

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI

JOE W. REED

PLAINTIFF

VS

CAUSE NO. 96-10-1222

JOSEPH S. MCCAMPBELL, JR., AND CONNIE N. MCCAMPBELL,
 JOE BILLY MYRACLE AND BARBARA JOANN MYRACLE,
 MARSELL M. HALL, M. CLIFTON MAXWELL, MARILYN E. PARKER, AND
 MARJORIE M. ADCOCK, THE UNKNOWN HEIRS AT LAW OF ANNIE BYRD
 MAXWELL, ANY AND ALL UNKNOWN PERSONS HAVING OR CLAIMING ANY
 LEGAL OR EQUITABLE INTEREST IN THE REAL ESTATE
 DESCRIBED HEREIN,

DEFENDANTS

 DECREE QUIETING AND CONFIRMING TITLE

This cause came on this day to be heard on the filed, verified COMPLAINT TO QUIET AND CONFIRM TITLE filed in this cause by Joe W. Reed and the Court having considered said Complaint and the proof offered in support thereof doth find and adjudicate as follows:

1. That Joe W. Reed is an adult resident citizen of DeSoto County, Mississippi.

2. That the Plaintiff made as Defendants to this Cause the following named individuals, to-wit:

A. Joseph S. McCampbell, Jr. and Connie N. McCampbell, both being adult resident citizens of DeSoto County, Mississippi, living and residing at 2525 Odom Road, Nesbit, MS 38651, and who were personally served with process in this action more than thirty (30) days prior to the entry of this Decree.

B. Joe Billy Myracle and Barbara JoAnn Myracle, both being adult resident citizens of Desoto County, Mississippi, living and residing at Rt. 4, 2154 Pine Tree, Hernando, MS 38632, and who were personally served with process in this action more than thirty (30)

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days prior to the entry of this Decree.

C. Marsell M. Hall, an adult non-resident of the State of Mississippi, whose post office address and street address being one and the same is 3261 Estes, Memphis, TN 38115.

D. M. Clifton Maxwell, an adult non-resident citizen of the State of Mississippi, whose post office and street address being one and the same is 20 Park Lane, Fort Worth, TX 76132.

E. Marilyn E. Parker, an adult non-resident citizen of the State of Mississippi, whose post office and street address is not known to the Plaintiff after diligent search and inquiry.

F. Marjorie M. Adcock, an adult who is not to be found within the State of Mississippi after diligent inquiry and the post office address and street address of the said Marjorie M. Adcock being unknown to the Plaintiff after diligent inquiry.

G. The unknown heirs-at-law of Annie Byrd Maxwell, the names of such heirs, their post office address and street address being unknown to the Plaintiff after diligent search and inquiry.

H. Any and all unknown persons having or claiming any legal or equitable interest in the real estate described in Paragraph 3 herein, the names, post office address and street address being unknown to the Plaintiff after diligent search and inquiry.

3. That Joseph S. McCampbell, Jr., Connie N. McCampbell, Joe Billy Myracle, Barbara JoAnn Myracle, Marsell M. Hall, M. Clifton Maxwell, Marilyn E. Parker and Marjorie M. Adcock have filed no answer or response nor have they entered any appearance herein.

That Marsell M. Hall, M. Clifton Maxwell, Marilyn E. Parker,

Marjorie M. Adcock and the unknown heirs-at-law of Annie Byrd Maxwell and any and all unknown persons having or claiming any legal or equitable interest in the real estate described in the Complaint were all duly served with process by publication, said summons having been published in the *DeSoto Times* a newspaper having a general circulation in DeSoto County, Mississippi. That Proof of Publication has been duly filed herein evidencing the publication of said summons in the October 23, October 30, and November 6, 1996, editions of said publication. That all defendants joined in this action have defaulted and failed to appear herein or to file any answer or response within this proceeding and accordingly, the Plaintiff is entitled to the relief requested in his Complaint.

