

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants,  
VS.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 3621

MOTION FOR ENFORCEMENT OF PENALTIES FOR FAILURE  
TO PROPERLY ANSWER INTERROGATORIES

Now come the complainants, by their attorney, and show unto the court that the respondent, Charles D. Grice, filed answers to the interrogatories heretofore propounded to him in this cause, which answers are not full and are evasive.

WHEREFORE, complainants move the court to either attach the said respondent, Charles D. Grice, and cause him to answer fully in open court, or tax him with so much of the costs as may be just, and continue the cause until full answers are made, or direct that a judgment by default against him be issued.

Dated this 4th day of September, 1959.

J. B. Blackburn  
Solicitor for complainants.

The above and foregoing motion having been presented to me is hereby set for hearing at 9:30 o'clock A. M. on Monday, September 21, 1959.

Dated this 8 day of September, 1959.

Hubert M. Hill  
Judge

I hereby certify that I delivered a copy of the above and foregoing instrument to the office of Thompson and White, attorneys for the respondents, on this the 9th day of September, 1959.

J. B. Blackburn

MOTION FOR ENFORCEMENT OF  
PENALTIES FOR FAILURE TO PROP-  
ERLY ANSWER INTERROGATORIES.

THOMAS J. TAYLOR and BEATRICE A.  
LOWENSTEIN,

Complainants,

VS.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

FILED

SEP 8 1959

ALICE J. DUCK, CLERK  
REGISTER

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants,  
VS.

CHARLES D. GRICE, ET AL,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY NO. \_\_\_\_\_

INTERROGATORIES PROPOUNDED BY COMPLAINANTS TO  
RESPONDENT, CHARLES D. GRICE

Now come the complainants and propound the following  
interrogatories to the respondent, Charles D. Grice:

1. Do you claim title to the Northeast Quarter of the  
Southwest Quarter of Section 11, Township 3 South, Range 2 East in  
Baldwin County, Alabama? *yes*

2. If your answer to the foregoing question is yes, do  
you claim title to the said property as one of the heirs of C. F.  
Grice or do you claim the entire title thereto? *as one heir  
of C. F. Grice*

3. Please list the deeds or other conveyances through  
which you claim title to the Northeast Quarter of the Southwest  
Quarter of Section 11, Township 3 South, Range 2 East in Baldwin  
County, Alabama. *Title is of record*

4. Have you recently cut timber from the Northeast Quarter  
of the Southwest Quarter of Section 11, Township 3 South, Range 2  
East in Baldwin County, Alabama? If so, when did you commence cut-  
ting timber, how much timber have you cut from the property, to whom  
did you sell the timber and what price did you receive therefor?

*4 - I have not  
cut any timber on this property  
recently.*  
J. B. Blackburn  
Solicitor for complainants.

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

Before me, the undersigned authority, within and for said County in said State, personally appeared J. B. BLACKBURN, who, after being by me first duly and legally sworn, deposes and says: That he is attorney for the complainants in the above entitled cause, and that the said interrogatories, if well and truly answered, will be material evidence for the complainants in the said cause.

J. B. Blackburn

Sworn to and subscribed before me on  
this the 21<sup>st</sup> day of September, 1955.

John R. O.

Notary Public, Baldwin County, Alabama

203231

FILED

SEP 21 1955  
BALDWIN COUNTY, ALA.

JIMMY FAULKNER  
AND  
BILL STEWART  
PUBLISHERS

**THE BALDWIN TIMES**  
**BALDWIN COUNTY**  
*Alabama's Best County's Best Newspaper*  
BAY MINETTE, ALABAMA

E. R. MORRISSETTE, JR.  
EDITOR-MANAGER

## Legal Notice

THOMAS J. TAYLOR and  
GEORGE B. AARONS, as Execu-  
tor of and under the Last Will  
and Testament of Beatrice A.  
Lowenstein, Deceased,  
Complainants,

vs.  
CHARLES D. GRICE, ET AL,  
Respondents.

In The Circuit Court of Baldwin  
County, Alabama, in Equity  
No. 3621

### NOTICE TO NON-RESIDENTS

In this cause it is made to ap-  
pear to the Register by the affi-  
davit of J. B. Blackburn that the  
respondents, Marion L. Grice,  
Annie Grice Doherty, and Robert  
N. Grice, are each none-residents  
of the State of Alabama, whose  
last known places of residence  
and post office addresses were:

Marion L. Grice  
Skyland, North Carolina  
Annie Grice Doherty  
12 Liberty Place  
Weehawken, New Jersey  
Robert N. Grice  
86 Edgemont Road  
Aasheville, North Carolina  
and that the said respondents are  
each over twenty-one years of  
age.

It is, therefore, Ordered by the  
Register that publication be made  
in The Baldwin Times, a news-  
paper published at Bay Minette  
in Baldwin County, Alabama,  
once a week for four consecutive  
weeks, requiring the said Marion  
L. Grice, Annie Grice Doherty  
and Robert N. Grice to plead, an-  
swer or demur to the Bill of Com-  
plaint in this cause by the 23rd  
day of June, 1958, or at the ex-  
piration of thirty days from the  
said date a decree pro confesso  
will be taken against them.

IN WITNESS WHEREOF, I  
have hereunto set my hand and  
affixed the seal of the court on  
this the 15th day of May, 1958.

ALICE J. DUCK,  
Register.

J. B. Blackburn,  
Solicitor for complainants.

19-4tc.

## AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,  
BALDWIN COUNTY.

E. R. Morrisette, Jr. being duly sworn, deposes and says  
that he is the EDITOR of THE BALDWIN TIMES, a Weekly Newspaper published  
at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

Thomas J. Taylor and George B  
Aarons vs. Charles D. Grice, Et. Al.

### COST STATEMENT

260 WORDS @ 6 1/2 cents ..... \$ 16. 20  
I hereby certify this is correct, due and unpaid (paid).

E. R. Morrisette Jr.  
Editor.

was published in said newspaper for 4 consecutive weeks in the following issues:

Date of 1st publication May 22, 1958 Vol. 70 No. 19

Date of 2nd publication May 29, 1958 Vol. 70 No. 20

Date of 3rd publication June 5, 1958 Vol. 70 No. 21

Date of 4th publication June 12, 1958 Vol. 70 No. 22

Subscribed and sworn before the undersigned this 12 day of June, 1958.

Deborah Martin  
Notary Public, Baldwin County.

E. R. Morrisette Jr.  
Editor.

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants,  
VS.

CHARLES D. GRICE, ET AL,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY NO. \_\_\_\_\_

WRIT OF INJUNCTION

TO CHARLES D. GRICE, MARION L. GRICE, ANNIE GRICE DOHERTY AND  
ROBERT N. GRICE, AND THEIR AGENTS, SERVANTS AND EMPLOYEES:

WHEREAS, Thomas J. Taylor and Beatrice A. Lowenstein  
have exhibited their Bill of Complaint in Equity in the Circuit  
Court of Baldwin County, Alabama, Equity Side, and have obtained  
from the judge thereof an order for the issuance of a temporary  
injunction or restraining order to restrain you, as hereinafter  
mentioned; and,

WHEREAS, the said complainants have, in accordance with  
the said order, entered into bond conditioned as required by law  
in the sum of \$ 500.00, which has been approved by me:

NOW, THEREFORE, you and each of you and your agents, ser-  
vants and employees are hereby enjoined from trespassing on the  
Northeast Quarter of the Southwest Quarter of Section 11, Township  
3 South, Range 2 East in Baldwin County, Alabama, and from cutting  
and removing timber standing or growing thereon, and this injunction  
you are required to obey under the penalties of law until further  
order of this court.

WITNESS my hand and seal on this the 27 day of Septem-  
ber, 1955.

W. J. Lusk  
Register

TO THE SHERIFF OF BALDWIN COUNTY, ALABAMA:

You are hereby commanded to execute this writ and return  
the same with your endorsement thereon to this court with all con-  
venient dispatch.

WITNESS my hand this 27 day of September, 1955.

W. J. Lusk  
Register

Ex-9-27-55 on  
Charles Grice  
not found on other Septs

DELIVERING  
EMPLOYEE

☐ Deliver ONLY to addressee. (Does not apply to Certified mail.)

☐ Show address where delivered.

Received from the Postmaster the Registered, Certified, or Insured Article, the number of which appears on the face of this return receipt.

1. Anne Grace Doherty  
(Signature or name of addressee)

2. Deliver to Addressee Only  
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)



Date of Delivery 5/14/57, 1957

FILED  
MAY 17 1957  
ALBANY, N.Y. REGISTER

POST OFFICE DEPARTMENT

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID  
PAYMENT OF POSTAGE, \$300  
(GPO)

		POSTMARK OF DELIVERING OFFICE 
RETURN TO →		
REGISTERED NO. <b>354</b>	NAME OF SENDER <i>Wesley J. Lueck</i>	
CERTIFIED NO.	STREET AND NO. OR P. O. BOX <i>Box 239</i>	
INSURED NO.	POST OFFICE <i>Bay Minette</i>	
	STATE <i>Ala</i>	

POD Form 3811  
July 1955

## POST OFFICE DEPARTMENT

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID  
PAYMENT OF POSTAGE, \$300  
(GPO)

RETURN TO		POSTMARK OF DELIVERING OFFICE MAY 13 1957
REGISTERED NO. 355	NAME OF SENDER Alice French	
CERTIFIED NO.	STREET AND NO. OR P. O. BOX Box 239	
INSURED NO.	POST OFFICE Bay Minette	
POD Form 3811 July 1955		STATE Ala.

FILED

MAY 14 1957

REGISTERED MAIL

DELIVERING  
EMPLOYEE

☐ Deliver ONLY to addressee. (Does not apply to Certified mail.)

☐ Show address where delivered.

Received from the Postmaster the Registered, Certified, or Insured Article, the number of which appears on the face of this return receipt.

*Marion L. Leel*  
Deliver to Addressee Only  
(Signature or name of addressee)

(Signature of addressee's agent--Agent should enter addressee's name on line ONE above)

MAY 13 1957

Date of Delivery \_\_\_\_\_, 19\_\_\_\_.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

DECREE OVERRULING DEMURRER

This cause coming on to be heard on this date is submitted on the demurrer of the respondent, Charles D. Grice, to the original Bill of Complaint, upon consideration of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. The said demurrer shall be and it is hereby over-ruled.

2. The said respondent, Charles D. Grice, is allowed thirty days from the date of this decree to answer.

ORDERED, ADJUDGED AND DECREED on this the 3rd day of  
February, 1956.

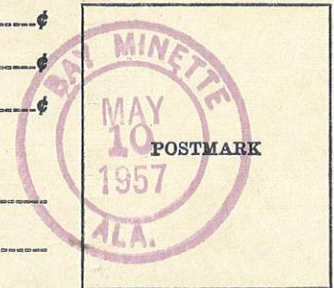
Hubert M Hall  
Judge

RECEIPT FOR  
REGISTERED ARTICLE NO.

