

See Amended Order Book 068 Page 647

73
IN THE CIRCUIT COURT OF SHELBY COUNTY,
ALABAMA

ALLIED PRODUCTS COMPANY, an
Alabama corporation; SOUTHTRUST
BANK OF ALABAMA, N.A.; AETNA
CASUALTY & SURETY COMPANY OF
ILLINOIS, a foreign corporation;
and AETNA LIFE INSURANCE
COMPANY, a foreign corporation,

Plaintiffs

VS.

JOHN C. PATTERSON; and
PATTERSON DEVELOPMENT COMPANY,
INC., an Alabama corporation,

Defendants

CIVIL ACTION NO. CV-82-214(E)

DECREE TO QUIET TITLE

Box 055 Page 586
This cause having come on to be heard before the Court by a trial before a jury commencing on May 7, 1985, and ending on May 10, 1985, and all of the issues in this case having been adjudicated by a jury verdict returned on May 10, 1985, except for the issue regarding the quiet title claims, that issue having been reserved for the Court's determination by stipulation of counsel for all parties, and the Court having considered all of the evidence presented at the trial of the case, the Court hereby finds as follows:

FINDING OF FACTS

1. The real property on which this action is based, and

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Certified a true and complete copy
Kyle Langford
Clerk of Circuit Court

concerning which a quiet title action has been filed by both plaintiffs and defendants, is more particularly described as follows:

Commence at the Northeast corner of the Northwest Quarter of the Northeast Quarter, Section 33, Township 21 South, Range 2 West; thence run South along the East line of said quarter-quarter Section a distance of 316.87 feet; thence turn an angle of 79 degrees 39 minutes 40 seconds to the right and run a distance of 1366.38 feet to a point on the West line of the Northwest Quarter of the Northeast Quarter, being 596.93 feet South of the Northwest corner of said quarter-quarter Section; thence turn an angle of 04 degrees 24 minutes 20 seconds to the right and run a distance of 1083.59 feet to a point on the East right of way line of U.S. Hwy. 31; thence turn an angle of 16 degrees 58 minutes to the left and run a distance of 100.48 feet to a point on the West line of said Hwy; thence turn an angle of 3 degrees 27 minutes 00 seconds to the right and run a distance of 1069.57 feet; thence turn an angle of 00 degrees 14 minutes to the left and run a distance of 342.21 feet to a point on the East right of way line of the L & N Railroad; thence turn an angle of 95 degrees 24 minutes to the left and run along said right of way a distance of 50.22 feet; thence turn an angle of 84 degrees 36 minutes to the left and run a distance of 332.04 feet; thence turn an angle of 95 degrees 36 minutes to the right and run a distance of 197.82 feet; thence turn an angle of 91 degrees 50 minutes to the right and run a distance of 110.69 feet; thence turn an angle of 87 degrees 19 minutes to the left and run a distance of 478.10 feet to the point of beginning; thence turn an angle of 42 degrees 33 minutes to the left and run a distance of 105.68 feet; thence turn an angle of 24 degrees 29 minutes to the left and run a distance of 184.54 feet; thence turn an angle of 57 degrees 53 minutes to the right and run a distance of 753.03 feet; thence turn an angle of 108 degrees 08 minutes to the right and run a distance of 357.20 feet to a point on the East right of way of the L & N Railroad; thence run Northwesterly along the East right of way line of the L & N Railroad 817.67 feet; thence turn right and run a

distance of 78.31 feet more or less to the point of beginning. Situated in the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter, Section 33, Township 21 South, Range 2 West, Shelby County, Alabama.

2. The parties all stipulated that plaintiffs hold record title to the above described property (hereinafter referred to as the property) and that the claim of the defendants to the property is based on adverse possession and not on record title.

3. It was stipulated by counsel for all parties that the issue of quiet title would not be submitted to the jury, but that the quiet title issue would be decided by the Court.

