

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI

MICHAEL G. DAVIS AND
HEATHER C. DAVIS,

PLAINTIFFS

V.

CAUSE NO. 00-2-310

JAMES HAMPTON SMITH,
MARY ANN SMITH, J.W. BENNETT,
JIM WALTER HOMES, INC., ET AL,

DEFENDANTS

FINAL DECREE

THIS MATTER came on for hearing upon Plaintiffs' Motion For Entry of Default Judgment And For Other Relief, pursuant to Rule 55 of the Mississippi Rules of Civil Procedure, and the hearing to assess relief, ordered by this Court herein, and Defendants, James Hampton Smith, Mary Ann Smith and any unknown Defendants having been duly given notice of this action by publication for the time and in the manner provided by Mississippi Law, and not being infants or unrepresented incompetent persons, having failed to plead and their default having been duly entered, and further, upon consent to the relief prescribed herein by the remaining Defendants, J.W. Bennett and Jim Walter Homes, Inc., by and through their respective attorneys of record. Upon consideration of the pleadings, the proof offered by the Plaintiffs and the consent provided by the remaining Defendants, the Court finds as follows, to wit:

1. The known parties are as follows:

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a. MICHAEL G. DAVIS and HEATHER C. DAVIS, are adult resident citizens of DeSoto County, Mississippi, and who reside at 1420 Pigeon

Roost Road, Byhalia, MS 38611.

b. JAMES HAMPTON SMITH is an adult and former resident of 1420 Pigeon Roost Road, Byhalia, MS 38611, but whose current residence, post office, street address are unknown to the Plaintiffs after diligent search and

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inquiry.

- c. MARY ANN SMITH is an adult and former resident of 1420 Pigeon Roost Road, Byhalia, MS 38611, but whose current residence, post office, street address are unknown to the Plaintiffs after diligent search and inquiry.
- d. J.W. BENNETT is an adult resident citizen of Shelby County, Tennessee, whose address is P.O. Box 819, Collierville, Tennessee 38027.
- e. JIM WALTER HOMES, INC. is a Florida corporation qualified to do business in the State of Mississippi. Its registered agent for process is CT Corporate Systems, 631 Lakeland East Drive, Flowood, MS 39208.

2. The Plaintiffs are the owners in fee simple of the following described land in DeSoto County, Mississippi:

Lot 13, Allison Place Subdivision, in Section 28, Township 2, Range 5, DeSoto County, Mississippi, as shown on plat recorded in Plat Book 4, Pages 30 and 33, in the office of the Chancery Clerk of DeSoto County, Mississippi.

DERAIGNMENT OF TITLE

- 3. a. Lot 13 of Allison Place Subdivision is situated in the southeast quarter of Section 28, Township 2 South, Range 5 West, DeSoto County, Mississippi. No patent is filed for record for Section 28, Township 2 South, Range 5 West. However, attached hereto as Exhibit "1" is a copy of the Land Patent Report for Section 28 from the Internet records of the Bureau of Land Management-Eastern States, General Land Office. The Report indicates that Section 28 was initially patented and conveyed to Edward Orne on April 24, 1820.
- b. The south half of Section 28 was conveyed by Edward Orne and E.M.A.

- Orne to Benjamin D. Whitney and Mark Healey, Trustees of the Boston and New York Chickasaw Land Company by Deed dated December 22, 1842 and recorded on December 27, 1842 in Book C, Page 459 of the Land Records of DeSoto County, Mississippi.
- c. The south half of Section 28 was conveyed by Benjamin Whitney and Mark Healey, Trustees of the Association known by the name of Boston and New York Chickasaw Land Company by Edward Orne, Attorney in Fact to Benjamin D. Whitney and Mark Healey, Trustees of the Association known by the name of Boston and New York Chickasaw Land Company by Edward Orne, Attorney in Fact by Deed recorded in Book E, Page 161.
- d. The southeast quarter of Section 28 was conveyed by Benjamin D. Whitney and Mark Healey, Trustees of the Boston and New York Chickasaw Land Company to William Teams by Deed dated September 12, 1852 and recorded on February 2, 1853 in Book L, Page 603 of the Land Records of DeSoto County, Mississippi.
- e. The north half of the southeast quarter of Section 28 was conveyed by William Teams and Adaline Teams to Wilson Durrum by Deed dated October 17, 1852 and recorded on January 14, 1853 in Book L, Page 600 of the Land Records of DeSoto County, Mississippi.
- f. The south half of the southeast quarter of Section 28 was conveyed by William Teams and Adaline Teams to Thomas Nesbitt by Deed dated October 17, 1852 and recorded on July 20, 1853 in Book M, Page 123 of the Land Records of DeSoto County, Mississippi.