355 Date 5/10/57

Value \$ 5.00 Special delivery fee \$  
Fee \$ 40 Return receipt fee 07  
Surcharge \$ Restricted delivery fee 20  
Postage \$ ☐ Airmail

From Alice J. Duck  
Bryn alo  
(Address)  
Addressed to Marion L. Grace  
Skyland N.C.  
(Address) (Accepting employee)



GPO c9-16-12608-8

RECEIPT FOR  
REGISTERED ARTICLE NO.

356 Date 5-10-57

Value \$ 5.00 Special delivery fee \$  
Fee \$ 40 Return receipt fee 07  
Surcharge \$ Restricted delivery fee 20  
Postage \$ ☐ Airmail

From Alice J. Duck  
Bryn alo  
(Address)  
Addressed to Robert L. Grace  
86 Edgemont Rd. Asheville N.C.  
(Address) (Accepting employee)



GPO c9-16-12608-8

RECEIPT FOR  
REGISTERED ARTICLE NO.

357 Date 5/10/57

Value \$ 5.00 Special delivery fee \$  
Fee \$ 40 Return receipt fee 07  
Surcharge \$ Restricted delivery fee 20  
Postage \$ ☐ Airmail

From Alice J. Duck  
Bryn alo  
(Address)  
Addressed to Annie Grace Maherty  
13 Liberty Place Asheville N.C.  
(Address)



DECREE OVERRULING DEMURRER

THOMAS J. TAYLOR and BEATRICE A.  
LOWENSTEIN,

VS. Complainants,

CHARLES D. GRICE, ET AL,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

THOMAS J. TAYLOR, ET AL.,	)	
Complainants,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
CHARLES D. GRICE, ET AL.,	)	IN EQUITY NO. 3621
Respondents.	)	

NOTE OF TESTIMONY

This cause is submitted on behalf of the complainants upon the following:

1. Original bill of complaint.
2. Temporary writ of injunction.
3. Decree reviving cause.
4. Amended bill of complaint.
5. Demurrer and answer to respondents' motion to redeem from tax sale.
6. Interrogatories propounded by complainants to respondent, Charles D. Grice.
7. Answers of Charles D. Grice to complainants' interrogatories.
8. Testimony of Arthur Robinson, Walter Johnson, Robert Quinley, N. S. Whitman and H. C. Taylor, all of which was taken in open court.
9. Exhibits 1, 2, 3, 4, 5, 6 and 7.

This cause is submitted on behalf of the respondents upon the following:

1. Amended motion to redeem from tax sale.
2. Answer to amended bill of complaint.
3. Testimony of William Wallace, William Brown and respondent, Charles D. Grice, all of which was taken in open court.
4. Exhibits 1, 2, 3 and 4.

ALICE J. DUCK, Circuit Clerk

*Baldwin County*  
BAY MINETTE, ALA.



36221



REGISTERED,  
FOR DELIVERY ONLY TO PERSON  
TO WHOM ADDRESSED  
Return Receipt Requested



Deliver to Addressee Only

Robert N. Grice  
86 Edgemont Road  
Asheville, North Carolina

RETURN RECEIPT REQUESTED

*e-54*



Dated this 27 day of Feb, 1961.

Alvin J. Black  
Register

J. B. Blackburn  
Solicitor for Complainants

THOMPSON & WHITE  
Solicitors for Respondents

By LeDor Thompson

Filed  
2-27-61  
Alvin J. Black  
Register

772  
NOTE OF TESTIMONY

THOMAS J. TAYLOR, ET AL.,

Complainants,

VS.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 3621

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants

vs

CHARLES D. GRICE, ET AL.,

Respondents

X  
X  
X  
X  
X  
X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 3621

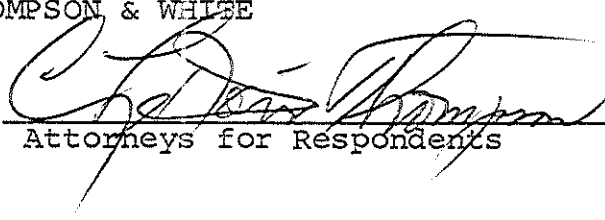
NOTICE OF APPEAL

Now come the respondents and appeal to the Supreme Court  
of the State of Alabama from the final judgment and decree rendered  
in this cause on the 24th day of April, 1961.

Dated this 24th day of October, 1961.

THOMPSON & WHITE

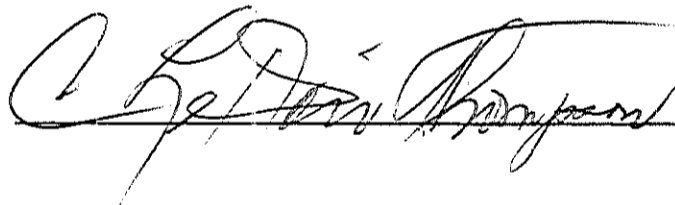
BY:

  
Attorneys for Respondents

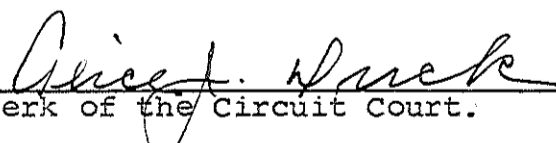
SECURITY FOR COSTS

I hereby acknowledge myself as Security for Costs of the  
Appeal taken by the respondents in this cause to the Supreme Court  
of the State of Alabama from the final judgment and decree rendered  
in this cause on the 24th day of April, 1961.

Dated this 24th day of October, 1961.



Taken and approved on this the  
24 day of October, 1961.

  
Clerk of the Circuit Court.

FILED  
OCT 24 1961  
ALICE J. DUCK, CLERK  
REGISTER

THE STATE OF ALABAMA,  
BALDWIN COUNTY

IN THE CHANCERY COURT OF BALDWIN COUNTY

To THOMAS J. TAYLOR and BEATRICE A. LOWENSTEIN,

Or To J.B. Blackburn, Solicitors of record.

Whereas, on the 24th day of October, 19 61,

Respondents

took an appeal from the decree rendered on the 24th day of April  
19 61, by the Circuit Court of said county, in the cause of Thomas J. Taylor and  
Beatrice A. Lowenstein

versus Charles D. Grice, et al

Now, therefore, you are cited to appear as required by law, before the Supreme Court of Alabama, to defend on said appeal, if you think proper so to do.

Witness my hand this 24th day of October, 19 61.

Alvin J. Smith  
Register in Chancery.

3621

Thomas J. Taylor Complainant  
+ Beatrice G. Lowenstein  
vs.

Charles D. Huie Respondent

CITATION OF APPEAL

IN EQUITY

Issued \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Received 25 day of Dec 1961  
and on 26 day of Dec 1961  
I served a copy of the within  
on J. B. Johnson

By service on Jesse Davis

TAYLOR WILKINS, Sheriff  
By M. G. Abbott D. S.  
C. W. W.

THOMAS J. TAYLOR, ET AL.,	)	
Complainants,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
CHARLES D. GRICE, ET AL.,	)	IN EQUITY NO. 3621
Respondents.	)	

# AMENDED BILL OF COMPLAINT

Now come the complainants and amend the bill of complaint heretofore filed in this cause by adding thereto, prior to the Prayer for Process, the following paragraph:

7. On, to-wit, September 22, 1955, when the respondents, or some of them, acting by and through the respondent, Charles D. Grice, wrongfully and tortiously trespassed on the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 2 East in Baldwin County, Alabama, and at the time of the filing of this suit the complainants, Thomas J. Taylor and Beatrice A. Lowenstein were in peaceable possession of the said property, claiming to own it. The respondents claim, or are reputed to claim, some right, title or interest in or encumbrance on the said land. No suit is pending to enforce or test the validity of such title, interest in, lien or encumbrance on the said land, and complainants bring this bill of complaint against the said Respondents to settle the title to the said land and clear up all doubts and disputes concerning the same. The complainants here and now call upon the said respondents to set forth and specify their right, title or interest in, lien or encumbrance on, the said land or any part thereof, and how and by what instrument the same is derived or created.

Complainants further amend their said bill of complaint by adding to the Prayer for Relief therein the following paragraph:

3b. That a decree be rendered against the respondents, quieting the complainants' title to the said land, adjudging and decreeing that they are the owners thereof in their own right; that

title thereto is in them, forever quieting their title against the said respondents and adjudging that the respondents and each of them are without right, title or interest in and to the said land, and have and hold no encumbrance thereon.

J. B. Blackburn  
Solicitor for complainant

*Filed*  
*10-8-59*

THOMAS J. TAYLOR, ET AL.,  
COMPLAINANTS,

VS

CHARLES D. GRICE, ET AL.,  
RESPONDENTS

\*  
\*  
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\*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

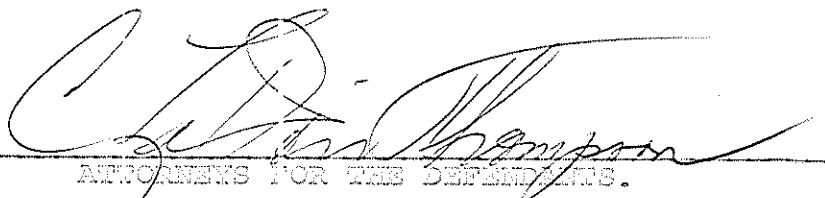
Case no. 3621.

Come now the Defendants in the above styled cause by their Attorney of Record, C. LeNoir Thompson and Mary Thompson White, and amend their motion heretofore filed in said cause, as follows:

That this Honorable Court ascertain the amount of taxes due on the said lands sued for, as well as other reasonable expenses, as provided for in Title 51, Section 296 of the 1940 Code of the State of Alabama and pronounce judgment for the Defendants clearing the title of the Defendants of the claim of the Plaintiff, as provided for in said title and section of the Code. The Defendants allege that the above styled cause was brought by the Plaintiff, who claims title under a tax deed, to eject the Defendants, the original owner of the land in question, who has remained in possession continuously since the tax sale.

THOMPSON & WHITE

BY:

  
ATTORNEYS FOR THE DEFENDANTS.

THOMAS J. TAYLOR, ET AL.,	§	
Complainants,	§	IN THE CIRCUIT COURT OF
vs.	§	BALDWIN COUNTY, ALABAMA
CHARLES D. GRICE, ET AL.,	§	
Respondents.	§	IN EQUITY. NO. 3621.

DEMURRER TO MOTION TO REDEEM FROM TAX SALE:

Now come the Complainants and demur to the Respondents' motion to redeem from tax sale heretofore filed in this cause and as grounds of such demurrer, assign separately and severally, the following:

1. No facts are alleged in the said motion to entitle the parties making the said motion to the relief sought by them therein.
2. No facts are alleged to show that the parties making the said motion are within the class entitled to redeem under the statute set out in the said motion.
3. No facts are alleged to show that the statute set out in the said motion applies to the tax sale through which the Complainants claim title.
4. For aught that appears in the said motion, the claim of the parties making the said motion is barred by the statute of limitations of three (3) years.
5. The facts alleged in the said motion do not show with accuracy and clearness all of the matters which are essential to the granting of the relief sought in the said motion.
6. The matters alleged in the said motion are vague, indefinite and uncertain.
7. The allegations of the said motion are ambiguous and inconclusive.
8. The relief sought in and by the said motion is inconsistent with the provisions of the statute referred to therein.
9. The allegations of the said motion are conclusions of the pleader.

