

4148

STATE OF ALABAMA

IN THE CIRCUIT COURT - IN EQUITY

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon L. F. White to appear and plead, answer or demur, within thirty days from the service hereof, to the Bill of Complaint filed in the Circuit Court of Baldwin County, Alabama, In Equity, by Mrs. Ardell D. Johnson and Evelyn M. Dorgan as guardian of John A. Dorgan, Clara E. Dorgan and Joan V. Dorgan, minors, as Complainants against L. F. White, as Respondent.

Witness my hand this the 18 day of October, 1957.

Ardell D. Johnson
Register

MRS. ARDELL D. JOHNSON and
EVELYN M. DORGAN, as guardian
of JOHN A DORGAN, CLARA E. DORGAN
and JOAN V. DORGAN, minors,

Complainants,

vs.

L. F. WHITE,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

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

Come now the Complainants, by their solicitors, and respectfully represent and show unto Your Honor and unto this Honorable Court as follows:

FIRST:

That they are each over the age of twenty-one years and are resident citizens of Baldwin County, Alabama. That the Complainant Evelyn M. Dorgan is the legally appointed guardian of John A. Dorgan, Clara E. Dorgan and Joan V. Dorgan, minors, having been ap-

pointed as such by that certain order or decree of the Probate Court of Baldwin County, Alabama, dated May 30, 1950, and recorded in Minute Book N at page 333 in the office of the Judge of Probate of Baldwin County, Alabama. That the Respondent is over the age of twenty-one years and a resident citizen of Mobile, Mobile County, Alabama, his more particular address being 1853 St. Stephens Road, Mobile, Alabama.

SECOND:

That the Complainant Mrs. Ardell D. Johnson is the owner of the undivided one-seventh interest as a tenant in common with her brothers and sisters and the heirs at law and next of kin of her deceased brothers and sisters in the following described real property situated in Baldwin County, Alabama, to-wit:

All of Section Thirteen (13), Township Seven South (7S), Range Two East (2E), which lies North of Fish River and East of Green Branch.

That the wards of the Complainant Evelyn M. Dorgan are children of John A. Dorgan, Deceased, and the said Evelyn M. Dorgan and the said John A. Dorgan, Deceased, was the owner of an undivided one-seventh interest in the above described property on the date of his death in the year 1945. That the said John A. Dorgan, Deceased, at the time of his death had no homestead exempt to him from levy and sale under process and the said John A. Dorgan, Clara E. Dorgan and Joan V. Dorgan, minors, have not obtained the benefits of such exemption under the provisions of Title 7, Section 654 of the Code of Alabama of 1940. That the said John A. Dorgan, Deceased, died testate and in and by the terms of his will which was admitted to probate and record in the Probate Court of Mobile County, Alabama, and is recorded in Book of Wills number 21 at page 500 et seq, a copy of which will is attached hereto and marked "Exhibit A" and by reference made a part hereof, the said John A. Dorgan, Deceased, devised and bequeathed his entire estate, real, personal and mixed, unto Evelyn R. Dorgan who is one and the same person as Evelyn M. Dorgan, the guardian of the minor Complainants. That there has been no final distribution of the assets of the estate of John A. Dorgan, Deceased.

THIRD:

That the Complainant Mrs. Ardell D. Johnson acquired her interest in the above described property under the laws of descent and distribution from her father William C. Dorgan, also known as W. C. Dorgan, Deceased; that the wards of the Complainant Evelyn M. Dorgan acquired their interest in this property under the laws of descent and distribution from the said William C. Dorgan, also known as W. C. Dorgan, Deceased, and as minor children of John A. Dorgan, Deceased, who was a son of the said William C. Dorgan, also known as W. C. Dorgan, Deceased, who departed this life after the death of his father. That William C. Dorgan was the owner of said property on the date of his death.

FOURTH:

That the above described property was sold on June 13, 1949, by the Tax Collector of Baldwin County, Alabama, for the non-payment of the State and County ad valorem taxes assessed against the same for the tax year of 1948, in the name of the Complainant Adrell D. Johnson, et al. That such lands were purchased at said sale by the Respondent L. F. White and on June 19, 1952, a Tax Deed was executed to him by the Judge of Probate of Baldwin County, Alabama, which said deed is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 203 page 558. That the full consideration paid by the Respondent L. F. White for said property, exclusive of taxes which he has paid on said property subsequent to June 13, 1949, is Nine and 90/100 Dollars (\$9.90).

