

2282

W. A. GLOVER

COMPLAINANT

VS.

WADE B. THOMPSON, ET AL

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

This cause coming on to be heard was submitted upon the demurrers of the Respondent, Wade B. Thompson, to the original bill of complaint.

The Court after understanding and considering the matter set out in said demurrers is of the opinion that they are not well taken and should be overruled.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the demurrers heretofore filed by the Respondent Wade B. Thompson, to the original bill of complaint be and they are hereby overruled.

IT IS FURTHER ORDERED that the Respondent, Wade B. Thompson, be and he is hereby given twenty days in which to file additional pleadings, if he wishes.

Dated at Bay Minette, Alabama, this 5th day of January, 1950.

Jeffrey J. Mashburn Jr.
JUDGE

RECORDED m

W. A. Glower,

Complainant

vs

Wade B. Thompson
Et Al,
Respondents

Decree

Filed: January 5, 1960.

Jefair J. Marshall,
Judge.

W. A. GLOVER,

Complainant,

VS.

WADE B. THOMPSON AND
J. M. BRANTLEY,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER ____.

DECREE

This cause coming on to be heard, is submitted for final decree on the pleadings, exhibits and testimony heard ore tenus by the Court, and the Court, having considered the legal testimony and having disregarded the illegal testimony, finds that the Complainant and Cross-Respondent, W. A. Glover, on November 9, 1938, did convey to the Respondent, J. M. Brantley, the following described land in Baldwin County, Alabama, to-wit:

South Half of Northeast Quarter of Northeast Quarter of
Section 28, Township 5 South Range 2 East;

that said conveyance was made by Warranty Deed; that despite the Warranty Deed the Complainant and Cross-Respondent, W. A. Glover, never delivered possession of that part of the above described premises lying between a fence and the north line of said described premises; that the Complainant and Cross-Respondent, W. A. Glover, retained possession of said strip of land and a row of pecan trees thereon, and that he is entitled to a decree establishing a boundary line between his lands and the land belonging to Thompson;

That on, to-wit, August 8, 1945, the Respondent, J. M. Brantley, conveyed to the Respondent and Cross-Complainant, Wade B. Thompson, a strip of land, containing five acres, across the north part of the South Half of Northeast Quarter of Northeast Quarter of Section 28, Township 5 South Range 2 East; that said conveyance was in the form of a Warranty Deed but that said Respondent, J. M. Brantley, did not deliver possession of that part of said premises lying between a fence running east and West through the said South Half of the Northeast Quarter of the Northeast Quarter of Section 28, Township 5 South Range 2 East and the North boundary line of said premises;

BOOK 167 PAGE 334

I, Alice J. Duck Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of the Circuit Court in the above stated cause, which decree is on file and enrolled in my office.

That, although the conveyance from Glover to Brantley and from Brantley to Thompson was in the form of a Warranty

Deed, Glover never did surrender possession of the said strip of land containing said pecan trees and Thompson has never had possession of said strip of land;

That the Respondent and Cross-Complainant, Wade B. Thompson, is entitled to damages for the breach of warranty on the part of J. M. Brantley and W. A. Glover.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the boundary line between the lands belonging to Wade B. Thompson and W. A. Glover be, and it is hereby, fixed as follows:

From the Northeast corner of Section 28, Township 5 South, Range 2 East, run South along the East line of said Section 667.5 feet to the Northeast corner of the South Half of Northeast Quarter of Northeast Quarter of said Section 28, Township 5 South, Range 2 East, for a point of beginning, thence run North 88 degrees 40' West 1322 feet along the North line of said South Half of Northeast Quarter of Northeast Quarter of said Section 28, to a corner; thence run South 25.5 feet to an old fence; thence run South 89 degrees 32' East 522 feet along said old fence to a point; thence run South 89 degrees 50' East 800 feet along said old fence to the said East Section line of said Section 28, thence run North 9 feet to the point of beginning.

2. That the Respondent and Cross-Complainant, Wade B. Thompson, have and recover of the said W. A. Glover and J. M. Brantley, the sum of \$275.00 as damages for breach of warranty in their deeds as aforesaid.

3. That the Register file a copy of this decree for record in the probate office of Baldwin County, Alabama, and have it indexed and cross indexed in the names of the parties, and that the cost thereof be taxed as a part of the cost of this suit.