4. That all parties having or claiming any interest in the real property hereinafter described, to the best of the Plaintiff's knowledge, information and belief, are joined herein either as a Plaintiff or Defendant to this action in so far as the Plaintiff is able to ascertain after diligent search and inquiry. That in so far as the Plaintiff knows and believes all parties joined herein as Defendants are adults and under no legal disabilities. That the Plaintiff owns the land hereinafter described in fee simple and he is in possession of the same, said real property being located in DeSoto County, Mississippi, and described as follows, to-wit:

Part of the Northeast Quarter of Section 3, Township 3 South, Range 3 West, DeSoto County, Mississippi, and being more particularly described as follows, to-wit: Commencing at a point commonly accepted as the northeast corner of said quarter section; thence run South 00°30'39" East a distance of 1614.36 feet along the west

line of the Riley property to the north, the west line of the Morgan property and the west line of Lot 14 and Lot 8 of Country Home Estates to the south to a point on the north line of the Charles Mitchum property; thence run South $89^{\circ}58'48''$ West a distance of 1120.68 feet along said Mitchum north line on the east and the north line of the Joe Billy Myracle property to the west to the point of beginning; thence run North $89^{\circ}58'09''$ West a distance of 707.96 feet along said Myracle north line to a point on the east line of the Sam A. Hall, Jr. property; thence run North $00^{\circ}01'52''$ East a distance of 349.24 feet along said Hall east line on the south and the south line of said McCampbell property on the north to a point; thence run South $88^{\circ}44'22''$ East a distance of 709.06 feet along said McCampbell south line to the southeast corner of said McCampbell property; thence run South $00^{\circ}11'30''$ West a distance of 334.03 feet to the point of beginning and containing 5.56 acres.

5. That title to the aforescribed real property is out of the sovereign and the Plaintiff deraigns title thereto for a period of sixty (60) years as follows:

(a) The United States of America conveyed the land by patent to Meho Chubby under the Treaty of Pontotoc on January 25, 1836, as per the Location Roll in the Office of the Chancery Clerk of DeSoto County, Mississippi.

(b) Sarah McHall Renfro by her Last Will and Testament recorded in Will Book 4, Page 46, devised the property to Mary Louise Thomas Booth.

(c) Mary Louise Booth and Samuel L. Booth conveyed the property to F. C. Holmes on February 23, 1938 by deed recorded in Deed Book 26, Page 375.

(d) F. C. Holmes conveyed the property to Tom Allen by deed recorded in Deed Book 27, Page 14.

(e) William Henry White and Alta Mae Washington conveyed their undivided interest to Joe W. Reed by deed of record in Deed

Book 262, Page 468.

(f) Essie C. White, Z. P. Eldridge, Jr., Betty Eldridge, Bobbie Jean White Balfour conveyed their undivided interest to Joe W. Reed by deed recorded in Deed Book 262, Page 685.

(g) John White conveyed his undivided interest to Joe W. Reed by deed recorded in Deed Book 263, Page 123.

(h) Juanita D. Hill conveyed her undivided interest to Joe W. Reed by deed recorded in Deed Book 263, Page 128.

(i) Clyde Eldridge conveyed his undivided interest to Joe W. Reed by deed recorded in Deed Book 263, Page 132.

(j) W. S. Donel conveyed his undivided interest to Joe W. Reed by deed recorded in Deed Book 264, Page 319.

(k) Edward Ray Eldridge and Gary Lee Eldridge conveyed their undivided interest to Joe W. Reed by deed recorded in Deed Book 264, Page 323.

(l) Corener Dorsey conveyed her undivided interest to Joe W. Reed by deed recorded in Deed Book 266, Page 601.

(m) James Newsome conveyed his undivided interest to Joe W. Reed by deed recorded in Deed Book 266, Page 675.

(n) Default Judgement entered by the Court in Cause No. 94-4-409 of the Chancery Court Docket of DeSoto County, Mississippi, and duly recorded in Deed Book 274, Page 95.

(o) Masters Deed from W. E. Davis, Master, to Joe W. Reed recorded in Deed Book 277, Page 381.

That all of said documents were recorded in the office of the Chancery Clerk of DeSoto County, Mississippi.

6. That a cloud, doubt and suspicion exists as to the title and ownership of the above described land because of an error contained in a previous deed description, which error appears to have first appeared in that certain deed from J. W. Odom to George McHall which deed is dated February 17, 1888, and duly recorded in Deed Book 6, Page 29. That the land described in Paragraph 3 hereof was originally described in the McHall Deed (Deed Book 6, Page 29) as follows:

Commencing at the Southwest corner of the above described lot of land, thence West 10 chains and 86 links, thence South 5 chains and 7 links, thence East 10 chains and 86 links, thence North 5 chains and 7 links to the beginning.