4. On May 10, 1985, after hearing all the evidence in this case, the jury returned a verdict in favor of Allied Products Company (hereinafter referred to as Allied) on the ejectment count originally filed by Allied. The jury further found to be true the suggestion of adverse possession for three (3) years before the commencement of this suit which was filed by the defendants (hereinafter collectively referred to as Pattersons) and awarded the Pattersons the amount of Eight Hundred and No/100 (\$800.00) Dollars as the value of the permanent improvements made upon the property by the Pattersons. The jury further assessed the value of the use and occupation of the lands at Fifty and No/100 (\$50.00) Dollars.

5. During the trial of the case, the following evidence was presented which indicated that the Pattersons, together with their

predecessors in title, did not control or possess the property in a manner sufficient to acquire title by adverse possession against plaintiffs:

(a) Plaintiffs, and their predecessors in title, had paid all ad valorem taxes until the year 1979.

(b) Douglas Hulon testified that he had, in fact, told John C. Patterson, prior to Hulon having conveyed the property to Patterson, that he did not own the land adjoining the railroad.

(c) The land in question, or certain portions of the boundaries thereof, had been surveyed four or five times during the twenty years preceding the filing of this lawsuit and on none of the surveys was the property shown as being a part of the property owned by the Pattersons, or their predecessors in title, and the boundary line between the plaintiffs' property and Pattersons' property has always appeared the same, or substantially the same.

It is significant that the March 17, 1977 survey prepared by Frank W. Wheeler in connection with the sale of the Patterson farm property from Douglas Hulon to the Pattersons does not include the property in question as part of the Patterson farm, and the testimony reflected that this survey was reviewed by John C. Patterson prior to the conveyance of the farm property from Hulon to the Pattersons.

(d) The testimony reflected that Victor Scott, acting as agent for Allied or its predecessors in title, had no more than

one occasion negotiated with owners of the Pattersons' farm concerning swapping the property in question for land located north thereof. Specifically, the testimony reflected that Victor Scott, Douglas Hulon and Mr. Wheeler had a conversation in the mid-1970's regarding trading the property made the basis of this suit for some property located north of this property which would have included the pond also located north of this property.

(e) The only deed on record conveying said property to the Pattersons, which was recorded in 1978, was a quit claim deed and not a warranty deed, and this quit claim deed was executed and recorded several months after Douglas Hulon conveyed the farm property to the Pattersons.

055 PAGE 590
055
BOOK (f) Certain affidavits were admitted as exhibits which clearly indicate that some of Allied's predecessors in title were allowing the adjoining landowners to use the property in question with permission only and that the property had been known as the "O'Neal Limeworks" property for several decades.

(g) The testimony elicited from Frank Wheeler, Jack Wheeler and Douglas Hulon reflected that; during a portion of the twenty years preceding the filing of this lawsuit, there was present an old fence line which ran generally along the boundary line between plaintiffs' property and Patterson's property, which would be the east boundary line of the above described property.

(h) Prior to the time the Pattersons purchased the property,

the only use made of the property by the owners of the Patterson farm was cattle grazing, except for occasional and intermittent uses, such as the placing of a "back scratcher" between two trees for the cattle. This grazing, according to the testimony, was not continuous during the fifteen (15) year period before the Pattersons purchased the property.

6. The Court finds, therefore, that the Pattersons have failed to prove title by adverse possession.

7. The Court further finds (based on the stipulation of counsel for the Court to decide the quiet title issue, and further based on the fact that the issue of title was fully adjudicated in the trial of this case) that the owners of the legal record title of the property are SouthTrust Bank of Alabama, N.A., Aetna Casualty and Surety Company of Illinois and Aetna Life Insurance Company, said title being subject to the rights of Allied arising out of certain mortgages executed by Allied, as mortgagor, in favor of SouthTrust Bank of Alabama, N.A., Aetna Casualty & Surety Company of Illinois and Aetna Life Insurance Company, as mortgagees.

ORDER

It is, therefore ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the motion for directed verdict filed by the Pattersons at the close of the plaintiffs' case is hereby denied

as to plaintiffs' quiet title count, which was added by admendment to their original action (said origional action having been filed at a time when there was no action pending to enforce or test the validity of title to the property).