10. The allegations of the said motion are conclusions of the pleader and no facts are alleged to show that those filing the motion had rightful possession of the land involved in this suit at the time of the filing of the said motion.

11. No facts are alleged to show when the tax sale, through which the complainants claim title, was made.

12. No facts are alleged to show the date of the tax sale through which the complainants claim title.

J. B. Blackburn  
Attorney for Complainants.

*Filed*  
*1-2-59*

3621

DEMURRER TO MOTION TO REDEEM  
FROM TAX SALE:

THOMAS J. TAYLOR, ET AL.,  
Complainants,

vs.

CHARLES D. GRICE, ET AL.,  
Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. 3621.

FILED

JAN 21 1959

ALICE J. DUCK, CLERK  
REGISTER

THOMAS J. TAYLOR AND  
BEATRICE A. LOWENSTEIN,  
Complainants,  
vs.  
CHARLES D. GRICE, ET AL.,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 3621.

ORDER REVIVING CAUSE

This cause coming on to be heard on this date is submitted on the motion of Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, from which it appears that the said Beatrice A. Lowenstein, who was one of the complainants named in the suit died on to-wit, July 26, 1956, leaving a Last Will and Testament which has been admitted to probate and record in and by the Probate Court of Mobile County, Alabama, and that Letters Testamentary as Executor of and under the said Last Will and Testament of the said Beatrice A. Lowenstein, Deceased, have been issued to the said George B. Aarons, which said Letters Testamentary are now in full force and effect, and that the said George B. Aarons should be substituted as a party complainant for the said Beatrice A. Lowenstein, Deceased, and that this cause should be revived in the name of Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein Deceased, upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, shall be and he is hereby substituted as a party complainant for the said Beatrice A. Lowenstein, who is now deceased and this cause shall be and it is hereby revived in the manner provided by Equity Rule #35, in the names of Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, as complainants.

ORDERED, ADJUDGED AND DECREED on this the 8<sup>th</sup> day of May, 1957.

Hubert M. Hall  
Judge.

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants,  
VS.

CHARLES D. GRICE, ET AL.,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

DECREE

This cause coming on to be heard on this date by consent of the parties, and it being made to appear to the court that the respondent, Charles D. Grice, has failed to answer the interrogatories heretofore propounded to him by the complainants in this cause, and, further, that the respondents will not be ready for trial in this cause which has been previously set for August 25, 1959, it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. The respondent, Charles D. Grice, shall be and he is hereby allowed until September 5, 1959, to answer the interrogatories heretofore propounded to him in this cause by the complainants; and if the said interrogatories are properly answered by the said respondent before the said date the court will not enforce the penalty for failure to answer said interrogatories, as required by Title 7, Section 783 of the 1940 Code of Alabama.

2. This cause shall be and it is hereby continued until 9:00 o'clock A. M. on Tuesday, September 22, 1959.

ORDERED, ADJUDGED AND DECREED on this the 24th day of August, 1959.

*Hubert M. Stein*  
Judge

FILED

AUG 24 1959

ALICE J. DUCK, CLERK  
REGISTER

THOMAS J. TAYLOR, ET AL.,	*	IN THE CIRCUIT COURT OF
COMPLAINANTS	*	BALDWIN COUNTY, ALABAMA.
VS	*	IN EQUITY. NO. 3621.
CHARLES D. GRICE, ET AL.,	*	
RESPONDENTS	*	
	*	

Comes now CHARLES D. GRICE, Respondent in the above styled cause and amends his motion heretofore filed in said cause and moves this Honorable Court as follows:

That the said C. D. Grice and other respondents named herein are the heirs of the said C. F. Grice and were the heirs of the said C. F. Grice, deceased, June 1st, 1914, at the time of the tax sale of said property which sold in the name of "heirs of C. F. Grice by Dudley Grice, agent". And that the said Dudley Grice named therein is the said Charles D. Grice, Respondent herein; and that said heirs are in possession and have retained possession continuously to said property, and,

That this Honorable Court ascertain the amount paid by the purchaser at the said sale, and of the taxes subsequently paid by the said purchaser, together with 6% per annum thereon, and a reasonable attorney's fee for the complainant's attorney for bringing the suit and, as provided in Title 2312, Code of Alabama of 1907, as amended shall enter judgment for the amount so ascertained, in favor of the said plaintiff against the said respondents and shall pronounce judgment for the said respondents clearing the title of the said respondents of the claim of the said complainant, as provided for in said Title 51 Section 296 of the 1940 Code of Alabama.

The respondents allege that the above styled cause was brought by the said complainant et al who claimed title under a tax deed arising from the said sale, said suit being to quiet title against the said respondents, heirs of C. F. Grice, deceased, and the owners of the land in question at the time of said sale, who have retained possession continuously since said sale, and further your respondent moves that upon the payment into court of the amount of the judgment and costs so determined, the court shall enter judgment for said respondents for the land and that all title and interest in the said land shall by such judgment be divested out of the said Thomas J. Taylor, et al, as the

owner of said tax deed.

Charles D. Grice  
Charles D. Grice.

THOMPSON & WHITE, Attorneys for the  
Respondents.

*Filed*  
*3-6-59*

BY: Mary Thompson White



9. The allegations of the said motion are conclusions of the pleader.

10. The allegations of the said motion are conclusions of the pleader and no facts are alleged to show that those filing the motion had rightful possession of the land involved in this suit at the time of the filing of the said motion.

11. No facts are alleged to show when the tax sale, through which the complainants claim title, was made.

12. No facts are alleged to show the date of the tax sale through which the complainants claim title.

13. No facts are alleged which show when the deed through which the complainants claim title was made.

14. No facts are alleged to show who conveyed the property involved in this suit to the Complainants.

*Filed*  
*2-9-59*

*J. B. Blackburn*  
Solicitor for Complainants.

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

3621

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon CHARLES D. GRICE, MARION L. GRICE, ANNIE GRICE DOHERTY and ROBERT N. GRICE to appear within thirty days from the service of this writ in the Circuit Court to be held for said county, Equity Side, at the place of holding same, then and there to answer the Bill of Complaint of Thomas J. Taylor and Beatrice A. Lowenstein.

WITNESS my hand and seal on this the 27<sup>th</sup> day of September, 1955.

Beice J. Black  
Register

Ex 9-27-55  
on Charles D. Grice  
Not Found on  
other depts.

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now come Thomas J. Taylor and Beatrice A. Lowenstein, as complainants, and present this Bill of Complaint against Charles D. Grice, Marion L. Grice, Annie Grice Doherty and Robert N. Grice, and respectfully show unto the court and your Honor as follows:

1. The complainants are each over twenty-one years of age and are residents of Mobile County, Alabama.

2. The respondent, Charles D. Grice, is over twenty-one years of age and a resident of Baldwin County, Alabama. The other respondents, Marion L. Grice, Annie Grice Doherty and Robert N. Grice, are each over twenty-one years of age but their places of residence are unknown and cannot be ascertained after reasonable efforts and the making of diligent inquiry to ascertain the same. These addresses will be furnished when known to complainants.

3. The complainants claim to own the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 2 East in Baldwin County, Alabama, under and by virtue of the following:

- A. Tax deed, State of Alabama, by H. F. Lee, State Auditor, to T. L. Taylor, dated on, to-wit, April 19, 1922, and recorded in Deed Book 42 at page 137, Baldwin County, Alabama Records.
- B. Warranty deed, T. L. Taylor and Sewell Taylor, his wife, to Thomas J. Taylor, Aaron A. Lowenstein and Sidney Lowenstein, partners doing business under the firm name and style of Taylor, Lowenstein and Company, dated January 13, 1941, and recorded in Deed Book 73 N. S. at page 440, Baldwin County, Alabama Records.
- C. Deed, The First National Bank of Mobile, as Executor and Trustee under the Last Will and Testament of Aaron A. Lowenstein, Deceased, to Thomas J. Taylor and Sidney Lowenstein, doing business as Taylor, Lowenstein and Company, dated October 19, 1943, and recorded in Deed Book 81 N. S. at pages 88-91, Baldwin County, Alabama Records.
- D. Will of Sidney Lowenstein, Deceased, dated on, to-wit, April 3, 1933, which was admitted to probate and record in and by the Probate Court of Mobile County, Alabama, on, to-wit, February 6, 1948, in which the said Beatrice A. Lowenstein was named as residuary devisee and legatee.

4. The said T. L. Taylor took possession of the above described property after he acquired title to it by the above described tax deed, worked the timber thereon for turpentine purposes for four consecutive years and remained in possession thereof, using the said property, which is what is known as wild lands, for growing timber. This said possession on the part of the said T. L. Taylor continued until he conveyed the property to Thomas J. Taylor, Aaron A. Lowenstein and Sidney Lowenstein, as partners doing business as Taylor, Lowenstein and Company, by the above described deed. The said parties, doing business as Taylor, Lowenstein and Company, continued in possession of the said property until the death of Aaron A. Lowenstein and until the said property was conveyed by the above described deed to Thomas J. Taylor and Sidney Lowenstein. Hereafter the said Thomas J. Taylor and Sidney Lowenstein remained in possession of the said property up to the time of the death of the said Sidney Lowenstein and since his death complainants have remained in the continuous possession of the said property until on, to-wit, September 22, 1955, when the respondents or some of them, acting by and through the respondent Charles D. Grice, wrongfully went upon the said land and cut timber therefrom which was standing and growing thereon and are now in the process of cutting and removing further timber from the said property, which said action on the part of the said respondents or some of them will denude the said lands of the said timber growing thereon.

5. The complainants claim of the respondents Five Thousand Dollars (\$5,000) damages for a trespass by the respondents on the following tract of land, namely, the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 2 East in Baldwin County, Alabama, belonging to the complainants on, to-wit, the 22nd day of September, 1955.

6. The complainants claim of the respondents Five Thousand Dollars (\$5,000) damages for a trespass by the respondents on the following tract of land, namely, the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 2 East in

Baldwin County, Alabama, in the possession of the complainants on, to-wit, the 22nd day of September, 1955.

PRAYER FOR PROCESS

Complainants pray that the usual process of this Honorable Court forthwith issue to the respondents and each of them, commanding them to appear in this court and plead, answer or demur to this Bill of Complaint within the time prescribed by law.

PRAYER FOR RELIEF

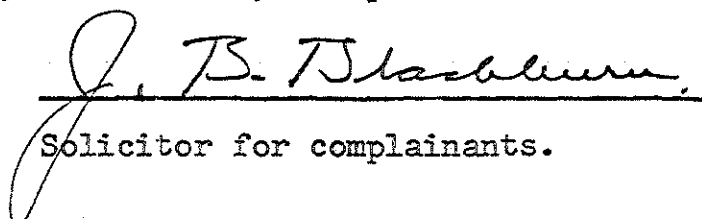
Complainants pray for the following separate and several relief:

1. That a temporary writ of injunction or restraining order be issued to the respondents and each of them enjoining or restraining them and each of them and their agents, servants and employees from trespassing on the above described property and from cutting and removing timber standing, growing or being thereon.

