

\$6.00

SAMUEL N. NELSON &
URSULA C. NELSON,

Complainants,

VS.

CERTAIN LANDS AND ANTONIE BARTUSKA,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 2721.

TESTIMONY TAKEN ON HEARING THE ABOVE STYLED CAUSE
ON JULY 25, 1952, BEFORE HONORABLE TELFAIR J.
MASHBURN, JR., JUDGE

APPEARED: For Complainants,

Hon. J. B. Blackburn

Guardian Ad Litem,

Hon. H. M. Hall

Mrs. Ursula C. Nelson, having been first duly and legally sworn,
testified as follows:

ON DIRECT EXAMINATION

By Mr. Blackburn

Q. You are Mrs. Ursula C. Nelson?

A. I am.

Q. Mrs. Nelson, are you the wife of Samuel N. Nelson?

A. I am.

Q. Are the two of you the Complainants named in this suit?

A. That's right.

Q. Now, I'll ask you if you and Mr. Nelson filed this suit to quiet
title to the Northeast Quarter of the Northeast Quarter of the
Northwest Quarter of Section 12, Township 6 South Range 3 East,
in Baldwin County, Alabama?

A. We did.

Q. Now, at the time this suit was filed were you and your husband
each over the age of twenty-one and each residents of Baldwin
County, Alabama?

A. Yes.

Q. Now, I will ask you if Mrs. Antonie Bartuska, who is the same
person as Mrs. Charles Bartuska and Antoinette Bartuska, is over
twenty-one years of age and a non-resident of the State of
Alabama, whose residence and post office address is 302 Lawton

Road, Riverside, Illinois?

A. That's right.

Q. Now, Mrs. Nelson, I'll ask you if the names of the children of Antonie Bartuska, their ages and places of residence are unknown and could not be ascertained by you after the exercise of diligent inquiry to ascertain the facts with regard thereto?

A. That's right.

Q. Now, after you secured the name and address of Mrs. Bartuska, the mother of these children, what did you do toward trying to find out who the children were, where they lived and of their ages?

A. Well, we first tried to find out from Mr. and Mrs. Stuchly and they did not know. They knew that Mrs. Bartuska had one son and one daughter but it had been years since they heard from them. They didn't know their names, their ages nor their residence. They did know that the boy was killed in the war. Well, then we employed a lawyer in Chicago.

Q. Now, let me refresh your recollection. Look at this statement here (handing paper to witness). The lawyer you employed was William L. Cregar, was he not?

A. William L. who?

Q. Cregar, C R E G A R?

A. Yes.

Q. And his place of business was Berwyn, Illinois?

A. That's right.

Q. But didn't our correspondence with him disclose that while he practiced law in Berwyn, Illinois, he lived in Riverside, Illinois, which is the same place that Mrs. Bartuska lived?

A. That's right.

Q. And did he at your request, go to Mrs. Bartuska, discuss this matter with her and try to get the names of these children, their ages and places of residence?

A. She wouldn't give him any information whatever.

Q. Do you have a statement there where you paid him for his services?

A. This is the receipt for \$25.00 paid him on February 5, 1951 (indicating paper).

- MR. BLACKBURN: Now we offer this receipt in evidence and ask that it be identified as Complainants' Exhibit "1". (Original exhibit attached hereto)
- Q. Now, Mrs. Nelson, at the time this suit was filed, you and your husband were in possession and claiming to own the property involved in this suit which is the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 12, Township 6 South Range 3 East, in Baldwin County, Alabama?
- A. That's right.
- Q. Were you residing on the property at that time?
- A. Yes, we were; been there ever since we bought it.
- Q. And are still there?
- A. We're still there.
- Q. When did you buy it, Mrs. Nelson?
- A. It was on April 21, 1945.
- Q. From whom did you and Mr. Nelson buy the property?
- A. Mr. and Mrs. Stuchly.
- Q. Now, in that connection, let me ask you this question; in the deed that Mr. and Mrs. Stuchly made to you and Mr. Nelson, which is dated April 21, 1945, and which is recorded in Deed Book 88 at page 328, their names were spelled S t u c k l y ?
- A. Well, some people spell it S t u c k l y. It should be "h". People of their nationality pronounce it Stookley and most Americans call it Stuckly.
- Q. It's all the same?
- A. It's all the same.
- Q. Now then, I will ask if you and Mr. and Mrs. Stuchly; you and Mr. Nelson, rather, Mr. and Mrs. Stuchly, through whom you claim title and the parties through whom they claim title had been in the possession of this property for more than twenty years before this suit was filed?
- A. Oh, yes.
- Q. Now, has a house been on it that long?
- A. Yes.
- Q. Now, at the time this suit was filed was there any other suit pending to test the title to or possession of this property?

A. No.

Q. Now, I will ask you if you and those through whom you claim title have paid taxes on the property for more than twenty years?

A. That's right.

Q. Have any others paid any taxes during that time?

A. No.

Q. Now, Mrs. Nelson, you will recall that when you first learned of this conveyance that had been made by Mrs. Stuchly to Mr. Stuchly which is recorded in Deed Book 67 at pages 187-8, Baldwin County Records, which conveyance reads in part as follows (reading):

"The grantor hereby grants unto the said Joseph Stuchly, a life estate in the above described premises and after his death the land is to pass to the children in equal parts, of Antonie Bartuska in fee simple, the names of which are not known at this time, and should the death of Joseph Stuchly precede my death, then upon my death the title passes in fee simple to the children of Antonie Bartuska". Now, when did you first learn of the existence of this deed?

A. It's been two years ago, last March.

Q. That was sometime before this suit was filed?

A. Oh, yes, because we went to Mr. Page at the Baldwin Loan and Trust Company; we were going to borrow Six Hundred Dollars to put some repairs on the house and Mr. Page, of course, had to have all the papers and he turned it over to Mr. Blackburn to look them up before he would make the loan and he discovered this deed had been recorded. That was the first that we had known about it.

Q. And then, after that you made an investigation about this Bartuska family; these children?

A. Yes.

Q. Now, the property was conveyed to you and your husband by Mr. and Mrs. Stuchly?

A. Yes.

Q. And they assumed that they owned it at that time, did they not; represented that they owned it?

A. Yes.

Q. You all didn't have the title examined?

A. No. They gave us the deeds and grants were listed there from Mrs. Stuchly's brother when he died and his will was attached, willing it to Mrs. Stuchly.

Q. Now, was that brother Charles M A L Y?

A. I think they spelled it M A L L E or M A L L E Y, I don't know just how they spelled it. They called it Mally, and the deed, the will was attached, willing it to Mrs. Stuchly and then transferring it to them from him and it seemed to me like it was absolutely clear. They had been living there something like fifteen years or better and so we didn't have the deeds looked up or anything because I thought it was clear.

THE COURT: How long had you been on it?

A. We had been there seven years this past April.

MR. BLACKBURN: Q. The Stuchlys resided on it before they conveyed it to you?

A. Yes, they were living there when they sold it to us.

Q. And Mr. Mally, the brother of Mrs. Stuchly, lived there before they did?

A. He was living there when he died.

THE COURT to MR. BLACKBURN: Q. That deed that you read there just now, was that the deed under which the Stuchlys claim?

MR. BLACKBURN: No.

THE COURT: The one reserving it to the Bartuska heirs?

MR. BLACKBURN: Let me state it this way. The property came down by proper conveyances to Charles M A L Y. I don't know how that is pronounced; who was a brother of Mrs. Stuchly. He made a will which was dated the 29th of July, 1932, which was probated and recorded in Will Book C at pages 629 and 30. He left the property to Mrs. Stuchly and then this deed that I read a quotation from was a deed from Mrs. Stuchly to Mr. Stuchly and their explanation of the thing is that they intended to make a will and never knew what was in it.

THE COURT: Now, the brother in willing it to her didn't put any restrictions on it? She just made that deed out herself and put it on record?

MR. BLACKBURN: That's right. He'll explain that later.

THE COURT: What I'm trying to get straight, I thought; what I had in mind was that they had gotten that deed.