FIFTH:

Your Complainants further allege that the tax sale referred to in the next preceding paragraph was void in that the State and County ad valorem taxes were paid on said property under and by virtue of an assessment in the name of Rose Worcester for the tax year 1948 and which is designated as assessment number "Beat 10, #1769".

SIXTH:

That more than three years have elapsed since the date of the sale of the above described property by the tax collector of

Baldwin County, Alabama, and more than three years have elapsed since the date upon which the tax deed hereinabove referred to was issued to the Respondent but the Respondent did not go into possession of the property on either of said dates and is not now in the actual adverse possession of the same. That the Complainants, and each of them, are ready, willing and able to pay to the Respondent, and do hereby offer to do so, all sums which he has expended in the payment of State and County ad valorem taxes on said property and in the payment of fees and costs in connection therewith or in connection with the sale of said property on June 13, 1949; and they are ready, willing and able to pay any and all other amounts to which this Honorable Court shall decree that the Respondent L. F. White is entitled and that they do hereby offer to do equity in the premises.

PRAYER FOR PROCESS

The premises considered your Complainants respectfully pray that Your Honor will cause the usual Writ of Process to be issued out of this Honorable Court and that the said L. F. White be made a party Respondent hereto and that he be required to appear and plead, answer or demur to the Bill of Complaint within the time allowed by law and the rules of this Honorable Court.

PRAYER FOR RELIEF

The premises considered your Complainants respectfully pray that upon a final hearing of this cause that Your Honor will enter an order or decree ascertaining and declaring that the tax sale hereinabove referred to and the tax deed issued subsequent thereto is void and of no force and effect because of the payment of the taxes on said property for the non-payment of which said property was sold; and that this Honorable Court will further ascertain and decree that the wards of the Complainant have such an interest in said property which would entitle them to redeem the same from said sale upon the payment of an amount and subject to such conditions as this Honorable Court might fix and determine and that this Honorable Court will ascertain and determine that the Complainant Mrs. Ardell D. Johnson is the owner of an interest in said property which would entitle her to redeem said property because of the absence of an actual, adverse possession by the Respondent L. F. White for the required statutory

period and that she is entitled to redeem the same as a tenant in common upon the payment of such sums and the compliance with such conditions as this Honorable Court might fix and determine. And the Complainants further pray that this Honorable Court will order and decree that upon the payment of such sums and the compliance with such terms and conditions as shall be fixed and determined by the Court that the Complainants, or either of them, that the property will be redeemed by said Complainants, or either of them, and that the Respondent will be divested of any and all right, title, interest, claim or demand which he acquired or might have acquired by virtue of the tax sale or tax deed hereinabove referred to and that said tax sale and said tax deed be removed as a cloud from the title of the Complainants, or either of them. And the Complainants pray for such other, further or different relief as in the premises will be meet and proper and which will effect a complete and adequate redemption of the above described property from the tax sale hereinabove referred to and will divest the Respondent of any and all claim which he might have in and to the property hereinabove described.

CHASON & STONE

Filed
Oct. 18, 1957

By:

Markus S. Stone
Solicitors for Complainants

Ex. Dec. 23, 1957

EXHIBIT "A"

STATE OF ALABAMA,

MOBILE COUNTY.

I, the undersigned John A. Dorgan, of Mobile, Alabama, being of sound and disposing mind and memory, do hereby make, publish and declare this instrument to be my last will and testament, hereby revoking any and all wills and testamentary dispositions which may have been made by me at any time heretofore; that is to say:

1. I direct that all of my just debts and funeral expenses be paid as soon after my death as may be practicable.

2. I give, devise and bequeath my entire estate, real, personal and mixed, unto my beloved wife, Evelyn R. Dorgan; to have and to hold the same unto the said Evelyn R. Dorgan, her heirs and assigns, forever.

3. I hereby nominate, constitute and appoint my said wife, Evelyn R. Dorgan, as Executrix of this my last will and testament, without bond; and, pending the administration of my estate under this my will, I authorize and empower my said Executrix to sell all or any part of my said estate, real and personal, for such price and upon such terms as she may see fit, without obtaining the order or authority of any Court.

IN WITNESS WHEREOF, I, the said John A. Dorgan, have hereunto set my hand and seal this 30th day of March, 1945.

John A. Dorgan (SEAL).

Signed, sealed, published and declared by the above named and subscribed John A. Dorgan as and for his last will and testament, in our presence; and we, at his request and in his presence and in the presence of each other, have hereunto set our hands as subscribing witnesses this _____ day of March, 1945.

A. C. Mason

A. D. Magnuson