

Kyle Lansford
IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

J. D. PRESLEY and wife, Register Circuit Court of
ELIZABETH PRESLEY, Shelby County, Alabama
PLAINTIFFS

VS.

CASE NO. CU-86-191

ROBERT W. VANCE,
DEFENDANTS

JUDGMENT

BOOK 083 PAGE 865
This cause coming on to be heard was submitted for final Judgment upon the original Complaint filed by the plaintiffs, J. D. Presley and wife, Elizabeth Presley, Summons issued by Kyle Lansford, Clerk/Register of the Circuit Court of Shelby County, Alabama in said cause on May 15, 1986, with service return showing personal service by delivery of a copy of said Summons and Complaint to the defendant, Robert W. Vance, on 5-16-86 by the Sheriff of Shelby County, Alabama, by his deputy, Application to Register for Entry of Default and Supporting Affidavit which is dated July 7, 1986, Default Judgment entered against said Robert W. Vance by the Register of the Circuit Court on July 14, 1986, Commission to Take Deposition on Oral Examination issued to Kyle Lansford, as Commissioner, on July 14, 1986, Testimony of the plaintiff, J. D. Presley, subscribed in writing before said Commissioner and filed in this cause on July 15, 1986, 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, the Court finding from the evidence as follows:

1. That the plaintiffs, J. D. Presley and wife, Elizabeth Presley, 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:

A portion of land situated in the SW 1/4 of Section 11, Township 24 North, Range 13 East, Shelby County, Alabama, and being more particularly described in two parcels as follows:

2/6.4/2

PARCEL A: Begin at the point of intersection of the North right of way line of Shelby County Road #4 and the West right of way line of U. S. Highway #31, thence run North 89 deg. 34' 11" West along said North right of way line a distance of 540.51 feet to a point of curve; said curve being to the right having a radius of 100.0 feet and an interior angle of 69 deg. 34' 20"; thence run Northwesterly along said right of way line an arc distance of 121.46 feet to the point of tangent; thence continue North 14 deg. 10' 22" West along said tangent a distance of 35.36 feet; thence run North 0 deg. 91' 33" East a distance of 550.0 feet; thence run North 88 deg. 22' 18" East a distance of 300.0 feet; thence run South 0 deg. 01' 33" West a distance of 360.80 feet; thence run North 89 deg. 33' 28" East a distance of 210.29 feet; thence run North 01 deg. 21' 15" East a distance of 111.55 feet; thence run South 86 deg. 44' 36" East a distance of 122.30 feet to the West right of way line of U. S. Highway #31; thence run due South along said right of way line a distance of 409.46 feet to the point of beginning. Containing 7.09 acres. Less and except any easements of record.

PARCEL B: Begin at the point of intersection of the East right of way line of U. S. Highway #31 and the North right of way line of Shelby County Road #4; thence run due North along said East right of way line a distance of 315.97 feet; thence run South 85 deg. 15' East a distance of 78.13 feet to the West right of way line of the L & N Railroad; thence run South 0 deg. 06' 24" East along said West right of way line a distance of 313.36 feet to the North right of way line of said County Road #4, thence run North 87 deg. 09' 52" West a distance of 78.0 feet to the point of beginning. Containing 0.56 acres, more or less. Less and except any easements of record.

2. That the plaintiffs own and hold the record title to said real estate through a Register's Deed which is dated May 23, 1985 and recorded in Book 028, at pages 734-736, Office of the Judge of Probate of Shelby County, Alabama.

3. That the defendant did not file any Answer in this cause, or make any claim to said real estate in this cause, and did not specify and set forth any title, claim, interest, or encumbrance therein, but that the evidence before the Court shows that the defendant, Robert W. Vance, received a quit claim deed dated March 19, 1986, from Sherman Holland which is recorded in Book 064 at page 773 in said Probate Office, said quit claim deed describing the following property:

Lots 5 and 6 Block 62 as per South Calera Land Co. map of South Calera, Being shown on the Tax Assessor's records as 35-01-11-0-002-099.01 part of Section 11 Township 24 South Range 13 East,

and that said Sherman Holland had previously received a tax deed from the State Land Commissioner of Alabama dated March 23, 1984,

said deed having been recorded in Deed Book 357, at page 226 in said Probate Office, said tax deed having been based upon an alleged tax sale dated July 2, 1928, said tax deed describing the following property, viz:

Lots 5 and 6 Block 62 as per South Calera Land Co. map and survey of South Calera, Ala.