4. That J. M. Brantley and W. A. Glover pay the cost of Court herein accrued, for which let execution issue.

Done this 10th day of July, 1951.

Telfair J. Mashburn Jr.
Judge

I, Alice J. Duck Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of the Circuit Court in the above stated cause, which said decree is on file and enrolled in my office.

Witness my hand and seal this the 10th day of July, 1951.

That, although the conveyance from Glover to Bramley and from Bramley to Thompson was in the form of a Warranty Deed, Glover never did surrender possession of the said strip of land contained in said deed and Thompson has never had possession of said strip of land.

That the Respondent and Cross-Complainant, Wade B. Thompson, is entitled to damages for the breach of warranty on the part of J. M. Bramley and W. A. Glover. It is, therefore, ORDERED, ADJUDGED AND DECREED AS

Follows:
1. That the boundary line between the lands belonging to Wade B. Thompson and W. A. Glover be, and it is hereby, fixed as follows:

From the Northeast corner of Section 28, Township 2 South, Range 2 East, run South along the East line of said Section 28, 1/2 mile to the Northeast corner of the South Half of Northeast Quarter of Section 28, Township 2 South, Range 2 East, for a point of beginning, thence run North 88 degrees 40' West 1/2 mile to the North line of said South Half of Northeast Quarter of Section 28, Township 2 South, Range 2 East, to a corner; thence run South 22' 30" East 222 feet along said line to a point; thence run South 89 degrees 30' East 800 feet along said line to the said East Section line of said Section 28, thence run North 9 feet to the point of beginning.

2. That the Respondent and Cross-Complainant, Wade B. Thompson, have and recover of the said W. A. Glover and J. M. Bramley, the sum of \$275.00 as damages for breach of warranty in their deeds as aforesaid.

3. That the Register file a copy of this decree for record in the probate office of Baldwin County, Alabama, and have it indexed and cross indexed in the names of the parties, and that the cost thereof be taxed as a part of the cost of this suit.

4. That J. M. Bramley and W. A. Glover pay the cost of Court herein secured, for which let execution issue.

Done this 10th day of July, 1951.

Wade B. Thompson
Plaintiff

E-1-75-

W. A. GLOVER,

Complainant,

VS.

WADE B. THOMPSON AND
J. M. BRANTLEY,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER _____.

DECREE

This cause coming on to be heard, is submitted for final decree on the pleadings, exhibits and testimony heard ore tenus by the Court, and the Court, having considered the legal testimony and having disregarded the illegal testimony, finds that the Complainant and Cross-Respondent, W. A. Glover, on November 9, 1938, did convey to the Respondent, J. M. Brantley, the following described land in Baldwin County, Alabama, to-wit:

South Half of Northeast Quarter of Northeast Quarter of
Section 28, Township 5 South Range 2 East;

that said conveyance was made by Warranty Deed; that despite the Warranty Deed the Complainant and Cross-Respondent, W. A. Glover, never delivered possession of that part of the above described premises lying between a fence and the north line of said described premises; that the Complainant and Cross-Respondent, W. A. Glover, retained possession of said strip of land and a row of pecan trees thereon, and that he is entitled to a decree establishing a boundary line between his lands and the land belonging to Thompson;

That on, to-wit, August 8, 1945, the Respondent, J. M. Brantley, conveyed to the Respondent and Cross-Complainant, Wade B. Thompson, a strip of land, containing five acres, across the north part of the South Half of Northeast Quarter of Northeast Quarter of Section 28, Township 5 South Range 2 East; that said conveyance was in the form of a Warranty Deed but that said Respondent, J. M. Brantley, did not deliver possession of that part of said premises lying between a fence running east and West through the said South Half of the Northeast Quarter of the Northeast Quarter of Section 28, Township 5 South Range 2 East and the North boundary line of said premises;

That, although the conveyance from Glover to Brantley and from Brantley to Thompson was in the form of a Warranty Deed, Glover never did surrender possession of the said strip of land containing said pecan trees and Thompson has never had possession of said strip of land;

That the Respondent and Cross-Complainant, Wade B. Thompson, is entitled to damages for the breach of warranty on the part of J. M. Brantley and W. A. Glover.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the boundary line between the lands belonging to Wade B. Thompson and W. A. Glover be, and it is hereby, fixed as follows:

From the Northeast corner of Section 28, Township 5 South, Range 2 East, run South along the East line of said Section 667.5 feet to the Northeast corner of the South Half of Northeast Quarter of Northeast Quarter of said Section 28, Township 5 South, Range 2 East, for a point of beginning, thence run North 88 degrees 40' West 1322 feet along the North line of said South Half of Northeast Quarter of Northeast Quarter of said Section 28, to a corner; thence run South 25.5 feet to an old fence; thence run South 89 degrees 32' East 522 feet along said old fence to a point; thence run South 89 degrees 50' East 800 feet along said old fence to the said East Section line of said Section 28, thence run North 9 feet to the point of beginning.