That the aforesaid parcel was part of a 46.72 acre tract and was described as commencing at the Southwest corner of a 41.22 acre tract likewise conveyed by Odom to McHall.

7. That through various conveyances after the McHall Deed (Deed Book 6, Page 29) the real property was eventually conveyed to Tom Allen by F. C. Holmes by deed recorded in Deed Book 27, Page 14, and which deed is referred to in the deraignment of title contained herein. That the Holmes to Allen deed described the overall 46.72 acre tract as follows:

41.22 acres in the Northeast Quarter of Section Three (3), Township Three (3), Range Eight (8) West, described as beginning at the Northeast corner of said Section, thence West on the Section line 16 chains and 68 links, thence south 24 chains and 52 links, thence East 16 chains and 98 links, thence North 24 chains and 46 links to the beginning. And also the following tract, beginning at the Southwest corner of the above described lot, thence West 10 chains and 36 links, thence South 5 chains and 7 links, thence East 10 chains and 86 links, thence North 5 chains and 7 links to the beginning. Said land contain in all 46.72 acres in the Northeast Quarter

of said Section 3.

That the real property described in the Holmes to Allen Deed (Deed Book 27, Page 14) is believed to be and is the identical property conveyed in the Odom to McHall Deed (Deed Book 6, Page 29). That a common error was made in the description contained in the Odom to McHall Deed and this error has been carried down through the years through various conveyances through and to the conveyances outlined in the deraignment of title contained herein. That the McHall Deed erroneously recited that the property being conveyed was "commencing at the Southwest corner of the above described lot of land, thence West 10 chains and 86 links, thence South 5 chains and 7 links". That the Plaintiff contends that the call or direction to the "South" was an error. That said description continues on as follows: "thence East 10 chains and 86 links, thence North 5 chains and 7 links to the beginning". That the Plaintiff contends that the direction or call "North 5 chains and 7 links" was incorrect and correctly should have been stated South 5 chains and 7 links. That George McHall and his predecessors in title, including the Plaintiff herein, have been in possession of the real property described in Paragraph 3 hereof and which description is a correct description of the property conveyed by J. W. Odom originally to George McHall and subsequently through various conveyances conveyed to Tom Allen and then subsequently confirmed and conveyed to the Plaintiff.

8. That the lands to the West and North of the 5.56 acre tract described in Paragraph 3 hereof were previously owned by

Annie Byrd Maxwell. That Annie Byrd Maxwell's common source of title to her property was one J. W. Odom who was the original grantor in the Odom to McHall deed (Deed Book 6, Page 29). That as a result of the alleged error in the description as previously set forth herein, title to the property would have passed from J. W. Odom through various conveyances to Annie Byrd Maxwell, although possession, ownership and control of the property in question was always vested in George McHall and his predecessors in title, including the Plaintiff herein.

9. That the Plaintiff made as a Defendant herein M. Clifton Maxwell, Marilyn E. Parker and Marjorie M. Adcock who are alleged to be the heirs-at-law of Annie Byrd Maxwell and as set forth in Cause No. 82-8-533, which is a proceeding for the administration of the Estate of Annie Byrd Maxwell who is now deceased. That the Plaintiff has made the said M. Clifton Maxwell, Marilyn E. Parker and Marjorie M. Adcock Defendants to this action as a result of their status as the sole heirs-at-law of Annie Byrd Maxwell. That in addition, the Plaintiff has made as Defendant to this action all unknown heirs-at-law of the said Annie Byrd Maxwell. That although the said heirs-at-law and unknown heirs-at-law are made Defendants to this action, none of these individuals have ever at any time asserted any ownership, possession, control or dominance over the land described in Paragraph 3 hereof.

