

777

The State Of Alabama }
Baldwin County }

Circuit Court of Baldwin County, In Equity.

To Any Sheriff of the State of Alabama—GREETINGS:

WE COMMAND YOU, That you summon AMOS GARRETT

of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited

by HELEN NIMO ARBOGAST, JOSEPHINE NIMO ARBOGAST, REGENE N. MCNAIR, SARAH N. DOLIVE

against said AMOS GARRETT

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, R. S. Duck, Register of said Circuit Court, this 29th day of Nov., 1941.

R. S. Duck

Register

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Your Orators, Josephine Nimmo Arbogast, Helen Nimmo, Regene N. McNair and Sarah N. Dolive, present this Bill of Complaint against Amos Garrett, and thereupon your Orators complain and show unto the Court and your Honor as follows:

1. Your Orator, Josephine Nimmo Arbogast, is over twenty-one years of age and a resident of Chipley, Florida; Helen Nimmo is over twenty-one years of age and a resident of Milton, Florida; Regene N. McNair is over twenty-one years of age and a resident of Union Springs, Alabama and Sarah N. Dolive is over twenty-one years of age and a resident of Loxley, Alabama. The Respondent, Amos Garrett, is over twenty-one years of age and a resident of Robertsdale, Alabama.

2. Your Orators own and are in the actual quiet and peaceable possession of the following described real property situated in Baldwin County, Alabama, to-wit: Northwest Quarter of Southwest Quarter of Section Twenty-one (21), Township Five (5) South Range Three (3) East.

3. The Respondent claims or is reputed to claim some right, title or interest in or encumbrance upon the said lands; no suit is pending to enforce or test the validity of such title, interest in or encumbrance upon the said lands and your Orators bring this Bill of Complaint against the said Respondent to settle the title to the said lands and to clear up all doubts and disputes concerning the same. Your Orators here and now call upon the said Respondent to set forth and specify his right, title or interest in or encumbrance upon the said lands or any part thereof and how and by what instrument the same is derived and created.

PRAYER FOR PROCESS


Your Orator prays that the said Amos Garrett be made a party respondent to this Bill of Complaint and that the usual

process of this Honorable Court do forthwith issue to him.

PRAYER FOR RELIEF

Your Orators further pray that upon a final hearing of this cause your Honor will make and enter a Decree against the said Respondent, quieting title to the said land and adjudging and decreeing that your Orators are the owners thereof in their own right; that title thereto is in them, forever quieting your Orators' title against the said Amos Garrett, adjudging and decreeing that he is without right, title or interest in the said lands and that he has and holds no encumbrance upon the same.

Your Orators further pray for such other, further and general relief as they may be equitably entitled to the premises considered.


Solicitor for Complainants.

ANSWER AND CROSS BILL

JOSEPHINE NIMMO ARBOGAST,
Et Al.,

Complainant

-VS-

AMOS GARRETT,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.

Comes now the Respondent, Amos Garrett, and files this his Answer and Cross Bill to the said Bill of Complaint, and for answer thereto says as follows, to-wit:

ONE

For answer to paragraph One thereof, your respondent denies each and every allegation therein and demands strict proof thereof.

TWO

For answer to paragraph Two of the said Bill of Complaint, your respondent denies each and every allegation thereof and demands strict proof thereof.

THREE

The Respondent admits that he claims the sole right, title and interest upon the said lands as recited in paragraph Three of said Bill of Complaint and denies any allegation contrary thereto.