2. That the Respondent and Cross-Complainant, Wade B. Thompson, have and recover of the said W. A. Glover and J. M. Brantley, the sum of \$275.00 as damages for breach of warranty in their deeds as aforesaid.

3. That the Register file a copy of this decree for record in the probate office of Baldwin County, Alabama, and have it indexed and cross indexed in the names of the parties, and that the cost thereof be taxed as a part of the cost of this suit.

4. That J. M. Brantley and W. A. Glover pay the cost of Court herein accrued, for which let execution issue.

Done this 10th day of July, 1951.

J. J. Madaleno, Jr.
Judge

DECREE

W. A. GLOVER,

Complainant,

VS.

WADE B. THOMPSON & J. M.
BRANTLEY,

Respondent.

FILED

JUL 13 1951

ALICE J. DUCK, Register

WADE B. THOMPSON,

Complainant,

VS.

W. A. GLOVER,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

This cause coming on to be heard was submitted on the respondent, W. A. Glover's, motion to transfer the cause from the law side of this court to the equity side and the same having been considered by the court, the court is of the opinion that the cause should be transferred to the equity side of the court: IT IS, THEREFORE,

ORDERED, ADJUDGED AND DECREED that this cause be, and it is hereby transferred to the equity side of this court.

Done this 21st day of April, 1949.

J. Fair J. Masliburn, Jr.
Judge

STATE OF ALABAMA)

BALDWIN COUNTY)

IN THE CIRCUIT COURT - IN EQUITY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon W. A. Glover and J. M. Brantley, to appear and plead, answer or demur, within thirty days from the service hereof, to the Cross-Bill filed in the Circuit Court of Baldwin County, Alabama, In Equity, by Wade B. Thompson, as Respondent, and Cross Complainant, against W. A. Glover, as Complainant and Cross Respondent, and J. M. Brantley, as Cross Respondent.

Witness my hand this 13th day of January, 1950.

Heinz J. Renck
Register.

W. A. GLOVER,

Complainant,

vs.

WADE B. THOMPSON and
J. M. BRANTLEY,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

Comes the Respondent, Wade B. Thompson, and files this his Answer and Cross Bill and says:

FIRST:

That he admits the allegations of the first paragraph of the Bill of Complaint.

SECOND:

That he admits the allegations of the second paragraph of the Bill of Complaint.

THIRD:

That he admits that on November 9, 1938, the Complainant sold the South half of the Northeast Quarter of the Northeast Quarter ($S\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section 28, Township 5 South, Range 2 East to J. M. Brantley, by Warranty Deed and he admits that at that time there was a row of pecan trees just South of the North line of said land, but he has no knowledge of the other allegations of this paragraph, and so he can neither admit nor deny those allegations but he demands strict proof of the same.

FOURTH:

He admits that on August 8, 1945, the Respondent, J. M. Brantley, sold and conveyed to him, by Warranty Deed, the North half of the North half of the South half of the Northeast Quarter of the Northeast Quarter ($N\frac{1}{2}$ of $N\frac{1}{2}$ of $S\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section 28, Township 5 South, Range 2 East, but he denies all of the other allegations of this paragraph and demands strict proof thereof.

FIFTH:

He denies all of the allegations of the fifth paragraph of the Bill of Complaint and demands strict proof thereof.