- g. The south half of the southeast quarter of Section 28 was conveyed by Thomas Nesbitt and Malinda Nesbitt to Anderson Arnold by Deed dated December 19, 1852 and recorded on July 30, 1853 in Book M, Page 122 of the Land Records of DeSoto County, Mississippi.
- h. The north half of the southeast quarter of Section 28 was conveyed by Wilson Durrum and wife, Luticia Durrum to Andrew Smith by Deed dated February 12, 1855 and recorded on March 10, 1855 in Book N, Page 205 of the Land Records of DeSoto County, Mississippi.
- i. The south part of the north half of the southeast quarter of Section 28 was conveyed by Andrew Smith to Anderson Arnold by Deed dated January 20, 1862 and recorded on November 6, 1868 in Book U, Page 72 of the Land Records of DeSoto County, Mississippi.
- j. The north half of the southeast quarter of Section 28 was conveyed from Andrew Smith to Mary J. Haines by Deed of Gift dated April 6, 1888 and recorded on May 2, 1888 in Book 6, Page 98 of the Land Records of DeSoto County, Mississippi.
- k. The north half of the Southeast quarter of Section 28 was conveyed by Mary J. Haines and James Haines to Lucy Hearn by Deed dated September 9, 1897 and recorded on September 21, 1897 in Book 9, Page 377 of the Land Records of DeSoto County, Mississippi.
- l. The south part of the southeast quarter of Section 28 was conveyed by John A. Arnold and E.K. Arnold to David W. Sharp by Deed dated March 16, 1898 and recorded on March 29, 1898 in Book 9, Page 560 of the Land Records of DeSoto County, Mississippi.

- m. The south 130 acres of the southeast quarter of Section 28 was conveyed by D.W. Sharp to Norf Caple by Deed dated October 11, 1902 and recorded on October 14, 1902 in Book 12, Page 2 of the Land Records of DeSoto County, Mississippi.
- n. The Will of Lucy Hearn leaves property to her children Perry Anthony, John Anthony Winston Hearn, Mary Pearson and Sophia Hearn recorded in Will Book 3, Page 268. NOTE: File was not available for review. However, the legal in the Will states 70 acres being in the south part of the northeast quarter and 30 acres being in the north part of the southeast quarter of Section 28.
- o. The north half of the southeast quarter of Section 28 was conveyed by Winston Hearn, Sophia Hearn, J.A. Anthony, Perry Anthony and Mary Pearson to J.L. Burrows & Sons by Deed dated November 19, 1908 and recorded on December 31, 1908 at 9:00 A.M. in Book 15, Page 208 of the Land Records of DeSoto County, Mississippi.
- p. The north half of the southeast quarter of Section 28 was conveyed by J.L. Burrow, T.D. Burrow and J.I. Burrow to Lewis Rodman by Deed dated January 16, 1918 and recorded on February 1, 1918 at 1:15 P.M. in Book 18, Page 506 of the Land Records of DeSoto County, Mississippi.
- q. The south part of the southeast quarter of Section 28 was conveyed by Ellen Caple, Albert Caple and Erma Caple Arnold to Tom Caple by Deed dated March 2, 1921 and recorded on March 9, 1921 at 8:20 A.M. in Book 19, Page 521 of the Land Records of DeSoto County, Mississippi.
- r. The 70 acres south of the Lewis Rodman 30 and north of the 60 owned by

Thomas Caple in Section 28 was conveyed by Ellen Caple, Thomas Caple, Presley Caple, Emma Caple and Willie Caple to Albert Caple by Deed dated February 23, 1921 and recorded on March 18, 1921 in Book 19, Page 525 of the Land Records of DeSoto County, Mississippi.