10. That Marsell M. Hall is believed to be the owner of the property immediately West of the real property described in Paragraph 3 hereof. That the description of said real property

comes along the east boundary line of the Marsell M. Hall real property and it does not encroach upon her nor is there any assertion of any ownership in the Hall property. That Sam A. Hall, Jr. is now deceased and Marcell M. Hall is the owner of said land by virtue of a right of survivorship contained in the deed recorded in Deed Book 109, Page 123. That likewise Joseph B. McCampbell, Jr. and wife, Connie N. McCampbell are the owners of the real property immediately adjacent to and West and North of the real property described in Paragraph 3 hereof. That the description of the real property described in Paragraph 3 hereof proceeds along the McCampbell east and south lines and does not encroach upon said land nor does the Plaintiff assert any ownership to any real property owned by the McCampbells. That Joe Billy Myracle and wife, Barbara JoAnn Myracle, are made Defendants to this action as a result of their ownership of the real property located to the South and adjacent to the real property described in Paragraph 3 hereof. That the aforescribed real property, as described in Paragraph 3 hereof, does not encroach upon the Myracle land and the description of said real property proceeds along the Myracle north line and the Plaintiff makes no assertion of ownership of any part or portion of the Myracle land. That Hall, McCampbells and Myracles are made Defendants to this action because of their ownership of lands adjacent to the subject property. That Sam A. Hall, Jr. and Marsell M. Hall, Joe Billy Myracle and Barbara JoAnn Myracle, Joseph S. McCampbell, Jr. and Connie N. McCampbell have at no time asserted any ownership of the property described in

Paragraph 3 nor have they at any time attempted to occupy or control in any way the real property described in Paragraph 3 hereof.

11. That the Plaintiff as well as his predecessors in title have paid the taxes assessed against the real property described in Paragraph 3 hereof. That the land map maintained by the office of the DeSoto County Tax Assessor reflects the land formerly owned by Tom Allen and the Plaintiff to be in the general location consistent with the description contained in Paragraph 3 hereof.

12. That the Plaintiff, Joe W. Reed, and his predecessors in title have been in the actual, continuous, open, hostile and adverse possession of the property described in Paragraph 3 hereof for a period of time in excess of fifty (50) years. That during the early 1980's the said Joe W. Reed rented the 5.56 acre tract described in Paragraph 3 hereof as well as the remaining 40 acre tract, more or less, which had previously been owned by Tom Allen and which lease was with heirs of Tom Allen. That the Plaintiff ran cattle upon said land, farmed it, maintained it and paid rent for the lease of said real property and as a part of said lease paid the taxes assessed against said lands, including the land described in Paragraph 3 hereof. That during said period of time there was no person and/or persons who ever at any time questioned the ownership of said property as described in Paragraph 3 hereof by the said Tom Allen and his predecessors in title. That the said Joe W. Reed caused the leased property to be surveyed and he fenced the same. That the Plaintiff and his predecessors in title have

adversely possessed and owned said real property in fee simple for more than fifty (50) years and accordingly, the Court shall confirm title in the Plaintiff to the exclusion of any and all other persons, including but not limited to the Defendants herein.

13. That the Plaintiff previously by litigation filed in the Chancery Court of DeSoto County, Mississippi, styled Joe W. Reed vs Lucille Batts, et al, Cause No. 94-4-409, obtained a Master's Deed as well as a Default Judgment Entered By Court which confirmed and quieted title to two parcels of real property totaling 46.72 acres and being in the Northeast Quarter of Section 3, Township 3, Range 8 West. That a part of the property being confirmed was a parcel consisting of approximately 5.50 acres and which parcel was the 5 acres which was originally erroneously described. That it was not until after the receipt of the Master's Deed and the entry of the Judgment that the Plaintiff caused the real property purchased and acquired by him through the Court proceeding (94-4-409) to be surveyed at which time it was discovered that there was an error in the description as to the said 5.50 acre tract. That accordingly, the confirming of the title to the real property described in Paragraph 3 hereof is appropriate and should be granted and that upon the confirming of said title appropriate provisions shall be made by the Court partially vacating the Master's Deed and the Default Judgment Entered By Court so as to correct and clarify the deed records of DeSoto County, Mississippi, as to the ownership of said real property as described in the Master's Deed and Default Judgment Entered By Court.