SIXTH:

For further answer to the Bill of Complaint and as a Cross Bill the Respondent, Wade B. Thompson says that the true boundary line between his land and that of the Complainant is the North line of the North half of the North half of the South half of the Northeast Quarter of the North East Quarter ($N\frac{1}{2}$ of $N\frac{1}{2}$ of $S\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section 28, Township 5 South, Range 2 East. That the deed from W. A. Glover and wife, to J. M. Brantley, conveyed the above described land on November 8, 1938, is a Warranty Deed with no mention of the fence or line referred to in the Bill of Complaint and that he had no knowledge of any agreement which is supposed to have been entered into between the Complainant and J. M. Brantley by which a different line was agreed upon. That said deed was filed for record in the Office of the Judge of Probate on January 4, 1939, five and one-half years before this Respondent purchased the same from J. M. Brantley and if any mistake had occurred in the drafting of said deed that such Complainant and J. M. Brantley had a reasonable time in which to correct such deed before this Respondent purchased said land and they are now estopped to set up any such oral agreement. That when this Respondent purchased the above described land from J. M. Brantley, by Warranty Deed on August 8, 1945, there was no restriction of any kind in said deed and there was no agreement between this Respondent and J. M. Brantley prior to the execution of such deed, at the time of the execution of such deed or subsequent thereto, that the fence referred to would be the dividing line. This Respondent further says that there are a number of valuable pecan trees between said fence line and the true North line of said property, which pecan trees were a material part of the value of said land which he purchased from the said J. M. Brantley. That since he purchased said land the Complainant has repeatedly refused to allow this Respondent to gather the pecans under said trees and the Complainant has gathered several hundred dollars worth of pecans from under the trees growing on the land hereinabove described which is the property of this Respondent.

That the Complainant, by his action, has prevented the said Wade B. Thompson from using the land conveyed to him by J. M. Brantley lying between the fence and the true North line of said property and such Complainant has taken the pecans grown on the trees standing thereon and has not accounted to the said Wade B. Thompson for such pecans or for the use of said property and the said Wade B. Thompson has not entered into any agreement with the said Complainant to allow him to gather such pecans or use said land.

PRAYER FOR PROCESS

The premises considered, the said Wade B. Thompson prays that the above named W. A. Glover and J. M. Brantley be made parties Respondent to this Cross Bill by the usual Writ or process of his Honorable court, requiring them to plead, answer or demur to the same within the time and under the penalties prescribed by the rules of this Court and the Statutes in such cases made and provided.

PRAYER FOR RELIEF

The said Wade B. Thompson prays that this Court will ascertain and fix the North line of the North half of the North half of the South half of the Northeast Quarter of the Northeast Quarter ($N\frac{1}{2}$ of $N\frac{1}{2}$ of $S\frac{1}{2}$ of $NE\frac{1}{2}$ of $NE\frac{1}{2}$) of Section 28, Township 5 South, Range 2 East, as fixed by the United States Government survey as the true North line of the North half of the North half of the South half of the Northeast Quarter of the Northeast Quarter ($N\frac{1}{2}$ of $N\frac{1}{2}$ of $S\frac{1}{2}$ of $NE\frac{1}{2}$ of $NE\frac{1}{2}$) of Section 28, Township 5 South, Range 2 East. That after such line has been determined by this Court to be the true North line of said land that the Court will order a reference to be held to ascertain the reasonable market value of all pecans which have been grown on the pecan trees located on the land between the fence and the true North line of said property since the date of the execution and delivery of the deed from J. M. Brantley to the said Wade B. Thompson and that the Court will order and decree that the Complainant or the said J. M. Brantley shall pay over to the said Wade B. Thompson the reasonable market value of such pecans. That this Court will also order and decree that the Complainant shall deliver possession to this Respondent of all lands lying between the fence referred to in the

Bill of Complaint and the true North line of said property. Should the Court find that J. M. Brantley was not the owner in fee simple of the lands, together with the pecan trees located thereon situated between the fence and the true North line of the North half of the North half of the South half of the Northeast Quarter of the Northeast Quarter ($N\frac{1}{2}$ of $N\frac{1}{2}$ of $S\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section 28, Township 5 South, Range 2 East, at the time he executed and delivered the deed conveying such land to Wade B. Thompson, the said Wade B. Thompson prays that this Court will order a reference to ascertain and fix the reasonable market value of such lands and the pecan trees situated thereon and the damage which has been caused the said Wade B. Thompson by the breach of warranty contained in said deed and will order and decree that the said J. M. Brantley shall pay the said Wade B. Thompson the reasonable market value of such land and pecan trees and the damage which has accrued to the same by reason of such breach of warranty. Should the said Wade B. Thompson be mistaken in the relief prayed for that he be granted such other, further, different and general relief to which he may be entitled.