AMOS GARRETT,

Cross-Complainant,

-VS-

JOSEPHINE NIMMO ARBOGAST,
Et Al.,

Cross-Defendants

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA; SITTING IN EQUITY:

Your Orator, Amos Garrett, Cross-Complainant, presents this his Cross Bill of Complaint against Josephine Nimmo Arbogast, Helen Nimmo, Regene N. McNair and Sarah N. Dolive, the Cross-Respondents, and thereupon your Orator complains and shows unto this Court and your Honor as follows, to-wit:

ONE

Your Orator, Amos Garrett, is over the age of twenty-one years and a resident of Robertsdale, Baldwin County, Alabama; that the said Cross-Respondent, Josephine Nimmo Arbogast, is over the age of twenty-one years and whose residence your Orator is informed is Chipley, Florida; that Helen Nimmo is over the age of twenty-one years and your Orator is informed is a resident of Milton, Florida; Regene N. McNair is over the age of twenty-one years and your Orator is informed and believes is a resident of Union Springs, Alabama,

and Sarah N. Dolive is over the age of twenty one years and is a resident of Loxley, Alabama.

TWO

Your Orator owns and is in the actual, quiet and peaceable possession of the following described real property situated in Baldwin County, Alabama, to-wit:

The Northwest Quarter of the Southwest Quarter of Section Twenty-one, Township Five South, Range Three East.

THREE

The Respondents claim or are reputed to claim some right, title or interest in or incumbrance upon the said lands, and your Cross-Complainant shows further there is now a suit pending by the Cross-Respondent to test the validity of the title of your Cross-Complainant. Your Cross-Complainant shows further to this Honorable Court that no one of the Cross-Respondents have been in the actual, peaceable possession of this property in the last ten years; and further that your Cross-Complainant and those under whom he claims have been in actual, quiet, peaceable possession of this property for ten years or more, and further that by the said original Bill of Complaint the Respondents specifically state that they are all non-residents of Baldwin County, Alabama except Sarah N. Dolive. Your Cross-Complainant shows further unto this Honorable Court that this property was sold by the State of Alabama to one Randolph McGowan and that the said Randolph McGowan conveyed this property to your Cross-Complainant by deed dated March 13, 1941. Your Orator and Cross-Complainant here and now calls upon the said Cross-Respondents to set forth and specify their right, title and interest in or incumbrance upon said lands or any part thereof and how and by what instrument or instruments the same is derived and created.

PRAYER FOR PROCESS


Your Orator and Cross-Complainant prays that the said Josephine Nimmo Arbogast, Helen Nimmo, Regene N. McNair and Sarah N. Dolive be made ~~cross-complainants~~ ^{Respondents} to this Cross Bill of Complaint and that the usual process of this Honorable Court do forthwith issue to them.

PRAYER FOR RELIEF

Your Orator and Cross-Complainant further prays that upon a final hearing of this cause, your Honor will make and enter a decree against the said Cross-Respondents quieting title to said land and adjudging and decreeing that your Orator and Cross-Complainant is the owner thereof in his own right; that title thereto is in him, forever quieting your Orator or Cross-Complainant's title against the said Josephine Nimmo Arbogast, Helen Nimmo, Regene N. McNair and Sarah N. Dolive, adjudging and decreeing that they are without

right, title or interest in said lands and that they have and hold no incumbrance upon the same. And that your Orator or Cross-Complainant will be reimbursed for any and all expenses he has been put to including a reasonable attorney fee for defending this original Bill of Complaint.

Your Orator and Cross-Complainant further prays for such other, further and general relief as he may be equitably entitled to in the premises considered and hereby offers to do equity in this cause.


Solicitor for Respondent and
Cross-Complainant.

JOSEPHINE NIMMO ARBOGAST,
et als,

Complainants,

VS.

AMOS GARRETT,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NUMBER 777.

DEMURRER

Now come the Complainants and Cross Respondents and demur to the Cross Bill filed against them in this cause and as grounds therefor set down and assign separately and severally the following:

1. There is no equity in the Cross Bill.
2. It does not allege that no suit is pending to test the title to the property described therein.
3. It affirmatively appears that in this case the original Bill of Complaint was filed for the purpose of quieting title to the same property that is described in the Cross Bill and that this suit is still pending.
4. The Cross Bill does not set up Plaintiff's title to said property.

