

IN THE CIRCUIT COURT FOR SHELBY COUNTY, ALABAMA

LIZZIE BELL MARTIN,
ROY L. MARTIN, JAMES J.
MARTIN, and MARGIE MARTIN,

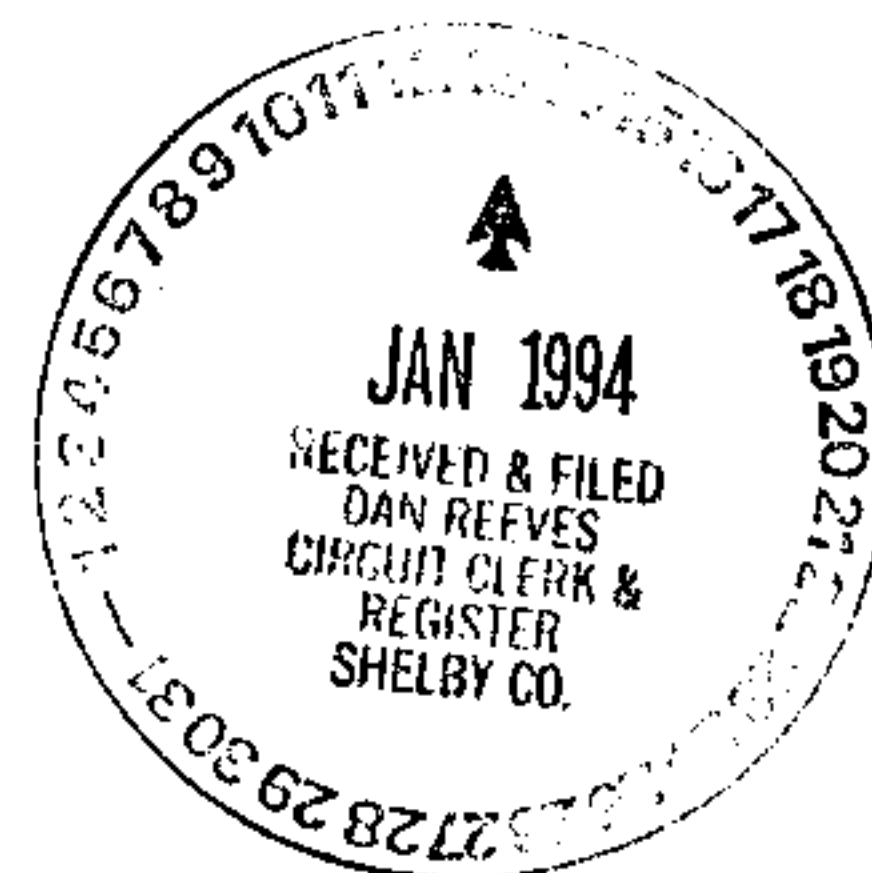
Plaintiffs,

vs.

CASE NO.: CV92-231

GLADYS M. GAME,

Defendant.



Inst # 1994-13202

DECREE

This cause, came on to be heard on the 16th day of December, 1993. It was submitted on the pleadings of record in this cause. The Plaintiffs, Roy L. Martin, James J. Martin and Margie Martin, filed a Motion for Substitution, requesting that Roy L. Martin be substituted for Lizzie Bell Martin and showing that Lizzie Bell Martin had died on or about the 29th day of November, 1993 and that her Will had been submitted for probate in the Probate Court of Shelby County under Probate Case Number 32-193. Plaintiffs' Motion was granted and Roy Martin was substituted for Lizzie Bell Martin. It was agreed by all parties that the case could proceed to trial and that any judgment that this Court might enter would be subject to, or conditioned on, claims made against the estate and/or the property of Lizzie Bell Martin prior to the closing of the Probate Court case.

All parties were represented in Court at all times by able counsel and the Court heard evidence and argument by counsel for the respective parties. Based upon the consideration of the pleadings, the evidence and the arguments by counsel, the Court makes the following Findings of Fact.

1. The parties stipulated that this was an adverse possession case involving coterminous landowners and that the property in dispute is the property South and East of the old fence line and West of the right-of-way of Shelby County Highway #33, and North of the property line as per deed, as shown on the Gladys Game boundary survey of November 1989 prepared by Joseph E. Conn, Jr. An enlarged copy of said survey was admitted into evidence and was used by the parties in marking various items, including the property in question.

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2. The fence lines, as they presently exist on the subject property, have been in their present location since at least 1960.
3. The subject property was used for cultivation and grazing of cattle by Plaintiffs, Plaintiffs' lessees or Plaintiffs' predecessors in title during the 1960's, 1970's and 1980's. At least as early as the mid 1950's, Plaintiffs and their predecessors in title were in actual, hostile, open, notorious, exclusive, and continuous possession of the property made the subject of this lawsuit. Plaintiffs and their predecessors in title have claimed the property made the subject of this lawsuit by adverse possession for over ten (10) years.
4. The use of the subject property by Plaintiffs or Plaintiffs' predecessors in title has at all times been without the permission of Defendant and/or Defendant's predecessors in title.

Accordingly, it is therefore

ORDERED, ADJUDGED and DECREED by the Court as follows:

1. That the boundary line between the parties is the line established by the old fence as identified and shown on the survey by Joseph E. Conn, Jr. of November, 1989.
2. Plaintiffs shall cause a legal description of the disputed property be prepared by a licensed surveyor and submit said description to the Court. Plaintiffs shall pay for the cost of preparation of said legal description.
3. Once a legal description has been prepared and submitted to the Court by Plaintiffs, this Order and a supplemental Order containing the legal description shall be recorded in the Probate office of Shelby County, Alabama. The recording fees shall be paid by Plaintiffs.
4. This decree, until the close of the Probate estate of Lizzie Bell Martin, shall be conditioned on there being no other claims made against the subject property through said estate.
5. Cost of Court shall be taxed against Plaintiff for which let execution issue.

DONE and ORDERED this 13th day of January, 1994.

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J. Michael Joiner
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