James Van Antwerp

Hybart, Chason & Stone

By: *John A. Stone*
Solicitors for Wade B.
Thompson, Respondent.

W. A. GLOVER

COMPLAINANT

VS

WADE B. THOMPSON AND
J. M. BRANTLY

RESPONDENTS

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 2276

Now comes the Complainant, W. A. Glover and the Respondent J. M. Brantley, named as cross Respondents in the bill filed by Wade B. Thompson as cross complainant, and without waiving their demurrers heretofore filed, to the cross complaint of Wade B. Thompson, and insisting thereupon for answer to the said cross bill, of the said Wade B. Thompson, each separately and severally say:

They deny the allegations, contained in the said cross bill, that the true boundary lines between the lands of Wade B. Thompson and that of the Complainant W. A. Glover, is the north line of the North half of the North half of the South half of the Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 2 East, separately demand strict proof of the same.

They admit that the deed from the Complainant W. A. Glover, to the Respondent, J. M. Brantley, dated November 8, 1938, and of record in the office of the Probate Judge of Baldwin County, Alabama, in Deed Book 67 NS pages 395-6, conveying the South half of the Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 2 East, and that there is no mention of the fence referred to in the bill of complaint, but denying the allegation that the cross complainant, Wade B. Thompson had no knowledge of any agreement which is supposed to have been entered into between the Complainant, W. A. Glover and the Respondent J. M. Brantley, by which a dividing line was agreed upon and demand strict proof of the same;

They admit the allegation that said deed from the Complainant to the Respondent, J. M. Brantly was filed for record in the office of the Probate Judge of Baldwin County, Alabama, on January 4, 1939;

They separately deny the allegation that when the said Wade B. Thompson purchased the lands described in the cross complaint of Wade B. Thompson, from J. M. Brantley dated August 8, 1945, there was no agreement between the said Wade B. Thompson and the said J. M. Brantley prior to the execution of such deed, that the fence referred to would be the dividing line.

The Complainant W. A. Glover and the Respondent J. M. Brantley admit the allegations contained in said cross bill that there are a number of pecan trees immediately to the north of the north line of the property which the Respondent, Wade B. Thompson, purchased from the Respondent, J. M. Brantley, and further say that it was expressly understood and mutually agreed by and between the Respondent, Wade B. Thompson, and the Respondent J. M. Brantley, that at the time of and prior to the execution of the deed from said Brantley to said Thompson that the said pecan trees belonged to the Complainant W. A. Glover, and that the said fence and all land to the North thereof was the property of the said W. A. Glover, and that the Respondent had no right, was not the owner of, and could not convey the said fence, the land upon which it is located, and any land to the north thereof to the Respondent, Wade B. Thompson.

The Complainant, W. A. Glover and the Respondent, J. M. Brantley, deny the allegation that the pecan trees mentioned were a material part of the value of the land which the Respondent Wade B. Thompson purchased from the said J. M. Brantley, and further say that it was expressly understood and mutually agreed that the said pecan trees were the property of the Complainant, W. A. Glover and were not the property of the Respondent J. M. Brantley and could not be, and were not conveyed by the said J. M. Brantley to the Respondent Wade B. Thompson.

Further answering the said cross bill the Complainant W. A. Glover and the Respondent J. M. Brantley state that the Complainant W. A. Glover is the owner of the lands upon which the said pecan trees are and all pecans therefrom and that neither the said J. M. Brantley nor the said Wade B. Thompson have any right to the said pecans or to gather the same.

Further answering the said cross bill the Complainant W. A. Glover and the Respondent J. M. Brantley say that the Complainant W.A. Glover is the owner of the lands lying between the fence and the true north line of the said property, and that the conveyance from the Respondent J. M. Brantley to the Respondent Wade B. Thompson, was executed and delivered by the said J. M. Brantley and accepted by the said Wade B. Thompson with the expressed and mutual understanding that the said fence and all property to the north thereof was the property of the Complainant W. A. Glover, did not belong to the Respondent J. M. Brantley and could not and was not by the said J. M. Brantley conveyed to the Respondent Wade B. Thompson.