2. That upon a final hearing of this cause the temporary injunction or restraining order be made permanent.

3. That a decree be rendered in favor of the complainants and against the respondents for the trespass committed by the respondents, their agents, servants or employees, upon the above described property.

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

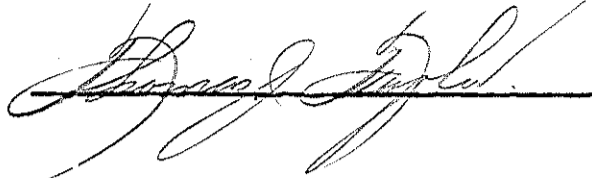
  
Solicitor for complainants.

STATE OF ALABAMA )  
\*  
MOBILE COUNTY )

Before me, the undersigned authority, within and for said County in said State, personally appeared Thomas J. Taylor, who, after being by me first duly and legally sworn, deposes and says:

That he is one of the complainants in the above entitled cause; that he has read over the foregoing Bill of Complaint, and

that the facts stated therein are true.



Sworn to and subscribed before me on  
this the 26<sup>th</sup> day of September, 1955.

J. B. Blackburn  
Notary Public, State of Alabama  
at Large.

FIAT

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

This cause being submitted to the court upon application of the complainants for a temporary writ of injunction, as prayed for in the original Bill of Complaint filed in this cause, and upon consideration thereof the court is of the opinion that the same should be granted:

It is, therefore, ORDERED, ADJUDGED AND DECREED by the court that upon the complainants entering into a good and sufficient bond, conditioned as provided by law, in the sum of \$ 500<sup>00</sup>, to be approved by the Register of this court, that the Register of this court issue a temporary writ of injunction as prayed for in the said Bill of Complaint filed in this cause.

Ordered and Done on this the 27 day of September, 1955.

Hubert M. Hall

Judge.

## RESPONDENTS

CASE NO. 3621.

BY:

ATTORNEYS FOR THE RESPONDE NTS?

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

MAY 7, 1958

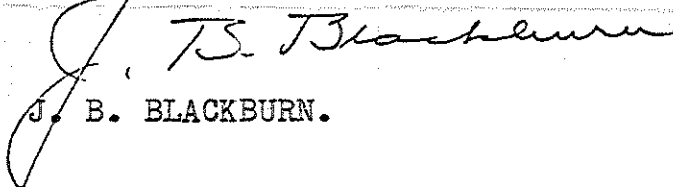
Mrs. Alice J. Duck  
Register  
Bay Minette, Alabama

Dear Mrs. Duck:

I have examined the court file in the case of Thomas J. Taylor et al vs. Charles D. Grice et al, Equity No. 3621, and after doing so I find that the original Bill of Complaint, the motion to revive and the order reviving the cause, which had been previously mailed to Robert N. Grice, who is a non-resident of the State of Alabama and whose residence and post office address is 86 Edgemoond Road, Asheville, North Carolina, were returned undelivered.

You will recall that we obtained service by registered mail on Mr. Grice in another case that was filed within the last few weeks. I will, therefore, appreciate your mailing again the papers referred to above to Mr. Grice at the above address.

Very truly yours,

  
J. B. BLACKBURN.

JBB\*MLB

THOMAS J. TAYLOR AND GEORGE  
B. AARONS, as Executor of and  
under the Last Will and Testa-  
ment of Beatrice A. Lowenstein,  
Deceased,

Complainants,

vs.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY. NO. 3621.

AFFIDAVIT

Before me, the undersigned authority within and for said  
County in said State, personally appeared J. B. Blackburn, who  
deposes and says that he is Solicitor for the complainants in  
this cause and that the address of the respondent, Marion L.  
Grice is Skyland, North Carolina; the address of Annie Grice  
Doherty is 12 Liberty Place, Weehawken, New Jersey; and that the  
address of Robert N. Grice is 86 Edgemont Road, Asheville, North  
Carolina. That all of the said parties are over twenty-one years  
of age and are non-residents of the State of Alabama.

J. B. Blackburn

Sworn to and subscribed before  
me on this the 8th day of  
May, 1957.

Alice L. Miller

Notary Public, Baldwin County, Alabama.

THOMAS J. TAYLOR, ET AL.,            )  
                                  Complainants,)       IN THE CIRCUIT COURT OF  
VS.                                        )  
  BALDWIN COUNTY, ALABAMA  
CHARLES D. GRICE, ET AL.,            )  
                                  Respondents. )       IN EQUITY       NO. 3621

DECREE

This cause coming on to be heard on this date is submitted on the complainants' motion to require full, sufficient and unevasive answers to interrogatories Numbered 3 and 4 heretofore propounded by the complainants to the respondent, Charles D. Grice, which motion was heretofore set for this date; upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The complainants' motion to require answers to their said interrogatories Numbered 3 and 4 is hereby continued until 9:00 o'clock A. M. on October 1, 1959, and until the said date the said respondent, Charles D. Grice, shall be and he is hereby allowed an opportunity to make full, complete and unevasive answers to the said interrogatories Numbered 3 and 4 heretofore propounded to him by the complainants.

2. This cause shall be and it is hereby set for hearing at 10:00 o'clock A. M. on October 8, 1959.

ORDERED, ADJUDGED AND DECREED on this the 21st day of September, 1959.

*Hubert M. Steele*  
\_\_\_\_\_  
Judge

FILED  
9-21-1959  
ALICE I. DUCK, CLERK  
REGISTER

DECREE *m*

THOMAS J. TAYLOR, ET AL.,

Complainants,

VS.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

AMENDED ANSWER

THOMAS J. TAYLOR AND  
BEATRICE A. LOWENSTEIN,

Complainants

VS.

CHARLES D. GRICE, ET AL,

Respondents

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\*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. \_\_\_\_\_

Comes now the Respondent Charles D. Grice and amends his answer to interrogatories previously filed by restating answers to questions three and four.

3. As previously stated, title is claimed by myself and my co-tenants as heirs of Charles F. Grice, Charles F. Grice acquired title through various mesne conveyances, among them deed of Samuel M. Pickler and John B. Foley, dated in July of 1905, and by virtue of possession.

4. Yes. We recently had some timber cut. We received about \$700.00 for this timber and the timber was sold to N. S. Whitman.

Charles D. Grice

STATE OF ALABAMA  
BALDWIN COUNTY

Before me, the undersigned authority in and for the said County in said State, personally appeared Charles D. Grice, known to me and who being by first duly sworn, deposes and says that he is one of the respondents in the above entitled cause, and that the above and foregoing answers to interrogatories made by him are true and correct.

Charles D. Grice

Sworn to and subscribed before me on  
this the 4 day of September, 1959.

C. D. Grice  
Notary Public, Baldwin County, Alabama

Filed 9-4-59

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

COMPLAINANTS,

VS.

CHARLES D. GRICE, ET AL.,

RESPONDENTS.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

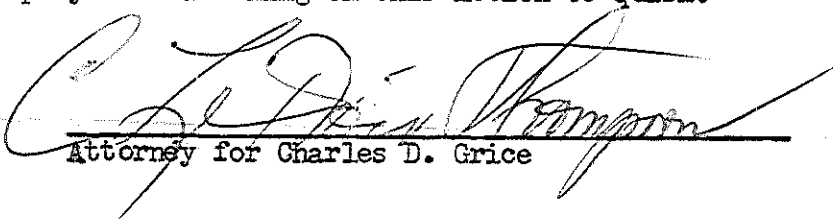
No. 3621

MOTION TO QUASH

Now comes Charles D. Grice by his attorney of record and moves this honorable court to quash the attachment entered on behalf of the complainants herein and as his grounds for said motion to quash, shows as follows:

1. That said Charles D. Grice answered each and every interrogatory.
2. That said Charles D. Grice answered each and every question in as nearly a "yes" or "no" answer as possible, in compliance with proper court room procedure.
3. That an examination of the interrogatories propounded by the attorney for the complainants and an examination by the court of the answers made by Charles D. Grice to said interrogatories were simple answers and presented as such.
4. That said complainants by their attorney may petition the said court to strike said answers and by propounding more carefully expressed questions which are not presented in a compound form may seek answers to same under the rules pertaining to interrogatories.
5. That an attachment is an extraordinary proceeding which is not justified under the conditions of this complaint as same now stands before this court.

WHEREFORE, your petitioner prays for a ruling on this motion to quash.

  
Attorney for Charles D. Grice

I hereby certify that I delivered a copy of the above and foregoing instrument to the office of J. B. Blackburn, Solicitor for Complainants, on this 12 day of September, 1959

FILED

SEP 12 1959

ALICE J. DUCK, CLERK  
REGISTER

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants,  
VS.

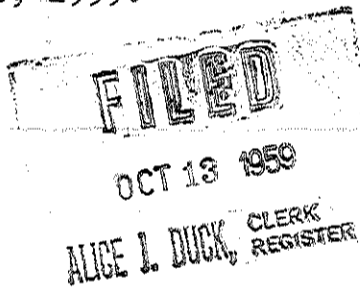
CHARLES D. GRICE, ET AL.,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

DECREE

In this cause it being made to appear that the respondents' attorney has another case set for trial in the United States District Court in Mobile, Alabama, on September 22, 1959, because of which it is ORDERED, ADJUDGED AND DECREED by the court that this cause be and it is hereby continued from 9:00 o'clock A. M. on September 22, 1959, to 9:00 o'clock A. M. on September 23, 1959.

ORDERED, ADJUDGED AND DECREED on this the 24 day of August, 1959.



*7 Hubert M. Lee*  
Judge

*mc*  
DECREE CONTINUING CAUSE

THOMAS J. TAYLOR and BEATRICE A.  
LOWENSTEIN,

Complainants,  
VS.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

THOMAS J. TAYLOR, AND GEORGE  
B. AARONS, as Executor of and  
under the Last Will and Testa-  
ment of Beatrice A. Lowenstein,  
Deceased,

Complainants,

vs.

CHARLES D. GRICE, ET AL.,

Respondents.

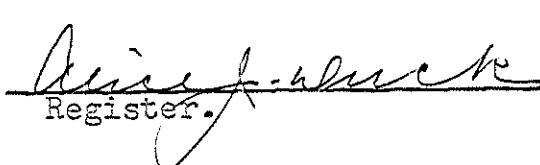
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY. NO. 3621.

REGISTER'S CERTIFICATE AS TO SERVICE

I, Alice J. Duck, as Register of the Circuit Court of Baldwin County, Alabama, in Equity, do hereby certify that I did on the 9th day of May, 1957, mail a copy of the original summons and bill of complaint, a copy of complainants' motion to revive this cause in the manner provided by Equity Rule #35, and a copy of the court's order reviving the said cause to Marion L. Grice, Skyland, North Carolina; Annie Grice Doherty, 12 Liberty Place, Weehawken, New Jersey, and Robert N. Grice, 86 Edgemond Road, Asheville, North Carolina, by registered mail, postage pre-paid, marked "for delivery only to the person to whom addressed" with return receipt requested, addressed to me as the sending officer.