MR. BLACKBURN: Oh, no. They got a good title.

MR. BLACKBURN: Q. Now, Mrs. Nelson, all of the information that you were able to secure about any persons claiming this property and their residences, places of address, is fully set out in this Bill of Complaint?

A. Yes.

Q. You had an abstract; the abstract that was given to you, you had it continued to date, had it examined by me before the filing of this suit?

A. Yes.

MR. BLACKBURN: Now then, we want to offer in evidence a certified copy of the Patent from the United States of America to William Jones, Jr., dated August 15, 1860 and recorded in Book "T" at page 390 and ask that it be identified as the Complainants' Exhibit "2". (Original exhibit which was offered, identified as Complainants' Exhibit "2" and is attached hereto).

Then we offer in evidence a deed from Charles J. Ekstrom Ekstrom and wife, to Charles Maly Maly, dated April 22, 1922, and recorded in Deed Book 32 at pages 138-9, and ask that it be identified as Complainants' Exhibit "3". (Exhibit identified as Complainants' Exhibit "3" and is attached hereto).

Then, we offer in evidence a certified copy of the will of Charles Maly dated July 29, 1932, and recorded in Book "C" of Wills at pages 629-30 and ask that that be identified as Complainants' Exhibit "4". (Exhibit identified and attached hereto).

Then we offer in evidence a deed from Antonie Stuckly and Joseph Stuckly, her husband, to Samuel N. and Ursula C. Nelson, dated April 21, 1945, recorded in Deed Book 88 at page 428 and ask that that certified copy be identified as Complainants' Exhibit "5". (Exhibit identified as Complainants' Exhibit "5" and is attached

hereto).

Then, we offer in evidence the original certificate prepared by Alice J. Duck, Register, showing service on the Respondents in this case, and ask that it be identified as Complainants' Exhibit "6".

(Complainants' Exhibit "6" is as follows)

Complainants' Exhibit "6"

7-25-52
O.S.N.

"SAMUEL N. NELSON and
URSULA C. NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DES-
CRIBED and ANTONIE BARTUS-
KA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

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 20th day of September, 1951, file a copy of the notice of the pendency of Bill of Complaint in this cause for record in the office of the Judge of Probate of Baldwin County, Alabama and post a copy of the said notice at the front door of the courthouse in Bay Minette, Alabama on the said date.

I further certify that I mailed a copy of the Bill of Complaint in this cause and a copy of the notice of pendency of Bill of Complaint in this cause to Mrs. Charles Bartuska, 302 Lawton Road, Riverside, Illinois, and to Mrs. Antonie Bartuska, 302 Lawton Road, Riverside, Illinois, and that in the envelope addressed to Mrs. Charles Bartuska at the above address I enclosed a copy of the Bill of Complaint and notice of pendency of Bill of Complaint for the children of Antonie Bartuska. The above instruments were mailed to Mrs. Charles Bartuska and to Mrs. Antonie Bartuska by registered mail, postage prepaid, marked "For Delivery Only to Person to whom Addressed" with return receipt requested.

I further certify that the return card or receipt for the said registered article addressed to Mrs. Charles Bartuska was received and filed by me in this cause on the 25th day of September, 1951, and that the return card or receipt for the said registered article addressed to Mrs. Antonie Bartuska was received and filed by me on the 3rd day of October, 1951.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 3rd day of October, 1951.

/s/ Alice J. Duck

Register. "

(On the reverse side of above paper)

"REGISTER'S CERTIFICATE AS TO SERVICE.

SAMUEL N. NELSON and URSULA C. NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED and
ANTONIE BARTUSKA, ET AL,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY."

MR. HALL: Do you have to introduce that?

MR. BLACKBURN: It's prima facie evidence.

ON CROSS EXAMINATION

By Mr. Hall

Q. Mrs. Nelson, how long have you known this land?

A. Known the land?

Q. Yes?

A. Well, little better than seven years last March. We made three trips out there and looked over the place before we bought it.

Q. You hadn't known the land before that time?

A. No, we saw it advertised in a little farm magazine and we were living in Mobile at the time.

Q. Now, during the time you have been here, have you seen any of these Bartuskas?

A. Yes. I think it was; wasn't it two years ago that Mr. and Mrs. Bartuska came by; two years ago this past summer. They drove down and said that they had been to Florida and they just wanted to stop by and see the place. They looked around; they were very pleasant; and left, and since all of this has come up I have had an idea that possibly they did want to look around.

Q. At the time the Bartuskas were here did they claim this property or any right to it?

A. No, no. They just said that they were driving through and thought they would stop and see their aunt and uncle; they hadn't seen them in something like ten or twelve years.

Q. And Mr. and Mrs. Stuckly were, I believe you said, their aunt and uncle?

A. Yes.

Q. Now, do you know these two Bartuska children, whether any of them are under age or not?

A. No, they are over age, according to Mrs. Stuchly. She doesn't even know their names.

Q. And during the time you have known this property nobody has made any claim to it except the Stuchlys and you?

A. Nobody.

Mr. Joseph Stuchly, having been first duly and legally sworn, testified as follows:

ON DIRECT EXAMINATION

By Mr. Blackburn

Q. Mr. Stuchly, now, take your time and speak slowly so that lady can get this testimony. You and your wife are the persons that sold the property that's involved in this suit to Mr. and Mrs. Nelson are you not?

A. Yes.

Q. Now, did you make that sale, Mr. Stuchly, in April, 1945?

A. Well, I don't remember; whatever the time-

Q. Whenever the deed was made?

A. Whatever the date.

- Q. Now, you and your wife were living on this property when you sold it to the Nelsons?
- A. Yes sir.
- Q. Now, when you sold it to the Nelsons, how long had you and your wife lived on it?
- A. I forgot. Maybe it was thirty days or-
- MR. HALL: He misunderstood you, J. B.
- Q. No, here's what I mean. After your wife's brother, Mr. Maly, died, how long did you and your wife live on the place; how many years?
- A. Until we sell to Mr. Nelson.
- Q. Yes sir, but do you remember how many years?
- A. Let's see; I came in 1930; when Charley Maly died I can't remember the year but-
- Q. From the time your wife got it by the will, you all moved there then?
- A. Well, not right away but anyhow you can check back.
- Q. Not long; a short time and you lived there-
- A. Until we sell it to the Nelsons.
- Q. Now then, before you and your wife moved on the place her brother, Mr. Maly lived there, didn't he?
- A. I said he lived there until he died.
- Q. Now then, this deed that you heard me ask Mrs. Nelson about which is the deed Mrs. Stuchly made to you that Orvis Brown drew that's got this provision in it about the Bartuska children; now, I'll ask you if you and your wife intended when you did that to make a will?
- A. There was a question-
- Q. Just answer yes or no. Don't get into a long explanation.
- A. We thought it would be better if we make a chain, like a deed, you know, and you know Mr. Brown, he make that for me.
- Q. Did you ever give that paper to any of the Bartuskas?
- A. No.
- Q. Well, now, what did you do with the paper?
- A. We have that paper, that was the record, and maybe couple of years, my wife tear it and throw it in the fire and we forgot all about it.

When we fix to sell and you know when we sell it to Mr. Nelson we forgot all about it and we sell it to him.

Q. You thought that you still owned it?

A. Yes.

Q. And you sold it to Mr. Nelson as if you owned it?

A. We know we owned it because you know that last will you saw it was given to me by Charley Maly. It was not in my name but she's my wife and then Mr. Hall, he's got the last will, will appear from the letter from the Judge, the Probate Court, and we know we owned it.

ON CROSS EXAMINATION

By Mr. Hall

Q. The Bartuskas have never lived here, have they?

A. No.

Q. Do you know whether any of the Bartuska children are living or not?

A. Live some place in INdiana.

Q. How long have you known this land?

A. Twenty or thirty years. I came in 1930 in Alabama.

Q. You knew the land from 1930 up until now?

A. Yes.

Q. From 1930 up until now has anybody claimed that land other than Mr. Maly and you and your wife; nobody been on that land except you?