Further answering said cross complaint the Complainant W. A. Glover and the Respondent J. M. Brantley say that it was never the purpose or intention of the Respondent J. M. Brantley to convey to the Respondent Wade B. Thompson the fence, the property upon which it is located, or any property to the North thereof but to the contrary it was expressly understood and mutually agreed by and between the Respondent J. M. Brantley and the Respondent Wade B. Thompson that the Respondent J. M. Brantley could no, did not and would not convey the said fence the land upon which it is located or any land or any land to the north thereof; that there was an error in the drafting of the conveyance from the said J. M. Brantley to the said Wade B. Thompson and that said conveyance did not express the mutual understanding between the said parties.

WHEREFORE the premises considered, the said W. A. Glover and J. M. Brantley pray that this be taken as their answer to the cross complaint of the said Wade B. Thompson; that a decree be made and entered establishing the dividing line between the properties of the Complainant W. A. Glover and the Respondent Wade B. Thompson; that a further decree be made and entered finding and fixing the true line between the properties of the said Glover and said Thompson as follows:

The old fence which now exists along the South line of the following described tract of land in Baldwin County, Alabama, to-wit:

From the Northeast corner of Section 28, Township 5 South, Range 2 East, run South along the East line of said Section 667.5 feet to the Northeast corner of the South half of Northeast quarter of Northeast quarter of said Section 28, Township 5 South, Range 2 East, for a point of beginning, thence run North

88° 40' West 1322 feet along the North line of said South half of Northeast quarter of Northeast quarter of said Section 28, to a corner; thence run South 25.5 feet to an old fence; thence run South 89° 32' East 522 feet along said old fence to a point; thence run South 89° 50' East 800 feet along said old fence to the said East Section line of said Section 28, thence run North 9 feet to the point of beginning.

That a further decree be made and entered awarding to the Complainant W. A. Glover and the Respondent J. M. Brantley such other, further general or different relief as they will be entitled in the premises.



Solicitor for W. A. Glover and J.
M. Brantley.

STATE OF ALABAMA §
BALDWIN COUNTY §

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon WADE B. THOMPSON and J. M. BRANTLEY, to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the Complaint of W. A. Glover.

Witness my hand this 30 day of April, 1949.

Reuel H. Duck
Clerk

W. A. CLOVER

COMPLAINANT

VS.

WADE B. THOMPSON and J. M.
BRANTLEY
RESPONDENTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. _____

TO HONORABLE TELFAIR J. MASHBURN JR., JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA, IN EQUITY.

Your Complainant W. A. Glover, respectfully represents and shows
unto your Honor and this Honorable Court as follows:

1.

That your Complainant and the Respondents are all over twenty-one
years of age, and bona fide residents of Baldwin County, Alabama.

2.

That on and prior to, November 9th, 1938, Your Complainant was the
owner and in the possession of the following described land in Baldwin
County, Alabama, to-wit:

The South half of Northeast quarter of Northeast quarter of
Section 28, Township 5 South, Range 2 East.

3.

That on November 9th, 1938, your Complainant entered into a contract
and sold to the Respondent J. M. Brantley a part of the said South half
of the Northeast quarter of the Northeast quarter of Section 28, Township
5 South, Range 2 East, that at the time there was a row of pecan trees
near the North line of said land; that there was at that time and is now
a fence near the North line of the said land; that it was expressly under-
stood and mutually agreed by and between your Complainant and the Respondent

J. M. Brantley that your Complainant would convey only that part of the said South half of Northeast quarter of Northeast quarter of Section 28, Township 5 South, Range 2 East, lying to the South of the said fence; that it was expressly understood and mutually agreed by and between the Complainant and the Respondent J. M. Brantley, that the Complainant was the owner of the said fence and all land lying to the North thereof, and would under no conditions convey any part thereof, to the Respondent J. M. Brantley; that in drafting the deed from your Complainant to the Respondent J. M. Brantley, the deed was erroneously drafted contrary to the mutual agreement, and mutual understanding between the Complainant and the Respondent J. M. Brantley conveyed the entire South half of the Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 2 East; that a copy of said deed is hereto attached marked exhibit "A" and asked to be taken as a part hereof as though herein fully set out; that the Respondent J. M. Brantley at the time of the conveyance and has continuously since the date thereof, recognized the Complainant as being the owner of the said fence and all land to the North thereof, and has never at any time made any claim thereto.

4.