DATED this 9th day of May, 1957.

  
Register.

REGISTER'S CERTIFICATE AS TO  
SERVICE

THOMAS J. TAYLOR and GEORGE  
B. AARONS, as Executor of and  
under the Last Will and Testa-  
ment of Beatrice A. Lowenstein,  
Deceased.

Complainants,

vs.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 3621.

FILED FOR RECORD IN BALDWIN COUNTY, ALABAMA  
JAN 10 1934

*Handwritten signature*

THOMAS J. TAYLOR, ET AL.,

VS.

Complainants,

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CHARLES D. GRICE, ET AL.,

IN EQUITY NO. 3621

Respondents.

DECREE SUSTAINING DEMURRER TO MOTION TO REDEEM  
FROM TAX SALE

This cause coming on to be heard on this date is submitted on the complainants' demurrer to the respondents' motion to redeem from tax sale, which motion was filed in this cause on October 21, 1958; and the matter having been argued by counsel for the respective parties and being understood by the court, it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. Complainants' demurrer to respondents' said motion to redeem from tax sale shall be and it is hereby sustained.

2. The respondents shall be and they are allowed twenty (20) days from this date to file further pleadings in this cause, if they shall elect so to do.

ORDERED, ADJUDGED AND DECREED on this the 13th day of  
January, 1959.

Robert M. Steele  
Judge

Judge

DECREE SUSTAINING DEMURRER TO  
MOTION TO REDEEM FROM TAX SALE.

THOMAS J. TAYLOR, ET AL.,

Complainants,

VS.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3621

FILED

JAN 13 1959

MAURICE L. BRYCE, CLERK  
JAN 13 1959

No. 3621

THOMAS J. TAYLOR and BEATRICE A. LOWENSTEIN  
Complainant.

vs.

CHARLES D. GRICE, et al  
Respondent.

I, Alice J. Duck Register of the Circuit Court in Equity,  
Baldwin County, Alabama, hereby certify that in the cause of  
THOMAS J. TAYLOR and BEATRICE A. LOWENSTEIN Complainant,

vs.

~~EMILIE K~~ CHARLES D. GRICE, ET AL Respondent,

which was tried and determined in this Court on the 24th day of  
April 19 61, in which there was a decree in favor of the  
Complainants

On the 24 day of October 19 61, the Respondents  
took an appeal to the  
2d Supreme Court of Alabama, to be holden of and for said State.

I further certify that Respondents  
filed security for cost of appeal to the Supreme Court,  
on the 24th day of October 19 61, and that  
C. LeNoir Thompson  
is surety  
~~on the~~ on the appeal bond.

I further certify that notice of said appeal was on the 24th  
day of Oct 19 61, served on J.B. Blackburn  
as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the 24th day of  
October 19 61.

Alice J. Duck  
Register of the Circuit Court In Equity of

Baldwin County, Alabama.

STATE OF ALABAMA     )  
                              \*  
BALDWIN COUNTY        )

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETING:

You are hereby commanded to summon N. S. WHITMAN, 2723 Springhill Avenue, Mobile, Alabama, at the instance of the complainants if he should be found in your County, personally to be and appear before the Circuit Court of Baldwin County, at the present term thereof to be held at the Courthouse in Bay Minette, Alabama, on, to-wit, the 8th day of October, 1959, at ten o'clock A. M., and to bring with him and produce at the time and place aforesaid, to be used as evidence, all books, papers and other writings which indicate the amount of timber or number of trees sold by the Respondents, Charles D. Grice, et al., to N. S. Whitman on, to-wit, September 22, 1955, and then and there to testify and the truth to speak concerning all and singular those things of which he may have knowledge or the said instruments of writing doth import of, and concerning a certain suit now pending and undetermined in said court wherein Thomas J. Taylor, et al., are complainants, and Charles D. Grice, et al., are respondents. And this he shall in nowise omit under penalties of what the law directs, and shall have you then and there this writ with your endorsement thereon in what manner you have executed same.

WITNESS my hand this 5 day of October, 1959.

Alise J. Luck  
Clerk.

EXECUTED

This 7 day of Oct, 1954

by serving a copy of the within on

M. J. Whitman

RAY D. BRIDGES, Sheriff

By M. Thompson D.S.

J. H. Thompson

1824 10/8 35

THOMAS J. TAYLOR, ET AL.,	)	
Complainants,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
CHARLES D. GRICE, ET AL.,	)	IN EQUITY NO. 3621
Respondents.	)	

NOTE OF TESTIMONY

This cause is submitted on behalf of the complainants upon the following:

1. Original bill of complaint.
2. Temporary writ of injunction.
3. Decree reviving cause.
4. Amended bill of complaint.
5. Demurrer and answer to respondents' motion to redeem from tax sale.

6. Interrogatories propounded by complainants to respondent, Charles D. Grice.

7. Answers of Charles D. Grice to complainants' interrogatories.

8. Testimony of Arthur Robinson, Walter Johnson, Robert Quinley, N. S. Whitman and H. C. Taylor, all of which was taken in open court.

9. Exhibits 1, 2, 3, 4, 5, 6 and 7.

This cause is submitted on behalf of the respondents upon the following:

1. Amended motion to redeem from tax sale.
2. Answer to amended bill of complaint.
3. Testimony of William Wallace, William Brown and respondent, Charles D. Grice, all of which was taken in open court.
4. Exhibits 1, 2, 3 and 4.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1961.

\_\_\_\_\_  
Register

J. B. Blackburn  
Solicitor for Complainants

THOMPSON & WHITE  
Solicitors for Respondents

By \_\_\_\_\_

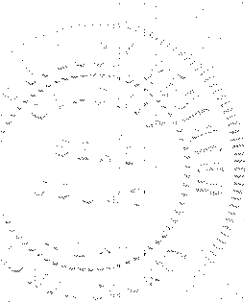
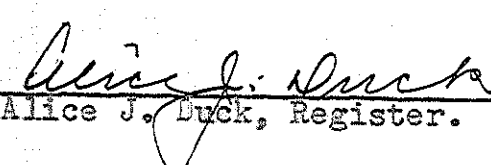
STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon CHARLES D. GRICE, MARION L. GRICE, ANNIE GRICE DOHERTY AND ROBERT M. GRICE to appear within thirty days from the service of this writ in the Circuit Court to be held for said county, Equity Side, at the place of holding same, then and there to answer the Bill of Complaint of Thomas J. Taylor and Beatrice A. Lowenstein.

WITNESS my hand and seal on this the 27th day of September, 1955.

  
  
\_\_\_\_\_  
Alice J. Duck, Register.

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now come Thomas J. Taylor and Beatrice A. Lowenstein, as  
complainants, and present this Bill of Complaint against Charles D.  
Grice, Marion L. Grice, Annie Grice Doherty and Robert N. Grice,  
and respectfully show unto the court and your Honor as follows:

1. The complainants are each over twenty-one years of  
age and are residents of Mobile County, Alabama.

2. The respondent, Charles D. Grice, is over twenty-one  
years of age and a resident of Baldwin County, Alabama. The other  
respondents, Marion L. Grice, Annie Grice Doherty and Robert N.  
Grice, are each over twenty-one years of age but their places of  
residence are unknown and cannot be ascertained after reasonable  
efforts and the making of diligent inquiry to ascertain the same.  
These addresses will be furnished when known to complainants.

3. The complainants claim to own the Northeast Quarter  
of the Southwest Quarter of Section 11, Township 3 South, Range 2  
East in Baldwin County, Alabama, under and by virtue of the  
following:

- A. Tax deed, State of Alabama, by H. F. Lee, State  
Auditor, to T. L. Taylor, dated on, to-wit, April  
19, 1922, and recorded in Deed Book 42 at page  
137, Baldwin County, Alabama Records.
- B. Warranty deed, T. L. Taylor and Sewell Taylor, his  
wife, to Thomas J. Taylor, Aaron A. Lowenstein and  
Sidney Lowenstein, partners doing business under  
the firm name and style of Taylor, Lowenstein and  
Company, dated January 13, 1941, and recorded in  
Deed Book 73 N. S. at page 440, Baldwin County,  
Alabama Records.
- C. Deed, The First National Bank of Mobile, as Executor  
and Trustee under the Last Will and Testament of  
Aaron A. Lowenstein, deceased, to Thomas J. Taylor  
and Sidney Lowenstein, doing business as Taylor,  
Lowenstein and Company, dated October 19, 1943, and  
recorded in Deed Book 81 N. S. at pages 88-91,  
Baldwin County, Alabama Records.
- D. Will of Sidney Lowenstein, deceased, dated on, to-wit,  
April 3, 1933, which was admitted to probate and  
record in and by the Probate Court of Mobile County,  
Alabama, on, to-wit, February 6, 1948, in which the  
said Beatrice A. Lowenstein was named as residuary  
devisee and legatee.

4. The said T. L. Taylor took possession of the above described property after he acquired title to it by the above described tax deed, worked the timber thereon for turpentine purposes for four consecutive years and remained in possession thereof, using the said property, which is what is known as wild lands, for growing timber. This said possession on the part of the said T. L. Taylor continued until he conveyed the property to Thomas J. Taylor, Aaron A. Lowenstein and Sidney Lowenstein, as partners doing business as Taylor, Lowenstein and Company, by the above described deed. The said parties, doing business as Taylor, Lowenstein and Company, continued in possession of the said property until the death of Aaron A. Lowenstein and until the said property was conveyed by the above described deed to Thomas J. Taylor and Sidney Lowenstein. Thereafter the said Thomas J. Taylor and Sidney Lowenstein remained in possession of the said property up to the time of the death of the said Sidney Lowenstein and since his death complainants have remained in the continuous possession of the said property until on, to-wit, September 22, 1955, when the respondents or some of them, acting by and through the respondent Charles D. Grice, wrongfully went upon the said land and cut timber therefrom which was standing and growing thereon and are now in the process of cutting and removing further timber from the said property, which said action on the part of the said respondents or some of them will denude the said lands of the said timber growing thereon.

5. The complainants claim of the respondents Five Thousand Dollars (\$5,000.00) damages for a trespass by the respondents on the following tract of land, namely, the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 2 East, in Baldwin County, Alabama, belonging to the complainants on, to-wit, the 22nd day of September, 1955.

6. The complainants claim of the respondents Five Thousand Dollars (\$5,000.00) damages for a trespass by the respondents on the following tract of land, namely, the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 2 East in Baldwin County, Alabama, in the possession of the complainants on, to-wit, the 22nd day of September, 1955.

PRAYER FOR PROCESS

Complainants pray that the usual process of this Honorable Court forthwith issue to the respondents and each of them, commanding them to appear in this court and plead, answer or demur to this Bill of Complaint within the time prescribed by law.

