

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

EVELYN RUTH SPRAITZAR,

PLAINTIFF

CASE NO. CV 92-853

VS.

EDWIN C. MILES, ET AL,

DEFENDANTS

ORDER OF COURT

This cause coming on to be heard on the 20th day of December, 1993, and the Court having been informed that a settlement agreement has been reached by the plaintiff, Evelyn Ruth Spraitzar, and defendants, Willie Mae Lowery, Allen E. Lowery, Margaret L. Miller, Winnifred L. Vick, and Annette Massey, and the plaintiff being present and represented by her attorney of record, Hon. J. Frank Head, and the said defendants being represented by their attorney of record, Hon. Suzanne Smith Childers, the Court does herewith ratify, adopt, and incorporate the agreement of the parties, and it is therefore, ORDERED, ADJUDGED and DECREED, as follows:

1. The plaintiff is the owner and record title holder of the NW 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 1 West, located in Shelby County, Alabama, with the exception of Railroad right of way or property existing on or across said realty.

2. The defendants are the widow and only children of Lawson Lowery, who died on or about August 19, 1984, as owner and record title holder of the following described property, and the defendants claim ownership of said property:

Beginning at the SE corner of the SW 1/4 of SW 1/4 of Section 26, Township 19, Range 1 West, thence north along the east line of said forty 206 yds. more or less to a road, thence SW along said road to a point 58 yards east of the west line of said forty, thence west 196 yds. to a pine tree on ditch, thence NW along ditch 363 yds. to Yellow Leaf Creek, thence SW along said creek to a point near the SW corner of the SE 1/4 of SE 1/4 of Section 27, thence continue along said creek running almost due east about 100 yds. to a forked white oak tree, thence north (leaving the creek) about 50 yds. to a rock corner near the south line of said SE 1/4 of SE 1/4, Section 27, thence east along said south line about 200 yds. to the SE corner of said forty acres, thence continue east 1/4 miles to the point of beginning, containing 43 acres more or less and being a part of the SW 1/4 of SW 1/4 of Section 26 and a part of the SE 1/4 of SE 1/4 of Section 27 and a small part of the NE 1/4 of NE 1/4 of Section 34, all in Township 19, Range 1 West, situated in Shelby County, Alabama.

FEB 1994  
Received & Filed  
Dan Reeves  
Circuit Clerk &  
Register  
Shelby Co.

Inst # 1994-16601

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02:47 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
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3. The parties share a common boundary line at the North line of the NW 1/4 of the NW 1/4 of Section 35, Township 19 South, Range 1 West, and the South line of the SW 1/4 of the SW 1/4 of Section 26, Township 19 South, Range 1 West. The parties agree, and it is herewith ordered, that the boundary line of the parties shall be at the said Section line as surveyed by John S. Parks, P.E. & L.S., Alabama Reg. No. 12579, dated December 31, 1991, and later amended June 20, 1993, which is attached hereto as Exhibit "A". The defendants will remove at their expense any fence encroachment, and will utilize either John S. Parks or Jerry O. Peery to provide survey assistance for any re-location of the fence. The plaintiff will bear the expense of payment to the surveyor chosen for the survey assistance provided by said surveyor in insuring that the fence is re-located on the defendants' property.

4. The plaintiff is provided ingress and egress to the tract of her property North of the Railroad by a road which connects with Shelby County Highway 39, and crosses a part of the defendants' property located in the SE 1/4 of the SE 1/4 of Section 27, Township 19 South, Range 1 West. The plaintiff and her predecessors in title have utilized said road since approximately 1938, and the parties recognize the following description as representative of the original, existing road across the property of these defendants, and the Court orders herewith, a 15-foot-wide right of way and utility easement in accordance with the survey of John S. Parks, P.E. & L.S., Alabama Reg. No. 12579, dated December 31, 1991, and later amended June 20, 1993, which is attached hereto as Exhibit "A". The easement is more particularly described as follows:

A 15-foot-wide right of way situated in the SE 1/4 of the SE 1/4 of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama. Commence at the SE corner of Section 27, Township 19 South, Range 1 West, and run West along the South line of said Section for 149.5 feet, to the point of beginning and centerline of said 15-foot-wide right of way; from point thus obtained turn an angle of 57 deg. 48' 36" to the right and run for a distance of 30 feet to a point; thence turn an angle of 6 deg. 43' to the right and run 30 feet, more or less, to the point of ending on the Southeasterly right of way of Shelby County Highway No. 39. According to survey of John S. Parks, P.E. and L.S. Alabama Reg. No. 12579.

The Court notes that the John S. Parks survey provides for a 30-foot-wide right of way, and the agreement and order herewith provides for a 15-foot-wide right of way, with the same centerline shown in the Parks survey.

Done and ordered this 4<sup>th</sup> day of February, 1994.

Certified a true and complete copy

D. A. Crowson  
D. A. Crowson, Circuit Judge

Dan Reuss  
Register of Circuit Court

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