That on to-wit, August 8th, 1945, the Respondent J. M. Brantley entered into a contract with and conveyed to the Respondent Wade B. Thompson, a strip of land containing 5 acres across the North part of the said South half of the Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 2 East; that it was mutually understood, and mutually agreed by and between the Respondent J. M. Brantley and the Respondent Wade B. Thompson; that the Respondent J. M. Brantley owned that part of the South half of the Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 2 East, lying South of the fence running East and West through the said South half of the Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 2 East, but did not own and could not convey any land to the North of said fence including the fence, as it belonged to the Complainant; that in drafting the deed from the Respondent J. M. Brantley to the Respondent Wade B. Thompson, a copy of which is hereto attached marked exhibit "B" and asked to be taken as a part hereof as though herein fully set out; the description was contrary to the mutual

agreement and mutual understanding between the Respondent J. M. Brantley, and the Respondent Wade B. Thompson, drafted so as to include the North half of the North half of South half of Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 2 East; which included the said fence and a strip of land to the North thereof;

5.

That it was mutually understood and mutually agreed between the Complainant W. A. Glover and the Respondent J. M. Brantley and the Respondent Wade B. Thompson that the ~~dividing~~ ^{and the Complainant} line between the Respondents ^{was a fence running East and West near the North line of} the said South half of Northeast quarter of Northeast quarter of Section 28, Township 5 South, Range 2 East, and along a line described as follows:

From the Northeast corner of Section 28, Township 5 South, Range 2 East, run South along the East line of said Section 667.5 feet to the Northeast corner of the South half of Northeast quarter of Northeast quarter of said Section 28, Township 5 South, Range 2 East, for a point of beginning, thence run North $88^{\circ} 40'$ West 1322 feet along the North line of said South half of Northeast quarter of Northeast quarter of said Section 28, to a corner; thence run South 25.5 feet to an old fence; thence run South $89^{\circ} 32'$ East 522 feet along said old fence to a point; thence run South $89^{\circ} 50'$ East 800 feet along said old fence to the said East Section line of said Section 28, thence run North 9 feet to the point of beginning.

6.

That your Complainant submits himself to, and agrees to abide by any orders, judgments and decrees of the court in the premises.

WHEREFORE the premises considered your Complainant prays that your Honor will by proper process make the said J. M. Brantley and Wade B. Thompson parties respondent to the bill of complaint requiring them to plead, answer or demur to the same; within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Your Complainant further prays that upon a final hearing hereof your Honor will make and enter an order and decree establishing the boundary line between the properties of your Complainant and that now owned by the Respondent Wade B. Thompson; that the true line between the properties of your Complainant and the Respondent Wade B. Thompson be determined and established as follows:

The old fence which now exists along the South line of the following described tract of land in Baldwin County, Alabama, to-wit:

From the Northeast corner of Section 28, Township 5 South, Range 2 East, run South along the East line of said Section 667.5 feet to the Northeast corner of the South half of Northeast quarter of Northeast quarter of said Section 28, Township 5 South, Range 2 East, for a point of beginning, thence run North 88° 40' West 1322 feet along the North line of said South half of Northeast quarter of Northeast quarter of said Section 28, to a corner; thence run South 25.5 feet to an old fence; thence run South 89° 32' East 522 feet along said old fence to a point; thence run South 89° 50' East 800 feet along said old fence to the said East Section line of said Section 28, thence run North 9 feet to the point of beginning.

That if your Complainant is mistaken in the relief prayed for, your Honor will enter a decree awarding him such relief as he maybe entitled to receive under the facts as herein set out; that your Honor will give and grant unto the Complainant, such other, further, different or general relief as he may be in equity and good conscience entitled to receive, and as in duty bound he will ever pray.

J. M. Lee
Solicitor for Complainant.

STATE OF ALABAMA }

BALDWIN COUNTY }

This indenture, made and entered into on this the 8th day of November, 1938, by and between W. A. Glover and Eugenia Glover, his wife, hereinafter referred to as the parties of the first part, and J. M. Brantley, hereinafter referred to as the party of the second part, Witnesseth:

The parties of the first part, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable considerations to them this day in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, have and by these presents do hereby GRANT, BARGAIN, SELL AND CONVEY unto the said party of the second part, the following described real property situated in Baldwin County, Alabama, to-wit:

South half of Northwest quarter of Northeast quarter; Southwest quarter of Northeast quarter; South half of Northeast quarter of Northeast quarter; North half of Southeast quarter of Northeast quarter; all in Section 28, Township 5 South, Range 2 East.