PRAYER FOR RELIEF

Complainants pray for the following separate and several relief:

1. That a temporary writ of injunction or restraining order be issued to the respondents and each of them enjoining or restraining them and each of them and their agents, servants and employees from trespassing on the above described property and from cutting and removing timber standing, growing or being thereon.
2. That upon a final hearing of this cause the temporary injunction or restraining order be made permanent.
3. That a decree be rendered in favor of the complainants and against the respondents for the trespass committed by the respondents, their agents, servants or employees, upon the above described property.
4. Complainants pray for such other, further and general relief as they may be equitably entitled to, the premises considered.

(S) J. B. BLACKBURN  
Solicitor for complainants.

STATE OF ALABAMA

MOBILE COUNTY

Before me, the undersigned authority, within and for said County in said State, personally appeared Thomas J. Taylor, who after being by me first duly and legally sworn, deposes and says:

That he is one of the complainants in the above entitled cause; that he has read over the foregoing Bill of Complaint, and that the facts stated therein are true.

(S) THOMAS J. TAYLOR

Sworn to and subscribed before me  
on this the 26th day of September, 1955.

(S) J. B. BLACKBURN  
Notary Public, State of Alabama at Large.

FIAT

STATE OF ALABAMA

BALDWIN COUNTY

This cause being submitted to the court upon application of the complainants for a temporary writ of injunction, as prayed for in the original Bill of Complaint filed in this cause and upon consideration thereof the court is of the opinion that the same should be granted.

It is, therefore, ORDERED, ADJUDGED AND DECREED by the court that upon the complainants entering into a good and sufficient bond, conditioned as provided by law, in the sum of \$500.00, to be approved by the Register of this court, that the Register of this court issue a temporary writ of injunction as prayed for in the said Bill of Complaint filed in this cause.

Ordered and Done on this the 27th day of September, 1955.

(S) HUBERT M. HALL  
Judge.

THOMAS J. TAYLOR AND  
BEATRICE A. LOWENSTEIN,

Complainants,

vs.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY. NO. 3621.

ORDER REVIVING CAUSE

This cause coming on to be heard on this date is submitted on the motion of Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, from which it appears that the said Beatrice A. Lowenstein, who was one of the complainants named in the suit died on to-wit, July 26, 1956, leaving a Last Will and Testament which has been admitted to probate and record in and by the Probate Court of Mobile County, Alabama, and that Letters Testamentary as Executor of and under the said Last Will and Testament of the said Beatrice A. Lowenstein, Deceased, have been issued to the said George B. Aarons, which said Letters Testamentary are now in full force and effect, and that the said George B. Aarons should be substituted as a party complainant for the said Beatrice A. Lowenstein, Deceased, and that this cause should be revived in the name of Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein Deceased, upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, shall be and he is hereby substituted as a party complainant for the said Beatrice A. Lowenstein, who is now deceased and this cause shall be and it is hereby revived in the manner provided by Equity Rule #35, in the names of Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, as complainants.

ORDERED, ADJUDGED AND DECREED on this the 8th day of May, 1957.

(S) HUBERT M. HALL  
Judge.

The said parties move the court to grant unto them such other, further and general relief as they may be equitably entitled to the premises considered.

DATED this 8<sup>th</sup> day of May, 1957.

THOMAS J. TAYLOR,

BY:

J. B. Blackburn  
As his Solicitor.

GEORGE B. AARONS, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased,

BY:

J. B. Blackburn  
As his Solicitor.

THOMAS J. TAYLOR AND  
BEATRICE A. LOWENSTEIN,

Complainants,

vs.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY. NO. 3621.

MOTION TO REVIVE

Now comes the Complainant, Thomas J. Taylor, by his Solicitor and George B. Aarens, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, deceased, by his Solicitor, and respectfully represent unto the court and your Honor as follows:

1. Beatrice A. Lowenstein, one of the complainants in this cause, died on to-wit, July 26, 1956, leaving a Last Will and Testament dated September 30, 1948, and a Codicil thereto, dated February 22, 1951, which said Will and Codicil were admitted to probate and record in and by the Probate Court of Mobile County, Alabama, on to-wit, August 8, 1956, where it is recorded in Book 32 of Wills at pages 680-702, Mobile County, Alabama Records. At the time of the probate of the said Will, George B. Aarens, who was named as Executor therein was appointed and qualified as such Executor and Letters Testamentary issued to him, which said Letters are now in full force and effect.

2. This cause of action survived and should now be revived in the name of Thomas J. Taylor and George B. Aarens, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein Deceased, in the manner provided by Equity Rule #35.

WHEREFORE, the above named parties move the court to substitute the said George B. Aarens as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, deceased, as a party complainant for the said Beatrice A. Lowenstein, and that this cause be revived as provided in Equity Rule #35, in the name of Thomas J. Taylor and George B. Aarens as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, deceased.

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants

VS.

CHARLES D. GRICE, ET AL,

Respondents

) IN THE CIRCUIT COURT OF

) BALDWIN COUNTY, ALABAMA

) IN EQUITY

) NO. 3621

Comes now the Respondent, Charles D. Grice,  
and for answer to the Bill says:

1. Said Respondent admits the allegations  
of Paragraph 1.

2. Respondent admits the allegations of  
Paragraph 2.

3. Respondent denies the allegations of  
Paragraph 3.

4. Respondent denies the allegations of  
Paragraph 4.

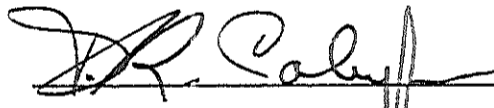
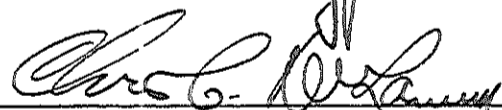
5. Respondent denies each and every other  
allegation of the Bill and demands strict proof  
thereof.

For further answer, Respondent says that  
Respondent did, about, to-wit, the month of September,  
1955, cause timber having a reasonable market value of  
\$600.00 to be cut and moved from the property; and  
Respondent avers that the Complainants have not been  
in the actual, peaceable, undisturbed, notorious,  
adverse possession of the property during the time  
claimed by them; that their possession has never ripened  
into title; and that Respondents named in the Bill are  
the real owners of the land. Respondent admits that  
the Complainants, or some of them, may, at one time or  
another, have paid taxes on the land;

WHEREFORE, the premises considered, the  
Respondent, the said Charles D. Grice, prays that your

Honors will consider this answer as a Cross Bill and upon a final hearing of this cause will determine the amount of taxes paid by the Complainants and will fix a lien in favor of the Complainants against the Respondents in the amount of the taxes so paid, plus interest at the rate of six per cent per annum; and Respondent further prays that your Honor will order that said lien may be discharged by the payment by the Respondents into the Registry of this Court of the amount so fixed.

Respondent prays that this Court will then decree that none of the Complainants have any other right, title, or interest in and to the property and will then declare the tax deed acquired by the Complainants and referred to in the Bill as a nullity and will further dismiss the original Bill; and the said Respondent offers to do equity, and prays for such other, further or different relief as he may be entitled to receive, the premises considered.

  
  
Solicitors for Respondent,  
Charles D. Grice

THOMAS J. TAYLOR AND  
BEATRICE A. LOWENSTEIN,

Complainants,

vs.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 3621.

MOTION TO REVIVE

Now comes the Complainant, Thomas J. Taylor, by his Solicitor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, deceased, by his Solicitor, and respectfully represent unto the court and your Honor as follows:

1. Beatrice A. Lowenstein, one of the complainants in this cause, died on to-wit, July 26, 1956, leaving a Last Will and Testament dated September 30, 1948, and a Codicil thereto, dated February 22, 1951, which said Will and Codicil were admitted to probate and record in and by the Probate Court of Mobile County, Alabama, on to-wit, August 8, 1956, where it is recorded in Book 32 of Wills at pages 680-702, Mobile County, Alabama Records. At the time of the probate of the said Will, George B. Aarons, who was named as Executor therein was appointed and qualified as such Executor and Letters Testamentary issued to him, which said Letters are now in full force and effect.

2. This cause of action survived and should now be revived in the name of Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein Deceased, in the manner provided by Equity Rule #35.

WHEREFORE, the above named parties move the court to substitute the said George B. Aarons as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, deceased, as a party complainant for the said Beatrice A. Lowenstein, and that this cause be revived as provided in Equity Rule #35, in the name of Thomas J. Taylor and George B. Aarons as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, deceased.

The said parties move the court to grant unto them such other, further and general relief as they may be equitably entitled to the premises considered.

DATED this 8<sup>th</sup> day of May, 1957.

THOMAS J. TAYLOR,

BY:

J. B. Blackburn  
As his Solicitor.

GEORGE B. AARONS, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased,

BY:

J. B. Blackburn  
As his Solicitor.

video tape also show many of these are from within the area  
of business operations of your yard as shown because the evidence

business continues and  
TODAY, MAY 8, 1957, and could

THOMAS J. TAYLOR

*[Handwritten signature]*

and to represent as shown in evidence  
as presented the film that was made  
of business operations of your yard as shown because the evidence

*[Handwritten signature]*

MOTION TO REVIVE

THOMAS J. TAYLOR AND BEATRICE  
A. LOWENSTEIN,

Complainants,

vs.

CHARLES D. GRICE, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 3621.

FILED

MAY 8 1957

WILLIAM A. BICK, CLERK

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants

VS.

CHARLES D. GRICE, ET AL,

Respondents

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. \_\_\_\_\_

Comes now the Respondent Charles D. Grice  
and for answer to the interrogatories propounded to  
him says:

1. I claim the title to this property along  
with Marion L. Grice, Robert N. Grice, and Annie R.  
Daugherty.

2. The title is claimed by the persons  
named in Number 1 supra as heirs of C. F. Grice.

3. As previously stated, title is claimed by  
myself and my co-tenants as heirs of Charles F. Grice.  
Charles F. Grice acquired title through various mesne  
conveyances, among them deed of Samuel M. Pickler and  
John B. Foley, dated in July of 1905, and by virtue of  
possession.

4. Yes. We recently had some timber cut.  
We received about \$700 for this timber and the timber  
was sold to N. S. Whitman.

Charles D. Grice

STATE OF ALABAMA )  
COUNTY OF MOBILE )

Before me, the undersigned Notary Public in and  
for said State and County, personally appeared this 20th  
day of January, 1956, Charles D. Grice who, being by me  
first duly sworn, deposes and says: That he is one of the  
Respondents in the above entitled cause and that the fore-  
going answers to interrogatories are true and correct.

Charles D. Grice

Sworn to and subscribed before me on  
this the 20th day of January, 1956.

Chris C. McManey  
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

Slab at Day.

THOMAS J. TAYLOR and  
BEATRICE A. LOWENSTEIN,

Complainants,

vs.

CHARLES D. GRICE, ET AL,

Respondents.

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

) IN EQUITY

) NO. 3621  
)  
)  
)

Comes now the Defendant, Charles D. Grice, and demurs  
to the Bill of Complaint herein upon the following separate and  
several grounds:

1. Because there is no equity in the bill.

2. Because it affirmatively appears from the allegations  
of the Complaint that if the Complainants have a valid cause of  
action against the Defendant, Charles D. Grice, they have a full  
and adequate remedy at law.