A. No.

Q. Neither the Bartuskas nor anyone else have made any claim to that land since 1930 or thereabouts?

A. No.

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I, Ora S. Nelson, Official Court Reporter of and for the Twenty-eighth Judicial Circuit of Alabama, hereby certify that the above and foregoing is a true and correct transcript of the testimony given at a hearing of the above styled cause on July 25, 1952, before Honorable Telfair J. Mashburn, Jr. Judge.

Transcribed and filed this 15th day of August, 1952.

Ora S. Nelson
Reporter

OFFICE PHONE:
GUNDERSON 4-3510

RESIDENCE PHONE:
RIVERSIDE 7-5301

Complaints Exhibit "1"
WILLIAM L. CREGAR

ATTORNEY AT LAW
2147 S. OAK PARK AVENUE
CORNER CERMAK ROAD
BERWYN, ILLINOIS

7-25-52
Ara J. Nelson. Reporter
Case No 2721

January 27, 1951

J. B. Blackburn
Attorney at Law
Bay Minette, Alabama

FOR PROFESSIONAL SERVICES RENDERED

\$25.00

In Re: Bartuska

Paid in full on Feb. 5, 1951
W L Cregar

The United States of America
To all to whom these Presents shall come, Greeting.

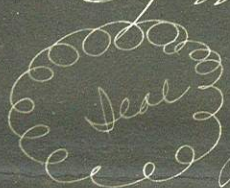
Whereas, In pursuance of the Act of Congress, approved March 3, 1855, entitled "An Act in addition to certain acts granting Bounty Land to certain officers and Soldiers who have been engaged in the Military Service of the United States," There has been deposited in the General Land Office Warrant No 74, 178 for 160 acres, in favor of Henry Julien Domingon, Private Captain Vellards Company, Missouri Militia, War 1812 with evidence that the same has been duly located upon the North West quarter of Section Twelve in Township Six South, of Range Three East in the District of Lands subject to sale at St Stephens, Alabama, containing one Hundred and Sixty Acres and ninety Eight Hundredths of an acre, according to the Official Plat of the Survey of the said Land returned to the General Land Office by the Surveyor General, the said Warrant having been assigned by the said Henry Julien Domingon to William Jones, Junior in whose favor said tract has been located.

Now Know Ye, That there is therefore granted by the United States unto the said William Jones, Junior as assignee as aforesaid, and to his heirs the tract of Land above described: To have and to hold the said tract of Land, with the appurtenances thereof, unto the said William Jones, Junior, as assignee as aforesaid and to his heirs and assigns forever.

In Testimony Whereof, I James Buchanan President of the United States of America, have caused these Letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington, the fifteenth day of August in the Year of Our Lord one thousand eight hundred and sixty, and of the Independence of the United States the Eighty Fifth.

By the President:



James Buchanan

By D. B. Leonard, Secy.

J. N. Grange, Recorder of the General Land Office

Recorded 9th 1894
Page 730 J

Filed for Record July 4th 1894

Recorded July 7th 1894

Wm. H. Hall

Judge of Probate.

The State of Alabama, { PROBATE COURT
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify

that the within and foregoing _____ pages

contain a full, true and complete copy of the Land Patent from the United States
of America to William Jones, Jr.

as the same appears of record in my office in _____ Deed _____ Book No. "T"

Page 390

Given under my hand and seal of office, this 24th day of July, 1952

W. R. Stuart

Judge of Probate

The State of Alabama,
Baldwin County

PROBATE COURT

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify

that the within and foregoing _____ pages

contain a full, true and complete copy of the Deed from Charles J. Ekstrom and

Betty M. Ekstrom to Charles Maly

as the same appears of record in my office in Deed Book No. 32

Page 138-9

Given under my hand and seal of office, this 24th day of July, 1952...

W R Stuart

Judge of Probate

The State of Alabama, { PROBATE COURT
Baldwin County

I. W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify

that the within and foregoing _____ pages

contain a full, true and complete copy of the Last Will And Testament of Charles Maly

as the same appears of record in my office in Will Book No. "C"

Page 329-30

Given under my hand and seal of office, this 24th day of July, 1952

W R Stuart

Judge of Probate

Explanatory Exhibit "C" is incorporated in the
script -

8-15-52

Ora J. Nelson, Court Reporter

The State of Alabama, { PROBATE COURT
Baldwin County

I, W. R. STUART, Judge of the Probate Court in and for said State and County, hereby certify

that the within and foregoing _____ pages

contain a full, true and complete copy of the Deed from Antonio Stuckly and Joseph

Stuckly to Samuel N. Nelson and Ursula C. Nelson

as the same appears of record in my office in _____ Deed _____ Book No. 88

Page 428

Given under my hand and seal of office, this 24th day of July, 1952

W. R. Stuart
Judge of Probate

SAMUEL N. NELSON and)		
URSULA C. NELSON,)		
)	Complainants,	
VS.)		IN THE CIRCUIT COURT OF
)		BALDWIN COUNTY, ALABAMA
THE LANDS HEREINAFTER DESCRIBED,)		
and ANTONIE BARTUSKA, ET ALS,)	IN EQUITY.	NO. 2721
)	Respondents.	

FINAL DECREE

This cause coming on to be heard on this date is submitted for a final decree upon the original Bill of Complaint; Notice of Pendency of Bill of Complaint; Proof of Publication of Notice of Pendency of Bill of Complaint; Register's Certificate as to Service; Motion for Decree Pro Confesso against the respondents; Decree Pro Confesso against the respondents; Decree ordering that testimony of complainants' witnesses be taken, as required by Equity Rule Number 56, as amended; the testimony of complainants' witnesses taken in open court, as provided by Equity Rule Number 56, as amended, upon consideration of all of which, it appears to the Court that the complainants are entitled to the relief prayed for by them in their said Bill of Complaint; WHEREUPON, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The complainants, Samuel N. Nelson and Ursula C. Nelson, are the true and lawful owners in fee simple of the following described real property situated in Baldwin County, Alabama, to-wit:

Northeast Quarter of Northeast Quarter of Northwest Quarter of Section 12, Township 6 South, Range 3 East.

The absolute and fee simple title to the said lands and to each and every part thereof and all interest therein is in the said complainants, Samuel N. Nelson and Ursula C. Nelson, free and clear of and from the claim or claims of any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof or any interest therein; that the complainants have and they are hereby given judgment against the said lands and against any and all persons claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof.

BOOK 181 PAGE 103
2. The complainants' title to the said lands is hereby quieted against Antonie Bartuska, Mrs. Charles Bartuska, Antonette Bartuska, the children of Antonie Bartuska, and against the heirs, devisees and personal representatives of such of the said parties as may be dead and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof, and any and all such claim or claims are hereby adjudged and decreed to be invalid, groundless and of no effect.

The deed from Antonie Stuchly to Joseph Stuchly, dated November 12, 1936 and recorded in Deed Book 67 at pages 187-8, Baldwin County, Alabama Records, and each and all of the provisions thereof, is hereby cancelled as a cloud on the complainants' title to the above described property.

3. The Register of this court shall file a certified copy of this decree for record in the office of the Judge of Probate of Baldwin County, Alabama and tax the expense of recording the said certified copy as a part of the costs of this proceeding.

4. The Judge of Probate of Baldwin County, Alabama shall record the said certified copy of this decree in the same book and manner in which deeds are recorded and shall index the same in the direct index in the names of Antonie Bartuska, Mrs. Charles Bartuska, Antonette Bartuska and the children of Antonie Bartuska, and shall index the same in the indirect or reverse index of the said records in the names of Samuel N. Nelson and Ursula C. Nelson.

5. The title hereby decreed to be in the said complainants, Samuel N. Nelson and Ursula C. Nelson, shall inure to the benefit of all persons who derive title to the said lands or any part thereof or any interest therein from or through the said Samuel N. Nelson and Ursula C. Nelson, and such title or interest shall be at all times treated and considered as though it had been established in favor of the persons so procuring or deriving title from the said complainants.

