

OCT 19 1992

Frank Head

JAMES T. GRAY and wife,
BRENDA M. GRAY,
PLAINTIFFS

VS

L.J. COHILL and wife,
HENRIETTA COHILL,
DEFENDANTS

) IN THE CIRCUIT COURT OF
)
) SHELBY COUNTY, ALABAMA
)
) CIVIL ACTION NUMBER
)
) CV-91-782
)

FINAL JUDGMENT

THIS CAUSE came on to be heard before the Court on September 23, 1992, for a final order on Plaintiffs' Complaint and Defendant, Henrietta Cohill's Answer thereto, Defendant, L.J. Cohill having passed away prior to said hearing and conveying all his interest to the said Henrietta Cohill. Upon consideration of the said pleadings, together with ore tenus testimony and exhibits admitted into evidence, the Court enters the following findings of fact, conclusions of law, and final judgment.

FINDINGS OF FACT

1. Both Plaintiffs and Defendant make claim to the same parcels of land, said parcels being all of Block 101, Dunstan's Map of the Town of Calera, West of Highway 31.

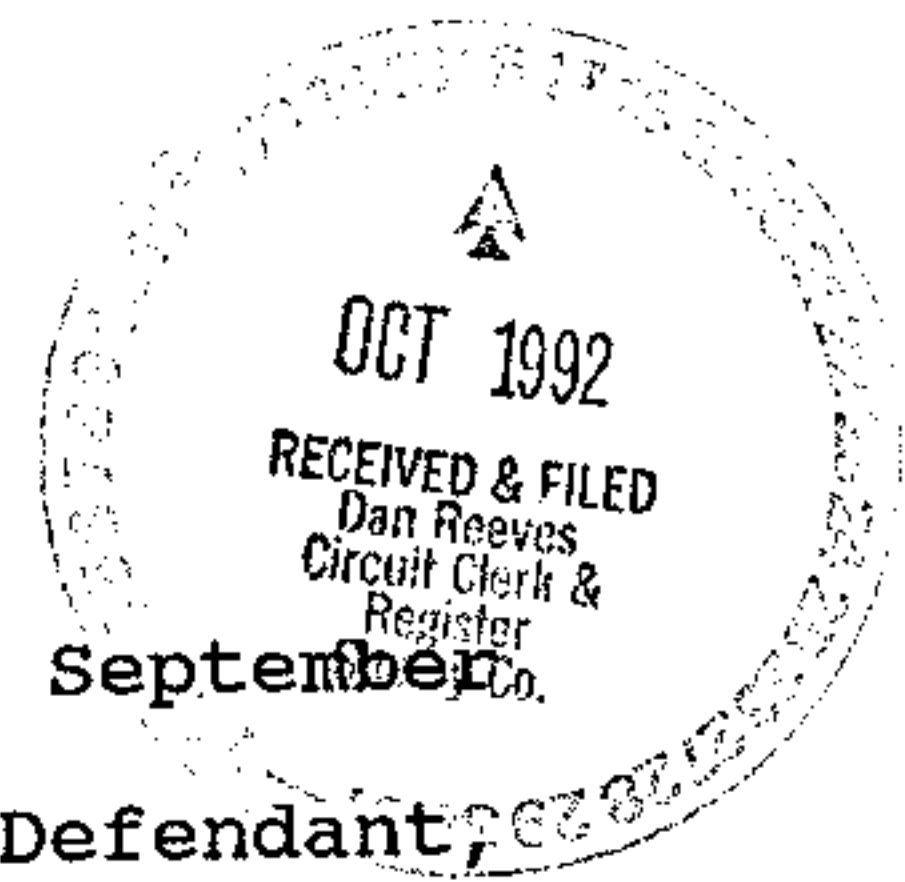
2. That both Plaintiffs and Defendant have deeds showing that they have ownership of said property.

3. The deeds leading to Plaintiffs' claim of title were as follows:

a. That Plaintiffs acquired said property from one Fred Tindall in 1991.

b. That the said Fred Tindall acquired said property from his brother, Thomas Tindall in 1980.

c. That the said Thomas Tindall acquired the said



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property in 1975 from his mother, who had acquired title from the heirs of the father of Thomas and Fred Tindall in 1967.

d. That the said father of Thomas and Fred Tindall acquired subject property in 1956.

4. That while said Fred Tindall owned the subject property, he paid taxes thereon.

5. That, further, while the said Fred Tindall owned said property, he had spoken to Mr. L.J. Cohill about moving off his property, said L.J. Cohill being a former Defendant to this cause.

6. That the Defendants lived on the property the entire time the said Fred Tindall owned said property.

7. That there are two houses on the said property, which have existed on said property since it was first acquired in 1956 by the father of Thomas and Fred Tindall.

8. That when said Thomas Tindall acquired ownership in and during the time he had title to said property, the Defendant, Henrietta Cohill, along with her husband, the late L.J. Cohill, lived thereon.

9. That during the time the mother of Fred and Thomas Tindall held title to said property the said Henrietta Cohill and the said L.J. Cohill lived thereon.

10. That the said L.J. Cohill and his wife, Henrietta Cohill, have resided on the subject property since 1958 and have continuously lived thereon since 1958.

11. That the said L.J. Cohill and wife, Henrietta Cohill, moved into one of the two aforementioned houses when they first

resided on the subject property with the other house being occupied by Defendant, Henrietta Cohill's mother.

12. That when the said mother of the said Henrietta Cohill had a stroke, then the said L.J. Cohill and wife, Henrietta Cohill, moved into the house formerly occupied by the said Henrietta Cohill's mother and the children of Henrietta Cohill moved into the house formerly occupied by L.J. Cohill and Henrietta Cohill.

13. That improvements were made on both of the aforementioned homes by the said L.J. Cohill and wife, Henrietta Cohill.

14. That the said L.J. Cohill and wife, Henrietta Cohill, erected a fence on the subject property which ran down Highway 31.

15. That neither the Plaintiff nor Plaintiff's predecessors in title have given the said L.J. Cohill and wife, Henrietta Cohill, permission to live on the subject property.

16. That the said L.J. Cohill and wife, Henrietta Cohill, acquired their color of title from a Mr. and Mrs. Crawford via warranty deed in 1960.

17. That the said L.J. Cohill and wife, Henrietta Cohill, always claimed their property line on the subject property as going up to Highway 31 and on the north side, up to the Strickland's property and on the south side, along Second Avenue.

18. That there were several witnesses to the fact that throughout the years the said L.J. Cohill and wife, Henrietta Cohill, occupied said property for over twenty years continuously next preceding the filing of this cause.

CONCLUSIONS OF LAW

That under the case of Thompson v. Odum, 279 Ala. 211, 184 So.2d 120 (1966), the essential elements of adverse possession are possession for more than ten years and possession which is hostile, under claim of right, actual, open and notorious, exclusive and continuous.


FINAL JUDGMENT

It is therefore, ORDERED, ADJUDGED, DECREED and DECLARED by the Court that the Defendant, Henrietta Cohill, having acquired sole title to the subject property from her late husband, L.J. Cohill, and that as both the said L.J. Cohill and Henrietta Cohill, having acquired title by adverse possession of the following described property:

All of Block 101, Dunstan's Map of the Town of Calera, West of Highway 31.

that they be deemed to be and are owners of said property.

DONE and ORDERED this 15th day of October, 1992.



D. Al Crowson
Circuit Judge

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