

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

CIVIL ACTION NO.: CV-93-138 NJ

GERALD W. BOOTHE,

Plaintiff,

vs.

Certain real property described as DUNSTANS LOT PT. BLOCK 145, BLOCK 145, DUNSTAN'S MAP OF CALERA, EXCEPT THE NORTH 150 FEET OF THE WEST 150 FEET, SEC. 16, T22S, R2W; also described as LOT 8½ SUBDIVISION OF SOUTH AND NORTH ALABAMA RAILROAD;

And

WILLIE L. CHAMBLESS, his heirs or devisees, if deceased; C. O. CHAMBLESS, his heirs or devisees, if deceased; A. B. BAXLEY, his heirs or devisees, if deceased; TOM GAY, his heirs or devisees, if deceased; ELLA GAY, her heirs or devisees, if deceased; ADLEY THORNTON, his heirs or devisees, if deceased; EVELYN SMELLY, her heirs or devisees, if deceased; MONROE HUDSON, his heirs or devisees, if deceased; and BRENDA JAMES, her heirs or devisees, if deceased.

Defendants.

Inst # 1993-25832

08/26/1993-25832
03:00 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 MCD 16.00

JUDGMENT

THIS CAUSE CAME TO BE HEARD on the 9th day of August, 1993. Present in Court at the hearing were plaintiff GERALD W. BOOTHE and his attorney, Honorable JAMES W. FUHRMEISTER, defendant BRENDA JAMES, and Honorable HARRY LYON, guardian ad litem. Upon consideration of the verified complaint, including facts verified relative to service by publication, prior orders prescribing and directing notice to the defendants and appointment of guardian ad litem, the lis pendens recorded in the records in the Office of the Judge of Probate of Shelby County, Alabama, proof of publication of notice of pendency of this proceeding, answer of the guardian ad litem

G. W. Boothe, Allison



appointed by the Court, denying all of the allegations of the complaint, and oral testimony taken in open court, the Court makes the following as findings of fact, among other things:

That plaintiff GERALD W. BOOTHE, at the time of the filing of the complaint in this cause, claimed in his own right the fee simple title to and was in actual peaceable possession of the following described lands:

Certain real property described as DUNSTANS LOT PT. BLOCK 145, BLOCK 145, DUNSTAN'S MAP OF CALERA, EXCEPT THE NORTH 150 FEET OF THE WEST 150 FEET, SEC. 16, T22S, R2W; also described as LOT 8½ SUBDIVISION OF SOUTH AND NORTH ALABAMA RAILROAD.

2. That at the time of the filing of the complaint, no suit was pending to test plaintiff's title to, interest in, or the right to the possession of said land.

3. That plaintiff's complaint was duly verified, and was filed against said lands and against any and all persons claiming any title to, interest in, lien or encumbrance on said land or any part thereof, and was to establish the right or title to such lands or interest, and to clear up all doubts or disputes concerning the same, and that said complaint did in all respects comply with the provisions of §6-6-561 Code of Alabama, 1975.

4. That service of process was had in strict compliance with the provisions of § 6-6-564 Code of Alabama, 1975 and Rule 4.3, Ala. R. Civ. P., and the Court finds as a fact that plaintiff exercised diligence to ascertain all of the facts in regard to the names of proper parties defendants.

5. That notice of the pendency of said complaint was issued by the Court and published once a week for four (4) consecutive weeks in the *Shelby County Reporter*, a newspaper having general circulation and published in Shelby County, Alabama.

6. That a copy of said notice, certified by the Court as being correct, was recorded as a lis pendens in the Office of the Judge of Probate of said county, said notice being in compliance with § 35-4-131, Code of Alabama, 1975.

7. That it has been more than thirty (30) days since the last publication of said notice and the filing of a certified copy of said notice in the Office of the Probate Judge of Shelby County.

8. That no person has intervened in this case except that the Honorable HARRY LYON, appointed by the Court herein as guardian ad litem for interest of infant, lunatic, and unknown parties in the proceeding has appeared herein, denied the allegations of the complaint, demanded strict proof thereof, and examined the entire file in this proceeding, including the testimony on behalf of the plaintiff.

9. That all of the allegations of fact contained in the complaint are true; that there was proper service of process on all of the defendants named in the complaint.

10. That the defendants named in the complaint contained all names known to plaintiff after the exercise of diligence, and that all of the defendants were represented in this proceeding by guardian ad litem except those that had filed answer and waivers or as to whom default judgment had been entered after proper service of process.

11. That the plaintiff complied with all of the provisions of law relative to this proceeding in rem to establish title to land. It is therefore,

ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff is entitled to the relief prayed for in the complaint and that the fee simple title claimed by the plaintiff in and to the above described lands has been duly proved, and that the plaintiff is

the owner of said lands and has a fee simple title thereto, free of all liens and encumbrances except as hereinabove referred to, and that his title thereto be and is hereby established, and that all doubts and disputes concerning same be and the same are hereby cleared up.

It is further

ORDERED, ADJUDGED AND DECREED by the Court that a certified copy of this decree be recorded in the Office of the Judge of Probate of Shelby County, Alabama, and that it be indexed in the name of the plaintiff herein, in both the direct index and indirect index of the records thereof. It is further

ORDERED, ADJUDGED AND DECREED by the court that the Honorable HARRY LYON be and he is hereby awarded a fee of \$250.00 for his services as guardian ad litem in this proceeding, to be taxed as part of the costs herein, to be paid by the Clerk of this Court to him on payment of such costs. It is further

ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff herein pay the costs of the proceedings, for which execution may issue.

Done this 23rd day of August, 19 93.


CIRCUIT JUDGE

[JWFREALPROP\BOOTHEJDG]

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