6. The costs of this proceeding are hereby taxed against the complainants, for which execution may issue.

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BOOK

ORDERED, ADJUDGED AND DECREED on this the 29th day of
July, 1952.

(S) TELFAIR J. MASHBURN, JR.
Judge.

STATE OF ALABAMA)
*
BALDWIN COUNTY)

I, Alice J. Duck, as Register of the Circuit Court of
Baldwin County, Alabama, do hereby certify that the above and
foregoing is a true and correct copy of the final decree in the
above stated cause, as the same appears in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal on the court on this the 29th day of July,
1952.

Alice J. Duck

As Register of the Circuit Court of
Baldwin County, Alabama, in Equity.

STATE OF ALABAMA, BALDWIN COUNTY
Filed 7-30-52 1:45 P. M.
Recorded Seal book 184 page 102-4
..... W. R. Stewart
Judge of Probate

SAMUEL N. NELSON and
URSULA C. NELSON,

VS. Complainants,

THE LANDS HEREINAFTER DES-
CRIBED and ANTONIE BARTUS-
KA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

DECREE PRO CONFESSO

In this cause it being made to appear to the Register that the respondents, Antonie Bartuska, the children of Antonie Bartuska, Antonette Bartuska, Mrs. Charles Bartuska, are non-residents of the State of Alabama: that a copy of the Notice of Pendency of Bill of Complaint in this cause and a copy of the summons and complaint in this cause were mailed by the Register of this court to Mrs. Charles Bartuska, 302 Lawton Road, Riverside, Illinois, by registered mail, postage prepaid, marked "For Delivery Only to Person to Whom Addressed", in which was enclosed a copy of the summons and Bill of Complaint in this cause and a copy of the Notice of Pendency of Bill of Complaint in this cause for the children of Antonie Bartuska, with return receipt requested, addressed to the Register of this court, which return receipt was received and filed by her on September 25, 1951; that a copy of the summons and complaint in this cause and a copy of the Notice of Pendency of Bill of Complaint in this cause were mailed to Mrs. Antonie Bartuska, 302 Lawton Road, Riverside, Illinois, by the Register of this court by registered mail, postage prepaid, marked "For Delivery Only to Person to Whom Addressed", with return receipt requested, addressed to the said Register, which said return receipt was received and filed by her on October 3, 1951;

That Notice of Pendency of the said Bill of Complaint in the said cause was published once a week for four successive weeks in the Baldwin Times, a newspaper published at Bay Minette in Baldwin County, Alabama, the said notice appearing in the issues of said paper of September 20, September 27, October 4 and October 11, 1951, and that on September 20, 1951 a copy of the said Notice of Pendency of Bill of Complaint in this cause was filed for record in the of-

fice of the Judge of Probate of Baldwin County, Alabama and a copy thereof posted at the front door of the courthouse of Baldwin County, Alabama at Bay Minette, Alabama, and each and all of the said respondents, the heirs, devisees and personal representatives of such of said parties as may be dead, and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the following described property situated in Baldwin County, Alabama, to-wit:

Northeast Quarter of the Northeast Quarter of
the Northwest Quarter of Section 12, Township
6 South, Range 3 East,

have failed to appear and plead, answer or demur to the Bill of Complaint filed against them in this cause.

It is, therefore, on motion of the complainants, Ordered, Adjudged and Decreed by the Register that the said Bill of Complaint be and it hereby is in all things taken as confessed against each and all of the above named respondents and the heirs, devisees and personal representatives of such of the said parties as may be dead, and against any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the lands above described, or any part thereof.

ORDERED, ADJUDGED AND DECREED on this the 20th day of November, 1951.



Register.

DECREE ~~PRO~~ **RECORDED**
CONFESSOR

SAMUEL N. NELSON and URSULA G.
NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED
and ANTONIE BARTUSKA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

FILED

NOV 20 1951

ALICE J. DUCK, Register

BILL OF COMPLAINT

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

Your Orators, Samuel N. Nelson and Ursula C. Nelson, present this Bill of Complaint against the following described real property situated in Baldwin County, Alabama, to-wit:

Northeast Quarter of the Northeast Quarter of
the Northwest Quarter of Section 12, Township
6 South, Range 3 East,

and against Antonie Bartuska, the children of Antonie Bartuska, Antonette Bartuska and the heirs and devisees of such of the said parties as may be dead, and against any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof, and, thereupon, your Orators complain and show unto the Court and your Honor as follows:

1. They are each over twenty-one years of age and residents of Baldwin County, Alabama.

2. The Respondent, Antonie Bartuska, who is the same person as Mrs. Charles Bartuska and Antonette Bartuska, is over twenty-one years of age and a non-resident of the State of Alabama, whose residence and post office address is 302 Lawton Road, Riverside, Illinois.

The names of the children of Antonie Bartuska, their ages and places of residence are unknown and cannot be ascertained after the exercise of diligent inquiry to ascertain the facts with regard thereto, but your Orators allege that a notice addressed to them and sent to Antonie Bartuska at the above named address will reach them.

3. Your Orators own the said lands in Baldwin County, Alabama, to-wit:

Northeast Quarter of the Northeast Quarter of
the Northwest Quarter of Section 12, Township
6 South, Range 3 East,

in their own right, absolutely and in fee simple, are in the actual, peaceable possession of all of the said property, residing on it and claiming to own it. Your Orators have held color of title to the said property and have been in the actual possession thereof since, on to-wit, April 21, 1945, and they and those through whom

they claim title to the said property have been in the actual possession of the said property, claiming to own it, for more than twenty (20) years prior to the filing of this Bill of Complaint.

No persons, firms or corporations, other than your Orators and those through whom they claim title to the said property, have paid any taxes on the said lands, or any part thereof, or any interest therein for more than twenty (20) years next preceding the filing of this Bill of Complaint.

No suit is pending to test your Orators' title to, interest in or right to possession of the said lands, or any part thereof.

Your Orators file this their verified Bill of Complaint in the Circuit Court of Baldwin County, Alabama, in Equity, the county where the said lands lie, against the said lands and against any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands, to establish their title thereto and to clear up all doubts and disputes concerning same.

4. Your Orators have and claim to have the absolute fee simple title to all of the above described property. The title so held and claimed by your Orators in and to all of the said lands was obtained from the persons and through the instruments as will hereinafter appear.

Your Orators further show that the title to all of the said lands stands upon the records in the office of the Judge of Probate of Baldwin County, Alabama in their name, except for a deed from Antonie Stuchly to Joseph Stuchly, dated November 12, 1928 and recorded in Deed Book 67 at pages 187-8, Baldwin County, Alabama Records, which conveyance reads, in part, as follows:

"The Grantor hereby grants unto the said Joseph Stuchly a life estate in the above described premises and after his death the land is to pass to the children in equal part of Antonie Bartuska's in fee simple, the names of which are not known at this time and should the death of Joseph Stuchly precede my death then upon my death the title passes in fee simple to the children of Antonie Bartuska's."

No persons, firms or corporations, other than your

Orators and those through whom they claim title to the said property, have at any time within twenty (20) years next preceding the filing of this Bill of Complaint, paid any taxes on the said lands, or any part thereof, or any interest therein, nor has any persons, firms or corporations, other than your Orators and those through whom they claim title had any possession of the said lands, or any part thereof for more than twenty (20) years next preceding the filing of this Bill of Complaint.

5. Your Orators claim the absolute fee simple title to all of the said property by, under and through the following instruments of writing, all of which are recorded in the office of the Judge of Probate of Baldwin County, Alabama:

- A. Patent, United States of America to William Jones, Jr., dated August 15, 1860, recorded in Book T at page 390.
- B. Deed, Charles J. Ekstrom and wife to Charles Maly, dated April 22, 1922 and recorded in Deed Book 32 N. S., at pages 138-9.
- C. Will of Charles Maly, dated July 29, 1932, recorded in Will Book C at pages 629-30.
- D. Deed, Antonie Stuckly and Joseph Stuckly, her husband, to Samuel N. Nelson and Ursula C. Nelson, dated April 21, 1945 and recorded in Deed Book 88 at page 428.