That the relief prayed for in said Complaint shall be granted,
PREMISES CONSIDERED:

It is hereby ordered, adjudged and decreed by the Court as follows:

1. That the fee simple title to the hereinafter described real property is hereby confirmed in the Plaintiff, Joe W. Reed, said real property being described as follows, to-wit:

Part of the Northeast Quarter of Section 3, Township 3 South, Range 3 West, DeSoto County, Mississippi, and being more particularly described as follows, to-wit: Commencing at a point commonly accepted as the northeast corner of said quarter section; thence run South $00^{\circ}30'39''$ East a distance of 1614.36 feet along the west line of the Riley property to the north, the west line of the Morgan property and the west line of Lot 14 and Lot 8 of Country Home Estates to the south to a point on the north line of the Charles Mitchum property; thence run South $89^{\circ}58'48''$ West a distance of 1120.68 feet along said Mitchum north line on the east and the north line of the Joe Billy Myracle property to the west to the point of beginning; thence run North $89^{\circ}58'09''$ West a distance of 707.96 feet along said Myracle north line to a point on the east line of the Sam A. Hall, Jr. property; thence run North $00^{\circ}01'52''$ East a distance of 349.24 feet along said Hall east line on the south and the south line of said McCampbell property on the north to a point; thence run South $88^{\circ}44'22''$ East a distance of 709.06 feet along said McCampbell south line to the southeast corner of said McCampbell property; thence run South $00^{\circ}11'30''$ West a distance of 334.03 feet to the point of beginning and containing 5.56 acres.

2. That the Court finds that all claims, clouds, doubts and suspicions about the title to the land be and they are hereby cancelled and hereafter held for naught and the title to said property is hereby quieted and confirmed in the Plaintiff.

3. That the Default Judgment entered by this Court and entered in Cause No. 94-4-409 on the docket of the Chancery Court of DeSoto County, Mississippi, and duly recorded in Minute Book

178, Page 744, and duly recorded in Deed Book 274, Page 95, in the office of the Chancery Clerk is hereby vacated in the following respects, to-wit: That the portion of said Judgment describing the real property on Page 3, Paragraph 1 of said Judgment, is hereby amended by deleting from the description that part or portion of the description described as follows: "And also the following tract, beginning at the Southwest corner of the above described lot, thence West 10 chains and 36 links, thence South 5 chains and 7 links, thence East 10 chains and 86 links, thence North 5 chains and 7 links to the beginning."

It is the intention of the Court by this order to amend its prior Default Judgment Entered By The Court by deleting from the description of the land being confirmed by the Court that portion herein described and therefore leaving being confirmed the 41.20 acre tract described therein.

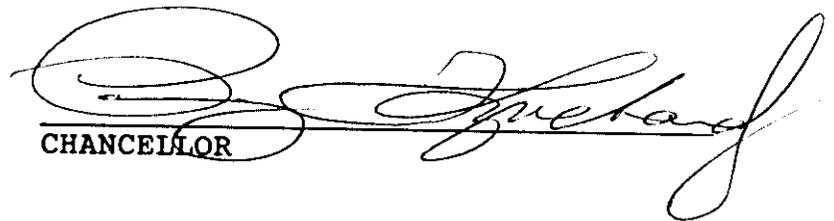
4. That the Master's Deed dated October 18, 1994, and duly recorded in Deed Book 277, Page 381 and 382, in the office of the Chancery Clerk of DeSoto County, Mississippi, is hereby amended by deleting and vacating from said description that part or portion of the description being described as follows: "And also the following tract, beginning at the southwest corner of the above described lot, thence West 10 chains and 36 links, thence south 5 chains and 7 links, thence East 10 chains and 86 links, thence North 5 chains and 7 links to the beginning".

It is the Court's intention to amend and modify the Master's Deed by deleting from the description the aforescribed property

being approximately 5.50 acres and having the effect of conveying by said deed the West 13.96 acres of the 41.22 acre tract described therein.

5. That the Clerk of the Court shall cause this Decree to be recorded in the Land Records of DeSoto County, Mississippi, and he shall likewise cause a notation of said Decree to be made upon the face of the Master's Deed recorded in Deed Book 277, Page 381 and the Default Judgment entered by Court of record in Deed Book 274, Page 95.

SO ORDERED, ADJUDGED AND DECREED on this 20 day of December, 1996.


CHANCELLOR

STATE MS.-DESOTO CO.
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W.E. DAVIS CH. CLK.