Now come the Complainants and Cross Respondents and demur to Paragraph Numbered Three of the Cross Bill filed against them in this cause and as grounds for demurrer set down and assign separately and severally the following:

1. There is no equity in the Cross Bill.
2. It does not allege that no suit is pending to test the title to the property described therein.
3. It affirmatively appears that in this case the original Bill of Complaint was filed for the purpose of quieting title to the same property that is described in the Cross Bill and that this suit is still pending.
4. The Cross Bill does not set up Plaintiff's title to said property.

J. B. Blackburn
Solicitor for Complainants and Cross-
Respondents.

DEMANDER

JOSEPHINE NIMMO ARBOGAST, et als

Complainants,

VS.

AMOS GARRETT,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NUMBER 777.

Filed Sept. 29 1944.
W. H. Daniel,
Registrar

797

Act

Stuart

RECORDED

Wm. Cross Bull

Feb 2/26/42
B. Bull

Received in the Sheriff's Office February 28th, 1942.
Executed by serving a copy of the within writ on J.B. Blackburn, Attorney
for the Complainant. This 28th, day of February 1942.

W.R. Stuart, Sheriff
BY  Deputy Sheriff

LIS PENDENS NOTICE

Notice is hereby given that Josephine Nimmo Arbogast, Helen Nimmo, Regene N. McNair and Sarah N. Dolive did on the 28th day of November, 1941, file in the Circuit Court of Baldwin County, Alabama, in Equity, a Bill of Complaint against Amos Garrett, to quiet title to the Northwest Quarter of the Southwest Quarter of Section 21, Township 5 South Range 3 East, in Baldwin County, Alabama, in which Bill of Complaint the Complainants allege that they own and are in the peaceable possession of the said property and pray for a Decree quieting their title to it against the said Respondent, Amos Garrett. All persons are cautioned against purchasing the said property except subject to the rights of the Complainants in this said suit.

Dated this 28th day of November, 1941.

J. T. Blackburn
Solicitor for Complainants.

11/28/41

RECORDED
NOV 29 1941
BALDWIN COUNTY ALABAMA
CLERK OF THE CIRCUIT COURT

JOSEPHINE NIMMO ARBOGAST,
et als,

Complainants,

VS.

AMOS GARRETT,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NUMBER 777.


DECREE ON DEMURRER

This cause coming on to be heard on this date is submitted by consent of the parties on the Complainants and Cross Respondents' Demurrer to the Respondent and Cross Complainant's Cross Bill, upon consideration of all of which it is therefore ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the Demurrer of the Complainants and Cross Respondents to the Cross Bill of the Respondent and Cross Complainant be and it is hereby sustained.

2. The Respondent and Cross Complainant is allowed twenty days from this date to amend his Cross Bill if he so desires.

ORDERED, ADJUDGED AND DECREED this 10th day of January,
1945.



Judge.

JOSEPHINE NIMMO ARBOGAST,
et als,

Complainants,

VS.

AMOS GARRETT,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NUMBER 777.

DECREE.

This cause coming on to be heard on this date, being the date heretofore set for calling the Equity Docket of this Court and it appearing to the Court that this case has been settled between the parties and that the Respondent has conveyed to the Complainants all of his right, title and interest in and to the property involved in this proceeding, it is therefore ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. This cause shall be and it is hereby dismissed.
2. The costs of this proceeding are hereby taxed against the Complainants for which execution may issue.

ORDERED, ADJUDGED AND DECREED this 14th day of July,
1947.

J. M. Hare

JUDGE.

file

DEMURRER

JOSEPHINE NIMMO ARBOGAST,)

Et Al,)

COMPLAINANTS.)

Vs.)

AMOS GARRETT,)

DEFENDANT.)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

Now comes the Respondent, Amos Garrett, and demurs to the Bill of Complaint in this cause and as grounds for such demurrer, assigns the following:

FIRST

There is no equity in the said Bill of Complaint.

SECOND

For aught that appears in the said Bill of Complaint Josephine Nimmo Arbogast, Helen Nimmo, Regine N. McNair and Sara N. Dolive have never been in possession of the said land now under consideration.