Your Orators aver that they have made and caused to be made a diligent search to ascertain the names, ages and addresses of all of the parties named herein who are now deceased and to ascertain the names, ages and addresses of the children of Antonie Bartuska, Deceased. These inquiries have been made in the community where the lands are situated and in Riverside, Illinois, where Antonie Stuchly resides, which inquiries have continued for approximately one year prior to the filing of this Bill of Complaint. Your Orators further allege that they employed an attorney to contact Antonie Bartuska, who is the same person as Mrs. Charles Bartuska, and that their said attorney conferred with the said parties shortly prior to January 27, 1951, at which time the said parties, namely, Charles Bartuska and Mrs. Charles Bartuska, who is the same person as Antonie Bartuska, refused to give Complainants' said attorney the names and addresses of their children. Your Orators have had an abstract made to the said property, have em-

ployed an attorney to examine it and all of the facts which they have been able to secure relative to the said property and the names and addresses of all persons claiming any interest therein are fully set out in this Bill of Complaint.

PRAYER FOR PROCESS

Your Orators pray that the lands hereinabove described and the Respondents named herein, the unknown heirs, devisees, personal representatives and next of kin of the Respondents named herein who are dead, and any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands, or any part thereof, be made parties respondent to this Bill of Complaint and brought into court by the usual and proper processes of this Court.

PRAYER FOR RELIEF

Your Orators pray that any and all of the Respondents named herein and the unknown heirs, devisees, personal representatives and next of kin of the Respondents named herein who are dead, and all other persons, firms or corporations who claim to own the said lands or any part thereof, or any interest therein, or who claim any lien or encumbrance thereon, be required to set forth and specify such claim, title, right, interest, lien or encumbrance and how and by what instrument the same is derived and created and that upon a final hearing of this cause it be Ordered, Adjudged and Decreed that your Orators, at the time of the filing of this Bill of Complaint, had and owned the full and complete legal title in fee simple to all of the above described lands and that none of the Respondents herein specifically named, or any other person, firm or corporation, has any right, title or interest in and to the said property, or any part thereof, or any lien or encumbrance thereon; that all doubts and disputes concerning the said property be cleared up and your Orators' title to the said lands fully and completely quieted. Your Orators further pray for such other, further and

general relief as they may be equitably entitled to, the premises considered.

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 Solicitor for the Complainants named in the above and foregoing Bill of Complaint; that he has read over the said Bill of Complaint and that the facts stated therein are true.

J. B. Blackburn

Sworn to and subscribed before me on this
the 20th day of September, 1951.

Mary Lee Blackburn
Notary Public, Baldwin County, Alabama.

NOTICE OF PENDENCY OF BILL OF COMPLAINT

SAMUEL N. NELSON and
URSULA C. NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DES-
CRIBED and ANTONIE BARTUSKA,
ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

Notice is hereby given to Antonie Bartuska, the children of Antonie Bartuska, Antonette Bartuska, Mrs. Charles Bartuska and the heirs and devisees of such parties as may be dead and any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the lands hereinafter described, that on the 20th day of September, 1951 the Complainants filed in the Circuit Court of Baldwin County, Alabama, Equity Side, a Bill of Complaint against the following described property situated in Baldwin County, Alabama, to-wit:

Northeast Quarter of the Northeast Quarter of
the Northwest Quarter of Section 12, Township
6 South, Range 3 East,

and against Antonie Bartuska, the children of Antonie Bartuska, Antonette Bartuska, Mrs. Charles Bartuska and the heirs and devisees of such of the said parties as may be dead and against any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof, the said Bill of Complaint having been filed for the purpose of establishing the title of the Complainants to all of the said lands for the purpose of quieting their title thereto and to clear up all doubts and disputes concerning the title to the said property.

The Complainants claim the absolute fee simple title in and to all of the said lands under, by and through the following conveyances, all of which are recorded in the office of the Judge of Probate of Baldwin County, Alabama, the county where the said lands are situated, to-wit:

- 169 1880
BOOK
- A. Patent, United States of America to William Jones, Jr., dated August 15, 1860, recorded in Book T at page 390.
 - B. Deed, Charles J. Ekstrom and wife to Charles Maly, dated April 22, 1922 and recorded in Deed Book 32 N. S., at pages 138-9.
 - C. Will of Charles Maly, dated July 29, 1932, recorded in Will Book C at pages 629-30.
 - D. Deed, Antonie Stuckly and Joseph Stuckly, her husband, to Samuel N. Nelson and Ursula C. Nelson, dated April 21, 1945 and recorded in Deed Book 88 at page 428.

The Complainants in and by their said Bill of Complaint allege and aver that they own the said lands in their own right, absolutely and in fee simple; that they are in the actual, peaceable possession of all of the said lands, claiming to own it; that no suit is pending to test the Complainants' title to, interest in or right to the possession of the said lands, or any part thereof, and that no persons, firms or corporations, other than the Complainants and those through whom they claim title, are known to the Complainants to have had any possession of the said lands or any part thereof for more than twenty (20) years next preceding the filing of the said Bill of Complaint; that no persons, firms or corporations, other than the Complainants and those through whom they claim title, are known to the Complainants to have paid any taxes on the said lands or any part thereof, or any interest therein, for more than twenty (20) years prior to the filing of the said Bill of Complaint and that the Complainants, together with those through whom they claim title to the said lands, have held color of title thereto and have been in the actual, peaceable, continuous and undisputed possession of all of the said property for more than twenty (20) years next preceding the filing of this Bill of Complaint.

The parties named above and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands, or any part thereof, must appear in this Court and plead, answer or demur to the Bill of Complaint filed in this cause before the 20th day of November, 1951, or on the said date Decrees Pro Confesso will be taken against them, testimony taken

and the said cause submitted for final decree, quieting the Com-plainants' title to the said lands.

IN WITNESS WHEREOF, I have hereunto set my hand, as Register of the Circuit Court of Baldwin County, Alabama, in Equity, and affixed the seal of the said Court on this the 20th day of September, 1951.

Alice J. Smith

As Register of the Circuit Court of Baldwin County, Alabama, in Equity.

J. B. BLACKBURN,
Solicitor for Complainants.

STATE OF ALABAMA, BALDWIN COUNTY
FILED 9-20-51
11:15 A.M.
J. B. Blackburn
379-81

NOTICE OF PENDENCY OF BILL OF
COMPLAINT.

SAMUEL N. NELSON and URSULA C.
NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED
and ANTONIE BARTUSKA, ET ALS,

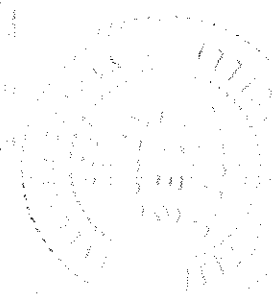
Respondents.

169-379-81

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

R 1.75

Mrs. Ruck
Brod.



SAMUEL N. NELSON and
URSULA C. NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED,
and ANTONIE BARTUSKA, et als,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

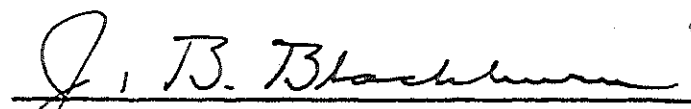
IN EQUITY. NO. 2721

MOTION

Now come the complainants, by their Solicitor, and show unto the Court that decrees pro confesso have been taken against all of the respondents named in the Bill of Complaint filed in this cause, but as the names of the children of Antonie Bartuska and their respective ages are unknown and as it is possible that some of the said children may be in the military service of the United States, it is necessary that a Guardian Ad Litem be appointed to represent such of the said respondents as may be minors, and that an attorney be appointed to represent such of the said respondents who may be in the military service of the United States.

There is no conflicting interest between such of the said respondents as may be minors and such of the said respondents as may be in the military service of the United States, so that the same attorney or solicitor who acts as Guardian Ad Litem for any of the said respondents who may be minors can also act as attorney or solicitor to represent such of the said respondents as may be in the military service of the United States.