3. Because the allegation of paragraph four of the Bill  
of Complaint that the Complainants took possession of the property  
is a mere conclusion of the pleader.

4. Because the allegation of paragraph four of the  
Bill of Complaint that Complainants "remained in possession thereof,  
using the said property, which is what is known as wild lands for  
growing timber" is a mere conclusion of the pleader and is not a  
sufficient allegation of adverse possession.

5. Because for aught that appears, the Complainants were  
not in the exclusive possession of the property.

6. Because for aught that appears, the Complainants were  
not in possession of said property in exclusion of the said Charles  
D. Grice or some of the other Defendants.

7. Because the allegation of Paragraph Four of the  
Complaint that the possession on the part of T. L. Taylor continued  
until he conveyed the property to Thomas J. Taylor, Aaron A. Lowen-  
stein and Sidney Lowenstein, as partners doing business as Taylor-  
and  
Lowenstein/Company, is a mere conclusion of the pleader.

8. Because the allegation that "said parties, doing business as Taylor-Lowenstein and Company, continued in possession of the said property up to the time of the death of T. L. Taylor and until the property was conveyed by the above described deed to the said Thomas J. Taylor and Sidney Lowenstein", is a mere conclusion of the pleader.

9. Because the allegation that "T. J. Taylor and Sidney Lowenstein remained in possession of the property up to the time of the death of the said Sidney Lowenstein and that since his death, Complainants have remained in the continuous possession of said property until on, to-wit, September 22, 1955", is a mere conclusion of the pleader.

10. Because the allegation that the "Respondents or some of them, acting by and through the Respondent, Charles D. Grice, wrongfully went upon the said land and cut timber therefrom" is a mere conclusion of the pleader.

11. Because said allegation just referred to is vague, indefinite and uncertain.

12. Because the allegations of said paragraph four are so vague, indefinite and uncertain that the Court could not with certainty determine who, if any of the defendants, were responsible for any wrong complained of.

13. Because the allegations of said paragraph four of the Complaint are insufficient to charge with certainty any particular one or all of the defendants with having gone upon the lands described in the Complaint and cut or removed any timber therefrom.

Defendant demurs to the allegations of paragraph five on the following separate and several grounds:

14. The allegations thereof are insufficient to state a ground of action against any particular defendant or against all of the defendants or against any certain two or more of the defendants.

15. Because it is not alleged that any trespass was committed by any particular individual defendant or that any trespass was committed by any one acting as a servant or agent of any defendant or within the line and scope of the employment of such defendant.

16. Because no facts are alleged from which it could be said that any of the defendants or all of the defendants could be charged with responsibility as a matter of law for any trespass on the lands described.

17. Because for aught that appears, the Complainants were not in possession of the lands described on the 22nd day of September, 1955.

Defendant demurs to paragraph six of the Bill of Complaint and for grounds therefor, assigns each and every ground separately assigned as grounds to paragraph five and on the following additional grounds:

18. Because for aught that appears, the Complainants were not in the exclusive possession of the lands described on September 22, 1955.

19. Because for aught that appears, the Defendants were the lawful owners of the lands described in the said paragraph and entitled to possession thereof on September 22, 1955.

20. Defendant demurs to the Bill of Complaint as a whole because no facts are alleged therein from which as a matter of law it may be said that the Complainants are entitled to a writ of injunction restraining the Respondents and enjoining them from going upon the property described in the bill of complaint and cutting and removing the timber therefrom.

*Filed*

*10-26-55*

\_\_\_\_\_  
Solicitor for Defendant, Charles D. Grice

LOWENSTEIN ET AL.  
COMPLAINANTS

VS.

GRICE ET AL.  
RESPONDENTS

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

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

Come the respondents in the above styled cause and refile their  
answer heretofore filed to the complaint as ammended.

FILED

OCT 13 1950

ALICE J. DUCK, CLERK  
REGISTER

THOMPSON & WHITE  
ATTORNEYS FOR RESPONDENTS

By:

*C. L. Thompson*

THOMAS J. TAYLOR, ET AL.,	)	
Complainants,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
CHARLES D. GRICE, ET AL.,	)	IN EQUITY NO. 3621
Respondents.	)	

DEMURRER AND ANSWER TO RESPONDENTS' AMENDED  
MOTION TO REDEEM FROM TAX SALE

Now come the complainants and separately and severally demur to respondents' last amended motion to redeem from tax sale heretofore filed in this cause, and for grounds of demurrer each of them assign, separately and severally, the following:

1. No facts are alleged in the said amended motion to entitle the parties making the said motion to the relief sought by them therein.

2. No facts are alleged to show that the parties making the said amended motion are within the class entitled to redeem under the statute set out in the said amended motion.

3. No facts are alleged to show that the statute set out in the said amended motion applies to the tax sale through which the complainants claim title.

4. For aught that appears in the said amended motion, the claim of the parties making the said amended motion is barred by the statute of limitations of three years.

5. The facts alleged in the said amended motion do not show with accuracy and clearness all of the matters which are essential to the granting of the relief sought in the said amended motion.

6. The matters alleged in the said amended motion are vague, indefinite and uncertain.

7. The allegations of the said amended motion are ambiguous and inconclusive.

8. The relief sought in and by the said amended motion is inconsistent with the provisions of the statute referred to therein.

9. The allegations of the said amended motion are conclusions of the pleader.

10. The allegations of the said amended motion are conclusions of the pleader and no facts are alleged to show that those filing the said amended motion had rightful possession of the land involved in this suit at the time of the filing of the said amended motion.

11. No facts are alleged to show when the tax sale, through which the complainants claim title, was made.

12. No facts are alleged to show the date of the tax sale through which the complainants claim title.

13. It affirmatively appears that the respondents' said amended motion is barred by the statute of limitations of three years.

14. It affirmatively appears that the respondents' said amended motion is barred by the statute of limitations of ten years.

15. It affirmatively appears that the respondents' said amended motion is barred by the statute of limitations of twenty years.

16. It affirmatively appears that the respondents' said amended motion is barred by the doctrine of prescription.

Now, without waiving the demurrers or any of the grounds thereof as hereinabove set forth, but expressly insisting upon the same, the complainants, nevertheless, separately and severally, make answer to the said amended motion to redeem from tax sale as follows:

1. The complainants, for answer to the said amended motion, saith that the relief sought therein is barred by the statute of limitations of three years.

2. The complainants, for answer to the said amended motion, saith that the relief sought therein is barred by the statute of limitations of ten years.

3. The complainants, for answer to the said amended motion, saith that the relief sought therein is barred by the

statute of limitations of twenty years.

4. The complainants, for answer to the said amended motion, saith that the relief sought therein is barred by the doctrine of prescription.

5. For further answer to the said amended motion, the complainants deny each and all of the allegations thereof and demand strict proof of same.

Having fully answered the said amended motion, complainants pray that the relief prayed for by the respondents in the said amended motion be denied.

Respectfully submitted,

*Filed*  
*10-8-59*

*J. B. Blackburn*  
Solicitor for complainants

THOMAS J. TAYLOR, ET AL.,	*	IN THE CIRCUIT COURT OF
	*	
COMPLAINANTS	*	BALDWIN COUNTY, ALABAMA
	*	
VS.	*	IN EQUITY
	*	
CHARLES D. GRICE, ET AL.,	*	CASE NO. 3621
	*	
RESPONDENTS	*	

Come the Respondents in the above styled cause and without waiving the motion for redemption heretofore filed in said cause show unto this Honorable Court as follows:

1.

As to said complaint and to each paragraph thereof separately and severally your Respondents say not guilty.

2.

Respondents for answer to said complaint and to each paragraph thereof separately and severally says that the right of possession of said Plaintiffs claiming under a tax deed is barred by the statute of limitations of three years.

3.

That the said claim of the Complainants herein is barred by the three year statute of limitations in that said lands being wild lands were taken into the possession of the Respondents herein more than three years prior to the filing of said complaint.

4.

That the timber cut by said Respondents herein, heirs of C. F. Grice, original owners and in whose names said property was sold for taxes and that being the owners of said timber at the time of cutting deny liability as alleged in paragraph five and paragraph six of said complaint.

Charles D. Grice  
Heirs of C. F. Grice

THOMPSON & WHITE, Attorneys for  
Respondents

By: C. D. Thompson

Before me the undersigned authority, personally appeared C. D. Grice who being informed of the contents of the foregoing plea and answer deposes and says under oath that same is true and correct to the best of his information knowledge and belief.

Charles D. Grice

Sworn to and subscribed before me the 8th day of October, 1959.

TO CHIEF, UNITED STATES DEPARTMENT OF JUSTICE  
 FROM: [illegible]  
 SUBJECT: [illegible]  
 RE: [illegible]

Enclosed for the Bureau are two copies of a letterhead memorandum (LHM) dated and captioned as above.

*Filed 10/8/59*  
*J. L. [illegible]*  
*[illegible]*

The LHM is being furnished to the Bureau for its information and for its use in the event of a future investigation.

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IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO.

## 243

WITNESS our hands and seals on this the day and year first  
above written.

Thomas J. Dwyer (SEAL)

Beatrice A. Lomenstein (SEAL)

J. B. Dwyer  
Attorney (SEAL)

E. Davidson (SEAL)

Taken and approved on this the  
27<sup>th</sup> day of September, 1955.

Augusta Reich  
Register.

JUL 12 1962

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPECIAL TERM, 1962

1 Div. 25

Charles D. Grice, et al.

v.

Thomas J. Taylor, et al.

Appeal from Baldwin Circuit Court, In Equity

SIMPSON, JUSTICE.

Complainants (appellees) filed a bill of complaint on September 27, 1955 against the respondents (appellants) praying for an injunction to restrain respondents from cutting timber and trespassing on the property involved in this

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suit. Complainants sought also damages for the trespass committed in cutting and removing timber from the property.

There is no need to encumber this recital with all the various interlocutory pleadings which were filed before the case was at issue. Suffice it to say that ultimately respondents filed an amended motion to redeem the lands from tax sale and complainants filed an amended bill so as to make the case a proceeding in personam to quiet title to the forty acres involved.

The trial court, after hearing the testimony, rendered a final decree denying respondents' motion to redeem from tax sale, quieting title in complainants, and permanently enjoining respondents from trespassing on the property, and entered a decree in favor of complainants and against respondent Charles D. Grice for \$700.00 for trespass committed by him in cutting and removing timber from the property.

From this decree respondents have appealed.

Appellees have filed a motion to dismiss the appeal on the ground that the appeal came too late. The final decree is dated April 24, 1961, and the appeal was taken October 24, 1961. Appellees contend that this is not timely under the provisions of Title 7, § 788, Code of Alabama of 1940, which requires the appeal to be taken "within six months"

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The motion to dismiss is not well taken. Title 1, § 12, Code of 1940, provides that in computing time the first day is excluded and the last day included. The question raised was settled in Boyett v. Frankfort Chair Co., 152 Ala. 317, 44 So. 546. We held in that case, where the final decree was rendered January 25, 1906, and the appeal taken January 25, 1907, under a statute providing that appeals must be taken "within one year from the rendition of the judgment or decree" that the appeal came in time. See also Odom v. Odom, 272 Ala. 164, 130 So. 2d 10, and cases therein cited.