- s. The northeast quarter (160 acres) and the north half of the southeast quarter (80 acres) south 100 of the above was conveyed by Lewis Rodman to Wincy Rodman by Deed dated March 13, 1924 and recorded March 14, 1924 at 9:30 A.M. in Book 20, Page 265 of the Land Records of DeSoto County, Mississippi.
- t. The northeast quarter (160 acres) and the north half of the southeast quarter (80 acres) south of the above was conveyed by Lewis Rodman and wife, Wincy Rodman to J.W. Woody, Sr. by Deed dated January 3, 1927 and recorded on January 6, 1927 at 11:00 A.M. in Book 21, Page 432 of the Land Records of DeSoto County, Mississippi.
- u. The south central part of the southeast quarter of Section 28 was conveyed by Albert Caple to Miss Olive M. Hardy by Deed dated December 28, 1929 and recorded on January 2, 1930 at 9:00 A.M. in Book 22, Page 428 of the Land Records of DeSoto County, Mississippi.
- v. The northeast quarter (160 acres) and the north half of the southeast quarter (80 acres) south 100 of the above was conveyed by J.W. Woody, Sr. to N.B. Allison by Deed dated January 23, 1939 and recorded on February 13, 1939 at 9:00 A.M. in Book 27, Page 56 of the Land Records of DeSoto County, Mississippi.
- w. The south central part of the southeast quarter of Section 28 was conveyed

by Miss Olive M. Hardy to N.B. Allison by Deed dated March 29, 1941 and recorded on April 1, 1941 in Book 28, Page 241 of the Land Records of DeSoto County, Mississippi.

- x. The north 100 acres of the southeast quarter of Section 28 was conveyed by Helen D. Allison and Helen D. Allison, Trustee for John Samuel Allison to Sidney Lanier Hurdle by Deed dated August 27, 1965 and recorded on September 15, 1965 at 9:00 A.M. in Book 63, Page 179 of the Land Records of DeSoto County, Mississippi.
- y. The north 100 acres of the southeast quarter of Section 28 was conveyed by Sidney L. Hurdle to Stanton Abernathy by Deed dated January 24, 1966 and recorded on February 8, 1966 at 11:00 A.M. in Book 64, Page 505 in the Land Records of DeSoto County, Mississippi.
- z. Lot 13, Allison Place was conveyed by Stanton Abernathy to James Hampton Smith and wife, Mary Ann Smith by Deed recorded on October 11, 1966 at 1:00 P.M. in Book 67, Page 305 in the Land Records of DeSoto County, Mississippi.

4. The tax title to the above-described property should be confirmed in favor of the Plaintiffs.

IT IS THEREFORE ORDERED AND ADJUDGED as follows, to wit:

A. The tax title to the above-described property be, and the same is hereby confirmed, pursuant to Section 11-17-1 of the Mississippi Code (1972), in favor of Plaintiffs, Michael G. Davis and Heather C. Davis against all parties named herein and against any unknown.

B. The Defendants named in this cause shall have no further ownership or other

interest in the above described property.

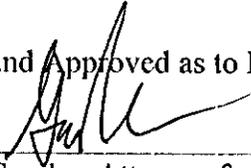
C. The Clerk of this Court be, and he is hereby requested and directed to record a certified copy of this Decree on the Land Records of DeSoto County, Mississippi.

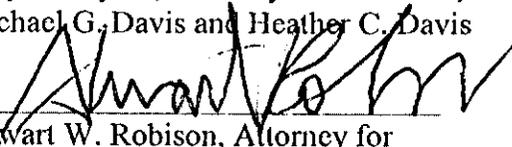
D. All parties herein shall bear their own attorneys fees, and the Plaintiffs are assessed with the court costs.

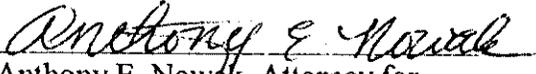
ORDERED, ADJUDGED AND DECREED this 22nd day of June, 2000.

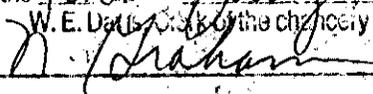

CHANCELLOR

Agreed and Approved as to Form:


Gary P. Snyder, Attorney for Plaintiffs,
Michael G. Davis and Heather C. Davis


Stewart W. Robison, Attorney for
Defendant, Jim Walter Homes, Inc.


Anthony E. Nowak, Attorney for
Defendant, J.W. Bennett

STATE OF MISSISSIPPI, COUNTY OF DESOTO
I HEREBY CERTIFY that the above and foregoing is
a true copy of the original in this case.
This the 24th day of July, 2000
W. E. Davis, Clerk of the chancery court
By  D.C.