taxes on said property were regularly assessed and paid by Alabama Lime & Stone Company for the year 1928, and that, consequently, no taxes were due and unpaid on said property for either the year 1923 or the year 1928.

3. That the defendant has never been in possession of the property described above in paragraph No. 1, nor any part thereof.

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4. That the tax sale of July 12, 1924, for the alleged non-payment of 1923 taxes, was cancelled and voided as being an erroneous sale by the State Land Commissioner of Alabama on March 5, 1982.

5. That the defendant did in fact claim some title or interest in the said property at the time when the plaintiffs's Complaint was filed in this cause, but that said defendant failed to prove any valid title, claim, or interest in said property, or any encumbrance thereon, at the trial of this case.

6. That no action was pending at the time of the filing of plaintiffs's Complaint to enforce or test the validity of the title, claim, or encumbrance of said plaintiffs or of said defendant in and to said property.

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

A. That the plaintiffs, F. D. Frye and wife, Nina A. Frye, as joint tenants with right of survivorship, own and hold a fee simple title in and to the following described property situated in Shelby County, Alabama, viz:

Lots 4, 5, and 6, Block 9, according to the J. H. Dunstan Map of the Town of Calera, Shelby County, Alabama, subject to easements and rights of way of record;

and that the defendant has no right, title, or interest in, or encumbrance upon said property, or any part thereof, and that the defendant be, and he is hereby, perpetually enjoined and restrained from interfering in any wise with plaintiffs's title to or possession of said lands, and further, that defendant's alleged tax deeds in and to said property be, and they are hereby, cancelled, annulled, vacated, and held for naught.

B. That costs of court in this cause accrued be, and the same are hereby, taxed against the defendant, for which execution may issue.

DONE and ORDERED this 8 day of May, 1985.

CERTIFICATE

I, Kyle Lansford, Register of the Circuit Court for Shelby County, Alabama, do hereby certify that the foregoing is a correct copy of the Final Judgment rendered by the Judge of the Circuit Court in the above stated cause, which said decree is on file and enrolled in my office, and the cost has been paid.

Witness my hand and seal this 13th day of May, 1985.



Kyle Lansford
Register, Circuit Court, SHELBY CO.
INSTRUMENT WAS FILED

1985 MAY 20 PM 3:28

JUDGE OF PROBATE

[Signature]
CIRCUIT JUDGE

FILED IN OFFICE THIS TIME <u>8th</u> DAY
OF <u>May</u> , 19 <u>85</u>
<i>Kyle Lansford</i> Clerk of Circuit Court Shelby County, Alabama

Rec'd 5.00
Jud 1.00
6.00