2. Judgment is hereby entered in favor of plaintiffs and against the Pattersons on the plaintiffs quiet title count.

3. It is, therefore, ORDERED, that title be quieted in SouthTrust Bank of Alabama, N.A., Aetna Casualty & Surety Company of Illinois and Aetna Life Insurance Company (subject to the rights of Allied Products Company, as mortgagor) in and to the following described property:

BOOK 055 PAGE 592

Commence at the Northeast corner of the Northwest Quarter of the Northeast Quarter, Section 33, Township 21 South, Range 2 West; thence run South along the East line of said quarter-quarter Section a distance of 316.87 feet; thence turn an angle of 79 degrees 39 minutes 40 seconds to the right and run a distance of 1366.38 feet to a point on the West line of the Northwest Quarter of the Northeast Quarter, being 596.93 feet South of the Northwest corner of said quarter-quarter Section; thence turn an angle of 04 degrees 24 minutes 20 seconds to the right and run a distance of 1083.59 feet to a point on the East right-of-way line of U.S. Hwy. 31; thence turn an angle of 16 degrees 58 minutes to the left and run a distance of 100.48 feet to a point on the West line of said Hwy; thence turn an angle of 3 degrees 27 minutes 00 seconds to the right and run a distance of 1069.57 feet; thence turn an angle of 00 degrees 14 minutes to the left and run a distance of 342.21 feet to a point on the East right-of-way line of the L & N Railroad; thence turn an angle of 95 degrees 24 minutes to the left and run along said right-of-way a distance of 50.22 feet; thence turn an angle of 84 degrees 36 minutes to the left and run a distance of 332.04 feet; thence turn an angle of 95 degrees

BOOK 055 PAGE 593

36 minutes to the right and run a distance of 197.82 feet; thence turn an angle of 91 degrees 50 minutes to the right and run a distance of 110.69 feet; thence turn an angle of 87 degrees 19 minutes to the left and run a distance of 478.10 feet to the point of beginning; thence turn an angle of 42 degrees 33 minutes to the left and run a distance of 105.68 feet; thence turn an angle of 24 degrees 29 minutes to the left and run a distance of 184.54 feet; thence turn an angle of 57 degrees 53 minutes to the right and run a distance of 753.03 feet; thence turn an angle of 108 degrees 08 minutes to the right and run a distance of 357.20 feet to a point on the East right-of-way of the L & N Railroad; thence run Northwesterly along the East right-of-way line of the L & N Railroad 817.67 feet; thence turn right and run a distance of 78.31 feet more or less to the point of beginning. Situated in the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter, Section 33, Township 21 South, Range 2 West Shelby County, Alabama.

and that the Pattersons have no right, title or interest in, or encumbrance upon, said property.

4. Plaintiffs are hereby granted the right to take possession of the property and the Pattersons are hereby ORDERED not to go onto said property or in anyway interfere with the peaceable possession of said property by plaintiffs or any of their agents, servants, or employees.

5. Plaintiffs are hereby ORDERED to construct and place "judicial markers" along the boundary between its property and the property of the Pattersons, said markers to be located at each point where the boundary line changes direction. Accordingly, there should be four (4) such markers. The cost of constructing said markers shall be borne by Allied.

6. It is further ORDERED that the clerk of the Circuit Court of Shelby County, within thirty (30) days from the date of this Decree, shall file and record this Decree, or a certified copy thereof, in the Probate Office of Shelby County, Alabama.

7. It is further ORDERED that this Decree be, and it is, hereby deemed to be a final Decree, all of the issues in this case having now been decided.

8. The costs in this matter are hereby taxed against the Pattersons.

Done and Ordered this the 10th day of December, 1985.

Kenneth H. Ingram
Kenneth Ingram, Circuit Judge

BOOK 055 PAGE 594

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

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Thomas A. Sullivan, Jr.
JUDGE OF PROBATE

FILED IN OFFICE THIS THE 10 DAY
OF Dec, 1985

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Kyle Lansford
Clerk of Circuit Court
Shelby County, Alabama