WHEREFORE, complainants move the Court to appoint a Guardian Ad Litem to represent and defend the interest of such of said respondents as may be under twenty-one years of age or persons of unsound mind, as provided by Title 7, Section 1117 (1) of an Act of the Legislature of Alabama, approved September 12, 1951, and to represent such of the said respondents as may be in the military service of the United States.


Solicitor for complainants.

NOTED ON
RECORDED

SAMUEL N. NELSON and URSULA C. NELSON,

VS.

Complainants,

THE LANDS HEREINAFTER DESCRIBED
and ANTONIE BARTUSKA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

NOTICE

THIS IS TO CERTIFY THAT THE
FOLLOWING IS A TRUE AND CORRECT
COPY OF THE ORIGINAL RECORD OF
THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA, IN EQUITY,
IN CASE NO. 2721.

WITNESSED MY HAND AND SEAL
THIS 10th DAY OF MAY, 1921.

SAMUEL N. NELSON and)	
URSULA C. NELSON,)	
)	
Complainants,)	IN THE CIRCUIT COURT OF
VS.)	BALDWIN COUNTY, ALABAMA
)	
THE LANDS HEREINAFTER DESCRIBED,)	IN EQUITY. NO. 2721
and ANTONIE BARTUSKA, ET ALS,)	
)	
Respondents.)	

NOTICE

TO: Hubert M. Hall, Bay Minette, Alabama:

You are hereby notified that you have been appointed as Guardian Ad Litem to represent any of the children of Antonie Bartuska who are named as respondents in this cause who are under twenty-one years of age, and as attorney to represent any of the said children of Antonie Bartuska who may be in the military service of the United States.

Dated this 25th day of July, 1952.

Register.

* * * * *

ANSWER

I, the undersigned, do hereby accept appointment as Guardian Ad Litem to represent any of the children of Antonie Bartuska who may be under twenty-one years of age, and as attorney to represent any of the children of Antonie Bartuska who may be in the military service of the United States, and as Guardian Ad Litem to represent any other persons interested in this proceeding who may be under twenty-one years of age, and as attorney for any other persons interested in this proceeding who may be in the military service of the United States.

On behalf of any of the said parties who may be under twenty-one years of age or who may be in the military service of

the United States, I hereby deny each and all of the allegations of the Bill of Complaint filed in this cause and demand strict proof of same.

Respectfully submitted,

Hubert M. Still

As Guardian Ad Litem and as Attorney
for the parties as aforesaid.

SAMUEL N. NELSON and
URSULA C. NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DES-
CRIBED and ANTONIE BARTUSKA,
ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

DECREE APPOINTING GUARDIAN AD LITEM AND ATTORNEY
TO REPRESENT RESPONDENTS IN MILITARY SERVICE.

In this cause it appears from the Bill of Complaint that has been filed herein and from the motion filed in this cause by the complainants that the names, ages and places of residence of the respondents named herein who are described as the children of Antonie Bartuska are unknown and cannot be ascertained after the exercise of reasonable diligence to ascertain the facts with regard thereto, and in the said motion complainants have moved the Court to appoint a suitable person to act as Guardian Ad Litem for any of the said respondents who are under twenty-one years of age and as an attorney to represent any of the said respondents who may be in the military service of the United States; upon consideration of all of which, it appears to the Court that a Guardian Ad Litem should be appointed to represent any of the said respondents who are under twenty-one years of age, and that a proper attorney should be appointed to represent any of the said respondents who may be in the military service, WHEREUPON, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. Hubert M. Hall, an Attorney at Law and Solicitor in Chancery, practicing in Baldwin County, Alabama, is not of kin or counsel to any of the parties interested in this proceeding and is in all respects a fit, suitable and proper person to be appointed as Guardian Ad Litem to represent any of the respondents named in this cause who are under twenty-one years of age or any of the respondents named in this cause who are in the military service of the United States, and he shall be and is hereby

appointed as Guardian Ad Litem to represent any of the children of Antonie Bartuska who are under twenty-one years of age, or any of the children of Antonie Bartuska who are in the military service of the United States, and as Guardian Ad Litem for and attorney to represent any other persons interested in this proceeding who are under twenty-one years of age or in the military service of the United States.

ORDERED, ADJUDGED AND DECREED on this the 25th day of July, 1952.

Jeffrey J. Madlberg, Jr.
Judge.

SAMUEL N. NELSON and
URSULA C. NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED and ANTONIE BARTUSKA,
ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

MOTION FOR DECREE PRO CONFESSO

Motion is hereby made for a decree pro confesso against the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 12, Township 6 South, Range 3 East in Baldwin County, Alabama, and against Antonie Bartuska, the children of Antonie Bartuska, Antonette Bartuska, Mrs. Charles Bartuska and the heirs and devisees of such of the said parties as may be dead, and against any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof, on the ground that a copy of the Notice of Pendency of Bill of Complaint in this cause and a copy of the summons and complaint in this cause were mailed by the Register of this Court to Mrs. Charles Bartuska, 302 Lawton Road, Riverside, Illinois, by registered mail, postage prepaid, marked "For Delivery Only to Person to Whom Addressed", in which was enclosed a copy of the summons and Bill of Complaint in this cause and a copy of the Notice of Pendency of Bill of Complaint in this cause for the children of Antonie Bartuska, with return receipt requested, addressed to the Register of this Court, which return receipt was received and filed by her on September 25, 1951; that a copy of the summons and complaint in this cause and a copy of the Notice of Pendency of Bill of Complaint in this cause were mailed to Mrs. Antonie Bartuska, 302 Lawton Road, Riverside, Illinois, by the Register of this Court by registered mail, postage prepaid, marked "For Delivery Only to Person to Whom Addressed", with return receipt requested, addressed to the said Register, which said return receipt was received and filed by the said Register on October 3, 1951, all of the said parties being non-residents of the State of Alabama.

The Notice of Pendency of the said Bill of Complaint in the said cause was published once a week for four successive weeks in the Baldwin Times, a newspaper published at Bay Minette in Baldwin County, Alabama, the said notice appearing in the issues of said paper of September 20, September 27, October 4 and October 11, 1951, and that on September 20, 1951 a copy of the said Notice of Pendency of the Bill of Complaint in this cause was filed for record in the office of the Judge of Probate of Baldwin County, Alabama and a copy thereof posted at the front door of the courthouse of Baldwin County, Alabama at Bay Minette, Alabama, and each and all of the said parties have failed to date to appear and plead, answer or demur to the Bill of Complaint filed against them in this cause.

WHEREFORE, Complainants move the Register to make and enter a decree pro confesso against each and all of the above named respondents.

Dated on this the 20th day of November, 1951.

J. B. Blackburn
Solicitor for Complainants.

MOTION FOR DECREE PRO CONFESSO

SAMUEL N. NELSON and URSULA C.
NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED
and ANTONIE BARTUSKA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

FILED

NOV 20 1951

Alice J. Duck, Register

SAMUEL N. NELSON and
URSULA C. NELSON,

VS.

Complainants,

THE LANDS HEREINAFTER DESCRIBED,
and ANTONIE BARTUSKA, ET ALS,

Respondents.

)
)
) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA
)
) IN EQUITY. NO. 2721
)

FINAL DECREE

This cause coming on to be heard on this date is submitted for a final decree upon the original Bill of Complaint; Notice of Pendency of Bill of Complaint; Proof of Publication of Notice of Pendency of Bill of Complaint; Register's Certificate as to Service; Motion for Decree Pro Confesso against the respondents; Decree Pro Confesso against the respondents; Decree ordering that testimony of complainants' witnesses be taken, as required by Equity Rule Number 56, as amended; the testimony of complainants' witnesses taken in open court, as provided by Equity Rule Number 56, as amended, upon consideration of all of which, it appears to the Court that the complainants are entitled to the relief prayed for by them in their said Bill of Complaint; WHEREUPON, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The complainants, Samuel N. Nelson and Ursula C. Nelson, are the true and lawful owners in fee simple of the following described real property situated in Baldwin County, Alabama, to-wit:

Northeast Quarter of Northeast Quarter of Northwest
Quarter of Section 12, Township 6 South, Range 3 East.