TO HAVE AND TO HOLD, unto the said party of the second part, his heirs and assigns forever.

The parties of the first part for themselves, and their heirs, executors, and administrators hereby covenant and warrant to and with the said parties of the second part, his heirs and assigns, that they are seized of an indefeasible estate in and to the said property; that they have a good right to convey the same as herein contained; that they will guarantee the peaceable possession thereof; that the said property is free from all liens and incumbrances except 1939 taxes and that they will, and their heirs, executors and administrators and assigns, shall forever warrant and defend the same unto the said party of the second part, his heirs and assigns, against the lawful claims of all persons.

In witness whereof, the said parties of the first part have hereunto set their hands and affixed their seals on this the day and year first above written.

W. A. Glover (SEal)

Eugenia Glover (Seal)

STATE OF ALABAMA }
BALDWIN COUNTY }

I, J. B. Blackburn, a Notary Public, within and for said County, in said State, hereby certify that W. A. Glover and Eugenia Glover, his wife, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

I further certify that on the 9th day of November 1938, come before me the within named Eugenia Glover, known to me to be the wife of the within named W. A. Glover who, being examined separate and part from her husband touching her signature to the foregoing conveyance, acknowledged that she signed the same of her own free will and accord and without fear, constraint or threats on the part of her husband.

Given under my hand and seal on this the 9th day of November, 1938.

J. B. Blackburn
Notary Public, Baldwin
County, Alabama

Filed: January 4, 1939
Recorded: 67 NS pages 395-6.

STATE OF ALABAMA)

BALDWIN COUNTY)

KNOW ALL MEN BY THESE PRESENTS, That we, J. M. Brantley and Lena Brantley, his wife, Grantors, for and in consideration of the sum of TEN DOLLARS, and other good and valuable considerations to us in hand paid by Wade B. Thompson, Grantee, thereceipt of which is hereby acknowledged, do hereby GRANT, BARGAIN, SELL AND CONVEY unto the said Grantee, all the following described real property, situated in Baldwin County, Alabama, to-wit:

The South half of the Northwest quarter of the Northeast quarter; the west half of the Southwest quarter of the Northeast quarter, the west three-fourths of the East half of the Southwest quarter of the Northeast quarter; and the North half of the North half of the South half of the Northeast quarter of the Northeast quarter, all in Section Twenty-Eight, Township Five South of Range Two East, and containing sixty acres, more or less.

TOGETHER WITH ALL AND SINGULAR the rights, members, privileges, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD unto the said Grantee, his heirs and assigns forever, and do covenant with the said Grantee that we are seized in fee simple of said property; that we have a good right to sell and convey the same; that said premises are free from all liens and incumbrances; and that we will and our heirs, executors, administrators and assigns forever warrant and defend the title to and possession of the said property unto the said Grantee, his heirs, executors, administrators and assigns against the lawful claims of all persons whomsoever.

IN witness whereof we have hereto set our hands and seals on this the 8th day of August, 1945.

Jessie M. Brantley (Seal)

Lena Brantley (Seal)

STATE OF ALABAMA }
BALDWIN COUNTY }

I, Elliott G. Rickarby, a Notary Public, in and for said County, in said State, hereby certify that J. M. Brantley and Len a Brantley, his wife, whose names are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that being informed of the contents of said conveyance, they executed the same voluntarily on the day the same bears date.

I further certify that on the 8th day of September, 1944, came before me the within named Lena Brantley, known to me to be the wife of the within named J. M. Brantley, and who being examined separate and apart from her husband touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord and with out fear, constraint, or threats on the part of her husband.

In witness whereof I have hereunto set my hand and official seal on this the 8th day of August, 1945.

Elliott G. Rickarby
Notary Public, Baldwin County, Alabama

(Seal)
Filed: August 21, 1945
Recorded: 95 NS pages 401-2

no 2282

Received in Sheriff's Office
this 2 day of May 1949
TAYLOR WILKINS Sheriff

W. A. GLOVER

COMPLAINANT

VS.

WADE B. THOMPSON AND J. M.
BRANTLEY,

RESPONDENTS

Executed 5-3 1949
by serving copy of within Summons and
Complaint on

Wade B. Thompson
J. M. Brantley

Taylor Wilkins Sheriff
By J. B. Guff Deputy Sheriff

Filed 4-30-49

W. J. Luck
Register