THIRD

Because for aught that appears in said Bill of Complaint, the Respondent, Amos Garrett, has not been requested to correct any alleged error entitled to this property.

FOURTH

Because of aught that appears in said Bill of Complaint, the Respondent, Amos Garrett, would have been perfectly willing to correct alleged errors upon request by the Complainants prior to the filing of the Bill of Complaint in this cause.

FIFTH

For aught that appears in said Bill of Complaint, the Respondent Amos Garrett, was never given an opportunity to correct said error as alleged in original Bill of Complaint.

SIXTH


Because it affirmatively appears from the allegations of the Bill of Complaint that the Complainants are not in the actual quiet and peaceful possession of the said property.

SEVENTH

Because it is not averred in said Bill of Complaint by what conveyance or right of title the Complainants claim an equity in this property.

EIGHTH

Because there is no averment in the Bill of Complaint alleging or showing that the Complainants were ever the grantees in a conveyance covering the Northwest Quarter of the Southwest Quarter of Section 21, Township 5 South, Range 3 East, Baldwin County, Alabama.


Orvis M. Brown, Solicitor for Defendant.

JOSEPHINE NIMMO ARBOGAST,
ET AL,
COMPLAINANTS.

Vs.

AMOS GARRETT,
DEFENDANT.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY.

Comes the Respondent for the above entitled cause and moves
to strike the Complainants' entire Complaint as grounds therefor, set
out the following and separate and several grounds:

FIRST


The Complaint shows on its face that the Complainants are resi-
dents of the State of Florida.

SECOND

That this cause of action was commenced by or for the use of
a non-resident of this state and no security has been posted with the
Clerk or Register for the payment of the costs.

THIRD

Complaint shows on its face that the Complainants or those for
whose use or benefit the Complaint was filed are non-residents of this
state and no security has been deposited with the Clerk or Register for
the payment of the costs of this suit.


Attorney for Respondent.

777

DECREE ON DEMURRER

JOSEPHINE NEMMID ARBOGAST,
et als,

Complainants,

VS.

AMOS GARRETT,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NUMBER 777.

The respondents and cross-complainants are petitioners of this court and have filed a demurrer to the complaint of the complainants. The demurrer is based on the ground that the complainants have failed to state a cause of action against the respondents. The court is of the opinion that the demurrer is well taken and should be sustained. The respondents are ordered to pay the costs of this proceeding.

DECREE ON DEMURRER

AMOS GARRETT,
Respondent,
vs.
JOSEPHINE NEMMID ARBOGAST,
et als,
Complainants.

RECORDED

LIS PENDENS NOTICE

JOSEPHINE NIMMO ARBOGASTIA et al,

Complainants,

VS.

AMOS GARRETT,

Respondent

IN THE CIRCUIT COURT OF

BALTIMON COUNTY, ALABAMA.

Filed 12/20/41

[Handwritten signature]

Dated this 20th day of December, 1941.

and wife.

whereby except subject to the terms of the compromise in this
now collect. My believe the defendant hereinbefore the wife
a decree of divorce shall have to be obtained the wife respondent
and she in the necessary possession of the said property and also not
in which writ of committing the defendant hereinbefore that they own
portion of community property which is held in separate property
shall have to the defendant hereinbefore of the defendant hereinbefore of
hereinafter to be held a writ of committing defendant hereinbefore to
said of defendant hereinbefore in the Circuit Court of Baltimore County
before hereinbefore hereinbefore and hereinbefore on the 20th

Notice is hereby given that Josephine Nimmo Arbogastia

LIS PENDENS NOTICE

DECREE

JOSEPHINE NIMMO ARBOGAST,

Complainant,

VS.

AMOS GARRETT,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NUMBER 777.

FILED

JUL 15 1947

ALBERT J. DICK, Registrar

777

[Handwritten signature]

RECORDED

Paul G. Jones - 2/19/45
[Handwritten signature]

777
Quality Decked
Mobile Decked

Arkington
Q.

Caro Stanitz

RECORDED

RECORDED

March 24 1944
D. J. Stanitz
D. J.