The absolute and fee simple title to the said lands and to each and every part thereof and all interest therein is in the said complainants, Samuel N. Nelson and Ursula C. Nelson, free and clear of and from the claim or claims of any and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof or any interest therein; that the complainants have and they are hereby given judgment against the said lands and against any and all persons claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof.

2. The complainants' title to the said lands is hereby quieted against Antonie Bartuska, Mrs. Charles Bartuska, Antonette Bartuska, the children of Antonie Bartuska, and against the heirs, devisees and personal representatives of such of the said parties as may be dead and all persons, firms or corporations claiming any title to, interest in, lien or encumbrance on the said lands or any part thereof, and any and all such claim or claims are hereby adjudged and decreed to be invalid, groundless and of no effect.

The deed from Antonie Stuchly to Joseph Stuchly, dated November 12, 1938 and recorded in Deed Book 67 at pages 187-8, Baldwin County, Alabama Records, and each and all of the provisions thereof, is hereby cancelled as a cloud on the complainants' title to the above described property.

3. The Register of this court shall file a certified copy of this decree for record in the office of the Judge of Probate of Baldwin County, Alabama and tax the expense of recording the said certified copy as a part of the costs of this proceeding.

4. The Judge of Probate of Baldwin County, Alabama shall record the said certified copy of this decree in the same book and manner in which deeds are recorded and shall index the same in the direct index in the names of Antonie Bartuska, Mrs. Charles Bartuska, Antonette Bartuska and the children of Antonie Bartuska, and shall index the same in the indirect or reverse index of the said records in the names of Samuel N. Nelson and Ursula C. Nelson.

5. The title hereby decreed to be in the said complainants, Samuel N. Nelson and Ursula C. Nelson, shall inure to the benefit of all persons who derive title to the said lands or any part thereof or any interest therein from or through the said Samuel N. Nelson and Ursula C. Nelson, and such title or interest shall be at all times treated and considered as though it had been established in favor of the persons so procuring or deriving title from the said complainants.

6. The costs of this proceeding are hereby taxed against the complainants, for which execution may issue.

ORDERED, ADJUDGED AND DECREED on this the 29th day of
July, 1952.

Telford J. Mallabury Jr.
Judge.

SAMUEL N. NELSON and
URSULA C. NELSON,

Complainants,
VS.

THE LANDS HEREINAFTER DESCRIBED,
and ANTONIE BARTUSKA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

REQUEST FOR ORAL EXAMINATION OF WITNESSES

Now come the complainants, by their Solicitor, and move
the Court to take the testimony of the complainants and their wit-
nesses, Joseph Stuchly,
and _____, orally, as provided by
Equity Rule Number 56, as last amended.

Respectfully submitted,

J. T. Blackburn
Solicitor for complainants.

REQUEST FOR ORAL EXAMINATION OF
WITNESSES.

SAMUEL N. NELSON and URSULA C.
NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED,
and ANTONIE BARTUSKA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

Complainants Exhibit '6'

7-15-51

OSW

SAMUEL N. NELSON and
URSULA C. NELSON,

Complainants,
VS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

THE LANDS HEREINAFTER DES-
CRIBED and ANTONIE BARTUS-
KA, ET ALS,

IN EQUITY

Respondents.

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 20th day of September, 1951, file a copy of the notice of the pendency of Bill of Complaint in this cause for record in the office of the Judge of Probate of Baldwin County, Alabama and post a copy of the said notice at the front door of the courthouse in Bay Minette, Alabama on the said date.

I further certify that I mailed a copy of the Bill of Complaint in this cause and a copy of the notice of pendency of Bill of Complaint in this cause to Mrs. Charles Bartuska, 302 Lawton Road, Riverside, Illinois, and to Mrs. Antonie Bertuska, 302 Lawton Road, Riverside, Illinois, and that in the envelope addressed to Mrs. Charles Bartuska at the above address I enclosed a copy of the Bill of Complaint and notice of pendency of Bill of Complaint for the children of Antonie Bartuska. The above instruments were mailed to Mrs. Charles Bartuska and to Mrs. Antonie Bartuska by registered mail, postage prepaid, marked "For Delivery Only to Person to whom Addressed" with return receipt requested.

I further certify that the return card or receipt for the said registered article addressed to Mrs. Charles Bartuska was received and filed by me in this cause on the 25th day of September, 1951, and that the return card or receipt for the said registered article addressed to Mrs. Antonie Bartuska was received and filed by me on the 3rd day of October, 1951.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 3rd day of October, 1951.

Alice J. Duck
Register.

REGISTER'S CERTIFICATE AS TO
SERVICE.

SAMUEL N. NELSON and URSULA C.
NELSON,

Complainants,

VS.

THE LANDS HEREINAFTER DESCRIBED
and ANTONIE BARTUSKA, ET AL,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

SAMUEL N. NELSON, and
URSULA C. NELSON,

VS. Complainants,

THE LANDS HEREINAFTER DESCRIBED,
and ANTONIE BARTUSKA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

DECREE ORDERING ORAL EXAMINATION OF WITNESSES

The complainants in this cause having filed their written request that the testimony of the complainants, Samuel N. Nelson and Ursula C. Nelson, and their witnesses, Joseph Stuchly and _____, be taken orally in open court, as provided by Equity Rule Number 56, as last amended, it is hereby ORDERED, ADJUDGED AND DECREED that the testimony of the said witnesses be taken orally, as provided in and by the said rule on this date.

ORDERED, ADJUDGED AND DECREED on this the 25th day of July, 1952.

Joseph J. Madaleno, Jr.
Judge.

SAMUEL N. NELSON, and
URSULA C. NELSON,

Complainants,
VS.

THE LANDS HEREINAFTER DESCRIBED,
and ANTONIE BARTUSKA, ET ALS,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 2721

DECREE ORDERING ORAL EXAMINATION OF WITNESSES

The complainants in this cause having filed their written request that the testimony of the complainants, Samuel N. Nelson and Ursula C. Nelson, and their witnesses, Joseph Stuchly and Joseph, be taken orally in open court, as provided by Equity Rule Number 56, as last amended, it is hereby ORDERED, ADJUDGED AND DECREED that the testimony of the said witnesses be taken orally, as provided in and by the said rule on this date.

ORDERED, ADJUDGED AND DECREED on this the 25th day of July, 1952.

Isaiah J. Marbleberry, Jr.
Judge.

A Court on 11/11/51.

35-4tc

LAST WILL AND TESTAMENT,

Know all men by these presents, That I Charles Maly of Robertsedale, Ala., do hereby make publish and declare this my Last Will and Testament in manner and form following:

First: I direct that all my just debts and funeral expenses be paid as soon after my decease as conveniently can be done.

Second: I give and bequeath to my sister Antonie Stuchly, wife of Joseph Stuchly in Robertsedale, Ala., should she survive me. All the real estate property in Baldwin County, I am owner of with all the personal property, I may have at my death.

Third: I give and bequeath to my sister Antonie Stuchly all the money I may have on deposit in Skala State Bank at the time of my departure and also assign to her my claim against the Consolidated State Bank in Robertsedale, Ala.

Fourth: I give and bequeath to my brother Frank J. Maly lot 21 Subdivision of South half of North half E threequarters of south west quarter Section 32, T 39 R 13 in Berwyn Cook County, Illinois.

Fifth: I nominate, constitute and appoint my sister Antonie Stuchly sole executrix of this my last will and testament and direct that she be exempted from giving of official bond.

In Witness Whereof, I hereunto set my hand and seal and publish and declare this to be my last will on this 29th day of July, 1932, and I revoke and cancell any and all the former last wills I may have made.

Signed: Chas. Maly.

Signed, sealed, published and declared by the above named Charles Maly as and for his last will and testament in the presence of us who in his presence and at his request and in the presence of each other have hereunto set our hands as witnesses this 29th day of July, 1932.

L. Glendinning

Joe Reding.

Robertsedale, Baldwin County, Ala.