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

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

BOOK 083 PAGE 867

6. That if the defendant did, in fact, claim some title or interest in said property at the time when said Complaint was filed in this cause by virtue of said tax sale in 1928 and said later tax deed to Sherman Holland, said defendant has failed to sustain his burden of proof in showing that the prerequisites required by law to support said tax sale have been complied with, and that said defendant has failed to prove any valid title, claim, or interest in said property, or any encumbrance thereon, in this cause.

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

A. That the plaintiffs, J. D. Presley and wife, Elizabeth Presley, own and hold a fee simple title in and to the following described real estate situated in Shelby County, Alabama:

A portion of land situated in the SW 1/4 of Section 11, Township 24 North, Range 13 East, Shelby County, Alabama, and being more particularly described in two parcels as follows:

BOOK 083 PAGE 868

PARCEL A: Begin at the point of intersection of the North right of way line of Shelby County Road #4 and the West right of way line of U. S. Highway #31, thence run North 89 deg. 34' 11" West along said North right of way line a distance of 540.51 feet to a point of curve; said curve being to the right having a radius of 100.0 feet and an interior angle of 69 deg. 34' 20"; thence run Northwesterly along said right of way line an arc distance of 121.46 feet to the point of tangent; thence continue North 14 deg. 10' 22" West along said tangent a distance of 35.36 feet; thence run North 0 deg. 91' 33" East a distance of 550.0 feet; thence run North 88 deg. 22' 18" East a distance of 300.0 feet; thence run South 0 deg. 01' 33" West a distance of 360.80 feet; thence run North 89 deg. 33' 28" East a distance of 210.29 feet; thence run North 01 deg. 21' 15" East a distance of 111.55 feet; thence run South 86 deg. 44' 36" East a distance of 122.30 feet to the West right of way line of U. S. Highway #31; thence run due South along said right of way line a distance of 409.46 feet to the point of beginning. Containing 7.09 acres. Less and except any easements of record.

PARCEL B: Begin at the point of intersection of the East right of way line of U. S. Highway #31 and the North right of way line of Shelby County Road #4; thence run due North along said East right of way line a distance of 315.97 feet; thence run South 85 deg. 15' East a distance of 78.13 feet to the West right of way line of the L & N Railroad; thence run South 0 deg. 06' 24" East along said West right of way line a distance of 313.36 feet to the North right of way line of said County Road #4, thence run North 87 deg. 09' 52" West a distance of 78.0 feet to the point of beginning. Containing 0.56 acres, more or less. Less and except any easements of record,

and that the defendant has no right, title, or interest therein, or encumbrance upon said property, or any part thereof, derived from said deed from Sherman Holland dated March 19, 1986, and recorded in Book 064, at page 773, Office of Judge of Probate of Shelby County, Alabama, or from any other source, and that said defendant be, and he is hereby perpetually enjoined and restrained from interfering in anywise with the plaintiffs' title to, or possession of said lands.

B. That the Register of this Court is ordered and directed to file for recording in the Office of the Judge of Probate of Shelby County, Alabama, a certified copy of this Judgment.

C. That the costs of court in this cause are taxed as paid against the plaintiffs, pursuant to 1975 Code of Alabama 6-6-545, a default judgment having been entered against the defendant.

Done and ordered this 31 day of July, 1986.


CIRCUIT JUDGE

CERTIFICATE

I, Kyle Lansford, Register of the Circuit Court of Shelby County, Alabama, do hereby certify that the foregoing is a correct copy of the 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 31 day of July, 1986.

Kyle Lansford
Register, Circuit Court

BOOK 083 PAGE 869

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

1986 JUL 31 PM 3:22

Thomas A. Lawrence, Jr.
JUDGE OF THE CIRCUIT

1. Deed Tax	\$ <u>—</u>
2. Mtg. Tax	<u>—</u>
3. Recording Fee	<u>12 50</u>
4. Indexing Fee	<u>1 00</u>
TOTAL	<u>13 50</u>