We turn then to the merits of the case.

Respondents (appellants) are the heirs of C. F. Grice, deceased, who died intestate in 1918, leaving surviving him a widow, and for the purposes of this case, these appellants. Appellants introduced a certified copy of a quitclaim deed from Samuel M. Pickler and John B. Foley to C. F. Grice, dated July, 1905, and recorded July 17, 1905, which deed conveyed the property involved in this litigation.

Complainants offered in evidence a certified copy of a tax deed from the State of Alabama, by Auditor, to T. L. Taylor, dated April 19, 1922, and filed for record January 18, 1927. Further exhibits by complainants (appellees) complete the chain of title from this tax deed to the present appellees.

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Concededly, the tax deed, under which appellees claim, is invalid. No notice of the sale was given respondents (appellants) and the lands were sold during the minority of one of the respondents and during the time when the widow of C. F. Grice was living. The record, however, shows without dispute that T. L. Taylor, appellees' predecessor, got a tax deed to the property in 1922 and that he and those who claim title through him paid taxes on the property from 1922 up until the time of the filing of the bill in 1955. None of the appellants has paid taxes on the land since 1922 up until 1953, and in fact the record shows that during most of the time since 1922 all of them have lived outside the state of Alabama.

The widow of C. F. Grice died in North Carolina in 1943. At all times pertinent to this case, all other respondents had attained full age.

After hearing all of the evidence the trial court found that complainants (appellees) were in possession of the property involved at the time the suit was filed and that no suit was pending to test their title; that the respondents and each of them failed to prove their title to the property and have failed to prove the allegations of their motion to redeem the property from tax sale, and that their right to

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redeem the property is barred by the Short Statute of Limitations (Title 51, § 295, Code of Alabama 1940).

The question before us is whether there was legal evidence before the trial court sufficient to sustain the decree vesting title to the land in appellees. We hold there was. It is conceded that this so-called short statute of limitations applies alike to valid and void tax sales, even though the void sale was made before it has such application, where actual, open and notorious adverse possession for three years by the tax purchaser or his successor in title is proved. - Morris v. Mouchette, 240 Ala. 349, 199 So. 516; Odom v. Averett, 248 Ala. 289, 27 So. 2d 749; MacQueen v. McGee, 260 Ala. 315, 70 So. 2d 260. Of course, the statute does not begin to run until the purchaser is in adverse possession and has become entitled to demand a deed to the property from the Judge of Probate. - Perry v. Marbury Lumber Co., 212 Ala. 542, 103 So. 580; Loper v. Gates Lumber Co., 210 Ala. 512, 98 So. 722. Odom v. Averett, supra; Singley v. Dempsey, 252 Ala. 677, 42 So. 2d 609; Ellis v. Stickney, 253 Ala. 86, 42 So. 2d 779; Quinn v. Hannon, 262 Ala. 630, 80 So. 2d 239.

The question of adverse possession is one of fact in each case to be determined by the trier of the facts. In

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this case, the trial judge. There was ample evidence to support his finding. The record shows that appellees or their predecessor in title worked the trees for turpentine for several years and that such operations were plainly visible from the public road. These acts of possession have been determined by this court to be effective notice of occupancy and possession of land of the type involved here. - Moorer v. Malone, 248 Ala. 76, 26 So. 2d 558. See also Pfaffman v. Case, 259 Ala. 411, 166 So. 2d 890.

We believe that the record supports a finding by the trial court that the appellants are barred by Title 51, § 295, Code 1940. Since the evidence was taken ore tenus on the question of adverse possession for the prescribed period, we will not disturb it here unless the conclusion is clearly and palpably erroneous. This we can not say. - Parish v. Davis, 265 Ala. 522, 92 So. 2d 897; Laney v. Dean, 267 Ala. 129, 100 So. 2d 688.

We are constrained to hold that the assignments of error are without merit.

AFFIRMED.

Livingston, C.J., Merrill and Harwood, J.J., concur.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 25,

Charles D. Grice, et al, Appellant

vs.

Thomas J. Taylor and Beatrice A. Lowenstein, Appellee,

From Baldwin Circuit Court.

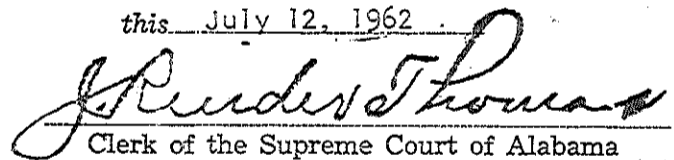
In Equity

The State of Alabama,  
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to six inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the  
Supreme Court of Alabama,

this July 12, 1962

  
Clerk of the Supreme Court of Alabama

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

Special  
~~XXXX~~ October Term, 19 62

To the Register \_\_\_\_\_ of the \_\_\_\_\_ Circuit \_\_\_\_\_ Court,  
\_\_\_\_\_ Baldwin \_\_\_\_\_ County—Greeting:

Whereas, the Record and Proceedings of the \_\_\_\_\_ Circuit \_\_\_\_\_ Court \_\_\_\_\_  
of said county, in a certain cause lately pending in said Court between \_\_\_\_\_  
\_\_\_\_\_ Charles D. Grice, et al. \_\_\_\_\_, Appellant\_\_\_\_\_,  
\_\_\_\_\_ and \_\_\_\_\_  
\_\_\_\_\_ Thomas J. Taylor, et al. \_\_\_\_\_, Appellee\_\_\_\_\_,

wherein by said Court it was considered adversely to said appellant S., were brought before our  
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant S .:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ~~ordered, adjudged, and de-~~  
to dismiss the appeal be denied. ~~creed by our Supreme Court, on the~~ that appellees' motion

~~of said~~ ~~day of~~ ~~XXXXXX~~ ~~that said~~

~~of said~~ ~~XXXXXX~~ ~~Court be in all things~~

~~affirmed, and that it was further considered, ordered, adjudged, and decreed that the appellant~~

~~and:~~  
NOW, IT IS HEREBY FURTHER CERTIFIED that it was thereupon considered,  
ordered, adjudged, and decreed by our Supreme Court, on the 12th day  
of July, 1962, that said decree of said Circuit Court be in all things  
affirmed, and it was further considered, ordered, adjudged, and decreed  
that the appellants Charles D. Grice, Marion L. Grice, Annie Grice  
Doherty and Robert N. Grice, and C. LeNoir Thompson, surety on the  
appeal bond, pay  
the costs accruing on said appeal in this Court and in the Court below.

It is further certified that, it appearing that said parties have waived their rights of exemption  
under the laws of Alabama, it was ordered that execution issue accordingly.

Witness, J. Render Thomas, Clerk of the Supreme  
Court of Alabama, this the 12th day of

July, 19 62

J. Render Thomas  
Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

Special

~~October~~ Term, 19 62

1 Div., No. 25

Charles D. Grice, et al

Appellant,

vs.

Thomas J. Taylor, et al

Appellee.

From Baldwin Circuit Court.

*In Equity*  
CERTIFICATE OF  
AFFIRMANCE

The State of Alabama,

FILED

County.

} Filed

this JUL day of 1962 19

ALICE J. DUCK, CLERK  
REGISTER

*Alice J. Duck*

THOMAS J. TAYLOR, ET AL.,	)	
Complainants,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
CHARLES D. GRICE, ET AL.,	)	IN EQUITY NO. 3621
Respondents.	)	

# FINAL DECREE

This cause coming on to be heard on this date is submitted for a final decree upon the pleadings and proof, as noted by the Register, and the Court now renders its decree as hereinafter noted, based upon the following Findings of Fact:

A. It has been proved to the satisfaction of the Court that a patent was issued by the United States of America to Peter C. Byrne, dated January 1, 1852, which conveyed the property involved in this suit; that T. L. Taylor, complainants' predecessor in title, acquired title to the property involved in this suit by a tax deed dated April 19, 1922, and that title to the said property passed from T. L. Taylor to the complainants by mesne conveyances;

B. That T. L. Taylor claimed to own the property involved in this suit and evidenced his claim thereto by working the timber on the property for turpentine purposes for the years of 1935, 1936 and 1937, and that the turpentine operations were open and visible from a road, and that T. L. Taylor and Taylor, Lowenstein and Company, complainants' predecessors in title, paid taxes on the property involved in this proceeding during their respective periods of ownership;

C. That on or about the 22nd day of September, 1955, the respondent, Charles D. Grice, wrongfully cut and removed timber from the property involved in this suit, the value of which was not less than Seven Hundred Dollars (\$700.00);

D. That complainants were in possession of the property involved in this suit at the time the suit was filed and that no

suit was pending to enforce or test their title thereto;

E. That the respondents and each of them have failed to prove their title to the property involved in this suit and have failed to prove the allegations of their motion to redeem the property involved in this suit from tax sale, and that their right to redeem the said property from tax sale is barred by the short statute of limitations (Title 51, Section 295, 1940 Code of Alabama):

Upon consideration of all of which, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The complainants, Thomas J. Taylor, and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, are the true and lawful owners in their own right of the following described real property situated in Baldwin County, Alabama, to-wit:

Northeast Quarter of the Southwest  
Quarter of Section 11, Township 3  
South, Range 2 East.

2. Title to the above described lands is vested in the complainants, Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, and their title thereto is forever quieted against the respondents, Charles D. Grice, Marion L. Grice, Annie Grice Doherty and Robert N. Grice, and the said respondents, Charles D. Grice, Marion L. Grice, Annie Grice Doherty and Robert N. Grice, are without right, title or interest in and to the said lands or any part thereof, and have and hold no encumbrances on the said property or any part thereof or any interest therein.

3. The respondents, Charles D. Grice, Marion L. Grice, Annie Grice Doherty and Robert N. Grice, and each of them are hereby permanently and perpetually enjoined from trespassing on the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 2 East in Baldwin County, Alabama, which is the property involved in this suit.

4. The complainants, Thomas J. Taylor and George B. Aarons, as Executor of and under the Last Will and Testament of Beatrice A. Lowenstein, Deceased, shall have and recover of the respondent, Charles D. Grice, the sum of Seven Hundred Dollars (\$700.00) as damages, which said amount is the value of the timber cut and removed from the property by the respondent, Charles D. Grice, for which execution may issue.

5. The Register of this court shall, within thirty days from the rendition of this decree, file a certified copy hereof for record in the office of the Judge of Probate of Baldwin County, Alabama, and tax the cost of such recording as a part of the costs of this proceeding.

6. The costs of this proceeding are hereby taxed against the respondents, Charles D. Grice, Marion L. Grice, Annie Grice Doherty and Robert N. Grice, for which execution may issue.

ORDERED, ADJUDGED AND DECREED on this the 24 day of April, 1961.

Hubert M. Stree  
Judge

FILED  
APR 25 1961  
ALICE J. DICK, CLERK  
REGISTER