I, Thomas Vonashek a notary public in Baldwin County, Ala., hereby certify that this last Will and Testament was signed before by Messrs. Chas. Maly, Joe Reding and L. Glendinning this 29th day of July, 1932, and that all of them were acquainted with the contents thereof before they attached the signatures.

(Seal)

Thomas Vonashek. My commission expires March
March 8, 1936.

Filed in office of Judge of Probate Court, Baldwin Co., Ala., Aug 8th, 1932.

G.W. Humphries, Judge of Probate,
By J.L. Kessler, Clk.

PROOF OF WILL

THE STATE OF ALABAMA, |

BAWDWIN COUNTY. |

Probate Court, Aug 12, 1932.

In the matter of the Estate of Charles Maly, Deceased.

Present, Hon. G.W. Humphries, Judge of Probate.

Before me, G.W. Humphries, Judge of Probate in and for said county, personally appeared in open Court, Joe Reding who, having been, by me, first duly sworn and examined, did depose and say, on oath, that he is a subscribing witness to the instrument of writing now shown to him and which purports to be the last will and testament of Charles Maly deceased, late an inhabitant of this county, that said Charles Maly signed and executed said instrument on the day the same bears date, July 29th, 1932, and declared the same to be his last will and testament, and that affiant set his signature thereto on the day the same bears date as a subscribing witness to the same, in the presence of said Charles Maly and L. Glendinning, the other witness, and that such other witness subscribed his name as a witness in his presence and in the presence of said Charles Maly. That said Charles Maly was of sound mind and disposing memory, and in the opinion of the deponent fully capable of making his will at the time the same was so made as aforesaid. Affiant further states that said Charles Maly was on the day of the said date of said will of the full age of twenty-one years and upwards.

Joe Reding

(LS)

Sworn to and subscribed before me this 12 day of Aug. A.D., 1932.

G.W. Humphries, Judge of Probate.

The State of Alabama, |

Baldwin County. |

SS.

I, G.W. Humphries, Judge of the Court of Probate, in and for said County, do hereby certify that the within instrument of writing has this day, in said Court, and before me, as the Judge thereof, been duly proven by the proper testimony, to be the genuine last will and testament of Charles Maly, Deceased, and that said will together with the proof thereof, has been recorded in my office in Book of Wills "C" at page 629 and 630.

In witness of all of which, I have hereunto set my hand, and the seal of the said Court, this 12th day of August, A.D., 1932.

G.W. Humphries, Judge of Probate.

WARRANTY DEED
THE STATE OF ALABAMA
BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of ten (\$10.00) Dollars and other valuable considerations, to and in hand paid by Samuel N. Nelson, & Ursula C. Nelson the receipt thereof is hereby acknowledged, Antonie Stuckly and Joseph Stuckly wife and husband, do grant, bargain, sell and convey unto the said Samuel N. Nelson & Ursula C. Nelson, husband & wife, the following described lands situated in Baldwin County, Alabama, to-wit:

North-east Quarter (NE $\frac{1}{4}$) of the North-East Quarter (NE $\frac{1}{4}$)
of North-west Quarter (NW $\frac{1}{4}$) of Section Twelve (12) Township
six (6) South, of Range Three (3) East, of St. Stephens
Meridian in Alabama, Containing Ten (10) Acres, More
or less.

TO HAVE AND TO HOLD to said Samuel N. Nelson, & Ursula C. Nelson, his wife, their heirs and assigns forever. And we do covenant with the said Samuel N. Nelson & Ursula C. Nelson husband and wife, that we seized in fee of the above described premises; that we have the right to sell and convey the same; that the said premises are free from all incumbrances; and that we will, and our heirs executors and administrators shall forever warrant and defend the same to the said Samuel N. Nelson & Ursula C. Nelson, husband and wife, heirs and assigns, against the lawful claims of all persons whomsoever.

Witness our hand and seal this 21st day of April, 1945.

Antonie Stuckly
Joseph Stuckly

L.S.
L.S.

STATE OF ALABAMA
BALDWIN COUNTY.

I, John O. Olson, a Notary Public, in and for said County and State, hereby certify that Joseph Stuckly & Antonie Stuckly husband and wife, whose name 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.

Given under my hand and official seal this 21st day of April, A.D. 1945.

Seal

John O. Olson

My commission expires Jan. 15th 1949.

State of Alabama
Baldwin County.

I, John O. Olson, a Notary Public, in and for said County and State, do hereby certify that on the 21st, day of April, 1945, came before me the within named Antonie Stuckly known to me to be the wife of the within named Joseph Stuckly 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 without fear, constraint or threats on the part of the husband.

In Witness whereof, I hereunto set my hand and official seal this 21st, day of April, 1945.

Seal

John O. Olson,

My commission expires Jan. 15th 1949.

State of Alabama

Baldwin County | Probate Court

Filed in office this 21, day of April, 1945 at 8AM and duly recorded in Deed Book 88 at page 428, and I certify that \$1.50 Deed tax, has been paid as required by law.

W.R. Stuart, Judge of Probate

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Post Office Department
OFFICIAL BUSINESS

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



Return to Alice J Cook Register
(NAME OF SENDER)

Street and Number,
or Post Office Box,

REGISTERED ARTICLE

No. 256

Post Office Bay Minette

INSURED PARCEL

No. _____

16-12421

State Ala

Form 3811
Rev. 1-4-40

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Deliver to Addressee Only

1 Mrs. C. B. [illegible]
(Signature or name of addressee)

2 _____
(Signature of addressee's agent—Agent should enter addressee's name on the ONE above)

Date of delivery 9-22-51, 1941

FILED
SEP 25 1951
ALICE L. JACK, Register

Post Office Department
OFFICIAL BUSINESS



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

POSTMARK OF DELIVERING
OFFICE

Return to

Alice J. Deuck Register
(NAME OF SENDER)

Street and Number,
or Post Office Box,

Mrs. A. Deuck

REGISTERED ARTICLE

No.

257

Post Office

Bay Minette

INSURED PARCEL

State

Ala

No.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Deliver to Addressee Only

1

(Signature or name of addressee)

2

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

Date of delivery

194

U. S. GOVERNMENT PRINTING OFFICE

16-12421

paid 10-3-51
Miss J. H. Smith
signature

RECEIPT FOR REGISTERED ARTICLE No.

256
 9/20, 1957
 (Date)
 Postage paid papers
 value, \$
 paid, \$
 Return receipt fee
 Special delivery fee
 Restricted delivery
 (Accepting employee will place initials in proper space)
 in person 20
 or order
 Fee paid
 Alice J. Duck Register
 (Sender)
 (Street and number)
 2500
 (Post office and State)
 Mrs. Charles Bartuska
 (Addressee)
 2 Laurel Rd. Riverside Del.
 (Street and number)
 GPO c9-16-12666-5
 (Post office and State)
 Postmaster, per 7



RECEIPT FOR REGISTERED ARTICLE No.

357
 9/20, 1957
 (Date)
 Postage paid papers
 value, \$
 paid, \$
 Return receipt fee
 Special delivery fee
 Restricted delivery
 (Accepting employee will place initials in proper space)
 in person 20
 or order
 Fee paid
 Alice J. Duck Register
 (Sender)
 (Street and number)
 2500
 (Post office and State)
 Mrs. Charles Bartuska
 (Addressee)
 2 Laurel Rd. Riverside Del.
 (Street and number)
 GPO c9-16-12666-5
 (Post office and State)
 Postmaster, per 7



W. R. STUART

PROBATE JUDGE

No. **590**

Bay Minette, Ala., 7-30, 19 52

Received of Mrs. Duck

No.		Deed Tax		Mortgage Tax		Recording Fees		Total	
		\$	Cts.	\$	Cts.	\$	Cts.	\$	Cts.
	<u>Samuel N. Nelson et al -</u>					<u>1.65</u>		<u>1.65</u>	
	<u>Certain Lands + Antonio Bartuska et al</u>								

FOR RECORD

TOTAL \$ 1.65

49434 MARSHALL & BRUCE-NASHVILLE

W. R. Stuart
Judge of Probate.